



**COMMUNITY AND ECONOMIC DEVELOPMENT  
DEPARTMENT  
STAFF REPORT**

**Board of County Commissioners**

**June 19, 2018**

<b>CASE No.: PLN2017-00036 CASE NAME: Oil and Gas Text Amendments to Chapter 4</b>	
Applicant's Name:	Adams County Community & Economic Development Department
Applicant's Address:	4430 S. Adams County Parkway, Brighton, CO 80601
Location of Request:	Unincorporated Adams County
Nature of Request:	(1)Text amendments to Chapter 4 of the Adams County Development Standards and Regulations with respect to: plugged and abandoned wells, expiration and renewal of Administrative Use by Special Review Permits, text to incorporate the assessment of oil and gas road impact fees, and other miscellaneous changes
Hearing Date(s):	<b>PC: May 24, 2018 / 6:00 p.m.</b>
	<b>BoCC: June 19, 2018 / 9:30 a.m.</b>
Report Date:	June 7, 2018
Case Manager:	Jennifer Rutter
Staff Recommendation:	APPROVAL with 3 Findings-of-Fact

**SUMMARY OF APPLICATION**

**Background:**

On March 22, 2016, Adams County adopted regulation amendments to establish a site-specific permitting process for oil and gas facilities within the unincorporated areas of the County. Those amendments aimed to address effective regulation of the intense oil and gas development that has been increasingly encroaching on urban areas.

Since 2016, several deficiencies of the existing regulations have been identified, including a lack of standards addressing plugged and abandoned oil and gas wells, no expiration of the site-specific Use by Special Review Permit for oil and gas facilities, and no road maintenance and impact fee for oil and gas development. These proposed regulation amendments aim to address these issues.

**Development Standards and Regulations:**

Section 2-02-13 of the Adams County Development Standards and Regulations details the procedures for amendments to the text of the standards and regulations. Only the Board of

County Commissioners may, after a recommendation from the Planning Commission, adopt a resolution amending the text of the standards and regulations.

Section 2-02-13-06-01 of the Development Standards and Regulations lists three criteria for reviewing text amendments. The first two criteria require consistency with the Comprehensive Plan and the purpose of the Development Standards. The third criterion requires the text amendment to not be detrimental to the majority of persons or property in the surrounding areas nor to the community in general. The changes proposed in the subject text amendment are consistent with the County's Comprehensive Plan, the purpose of the Development Standards and Regulations, and will not be detrimental to the residents of Adams County. The changes will enhance the County's requirements and performance standards for plugged and abandoned oil and gas wells, the permitting of new oil and gas facilities, and allow for the collection of oil and gas road impact fees.

The Denver Regional Council of Governments (DRCOG) projects Adams County to be the fastest growing county in Colorado over the next twenty years in both population and employment. This forecast necessitates additional regulations to ensure that both future residential development and the increasing development of oil and gas resources remain harmonious and compatible with overall development of the County. The three sets of proposed regulation amendments aim to address identified deficiencies in our current regulations, which include development in proximity to plugged and abandoned wells, expiration and renewal process for the County's Use by Special Review permit for oil and gas facilities, and language to incorporate a road impact fee for oil and gas development as well as adoption of the fees.

A summary of each chapter and proposed changes, including the purpose for the text amendments, is outlined below:

**Plugged and Abandoned Wells, and Former Oil and Gas Production Sites (Section 4-10-02-03-05)**

Oil and gas development has been occurring in Adams County since the mid-1900's, with over 2,100 wells having been drilled. Many of these wells have since been plugged and abandoned and can interfere with new surface development if not properly identified, marked, and protected.

These proposed amendments aim to protect and promote the health, safety, and welfare of the present and future residents of the County by establishing standards for developing in proximity to plugged and abandoned wells. These amendments include requirements for new subdivision plats to: identify and mark plugged and abandoned wells; submit a location diagram for a plugged and abandoned well; establish a workover setback of fifty by one hundred feet for plugged and abandoned wells; notification of prospective property buyers near the location of the plugged and abandoned well; and test for expansive soils in the location of former pits. See Exhibit 2.1 for the proposed text.

**Expiration of Approval; Permit Revision Process (Section 4-10-02-04-07)**

The 2016 regulation amendments established a standard and predictable permitting process for oil and gas development in unincorporated Adams County called the Administrative Use by Special Review (AUSR) permit. There is no expiration of the AUSR permit, as the regulations

are currently written, so long as the operator begins construction of the well pad within five years of the issuance of the permit.

Many oil and gas operators choose to obtain a permit for many wells on a single pad and then phase the development of those wells over many years. For example, an operator may obtain a permit for 30 wells and then drill three wells each year over ten years. This phasing of development of a large industrial facility does not take into account compatibility with future growth.

With the expansion of development in our growing County, it is important that oil and gas facilities that elect to phase their projects over many years be reevaluated periodically. This will allow for a reassessment of the compatibility of the facility with the residential and commercial growth that may occur in the surrounding area. In addition, new best management practices for operations may be identified by the operator and incorporated into the permit renewal. See Exhibit 2.1 for the proposed text.

### **Oil and Gas Road Impact and Maintenance Fees**

One aspect of oil and gas development that was not addressed in the 2016 regulation amendments was how it impacts local road systems, as well as other public infrastructure and services. The County assesses road impact fees for all new development in unincorporated areas, except oil and gas development and activities. In 2017, Adams County commissioned a study to identify the potential impacts of oil and gas development and production on the County's road system and design a roadway impact and maintenance fee to offset increased transportation maintenance, rehabilitation, and safety costs associated with heavy truck traffic and road damage from oil and gas activity. After several months of public meetings, data collection, modeling to extrapolate the cost of impacts, and deliberations, staff and a hired consultant arrived at a proposed fee to defray the cost of oil and gas activities on the County's road network. Staff presented the initial findings to the Board of County Commissioners (BoCC) on November 14, 2017 and with direction from the BoCC posted the study to solicit public feedback for a sixty-day period. Based on feedback from the public, staff and the consultant revised the initial proposed fees to address comments from the public feedback. On April 17, 2018, staff presented the revised proposed fees to the BoCC and obtained direction to proceed to schedule the fees for review and adoption. The purpose of this regulation amendment is to include text in the County's Development Standards and Regulations to require the payment of fees for oil and gas road impact and maintenance fees. Currently, there are no such requirements in the Development Standards. See Exhibit 2.1 for the proposed text.

### **Analysis:**

#### **Compatibility with the Adams County Comprehensive Plan**

*Imagine Adams County*, the County's Comprehensive Plan, recently updated in December 2012, recognizes that extraction of sand, gravel, coal, oil, and gas resources contributes to the local economy, providing employment to County citizens and tax income to the County. However, the Comprehensive Plan also notes that sensitive extraction and reclamation practices are essential in

order to prevent potential negative impacts to the community. Policy 7.5 of the Comprehensive Plan reads as follows:

*Provide for the extraction of subsurface resources in accordance with State law, but require mitigation of undesirable impacts to the natural environment and community as well as plans for viable potential reuse of the land.*

In addition, the Comprehensive Plan contains extensive analysis of the County's natural and man-made hazards through the Hazard Identification and Risk Assessment (HIRA) outlined in the Appendix C of the plan and discussed in Policy 12.1, Reduce Risk and Effects of Natural and Industrial Hazards. In this section, the plan notes the importance of reducing risk and minimizing loss of life and property from natural and industrial hazard events and protecting public health and safety. The enhanced regulatory structure within this proposed regulation amendment provides for additional site-specific review of any new oil and gas facility in order to address issues such as public health and safety, as well as community risk and emergency response and preparedness.

Finally, there are many sections within the Comprehensive Plan that provide policy direction to balance the need for new development with the burdens associated with that development. The plan directs the County's decision makers to "evaluate and quantify potential impacts associated with high-impact, region-serving uses that may create burdens on the County (e.g. landfills, parole facilities, telecommunication towers, etc.) to ensure impacts are substantially mitigated. (*Imagine Adams County*, p. 38). The proposed regulation amendments also support this notion of balancing the economic considerations of resource development, while mitigating and addressing the impacts to existing communities and the natural environment.

#### Compatibility with Stakeholder Input

Staff and the County's outside legal counsel held meetings with a number of stakeholders, including residents, neighborhood groups, the oil and gas industry, local school and fire districts, proximate local governments, land developers, and the Home Builders Association, with respect to the proposed amendments that address plugged and abandoned wells and the renewal process for AUSR permits.

Community & Economic Development Department Staff and hired consultants also held several meetings with oil and gas industry operators and stakeholder groups and representatives to discuss the methods and assumptions of the road impact and maintenance fee determination. Staff also posted the initial proposed fee for a sixty day public review. The main concerns expressed from the proposed fees included ensuring proportional share of the cost associated with oil and gas activities, providing detailed information and data used for the study, and using similar policy requirements for road improvements for general developments such as the trigger for road pavements, etc. These concerns were all addressed and resulted in reduction and adjustment to part of the initial proposed fees.

The proposed regulation amendments address the majority of the concerns and requests put forth by the stakeholders. Additional regulation amendments are forthcoming to address the remaining concerns after further public outreach.

**PLANNING COMMISSION UPDATE:**

The Planning Commission (PC) considered this case on May 24, 2018. During the public hearing, Mr. Michael Paules from the Colorado Petroleum Council (CPC) spoke and provided input on the specific wording of the proposed regulation amendments; specifically, the Traffic Impact Fee language should provide more details on how it is calculated, the AUSR permit expiration is of concern if it can be revoked, and that plugged and abandoned wells should not be excavated.

The Planning Commission requested clarification on the proposed setbacks and for what types of development they would apply to. The PC also asked staff to explain the expiration of the AUSR permit and the reasoning behind the proposed renewal requirement. The PC suggested that the County should consider exacting its own severance tax from oil and gas development to pay for impacts.

In response to the comments provided by the CPC representative, Staff has removed the requirement for the plugged and abandoned well to be excavated. Regarding the PC inquiry about providing clarification required setbacks expiration of the AUSR permit, the proposed regulation amendments would apply to new residential subdivisions, requiring a setback from plugged and abandoned wells in the dimensions of 50'x100', which is approximately the size of a workover rig used for maintenance on wells. The setbacks for new development from existing wells, tank batteries, and flowlines are currently being explored and public outreach is still ongoing. For the purpose for requiring an AUSR permit expiration, the requirement for renewal in every three years will allow for large oil and gas facilities that are developed in phases to be reevaluated periodically; and the operator and Staff will be able to discuss new best management practices and ways to ensure that the facility remains compatible with the surrounding land uses. On the issue of providing detailed language to guide the preparation of the oil and gas impact fee independent study, Staff believes that the preparation of an independent study should occur only in circumstances where the oil and gas activity has peculiar circumstances that justify the need for such a study.

The Planning Commission voted (7-0) to recommend approval of the request.

**Regulatory Recommendations:**

Staff believes the proposed changes within this chapter of the regulations are needed. After extensive input from residents groups, the oil and gas industry, local school and fire districts, land developers, and the Colorado Association of Home Builders, Staff believes that all major concerns were addressed. The new regulations will provide better protections for the health, safety, and welfare of the citizens of Adams County, while continuing to allow responsible development of surface and mineral rights.

**Staff Recommendation:**

Staff believes the proposal is necessary in order to respond to the current challenges for regulating oil and gas development in Adams County. Therefore, staff is recommending approval based 3 Findings of Fact.

**RECOMMENDED FINDINGS OF FACT:**

1. The text amendment is consistent with the Adams County Comprehensive Plan.
2. The text amendment is consistent with the purposes of these standards and regulations.
3. The text amendment will not be detrimental to the majority of persons or property in the surrounding areas nor to the community in general.

## **EXHIBIT 2- Applicant Information**

**4-01-01-01-01 OIL AND GAS WELL DRILLING AND PRODUCTION****4-01-01-01-01-01 PURPOSE**

This Section is enacted to protect and promote the health, safety, values, convenience, order, prosperity and general welfare of the current 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.

**4-01-01-01-01-02 DEFINITIONS**

Oil and Gas Facilities:

1. The site and associated equipment used for the production, treatment, and/or storage of oil and gas and waste products; or
2. An individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas, including associated equipment required for such production; or
3. Temporary storage and construction staging of oil and gas; or
4. Any other oil and gas operation which may cause significant degradation.

For any other definition not listed in this section, the definitions listed in Chapter 11 of the Adams County Development Standards and Regulations and the Colorado Oil and Gas Conservation Commission's regulations shall govern. If there is a conflict between the definitions in Chapter 11 and the COGCC's definitions, the COGCC's definitions shall prevail. If the term is not found in the COGCC's definitions or in Chapter 11, the term shall have its common

meaning along with the spirit and intent of the Development Standards and Regulations and may be subject to interpretation by the County Manager or his or her designee.

4-01-01-01-03

**GENERAL PROVISIONS**

1. Access: Oil and gas well installation shall be located to provide convenient access, shall accommodate the traffic and equipment related to the oil and gas operations and emergency vehicles, and shall comply with COGCC rules and Adams County Development Standards and Regulations. Oil and gas operations must minimize impacts to the physical infrastructure of the county transportation system.
2. Building Permit Required: If a well is permitted as a producing oil and/or gas well by the COGCC, a building permit is required. ~~For the purpose of these standards and regulations, a building permit includes, but is not limited to, a Rig and Move Permit and Oil and Gas Permit,~~ for the installation of permanent electrical, pumps, tank batteries, and all other above-ground structures as well as any other applicable permits including, but not limited to, culvert permits, oversized-load permits, and floodplain use permit.
3. Fees and Permits: All applicable County fees adopted by the County, including postage fees, must be paid at time of application and prior to issuance of a building permit, including for all applicable permits required by the Adams County Development Standards and Regulations.

**4. Oil and Gas Road Impact and Maintenance Fees:**

a. Operators must pay oil and gas road impact and maintenance fees, as approved by the Board of County Commissioners, for all proposed oil and gas wells and pads. This fee shall be paid at the time of issuance of Use by Special Review Permit (USR) or by Special Use Permit (SUP).

b. Any person or entity required to pay the oil and gas road impact fee may elect to submit an independent study and fee calculation to demonstrate that the nature, timing, or location of the proposed oil and gas development is likely to generate impacts costing less to mitigate than the amount of the fee that would be generated by the use of the fee schedule. Any independent fee study for oil and gas development shall generally follow the methodology established in the Adams County Oil & Gas Traffic Impact Study (see Exhibit 7.1).

i. The preparation of the independent fee calculation study shall be the sole responsibility of the electing party.

ii. Any person or entity who requests to perform an independent fee calculation study shall pay an application fee for administrative review. An administrative decision related to the independent study may be appealed to the Board of County Commissioners. The appeal shall be filed within 14 days of staff decision and shall follow the appeal process established for appeal of decision on application for Administrative Use by Special Review.

54. Safety Standards: Oil and gas operations shall be in compliance with COGCC safety and spill and release requirements. Any spill or release that is reportable to the Commission shall be simultaneously reported to the County's LGD, OEM, LEPC, Sheriff's Office, Community and Economic Development Department, Public Works Department, and applicable fire district.

The owner or operator of any installation that is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq., and regulations promulgated under that Act, shall submit both a material safety data sheet (MSDS) for each such chemical and an annual emergency and hazardous chemical inventory form to the LEPC and the local fire district. A comprehensive and universal listing of all hazardous chemicals shall be organized based on the various phases of operation including test wells and drilling and other construction activities submitted prior to construction and with the necessary building permit applications for a Rig and Move Permit ~~and Oil and Gas Permit~~. In addition, operator shall have current MSDS and quantities on site at all times or available upon request.

65. Additional Reporting: The owner or operator of an installation shall also provide all annual tier II reports to the LEPC and the local fire district in accordance with all applicable federal, state and local laws in a format acceptable to the LEPC.

76. Stormwater Controls: Oil and gas operations shall be in compliance with COGCC rules related to stormwater management regulations and Adams County Stormwater Quality Regulations as contained in the Adams County Development Standards and Regulations / Ordinances and other applicable federal, state, and county requirements.

87. Water Bodies and Water Quality: Oil and gas operations shall not cause adverse impacts to surface or ground waters within Adams County. Operators shall comply with all COGCC Rules, specifically with respect to spills and releases in floodplains and/or water bodies, and applicable water quality standards set by the Colorado Department of Public Health and Environment.

**98.** Well Plugging and Abandonment: An operator shall comply with all COGCC rules regarding well abandonment and reclamation, including, but not limited to, removal of all equipment from the location and restoring the surface of the land to its original state. Notice of well plugging and abandonment shall be submitted by the operator to the County Building Safety Division and Community and Economic Development Department within forty-eight (48) hours.

**109.** Air Emissions: Air contaminant emission sources shall comply with the permit and control provisions of the state air quality control program (C.R.S. tit.25, art. 7 (C.R.S. § 25-7-101 et seq.)) and the rules and regulations promulgated by the State Air Quality Control Commission. The Operator shall employ such control measures and operating procedures as are necessary to minimize fugitive particulate emissions into the atmosphere.

**4-01-01-01-01-04**

**NON-COMPLIANCE**

1. State Notification of Violations: Adams County will cooperate fully with the State of Colorado by notifying the Oil and Gas Conservation Commission of any and all violations of the Colorado Laws and Regulations.
2. Delinquent Taxes: One condition of any oil and gas well building permit is that all taxes as provided by statute, shall be paid.
3. County Violations: The County has authority to cite violations under its control pursuant to Section 1-05-06 Criminal Remedies and Enforcement.
4. Legal Non-conforming: Adams County recognizes that there are oil and gas operations that were legally established prior to the effective date of these regulations that may or may not conform to these regulations. These operations may continue, provided the operation is not extended, expanded, or altered in a manner that changes and/or alters the nature, character, or extent of the land use impacts of the site.

**4-01-01-01-01-05**

**RESIDENTIAL CONSTRUCTION STANDARDS**

1. **Residential Construction Standards:** The Director of Community and Economic Development may impose any one (1) or more of the following standards on a specific site basis as a condition of subdivision approval and/or building permits on platted or unplatted land:

- a. The oil and gas well location shall include a two-hundred-fifty (250) foot buffer in the form of an easement on the Final Plat. No structures may be constructed within the buffer area.
- b. Access to the oil and gas well location shall be provided by a public street or recorded easement for private access.
- c. The Final Plat shall include notice to prospective buyers of the location of the oil and gas well and associated easements.
- d. All oil and gas well flow lines and/or easements shall be graphically depicted on the Final Plat.
- e. All surface and subsurface agreements shall be noted on the Final Plat by the recorded book and page number.
- f. Pursuant to Section 4-06-01-02-01-12, where a new home and/or other permanent structure with plumbing is constructed within three hundred (300) feet of an existing oil and gas well, the property owner shall submit a signed waiver acknowledging the existence of the facility.

## 2. Plugged and Abandoned, and Former Oil and Gas Production

Sites: This Section is enacted to protect and promote the health, safety, morals, convenience, order, prosperity, or general welfare of the present and future residents of the County. These regulations are based upon the land use authority of the County.

- a. Prior to submittal of a final plat or site specific development plan, each plugged and abandoned well shall be located, ~~excavated (if it was cut off and buried)~~, and surveyed. The plugged and abandoned well shall be permanently marked by a brass plaque set in concrete similar to a permanent bench mark to monument its existence and location. Such plaque shall contain all information required on a dry hole marker by the Colorado Oil and Gas Conservation Commission and the County.
- b. As a condition of review of any final plat or site specific development plan which contains a plugged and abandoned well or former oil and gas production site or is within 200 feet of such well or

- site, the owner shall submit a location diagram of the location of the well.
- c. On every final plat or site specific development plan which contains a plugged and abandoned well, ~~or for property within 100 feet of a plugged or abandoned well,~~ there shall be dedicated a well maintenance and workover setback ~~depicted on the plat,~~ the dimensions of which shall be not less than fifty feet in width and 100 feet in length. No structures shall be located within this setback. The plugged and abandoned well shall be located in the center of the setback. There shall be public access for ingress and egress to the setback of a width of not less than twenty feet.
- d. Every final plat and site specific development plan which contains a plugged and abandoned well or a site specific development that includes a property that is less than 200 feet from a plugged and abandon well, ~~or for property within 200 feet of a plugged or abandoned well,~~ shall include the following notation: "The owner shall disclose to prospective purchasers of lots within a radius of 200 feet of the plugged and abandoned well of (1) the location of the plugged and abandoned well, (2) the location of the maintenance and workover setback, and (3) the purpose for the well maintenance and workover setback."
- e. As a condition of building permit review, no dwelling shall be constructed within fifty (50) feet of a plugged and abandoned well.
- f. Prior to issuance of a grading permit within a development containing a known reserve pit site, the reserve pit site shall be tested for expansive soils. Reserve pits containing expansive soils in locations proposed for buildings shall be subject to the provisions of the International Building Code.
- g. No utility lines shall be installed within ten feet of any plugged and abandoned well.

4-01-01-01-01-06

**OIL AND GAS WELL DRILLING AND PRODUCTION REVIEW**

1. **Review Process:** Any new oil and gas facility will require a Special Use Permit per Section 2-02-11 of the Adams County Development Standards and Regulations. In lieu of a Special Use Permit application and review, the County Manager or his or her designee, at its sole discretion, may elect to negotiate and enter into a Memorandum of Understanding (MOU) with an Operator. The County encourages MOUs to protect the environment, and effectively address the protection of the health, safety and welfare of Adams County residents.

If an MOU is executed, which includes all the best management practices determined necessary by the County Manager or his or her designee, then the applicant shall comply with all aspects of Section 04-10-02-05, Oil and Gas Facilities Administrative Use by Special Review.

2. **Amendments to the MOU:** Any change to the MOU from that approved by the Board of County Commissioners shall require either a Full Amendment or a Technical Review.

- a. **FULL AMENDMENT**

If the proposed amendment meets the criteria necessary for an oil and gas drilling and production permit, but substantially changes the MOU, then the Full Amendment shall need authorization by the Board of County Commissioners.

- b. **TECHNICAL REVIEW AMENDMENTS (TRA)**

The process and requirements for a Technical Review Amendment (TRA) would occur when changes to the MOU are of such a limited nature or scope that a Full Amendment would be unnecessary. Such TRAs may include, but are not limited to: minor changes to structures necessary to meet new technological methods and such methods are technologically sound, economically practical, and reasonably available to the Operator, location and type of landscape material, relocation of light poles or fixtures that do not affect light levels at the property line, the relocation of access roads, color of structures. Such TRAs can be administratively approved by the County Manager or his or her designee.

- c. **PREREQUISITES FOR A TECHNICAL REVIEW AMENDMENT**

The following factors shall be used by the County Manager or his or her designee to determine if an application is eligible for a TRA. These factors shall include, but are not necessarily limited to the following:

- (1) Proposed amendments do not fall within the criteria listed for Oil and Gas Drilling and Production Full Amendment as specified in these Regulations.
- (2) Proposed amendments do not violate existing zoning or subdivision regulations.
- (3) Proposed amendments do not relate to any site, building, or sign detail that was a condition of approval through the public hearing process.
- (4) Proposed amendments do not substantially change any of the original plans or items that may have been conditioned through the public hearing process.

**4-01-01-01-01-07 OIL AND GAS FACILITIES ADMINISTRATIVE USE BY SPECIAL REVIEW**

The intent of this Section 4-10-02-05 is to describe the Administrative Use by Special Review process and approval criteria for Oil and Gas Facilities. Notwithstanding any other language in the Development Standards and Regulations to the contrary, 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 commence 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 specifically allowed in all zone districts, including Planned Unit Developments, subject to Use by Special Review approval and subject to obtaining other required permits and approvals.

**4-01-01-01-01-07-01 RELATIONSHIP TO SECTION 02-02-11, SPECIAL USE PERMIT**

This Section provides an Administrative Use by Special Review approval process for Oil and Gas Facilities where an applicant and the County have executed an acceptable Memorandum of Understanding (“MOU”) and the applicant meets other administrative approval criteria, as set forth in further detail below. In the event that an applicant has executed an MOU and obtains approval for an Administrative Use by Special Review for a particular Oil and Gas Facility, compliance with the procedures and criteria in Section 02-02-11, Special Use Permit, is not required. In other situations, in order to obtain approval for an oil and gas facility, the applicant must comply with the provisions of 02-02-11, Special Use Permit.

**4-01-01-01-01-07-02 ADMINISTRATIVE APPROVAL CRITERIA**

In order to obtain Administrative Use by Special Review approval, an Oil and Gas Facility shall first satisfy the following criteria:

- 1. Memorandum of Understanding:** An MOU acceptable to the County must have been executed by the applicant and the County and currently be in full force and effect, and the Oil and Gas Facility as proposed must be in compliance with the provisions of the MOU. An MOU may contain requirements similar to criteria contained within the Administrative Use by Special Review permit process. In such instances, the criteria within the Administrative Use by Special Review Permit shall govern.
- 2. Satisfy Submittal Requirements:** The application and exhibits for the Administrative Use by Special Review must satisfy all applicable submittal requirements in this Section.
- 3. Compatibility/ Land Use Impacts:** The Oil and Gas Facility shall be compatible with the surrounding area and shall not create any site specific conditions that present significant or material impacts to nearby land uses. Best management practices or conditions of permit approval may be used to achieve compliance with this criterion.
- 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, where no authority has jurisdiction, from an emergency services provider with the ability to provide such emergency services.

**4-01-01-01-01-07-03 ADMINISTRATIVE PROCESS**

- 1. Pre-Submittal Meeting:** Prior to submitting an application for an Administrative Use by Special Review for an Oil and Gas Facility, the applicant is required to attend a pre-submittal meeting with representatives of the Community and Economic Development (“CED”) Department, unless waived. At the pre-submittal meeting the applicant will receive direction from County staff that will assist in preparing a complete application for submittal to the County and the County will supply the list of addresses of record for property owners within one-half mile who are to receive notice per Section 04-10-02-05-06 below. The County will also supply

the applicant with a list of applicable referral entities that will be sent a referral packet.

2. **Review for Completeness:** Upon receipt of an Oil and Gas Use by Special Review application and fee, referral packets and associated application materials, the Community and Economic Development Department staff shall review the materials submitted to determine if the application is complete and consistent with the standards set forth in this Section 04-10-02-05.
3. **Concurrent Referral and Review:** CED staff will refer the complete application for a twenty-one (21) day review by the various divisions of the CED and the County Attorney's Office, as deemed appropriate. An application may require review by outside agencies such as the U. S. Army Corps of Engineers, if the project impacts a floodplain, and may also be referred to any life-safety providers, adjacent jurisdictions, local public health department, and others as may be deemed appropriate.
4. **Address Deficiencies:** The applicant will be notified of any outstanding issues in connection with application materials upon completion of this review and will be required to address any issues or deficiencies in connection with the application materials in accordance with Section 02-01-04, Determination of Sufficiency. If necessary, a meeting will be held to discuss any issues that need to be resolved. If necessary, the applicant will then submit an amended application, plan or other submittals, as appropriate, to the County for verification that the deficiencies have been addressed by the applicant. If the above-described outstanding issues cannot be resolved, the Director may refer the case to the BOCC for its consideration.
5. **Final Review:** Upon acceptance of the final copy of the application and exhibits by the CED staff, the application materials will be forwarded for final review by the Director.

#### 4-01-01-01-01-07-04 **ADMINISTRATIVE SUBMITTAL REQUIREMENTS**

A Submittal Requirements list is available from the CED staff outlining the complete list of submittal items and the proper number of documents. Other submittal requirements may be required based on CED staff review. The following items are required as part of an Oil and Gas Facility application submittal:

1. **Pre-Submittal Notes or Waiver:** Notes from the pre-submittal meeting pertaining to the application, or signed waiver of pre-submittal meeting form.
2. **Application Form:** A completed Oil and Gas Facility application form. Application forms are available from the CED staff.
3. **Application Fees:** Application fee schedules are available from the CED staff.
4. **Plan:** An Oil and Gas Operations Plan drafted in accordance with 04-10-02-05-05 of this Section.
5. **Emergency Preparedness Plan:**

5.1. In General. Oil and gas operations shall not cause unreasonable risks of emergency situations such as explosions, fires, gas, oil or water pipeline leaks, ruptures, hydrogen sulfide or other toxic gas or fluid emissions, and hazardous material vehicle accidents or spills.

5.2. Emergency Preparedness Plan. Each Applicant with an operation in the County is required to implement an emergency preparedness plan for each specific oil and gas facility. The plan shall be referred to and approved by the Adams County Sheriff, the Office of Emergency Management, and the applicable fire district and filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency preparedness plan shall consist of at least the following information:

- a. Name, address and phone number, including 24-hour emergency numbers for at least two persons located in or near Adams County who are responsible for emergency field operations.
- b. An as-built facilities map in a format suitable for input into the County's GIS system depicting the locations and type of above and below ground facilities including sizes, and depths below grade of all oil and gas gathering and transmission lines and associated equipment, isolation valves, surface operations and their functions, as well as transportation routes to and from exploration and

development sites, for emergency response and management purposes. The information concerning pipelines and isolation valves shall be held confidentially by the County's Office of Emergency Management, and shall only be disclosed in the event of an emergency. The County shall deny the right of inspection of the as-built facilities maps to the public pursuant to C.R.S. § 24-72-204.

- c. Detailed information addressing each potential emergency that may be associated with the operation. This may include any or all of the following: explosions, fires, gas, oil or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills. For each potential emergency, threshold / trigger levels shall be pre-identified that govern when an emergency state is declared by the Applicant.
- d. The plan shall include a provision that any spill outside of the containment area or which has the potential to leave the facility or to threaten a water body shall be reported to the emergency dispatch and the Director immediately.
- e. Detailed information identifying access or evacuation routes, and health care facilities anticipated to be used.
- f. Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas.
- g. The plan shall include a provision that obligates the Applicant to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency.
- h. Detailed information that the Applicant has adequate personnel, supplies, and funding to implement the emergency response plan immediately at all times during construction and operations.

- i. The plan shall include provisions that obligate the Applicant to keep onsite and make immediately available to any emergency responders the identification and corresponding Material Safety Data Sheets (MSDS) of all products used, stored or transported to the site. The MSDS sheets shall be provided immediately upon request to the Director, a public safety officer, or a health professional. In cases of spills or other emergency events, the plan shall include provisions establishing a notification process to emergency responders of potential products they may encounter, including the products used in the hydraulic fracturing fluids.
  - j. The plan shall include a provision establishing a process by which the Applicant engages with the surrounding neighbors and schools to educate them on the risks and benefits of the on-site operations and to establish a process for surrounding neighbors and schools to communicate with the Applicant.
6. **Engineering Documents:** The following technical Engineering documents are required by the CED staff unless otherwise waived:
- 6.1. Construction Plans:  
If applicable, Construction Plans for the proposed Oil and Gas Operation’s public improvements including road plan and profile sheets, storm drainage improvements plans and other public improvements, prepared in accordance with the latest version of the Adams County Development Standards and Regulations (Chapter 9).
  - 6.2. Pavement Design Report:  
If applicable, a Pavement Design Report prepared in accordance with the latest version of the Adams County Development Standards and Regulations (Chapter 7).
  - 6.3 Grading Erosion and Sediment Control:  
If applicable, a Grading, Erosion, Sediment Control Report and Plan as defined in the latest version of the Adams County Development Standards and Regulations (Chapter 9).
  - 6.4 Transportation, Roads, Access Standards, and Fees:

- a. The Applicant’s transportation plan must be designed and implemented to ensure public safety and maintain quality of life for other users of the county transportation system, adjacent residents, and affected property owners.
- b. Where available, existing private roads shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise.
- c. Access roads on the site and access points to public roads as identified in the application materials shall be reviewed by the CED department and shall be built and maintained in accordance with the engineering specifications and access road standards defined in the Adams County Development Standards and Regulations (Chapter 8).
- d. All applicable transportation fees shall be paid prior to issuance of a development plan review construction permit, including without limitation:
  - (a) access permit fees;
  - (b) oversize/overweight permit fees;
  - (c) right of way construction permit fees; and
  - (d) ~~traffic impact and road maintenance—industrial~~ traffic impact fees.
- e. Oil and gas operations must minimize impacts to the physical infrastructure of the county transportation system. Any costs to improve county transportation system infrastructure necessitated by the proposed oil and gas operation shall be the responsibility of the Applicant. All transportation system infrastructure improvements and associated costs shall be determined by the CED department. The County shall perform the work or arrange for it to be performed. If the Applicant disagrees with the infrastructure improvements or associated costs as assessed by CED, it may request that the department approve a different route for its proposed oil and gas operation that avoids the need for such improvements. Alternatively, the Applicant may engage a licensed civil engineering firm to perform a traffic impact study in accordance with Chapter 8 of the Development Standards and Regulations to independently evaluate county transportation system

infrastructure improvements necessitated by the proposed oil and gas operation.

#### 6.5. Drainage Study/Technical Drainage Letter/Plan:

If applicable, a Drainage Study/Technical Drainage Letter/Plan prepared in accordance with the latest version of the Adams County Development Standards and Regulations (Chapter 9).

#### 6.6 Floodplain Use Permit:

The applicant must obtain a Floodplain Use Permit, in accordance with the latest version of the Adams County Development Standards and Regulations, if the proposed Oil and Gas construction disturbance or operation encroaches into the 100-year floodplain, or the access is crossing a major drainage way, as defined by the latest version of the Adams County Development Standards and Regulations (Chapter 9).

### 7. Surface Owner Documentation

Documentation as to whether the surface owner and others with interest in the property have authorized the proposed Oil and Gas Facility.

### 8. Additional Information

Additional information may be requested by the Director as deemed appropriate to process the application and to meet the criteria in this Section 04-10-02-05. The Director may also waive the submittal of any information required above as deemed appropriate.

## 4-01-01-01-01-07-05 **OIL AND GAS OPERATIONS PLAN**

- 1. Plan Format:** Two hard copies of all plans shall be provided and one copy of the plans shall be provided in digital format, on either a thumb drive or CD. No plans shall contain copyright restrictions or public use restrictions.
- 2. Cover Sheet:** The cover sheet shall have a title block with the reference to an Administrative Use by Special Review, project name, and location by section, township and range. The cover sheet shall also include a legal description of the area, date of the drawing, existing zoning of the site, a sheet key, a vicinity map with north arrow (scale of 1" = 2,000' preferred) with an emphasis on the major roadway network within two (2) miles of the proposal, and all applicable County notes, an approval signature block and a block to insert the COGCC Permit number when

approved. Upon approval, the first sheet will be signed by the Director.

- 3. Impact Area Map:** The second sheet shall contain an Impact Area Map that shows the proposed location of the Oil and Gas Facility, locations of all existing oil and gas wells within the one-mile impact area, locations of all producing, closed, abandoned, and shut-in wells and other oil and gas operations within one (1) mile of the site, locations of all water wells within ½ mile of the proposed Oil and Gas Operation, Existing improvements within 1,500 feet of the location on which the operation is proposed, and all existing and proposed roads within the one-mile impact area.
- 4. Drilling Operation Plan:** The third sheet shall provide a site plan of drilling operations with drilling equipment with existing and proposed finished-grade topography at two-foot (2') contours or less tied to a datum acceptable to the County. The applicant shall verify current information regarding what datum is acceptable to the County, prior to submitting the application for the Administrative Use by Special Review. The layout of the drilling equipment may be shown as a typical plan, if the County deems it appropriate for the extent of development of the proposed Oil and Gas Facility.
- 5. Production Plan:** The fourth sheet shall provide a site plan of production operations with production equipment such as tanks and compressor stations with existing and proposed finished-grade topography at two-foot (2') contours or less tied to a datum acceptable to the County. The production plan shall also identify proposed drilling and completion schedules. A seed mix shall be provided for reseeding the well pad. Equipment layout may be a typical plan appropriate to the degree of development for the Oil and Gas Facility, if the County deems it appropriate for the extent of development of the proposed Oil and Gas Facility.
- 6. Signage Plan/Sign Detail:** A dimensioned Signage Plan or Sign Detail shall be included on one of the sheets describing and illustrating the appearance, size, location, type, color, material, and illumination of all signs. Directional signs for emergency responders and inspectors shall be included, along with a 24-hour, 7-days per week contact information to deal with all noise complaints.
- 7. Final Plan:** Once the review process is complete and staff has determined that all outstanding issues have been resolved, staff

will request a final copy of the Oil and Gas Operations Plan. The final copy of the Plan shall be paper. The final Oil and Gas Operations Plan shall contain the information listed above unless otherwise specified by the County staff.

**4-01-01-01-01-07-06 NOTICE OF APPLICATION REQUIREMENTS; DISCRETIONARY NEIGHBORHOOD MEETING**

**1. Notice:** The applicant shall provide written notification by U.S. Mail to owners of parcels within ½ mile of the boundaries of the proposed parcel where an application for an Administrative Use by Special Review for an Oil and Gas Facility has been filed with the County. The Notice of Application shall meet the format prescribed by the County and shall be mailed no less than ten (10) days prior to the submittal date of an application for an Oil and Gas Facility to the County. The Notice of Application shall contain a statement informing the recipients of the notice that they may request written notification by the Applicant of the commencement of construction and commencement of drilling operations. The applicant shall provide written notification by U.S. Mail, which shall include an offer to consult, to any municipality or county whose boundaries are within 1/2 mile of the proposed parcel where an application for an Administrative Use by Special Review for an Oil and Gas Facility has been filed with the County.

**2. Neighborhood Meeting:** The Director may require the applicant to conduct a neighborhood meeting at a convenient public location with adjacent and surrounding land owners and other interested parties in accordance with Section 02-01-02, Neighborhood Meetings. At the neighborhood meeting, the Applicant shall provide an overview of its proposed oil and gas operation and allow those in attendance to provide input as to the proposed operation, including, but not limited to, issues that arise from application of these regulations to the proposed operation, and suggested mitigation to adequately ensure compliance with these regulations.

**4-01-01-01-01-07-07 APPROVAL/DENIAL OF ADMINISTRATIVE USE BY SPECIAL REVIEW**

**1. 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 forty-two (42) calendar days from the date of complete

submittal by the applicant. The Administrative Use by Special Review application can be administratively approved, approved with conditions necessary to meet the criteria of this Section or denied based upon noncompliance with the criteria of this Section. 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 forty-two (42) calendar day timeframe counts only as the County's processing time and does not include the applicant's response time.

2. **Director's Discretion to Refer to the Board:** In lieu of the 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 BOCC for its consideration and decision at a public hearing. In such event, the BOCC shall make its determination based upon the requirements of this Section; however, unless waived by the BOCC, notice of the hearing shall be provided to those parties entitled to notice as set forth in Section 04-10-02-03-03-07-06 prior to the BOCC hearing. At such public hearing, the BOCC may approve, approve with conditions, or deny the application.
3. **Expiration of Approval; Permit Revision Process:** ~~An approval of the Administrative Use by Special Review shall only be valid for five (5) years unless the Oil and Gas Facility is substantially commenced prior to the expiration of such timeframe. Provided at least one well is drilled and completed during the initial three (3) year period following approval of a multi-well pad location, such approval permanently vests the permitted location for the number of wells as contained within the initial permit approval. If additional wells are to be drilled at the multi-well pad location following expiration of the initial three (3) year period, the permit(s) for those wells shall be revised pursuant to this provision. The Permit Revision Process is the process to ensure application of most recent and applicable Best Management Practices associated with application of the permitting standards contained within these Development Standards. The Permit Revision Process also allows the Operator to inform the County of any most recent and applicable Best Management Practices associated with well drilling and completion. To achieve these goals, the Permit Revision Process shall include application of all necessary and relevant provisions of these Regulations as determined by the Director of Community and Economic Development. The Permit Revision Process is the County process which serves to update the~~

County oil and gas well permit associated with a multi-well pad location and is not a process to deny a previously approved permit.

4. **Permits Required Prior to Commencement of Operations:** If applicable, an Access Permit and Oversize Load (OSL) Permit shall be required prior to the development of the Oil and Gas Facility. A Floodplain Use 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 Oil and Gas Facility.

**4-01-01-01-01-07-08** ***APPEAL of DECISION ON APPLICATION FOR ADMINISTRATIVE USE BY SPECIAL REVIEW***

An applicant may appeal the Director's denial of an application for an Administrative Use by Special Review for an Oil and Gas Facility, or any conditions of approval, to the Board of County Commissioners for a 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 Director. Thereafter, the matter will be scheduled on the next available agenda of the BOCC. At such hearing, the BOCC may affirm, reverse or modify the decision of the Director, based upon the criteria set forth in Section 4-10-02-03-03-07-02.

**4-01-01-01-01-07-09** ***MOU PROVISIONS AS CONDITIONS OF APPROVAL***

An approval of an Administrative Use by Special Review for an Oil and Gas Facility shall automatically include as conditions of approval all provisions of the MOU executed by the applicant, except to the extent waived by the Director or the Board.

**4-01-01-01-01-07-10** ***ADMINISTRATIVE AMENDMENT***

If the applicant or operator proposes changes from the plans approved through the Administrative Use by Special Review, including any changes in the source or location of water to be used by the Oil and Gas Facility, the applicant or operator is required to submit an amendment to the application showing the changes, unless such requirement has been waived by the Director. The proposed amendment will be reviewed by staff and, if applicable, staff may require additional information. The amended application will need to meet all requirements of this Section and be approved in writing by the Director, or the BOCC (if the BOCC approved the original application), prior to implementation.

4-01-01-01-01-08

***COGCC AND COUNTY APPROVALS REQUIRED***

Development of the Oil and Gas Facility shall not commence until and unless any required permits from COGCC, and a Use by Special Review (administrative or non-administrative) or Special Use Permit from the County, have both been approved.

4-01-01-01-01-09

***COGCC RULE 305(a) or 305A CONSULTATION PROCESS***

If consultation between an operator and the County is triggered by either Rule 305(a)(1) or Rule 305A, the Director may, in his discretion use either the Administrative Use by Special Review permitting process or the Special Use permitting process, or, in the case neither process is appropriate, develop a case by case consultation process with the operator.