

Rio Grande County Land Development Code
Article XII
Oil & Gas Operations

XII. 1. Authority:

This Section is authorized by inter alia, C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., 30-28-201, et seq.

XII. 2. Purpose.

This Article XXII is enacted to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future residents of the county. It is 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 or lessee of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably, as required to extract and develop their subsurface mineral interests, and 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 respectful manner, and to have adverse land use impacts upon their property, associated with the development of the mineral estate, minimized and mitigated through compliance with this Section. Should it be established by competent evidence that a proposed facility cannot be operated in compliance with the Article, county land use approval for such a facility may be denied.

XII. 3. Jurisdiction.

Article XXII., Shall apply to public and private lands within the unincorporated area of Rio Grande County.

3.1 General Procedures.

3.1.1. Application, installation and operation of oil and gas facilities which are subject to this Article shall not be approved by the County and shall not commence until approval has been granted by the Colorado Oil and Gas Commissioner (COGCC), and then by the relevant county departments in accordance with the requirements of this Article as well as federal review/approval when federal leases are involved?

3.1.2. Planning Commission review and recommendation together with the Board of County Commissioners review and approval shall be required for all major activities and facilities.

3.1.3. This Section provides standards for development review of the surface impacts and natural resource protection requirements for oil & gas operations that are considered to be subject to applicable county, state and federal standards. Rio Grande County requires the use of closed loop (“pitless”) systems, the use of the

best available techniques for “green” drilling and fracturing (“frac”) fluids and other drilling and completion techniques, including management practices designed to protect the integrity of the surface estate and subsurface water resources.

XII. 4. Definitions.

For the purposes of this Article, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates a different meaning.

4.1. **ABANDONMENT:** Presumption of permanent abandonment of a well shall be based on the operator’s filing with the Colorado Oil and Gas Conservation Commission (COGCC). Presumption of permanent abandonment of a facility shall be based upon non-use, or operation for one year without notification to the Land Use Office of the intent to resume operations under specified conditions, or as otherwise defined by the C.O.G.C.C.

4.2. **ACCESS ROAD:** A road located on private property between the site on which an oil and gas facility is located and the municipal or county road or state highway serving such a facility, constructed in accordance with applicable Land Development Code standards.

4.3. **AGRICULTURAL RESOURCES:** Any land, private or public, that is used to produce plant or animal products in a raw or unprocessed state and/or any property that is used for grazing livestock.

4.4. **ANCILLARY FACILITIES:** All of the equipment, buildings, structures and improvements associated with or required for the operation.

4.5. **APPLICANT:** The person, corporation or other legal entity possessing the legal right to develop the mineral resource or any other use proposed in connection thereof for the site in question. Generally, the applicant will be the owner or lessee of the mineral interests.

4.6. **BEST MANAGEMENT PRACTICES (BMPs):** Practices that are designed to prevent or reduce impacts caused by oil and gas operations to air, water, soil, or biological resources, and to minimize adverse impacts to public health, safety and welfare, including the environment and wildlife resources.

4.7. **BOTTOM HOLE LOCATION:** This is the deepest/furthest point of a well. The term Bottom Hole Location (BHL) is where a well is drilled to a specific point to determine if it is a dry hole or a producer. This also is the point of determining the lower portion of a drill string.

4.8. **CEASE and DESIST ORDER:** An order issued by the Rio Grande County pursuant to C.R.S. §34-60-121 (5).

4.9. **COGCC:** Colorado Oil and Gas Conservation Commission.

4.10. **CDPHE:** The Colorado Department of Public Health and Environment is charged with protecting and maintaining the health and environment of the citizens of Colorado.

4.11. **COMPATIBLE/COMPATIBILITY:** Able to exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface water

and groundwater quality/quantity, adequacy of the road system, air quality, surrounding land uses and inhabitants.

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

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

4.14. COUNTY: Rio Grande County, its Board of Commissioners or other agencies of Rio Grande County with delegated authority to set or enforce these regulations.

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

4.16. CDOT: Colorado Department of Transportation

4.17. DEGRADATION: Where it's no longer safe or unfit for the intended or existing use of said water prior to or after the Oil and Gas Operation.

4.18. DESIGNATED AGENT: When used herein, shall mean the designated representative of any producer, operator, transporter, gasoline refiner or other extraction plant operator, or initial purchaser.

4.19. DRILLING WINDOW: The time the Application is approved to the expiration of the APD issued by COGCC.

4.20. EASEMENT: The legal right of one person to use the real property of another, for a specified purpose.

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

4.22. EXHIBIT A: State application, exhibits, agreements, and state-approved permits.

4.23. EXHIBIT B: Surface Owner Bill of Rights or Surface Owner Agreement.

4. 24. FACILITY: An oil and gas facility as defined in Section 5 of this Article.

4. 25. FLOW LINE: Those segments of pipe from the wellhead downstream through the production facilities ending at:

- a. In the case of gas lines, the gas metering equipment.
- b. In the case of oil lines, the oil loading point.
- c. In the case of waterlines, the water loading point, the point of discharge to a closed tank or the injection wellhead.

4.26. GAS WELL: A well having a pressure and volume of natural gas, (methane) often in combination with a variety of other substances.

4.27. GATHERING SYSTEM: All pipelines from the meter at the end of the flow line to the compressor station. A system consisting of well (or gathering), lateral, and trunk pipelines

that transport oil, gas or other products derived from oil and gas production to a central facility or transmission line, and so classified under the United States Department of Transportation and/or COGCC regulations.

4.28. GEOPHYSICAL OPERATION: See Seismic Exploration/Operation.

4.29. GOLD BOOK: The most current edition of “Surface Operating Standards for Oil and Gas Exploration and Development” prepared by the United States Department of the Interior Bureau Of Land Management and the United States Department of Agriculture Forest Service.

4.30. HAZARDOUS MATERIAL: Any material that, because of its quantity, concentration, or physical or chemical characteristics, may pose a hazard to human health and/or the environment. Hazardous materials include the following categories: Flammable and Combustible Material, Toxic Material, Corrosive Material, Oxidizers, Aerosols, Compressed Gases.

4.31. MINERAL ESTATE: Mineral interest in real property that is shown by the real estate records of the county in which the real property is situated.

4.32. NRCS: U.S. Natural Resources Conservation Service (formerly known as the Soil Conservation Service)

4.33. NON-CROPLAND: Any land used in ways other than those defined as agricultural land uses.

4.34. NON-POINT SOURCE POLLUTION: (NPS) caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, and ground waters.

4.35. NUISANCE: Facility which is not being constructed, operated or installed in substantial compliance with the regulations of this article and any applicable conditions of approval and as to which the applicant has failed or refused to abate, correct or discontinue the violation of this article after being ordered to do so by the Board of County Commissioners or any violation of local, state, or federal law.

4.36. OPERATING PLAN: A general description of a facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, anticipated timing of various activities, and any other information related to regular functioning of that facility.

4.37. OPERATOR: A company or individual who has been permitted by the Colorado Oil and Gas Conservation Commission and by Rio Grande County to conduct any type of oil and gas exploration, extraction or development activity on a permitted site.

4.38. PAD AREA: The areas associated with any oil, gas or injection well that are either directly disturbed by the drilling or are subsequently affected by the operation of production facilities, excluding the access road and flow lines.

4.39. PAD SIZE: Pad size shall be measured from the edges of the disturbed area.

- 4.40. PIT: Any natural or man-made depression in the ground, either lined or unlined, used for oil or gas exploration or production purposes. Pit does not include enclosed steel, fiberglass, concrete or other similar vessels, which do not release their contents to surrounding soils.
- 4.41. PLATTED SUBDIVISION LOT: Any lot created pursuant to state law, which has received subdivision approval by the Board of County Commissioners.
- 4.42. POLLUTION: Man-made or man-induced contamination or other degradation of the physical, chemical, biological, or radiological integrity of air, water, soil, or biological resource.
- 4.43. PRODUCED WATER: Water that is extracted from the ground in the process of accessing and extracting gas or oil.
- 4.44. PRODUCING (IN PRODUCTION): The development stage in which marketable oil and gas are extracted from a well; may also signify the extraction level at which the quantitative terms of the lease are fulfilled.
- 4.45. QUIET ZONE: The area within one-half (1/2) mile of a school, hospital, college, court, rest home or other designated area where exceptional quiet is necessary, while such places are in operation.
- 4.46. RECOMPLETION/RESTIMULATION: Re-entering a well to complete or deepen the well to a new formation from that in which a well has previously been completed or to stimulate an existing production zone.
- 4.47. RECREATIONAL FACILITY: Lands or structures that are used for the purpose of public or private outdoor recreational activities. Recreational activities conducted at these facilities may be active or passive and may include, but shall not be limited to: sports fields, playgrounds, public parks, Forest Service, Bureau of Land Management-established camping sites.
- 4.48. RESERVE PIT: Those lined pits used to store drilling fluids for use in drilling operations or to contain exploration and production waste generated during drilling operations.
- 4.49. RESIDENTIAL AREA: An existing residence or platted subdivision lot.
- 4.50. RETAINING PIT: A lined earthen excavation used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells.
- 4.51. RIGHT-OF-WAY: A tract or strip of land, separate and distinct from the adjoining property, legally occupied or intended to be occupied by an oil, gas and/or water pipeline or access road.
- 4.52. SECURITY FENCING: A six-foot or taller chain link fence topped by three strands of barbed wire, or the equivalent, with a gate that can be locked.
- 4.53. SEISMIC EXPLORATION/OPERATION: All activities associated with acquisition of seismic data including, but not limited to: surveying, shot-hole drilling, sound generation by any means, recording, shot-hole plugging and reclamation

- 4.54. SHUT-IN WELL: A well capable of production or injection by opening valves, activating existing equipment or supplying a power source.
- 4.55. SIMULTANEOUS INJECTION WELL: Any well in which water produced from oil and gas producing zones is injected into a lower injection zone and such water production is not brought to the surface.
- 4.56. SOUR GAS: Natural gas containing hydrogen sulfide (H₂S) and, which is toxic if inhaled in amounts of 4.0 ppm or greater
- 4.57. SOLID WASTE DISPOSAL: The storage, treatment, utilization, processing, or final disposal of solid waste.
- 4.58. SPACING: Acreage dedicated to each well producing from the same formation. Spacing regulations are established by the Colorado Oil & Gas Conservation Commission.
- 4.59. SPECIES OF CONCERN: Any plant or animal species or subspecies of state or federal concern as identified by the Colorado Parks and Wildlife, the Bureau of Land Management, U.S. Department of Agriculture, U.S. Fish and Wildlife Service or the Colorado Natural Heritage Program, including any species listed as threatened, endangered, candidate or currently under litigation pursuant to the Endangered Species Act.
- 4.60. SPLIT ESTATE: Land in which the ownership of the surface estate and the ownership, all or a portion, of the mineral estate are separated or held by different parties.
- 4.61. STORM WATER RUN-OFF: Rain or snowmelt that flows over land and does not percolate into soil and includes storm water that flows onto and off of an oil and gas location or facility.
- 4.62. STORM WATER MANAGEMENT PLAN: A detailed analysis of how storm water on the site will be managed, including the system's design and how it will be constructed to meet applicable County and Colorado Department of Health and Environment and federal agency requirements.
- 4.63. SUBCONTRACTOR: A company or individual employed by an Operator to conduct drilling, oil and gas services, waste disposal, or other related activity on the permitted premises or otherwise within Rio Grande County.
- 4.64. SURFACE ESTATE: An interest in real property that is less than full fee title and that does not include mineral rights as shown in the record of the Rio Grande County Clerk and Recorder in which the real property is situated.
- 4.65. SURFACE OWNER BILL OF RIGHTS: Surface Owner Bill of Rights (SOBR) (Exhibit A) as referred to in the Rio Grande County Oil & Gas Operations regulations; a separate document to be executed by the surface owner acknowledging an understanding of areas which can be negotiable with the operator as they work to relate to impacts on the surface rights.
- 4.66. TRANSMISSION LINE: A pipeline transporting oil, natural gas or any other products derived from oil and gas production, which are defined as a transmission line by the

Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

4.67. WATER BODIES: Reservoirs, lakes, perennial or seasonally flowing rivers, streams, creeks, springs, irrigation ditches, aquifers, wetlands, playa, arroyos, stock ponds and draws.

4.68. WELL: An oil or gas well; a hole drilled for the purpose of producing oil or gas; a well into which fluids are injected; a stratigraphic well; a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

4.69. WILDLIFE: All species under the jurisdiction of the Colorado Department of Parks and Wildlife.

4.70. WORKOVERS: Commencement of operations on a producing well to restore or increase production from formations that have been producing in the well bore.

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

XII.5. Delineation of Oil & Gas Facilities.

5.1. All oil and gas facilities shall require a Conditional Use Review to approve or deny With criteria as set forth and include the following:

5.1.1. A well site built and operated to explore for or produce petroleum and/or natural gas (methane), including auxiliary equipment required for such production, i.e., separators, dehydrators, pumping units, tank batteries, and other equipment located within the perimeter of the well site pad, employing engines or motors with a cumulative horsepower rating of less than fifty (50) bhp.

5.1.2. Facilities associated with gas gathering lines and water collection lines, such as drip stations, vent stations, pigging facilities, transfer pump stations and valve boxes, where such equipment or facilities employ engines or motors with a cumulative horsepower rating of less than fifty (50) bhp.

5.1.3. Individual wellhead compression and multiple well compression facility powered by motors or engines with a cumulative horsepower of less than fifty (50) bhp.

5.1.4. Storage yards or construction staging areas occupying one (1) acre or less.

5.1.5. Geophysical (Seismic) and Gas Explorations, including, but not limited to, seismic activities.

5.2. The first oil or gas facility proposed for an area where no other oil and gas development currently exists will include as follows:

5.2.1. Compressor stations and associated facilities, which serve multiple wells employing engines and/or motors with a cumulative horsepower rating of fifty (50) bhp or more.

5.2.2. Water injection stations and associated facilities.

5.2.3. Storage yards and construction staging yards, which occupy an area greater than one (1) acre.

5.2.4. Any other facility related to the production of oil and/or gas, which contains engines and/or motors with cumulative horsepower rating of fifty (50) bhp or more.

5.2.5. Gas treatment facilities, which serve multiple wells or gathering systems.

5.2.6. Chemical injection stations: Injection of chemical wastes shall not be permitted by the County as part of oil and gas operations.

5.2.7. Pipelines located outside an individual well site.

XII.6. Submittal Requirements for an Oil and Gas Operations Permit Application

6.1. Applicant responsible for Referral Agency Review and Consultant fees:

The costs of Referral Agency and Consultant review of the application for the proposed Oil and Gas Operation, including reviews associated with the pre-application meeting and completeness determination, are the responsibility of the applicant.

6.2. The applicant shall submit/provide:

6.1.1. A minimum of sixteen (16) complete hard copies, or such number as directed by the Land Use Administrator, and a digital copy of which shall be required after the application has been deemed complete, as well as any associated materials detailed below, along with the filing fee as set by the Board of County Commissioners.

6.1.2. A copy of the Application for Permit to Drill (APD) and all other applications submitted and approved by the Colorado Oil and Gas Conservation Commission, and/or Federal Environmental Assessment (EA) or Environmental Impact Statement (EIS) can be substituted as documentation for one or more of the following submittal requirements. If the information is sufficient to demonstrate compliance with these regulations, that information must be highlighted.

6.1.3. The name, address, telephone, fax numbers and e-mail address for the applicant. If the applicant is to be represented by an agent, a letter signed by the applicant authorizing the agent to represent the applicant.

6.1.4. Surface ownership: For facilities to be located upon real property with split estate, for which the Operator does not currently own or lease the surface estate, the Operator shall provide a copy of the Surface Owner Bill of Rights to the surface owner.

6.1.5. Mineral interest ownership: Proof of the right of the applicant to exploit the mineral estate.

6.1.6. Parcel location: The legal description, property address and common description of the parcel on which the Operation is proposed to be located. A copy of the recorded deed or lease to the parcel should be included. A copy of the COGCC Drilling Permit Application can be substituted.

6.1.7. Identification of previously approved uses. List any Federal, State and County permits, which have been previously approved under the Land Development Code for the parcel on which the Operation is proposed.

6.1.8. Characteristics and current condition of the operation location: Identification of physical characteristics and descriptions of current conditions of the site where the operation is proposed to occur, including water bodies, soils, vegetation, roads, potential geologic hazards, other potential mineral resources and any other characteristics requested by the Land Use Department to determine potential impacts.

6.1.9 List of adjacent land parcels: A listing of all land parcels and land uses that are within fifteen hundred (1500) feet of the boundaries of the parcel on which the project is proposed, including all properties separated from the parcel by a roadway, or which would be adjacent to the parcels except for the existence of the roadway or are within one half mile of the drilling site or the BHL, whichever is greater.

6.1.10. Vicinity map: A map which shall, at a minimum, include the following:

6.1.10.1. Operation location. Location of the operation on a United States Geological Survey 7.5' quadrangle map or on a recorded subdivision plat if the proposed Oil and Gas Operation is within an approved subdivision, including GPS (latitude and longitude accurate to six (6) decimal places of a degree), with the location highlighted so that it is easy to see.

6.1.10.2. Topographic features: Water bodies, contour lines and elevations (at the same contour interval as the local USGS 7.5' topographic map), within one (1) mile and up to three (3) miles of the proposed well pad as required by the county authority.

6.1.10.3. Roads: All public and private roads and undeveloped easements that traverse and/or provide access to the proposed Oil and Gas Operation and identification of the public or private entity having jurisdiction over each road.

6.1.10.4. Easements: Easements recorded or historically used that provide access to or across, or other use of the parcel, or are within one mile of the well site, whichever is less.

6.1.10.5. Special districts, municipalities, subdivisions, structures: Locations of special district boundaries, municipalities, subdivisions, and commercial or residential structures within three (3) miles of the site, and any proposed BHLs. If the well site or any BHL is located within a Special District but the district boundaries are more than three miles from the site or any BHL, the Special District shall be listed.

6.1.10.6. Proximity of other Oil and Gas Operations: within five (5) miles of the site.

6.1.11. Site Plan map: A map with north arrow and appropriate scale (generally 1"=50') for the parcel where the Oil and Gas Operation will occur, indicating the following:

6.1.11.1. Easements and rights-of-way: Utility easements and rights-of-way.

6.1.11.2. Improvements: Any existing improvements.

6.1.11.3. Proposed facilities: such as well pad size and location, structures, pipelines, tanks, wells, pits, flow lines, impoundment facilities, temporary living quarters, staging and storage areas and equipment, fencing, type and location of exterior lighting.

6.1.11.4. Gathering System lines: All gathering lines for any facility shall be shown on the site plan for each individual well. Prior to installation of gathering lines, an encroachment permit shall be obtained from the Road and Bridge Department for any road crossings and work in county rights-of-way or a county road.

6.1.11.5. Site Features: Any significant site features including floodplains, water bodies, drainage patterns, or cultural and archeological resources within 1000 feet of the well site.

6.1.11.6. Topography: Existing and proposed topography at 20 or 40 feet contour intervals as necessary to portray the direction and slope of the area affected by the oil and gas operation.

6.1.11.7. Lease boundary: All boundaries of the lease(s) upon which the proposed operation will take place if they are within 1000 feet of the well site or the BHL.

6.1.11.8. Color Photos: Color Photographs (size 8”X10”) of the proposed well site and adjacent areas showing existing land configuration.

6.1.11.9 All proposed bottom hole locations if they are more than 100 horizontal feet from the well site.

6.1.11.10 All proposed initial hydraulic fracturing zones. These may be depicted graphically on horizontal or inclined holes and by a marginal or other notation for vertical wells. Both depth/location and the geologic formation shall be indicated to the nearest member of the formation.

6.1.12. Operation Plan: A plan (including projected start and completion dates) for construction and operation, the method of drilling, hours of operation during construction and operation, description of equipment used (including horsepower), transportation, production and post-operation activities, including a site reclamation plan pursuant to COGCC requirements and Section 8.5.8 of this Article.

6.1.13. Reasonably Foreseeable Future Development Plan: Prior to production, the operator shall provide a summary of the projected development including, to the extent reasonably available: location of well pads, roads, pipelines, tank batteries, oil or gas processing facilities, and all other facilities for the proposed and adjacent lands owned or operated by the permittee.

6.1.14. Water and sewer: Detailed data on the projected use of water, its availability and source and plan for any sewage or human waste handling.

6.1.15. Noxious Weed and Introduced Species Prevention Plan: A plan for the management and prevention of noxious weeds and/or harmful introduced species on the site that complies with all county and state requirements.

6.1.16. Waste Management Plan: A plan for the handling, storage, transportation, treatment, recycling and disposal of waste generated by the operation, including exploration and production (E&P Waste). All drilling mud remains; cuttings, frac’ing fluids, and operation and production waste shall be disposed of in a proper manner consistent with COGCC and CDPHE Rules and Conditions of Permits. The applicant will comply with the rules and testing requirements of any landfill at which any waste products are disposed of.

6.1.17. Access and Transportation Routes Plan: A map that identifies the access route to and within the parcel, color photos of the proposed road locations to be used for accessing the property, and a narrative estimating the number and types of vehicles anticipated per day (including weights), that will travel over the route(s) for both the exploration and production phases. This plan shall also set out the proposed schedule for types and amount of traffic for days/weeks prior to the commencement of drilling operations, during drilling operations including the estimated duration of drilling, completion of wells, construction of well site facilities, demobilization of drilling equipment, reclamation, and production.

6.1.18. Roadway Impact: An estimate of the impacts of the operation to the roadway system within the county.

This section is meant to ensure that the Oil and Gas Operator's plan, manage, and mitigate impacts to County roadways and bridges that result from facility construction, facility operation, and ongoing new traffic generation. In order to protect the health, safety, and welfare of the existing and future residents of Rio Grande County, mitigation of potential transportation impacts shall be required.

(A) Transportation Impact Study

Applications for all oil and gas facilities may be required to include a transportation impact study, which shall clearly identify and distinguish the impacts to County roads and bridges related to facility construction, operations, and ongoing new traffic generation. The process for mitigation of transportation impacts typically includes a plan for traffic control, the receipt of all necessary permits, ongoing roadway maintenance, and improving or reconstructing County roads, including providing financial assurance. The study shall be signed and sealed by a Colorado licensed Civil Engineer experienced in traffic and roadway use and analysis.

(1) Traffic Control Plan Required

A traffic control plan shall be prepared for each phase of construction where County roads will be utilized for transportation of materials in support of site construction and/or operations. The plan shall include the following components:

- Method for Handling Traffic (MHT)
- Haul Route Plan
- Detour Plan
- Existing Conditions Survey

(2) Construction Drawings Required

In the event that public road improvements are required to accommodate an oil and gas facility, engineered drawings

prepared by a Colorado licensed civil engineer shall be approved prior to permitting work in the right-of-way. Financial assurance may be required for the construction or reconstruction of all public roads.

(3) Maintenance

In the event that the activities of a facility operator cause any roadway to become substandard, the County may require the operator to provide ongoing maintenance of the applicable substandard County roadways. Such maintenance may include dust control measures and roadway improvements such as graveling, shouldering, and/or paving as determined in the Transportation Impact Study.

(4) Site Access

Any access to a property from a County roadway requires a County-issued access permit. Access permits to the County road system are issued through the Rio Grande County Road and Bridge Department. Permits are revocable upon issuance of a stop work order or if other permit violations occur.

(5) Financial Assurance Required

The Transportation Impact Study, along with the associated construction drawings and cost estimate, shall determine whether to require the operator to enter into an Oil and Gas Impact Mitigation Agreement with the County and any other applicable jurisdiction. Such agreement shall be supported by an acceptable form of financial assurance, as outlined in this section under the Financial Assurance subsection.

6.1.19. Visual and Sound Mitigation Plan: Measures proposed to minimize and mitigate the visual and sound impacts of the operation.

6.1.20. Identification of Water Structures: Identification of irrigation ditches and other water structures.

6.1.21. Water Quality: Non-Point Source Impacts

6.1.21.1. Identification of all Water Bodies: To the extent known from published reports and available data an inventory and location of all water bodies, including aquifers, within fifteen hundred (1500) horizontal or vertical feet of the proposed well site location or BHL.

6.1.21.2. Oil and Gas operators will be required to conduct and fund water quality analysis on domestic water wells and other water bodies, within one (1) mile of the proposed operation, and up to three (3) miles, or as recommended by the designated County authority. (See Section 8.8.1.7).

6.1.21.3. Non-point source impacts to water quality: A description of potential non-point source pollution associated with the proposed oil and gas operation and proposed mitigation.

6.1.21.4. Mitigation and avoidance: Proposed mitigation and avoidance measures to minimize the water quality impacts associated with the operation. Proposed mitigation may include an erosion control plan required under this Section.

6.1.22. Soil characteristics: Maps and tables identifying and describing the types of soil at the proposed drilling site and along any non-public access roads, in accordance with the National Soil Survey.

6.1.23. Drainage and Erosion Control Plan: A plan that identifies existing and proposed drainage patterns and the methods for controlling erosion and storm water run-off during all construction and operational phases.

6.1.24. Fire and Emergency Response Plan:

Fire Protection Commitment and Report

(a) Fire Protection Commitment Required

Applications for all oil and gas facilities and activities shall include a commitment from the applicable fire protection jurisdiction having authority for the provision of service. The fire protection commitment provides evidence of a certain level of fire protection to ensure the safety of County residents and employees of the applicant on the site. Additional commitments may be required from other fire protection providers depending on the extent of the capabilities of the responsible fire protection department or district, as outlined in the fire protection report.

(b) Fire Protection Report Required

Applications for all oil and gas facilities shall, at a minimum, include a fire protection report and meet any other local, state, or federal fire protection and wildfire mitigation. The report shall be a written description of the capabilities of the responsible fire protection jurisdiction having authority to provide fire protection for the proposed oil and gas facility. Additional fire protection reports may

be required from other fire protection providers depending on the extent of the capabilities of the responsible fire protection jurisdiction.

(c) Special Fire Protection Measures

Several areas of the County are served or may be served by fire protection agencies having limited capabilities, including staffing, response time, and equipment. Applications for oil and gas facilities in those areas of the County may be required by the County Fire Marshal to provide additional operational plans for on-site fire protection. Such plans, which should include the same information as a fire protection report and any other information requested by the County Fire Marshal, shall be reviewed and approved by the County Fire Marshal prior to approval of any permits by the Land Use Administrator or the Board of County Commissioners.

(1) Emergency Response Plan

(a) General

All oil and gas facility operators shall provide an emergency response plan to the Rio Grande County Sheriff's Office, *the Rio Grande County Emergency Management Office*, and the fire protection jurisdiction having authority. This plan shall be made in consultation with the above named agencies. No applications for an oil or gas facility shall be considered complete or be approved until and unless the operator has provided such plan to the Sheriff's Office, and the fire protection jurisdiction having authority. The plan shall be filed with the Sheriff's Office and the fire protection jurisdiction having authority and updated on an annual basis. Each annual update is to be provided for each calendar year by February 1 of the same year.

(b) Required Plan Content

The emergency response plan shall, at a minimum, consist of the following:

(1) Name, address, and phone number, including 24-hour emergency numbers for at least *two agents of the Operator* responsible for emergency field operations.

(2) An as-built facilities map showing the name, location, and description of all minor and major facilities, including the size, type, and content of all pipelines, pits, and tanks. To the extent allowed by law, the as-built facilities map shall be held confidentially by the Rio Grande County Office of Emergency Management (OEM), and shall only be disclosed in the event of an emergency. To the extent

allowed by law, the County OEM shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. §24-72-204(3)(a)(IV).

(3) A written response plan for any potential emergencies that may be associated with the construction, drilling, completion, or operation of the facilities. This plan shall include, but not be limited to, any or all of the following: explosions, fires, gas, chemical or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.

6.1.25. Flood Hazard: If applicable, a map showing the boundaries of a 100-year flood, delineating the possible depth of flood waters on the proposed site and the proposed location of public/private improvements within the flood boundaries, including buildings, utilities and roads. An elevation certificate or other means of certification by a Colorado Licensed Professional Engineer.

6.1.26. Geologic hazards: An assessment of the geologic hazards within three (3) miles of the site, including, but not limited to, geologic faults, unstable areas, and/or known landslide areas.

6.1.27. Cultural Survey: A cultural, historical, and archeological assessment of the area within 1000 feet of the well site and 150 feet from any non-public access road including Native American burial or other culturally significant sites that meet the requirements for eligibility for registry under the National Historical Preservation Act.

6.1.28. Existing and future land uses: A written summary of the existing uses of the parcel and the proposed future land uses of the parcel after completion of the operation, including any prime agricultural land designation by the U.S. Natural Resource Conservation Service's Soil Survey of Rio Grande County.

6.1.29. Certain submittal requirements may be waived or modified by the Land Use Administrator if it has been sufficiently demonstrated that the requirements to be waived or modified are not applicable or reasonably achievable.

Article XII. 7. Application and Review Process.

In addition to the application and review process contained in Article XII of the Rio Grande County Land Use Code, the following shall apply to applications for oil and gas operations:

Applicants for an Oil and Gas Operations Permit shall comply with the following procedural requirements.

7.1 Pre-Application Meeting.

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

7.1.2. Rio Grande County, as well as the COGCC, encourages that the applicants invite the surface owner to the pre-application meeting by sending a letter at least thirty (30) days in advance of the pre-application meeting. Proof of such notice should be provided to the Land Use Administrator or designee by a certificate of mailing.

7.2. Review Procedures for all Oil and Gas Operations Permit Applications: Proposed Oil and Gas Facilities require a Special Review/Conditional Use Permit which shall be administratively processed by the Land Use Administrator or a designee and presented to the Planning Commission for review and recommendation, and then forwarded to the Board of County Commissioners for final decision.

7.2.1. Determination of Completeness by the Land Use Administrator: The Land Use Administrator or a designee shall determine whether the application is complete and includes all of the information required under these regulations prior to beginning any review of an application under this Article. The Land Use Administrator or designee shall, within thirty - (30) working days of receiving the application, notify the applicant in writing that the application is either complete or incomplete.

7.2.1.1. Application is not complete: If the application is not complete, the Land Use Administrator or designee shall inform the Applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies have been met.

7.2.1.2. Failure to correct constitutes withdrawal: If the Applicant fails to correct the deficiencies within sixty (60) days of the postmarked, certified mailing of the notification of non-completeness, the application shall be considered withdrawn.

7.2.1.3. Application is complete: If the application is complete, the Land Use Administrator or designee shall certify it as complete, assign the

application an agenda date with the Planning Commission, and provide notification of the meeting date to the applicant.

7.2.1.4. Completeness is not a determination of compliance: A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of this Article.

7.2.2. Notice to Adjacent and Affected Property Owners.

7.2.2.1. The Land Use Administrator or designee shall provide written notice by first class mail with certificate of mailing to owners of real property within fifteen hundred feet (1500) of the subject parcel in which the Oil and Gas Operation is proposed to be located. This notice shall be mailed within ten (10) business days of the application being determined complete by the Land Use Administrator or designee. A copy of the notice will be provided to the Applicant. The notice shall include:

- a. A description of the oil and gas operation.
- b. A vicinity map showing the site, existing and proposed access roads, construction, facilities and description of the equipment proposed to be used or located upon the site, both during and after completion of the facility.
- c. The date of the public meeting of the Planning Commission(s) to review the application in accordance with subsection 7.2.1.3
The property owners to whom notice is mailed, shall be submitted to the Land Use Administrator or designee by the Applicant using the most current list of property owners maintained by the Office of the Rio Grande County Assessor.

7.2.2.2. Subdivisions and Associations: If any part of a development, condominium or homeowners' association is within fifteen hundred (1500) feet of the proposed site on which the oil and gas site is located, the Land Use Administrator or designee shall provide written notice to said development, condominium or homeowners' association in the same manner as other landowners.

7.2.2.3. The applicant shall post a notice in a conspicuous place on the property or closest public roadway within five (5) days of the submittal of the oil and gas operations permit application. The applicant shall submit to the Land Use Administrator a photograph which displays the date and time of said posting of the notice taken at the time of posting. The size of the notice shall be no less than 3x3 and placed on the property closest to the road and should be

readable/viewable from both directions of traffic, but not to the extent that the view of traffic in either direction is obstructed.

7.2.2.4. Pursuant to COGCC rules, it shall be the responsibility of the notified surface owner(s) to give notice of the proposed operation to any affected tenants. Waiver of notice requirements by any affected surface owner does not eliminate that surface owner's responsibility to notify affected tenants of the proposed operation. The Land Use Administrator shall notify the surface owner of the responsibility.

7.3. Land Use Department Review: The Land Use Administrator shall review the application. The express purpose of the review is to ensure that the proposal complies with all applicable development standards and requirements.

7.4. Review by Referral Agencies: The Land Use Administrator may require that the application materials, or any portion thereof, be submitted for professional analysis and recommendations by any other review agency organization or technical consultant; deemed appropriate and necessary to complete the review (including other county offices and departments, municipal, state, or federal agencies having an interest in our authority over all or part of the proposal) and other reasonable substantive experts and legal consultants. The applicant shall be responsible for all necessary costs associated with the referral. The referral review and comment period shall be thirty (30) days from the date that the application is deemed complete.

7.5. Report: Following the referral review and comment period, the Land Use Administrator shall prepare a report that identifies whether the Oil and Gas Operation complies with the Oil and Gas Operation Standards set forth in this Article.

7.6. Public Review Procedure: All applications for review shall be scheduled for public review according to the following process:

7.6.1. Review by Planning Commission: The application for an Oil and Gas Operation Permit shall be considered by the relevant Planning Commission(s) following proper notice of a public meeting.

7.6.2. Schedule Public Meeting by Planning Commission(s): A public meeting of the Planning Commission shall be scheduled within forty-five (45) calendar days of the date that the application was certified as complete by the Land Use Administrator.

7.6.3. Notice of Public Meeting. Public notice shall be given as follows:

7.6.3.1. Publication Notice: The notice shall be published no less than thirty (30) days prior to the date of the meeting, in a

newspaper of record within the county and any other publication(s) deemed necessary and appropriate by the Land Use Administrator.

7.6.3.2. Notice to surface property owners shall be to all such persons owning property within 1500 feet of the proposed well site or any proposed BHL. This notice shall include any condominium or homeowners' associations and Special Districts located within 1500 feet of the well site or any proposed BHLs.

7.6.4. Planning Commission Recommendation: Following the public meeting, the relevant Planning Commission(s) shall recommend to the Board of County Commissioners that the application for an Oil and Gas Operation Permit be approved, approved partially, approved with conditions, or denied, based upon the Oil and Gas Standards set forth in Sections 8 and 9 of this Article.

7.6.5. Review and Decision by the Board of County Commissioners:

7.6.5.1. Schedule of Public Hearing: After the Planning Commission conveyance of recommendation(s) to the Board of County Commissioners, the permit application shall be placed on the Board's agenda and a public hearing scheduled. A Notice of Public Hearing shall be placed in the Rio Grande County official newspaper (Monte Vista Journal) and may be published in any other newspaper as determined. The public hearing shall be conducted in accordance with Section 11 of this article.

7.6.5.2. Oral Announcement: Immediately following the public hearing, the Board may proceed to verbally render its provisional decision on the application, or take the matter under advisement and make their decision within thirty (30) days from the date of the hearing, or within such time as mutually agreed by the Board and the Applicant for further review, to either grant the application in whole or in part, with or without modifications and conditions, or to deny the application. The decision of the Board of County Commissioners shall be transmitted in writing to the Planning Commission and to the Applicant.

7.6.5.3. Written Resolution: Following the Board of County Commissioners' oral announcement of its decision, a written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings based upon competent evidence in the record of proceedings before the Board and any applicable federal, state or county statutes, rules, regulations or policies. The Land Use Administrator or designee shall prepare a written resolution for the Board of County Commissioners' final action or decision on an application.

7.6.5.4. Final Decision: For the purposes of judicial review, the Board of County Commissioners' final action or decision on an application shall be deemed to have been made as of the date upon which the Board of County Commissioners executes the written resolution, which shall constitute the Board of County Commissioners' final action or decision.

7.6.6. Review criteria: Review and decision to approve, approve partially, approve with conditions, or deny an application for an oil and gas facility, shall be made and determined based upon its compliance with all applicable performance standards and other requirements of this Article and by applying the following criteria to the evidence in the record of proceedings before the Planning Commission and the Board of County Commissioners:

7.6.6.1. Suitability: Suitability of the location of the proposed facility given its size, design and operational characteristics. Factors to be considered include, but are not limited to, noise levels, impacts upon air and water quality, vibration and odor levels, fire protection, access requirements, visual impacts, wildlife impacts and public safety.

7.6.6.2. Adequacy of existing roads and access to the site: Consideration of existing and proposed road alignment, intersections, condition structure and site distances, traffic volumes, types of equipment, dust control, existing road uses, and documentation of the Applicant's legal right to use the proposed access(s). (Traffic Plan move in/rig up)

7.6.6.3. Site Characteristics: Factors to be considered include, but are not limited to, topography, natural hazards (landslides, flooding, wildfire), current resource values (e.g., water resources, open space corridor, prime agricultural land, other potential minerals, wildlife habitat), identified natural heritage, historic, cultural and archeological sites. Also to be considered are special designations under various provisions of the Land Development Code, such as significant recharge areas and areas designated "unique and irreplaceable".

7.6.6.4. Compatibility: Compatibility with existing uses and those which can reasonably be anticipated (based upon present subdivision and land use approvals for properties located within the surrounding affected area) as determined by the Board of County Commissioners, based upon competent evidence in the record. A facility's compatibility with land uses in the surrounding area, which the Board of County Commissioners finds will be affected by its operation, shall be determined by the Applicant's

projected ability to minimize and mitigate the impacts which it may generate as set forth in the facility's operational plan. Provisions of the operational plan shall be in accordance with proven management practices that are designed to protect the public health, safety and welfare, and the value and integrity of the surface estate and other natural, cultural, agricultural resources and with all applicable county regulations and standards.

7.7. Coordination with State or Federal Actions and County Permitting Process:
The County, as part of its consideration of an Oil or Gas Permit application may utilize any available Environmental Assessment (EA) or Environmental Impact Statement (EIS) or other information available from a state or federal agency so that the County will have the benefit of the analysis and determinations made by other entities in reaching its own decision.

XII.8. Rights and Responsibilities.

Recognizing the need to avoid operational conflicts, yet acknowledging the rights of surface owners to preserve the value of their property, the right of the county to regulate land uses to protect and promote the health, safety and well-being of the public and environment, and the right of mineral interest owners and lease holders to extract minerals (or the value thereof), the following criteria shall be used in siting oil and gas facilities. Facilities that cannot comply with these criteria may be denied. All negative impacts of operations will be required to be mitigated to an acceptable standard. The County shall determine the compliance of the proposal using the standards contained in this Section. Standards are listed in the order of their importance. Where conflicts between standards occur, the most restrictive standard will be used.

- 8.1. The siting of a facility shall, at a minimum, lie within the COGCC determined drilling window, or in a location that complies with COGCC rules and regulations.
- 8.2. The standards in this Code shall not cause the operator to site the facility in:
 - a. A geologic hazard area.
 - b. An area with slopes exceeding thirty (30) percent.
 - c. An area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers.
 - d. An area within a 100-year floodway of a stream or river as shown on the Flood Insurance Rate Maps (FIRM) or determined by a state licensed professional engineer.
- 8.3. All facilities shall be sited not less than six hundred feet from existing residences, commercial structures, public buildings, and County-approved platted building envelopes to minimize the impact to said structures or designated areas.

8.4. Facilities shall be constructed using, to the extent feasible, existing infrastructure. This includes, but is not limited to, the use of existing roads, pipeline routes, and well pads within the existing drilling windows.

8.5. All facilities shall be sited so as to minimize to the maximum feasible extent the impact to ongoing agricultural operations.

8.6. Well Pad Density.

8.6.1. Facilities shall be planned and located so that their impact on other surface uses is, to reasonable extent, minimized.

8.6.2. Well pads generally shall not occur at a density of greater than one (1) per 40 acres, or as designated by the COGCC. The county may grant special exceptions to this standard under Section 10.1 or 10.2 of this article when the county finds that one or more of the following factors apply in a manner that renders use of any existing well pad impractical: (See Exhibit A, Surface Owner Agreement)

8.6.2.1 There are no existing well pads within feasible proximity of the proposed parcel.

8.6.2.2. Topographic characteristics of the site.

8.6.2.3. Natural resource constraints (e.g. wetlands).

8.6.2.4. The location of utilities or similar services.

8.6.2.5. Geological factors or where issues exist concerning distances between wells.

8.6.2.6. Other site conditions beyond the control of the Applicant.

8.6.2.7. Safety Concerns.

8.2.2.8. The spacing provision does not allow the mineral interest owner feasible access to the mineral estate.

8.6.2.9. At the request of the surface owner, and with County approval.

8.7. Land Use Coordination Standards.

8.7.1. Purpose. The purpose of these standards for the coordination of land uses is to minimize conflicts between oil and gas facilities and other land uses.

8.7.2. Setbacks. Setbacks shall comply with the COGCC Regulations (100 Series) (604) (a) (1) (A) (B) (2) (3) (4) (5))604.b (1) (2) (3) (4)

8.7.3. Sound Emissions: *COGCC* Rule 802. Noise Abatement

8.7.5. Visual Impacts.

8.7.5.1. To the maximum extent possible, the applicant shall use structures and equipment of the minimum size necessary to satisfy functional requirements. The Operator is encouraged to use low profile pumps and equipment to mitigate visual impacts.

8.7.5.2. When clearing trees and vegetation for construction of a facility, the applicant shall feather and thin edges of vegetation.

8.7.5.3. The Applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.

8.7.5.4. To the maximum extent possible, the Applicant shall align access roads to follow existing grades and minimize cuts and fills.

8.7.5.5. All facilities shall be painted as follows:

- a. Uniform non-contrasting, non-reflective color tones, similar to Munsell Soil Color coding system.
- b. Color matched to land, not sky, slightly darker than adjacent landscape.

8.7.5.6. The Applicant shall minimize damage to existing trees and vegetation.

8.7.5.7. Pad dimensions for an oil and gas facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance. The pad shall be oriented in a manner to reduce visual impact to view corridor or road. Ideally the pad shall be sited perpendicular to any roads or highways, not parallel.

8.7.5.8. Upon completion of the well or other work associated with drilling, the operator shall re-seed the disturbed area with native grasses or other vegetation, the mix of which shall be that recommended by the NRCS or CSU Extension Service similar in kind to surrounding native vegetation. Re-vegetation of the facility site shall be accomplished within three (3) months after completion and within twelve (12) months for non-crop land. The operator shall ensure that any weeds in the re-vegetation area shall be mitigated prior to the re-seeding. The requirements for re-

vegetation shall not apply to main access roads and the immediate areas surrounding the above-ground facilities, which are necessary for safe operation, and which are to be graveled.

8.7.5.9. Exterior Lighting, when required, shall meet the standards set forth under the Land Development Code. All lighting associated with oil and gas development will be shielded to prevent direct visibility of the source of light from off-site, directing all exterior lighting either toward the ground or the surface of the building and, wherever possible, directed away from existing residences, commercial buildings, and roads. The minimum lighting necessary to effectively carry out operations safely shall be used.

8.7.5.10. All facilities shall be sited in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation as background, the construction of the facility near mature stands of vegetation or behind ridges and natural rock formations.

8.7.5.11. All facilities shall be sited away from, to the maximum extent possible, prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings, ridge lines, and other landmarks.

8.7.5.12. All equipment used for construction, drilling, re-drilling, well completion and re-completion and maintenance of the facility, shall be removed from the site within thirty (30) days of completion of the work for which the equipment is used, unless otherwise agreed to by the surface owner. Permanent storage of equipment on well pad sites shall not be allowed, unless otherwise agreed to by the surface owner and determined by Rio Grande County to be in conformance with the applicable Land Development Code standards. (A variance may be required.)

8.7.5.13. To the maximum extent possible, all utilities must be underground, unless the applicant can prove that there are site specific factors that make underground locations of any utility inadvisable.

8.7.6. Safety and Security.

8.7.6.1. Security fencing and locked gate shall be required in the following locations:

- (a) Where there are existing residences within one thousand (1,000) feet of the facility site perimeter.

(b) Where there is a public or private school within one thousand (1,000) feet of the facility site perimeter.

(c) Where there is an existing recreational facility designated by an appropriate federal, state or local authority within 1,000 feet of the facility site perimeter.

8.7.6.2. Safety practices generally accepted by the oil and gas industry shall be used at all times during drilling and production to minimize the danger to the general public.

8.7.6.3. Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured when the facility site is unattended and/or accessible to the general public.

8.7.6.4. All land within twenty-five (25) feet of any tank or other structure containing flammable or combustible material shall be kept free of dry weeds, grass or rubbish.

8.7.6.5. Where the applicant's visual mitigation plan specifies alternative security fencing, the alternative fencing shall apply.

8.8. Environmental Quality Standards.

8.8.1. Water Quality.

The Oil and Gas Operation shall not cause significant degradation of water quality of affected water bodies. Determination of effects of the Operation on water quality may include, but is not limited to, the following considerations: (Ref: Rio Grande Hydrogeological Study)

1. Applicable narrative and numeric water quality standards.
2. Changes in point and nonpoint source pollution loads.
3. Increase in erosion and sediment loads.
4. Changes in stream channel or shoreline stability.
5. Changes in storm water runoff flows.
6. Changes in quality of ground water.

8.8.1.1. Non-point Source Pollution: The Oil and Gas Operation shall not cause degradation in the quality of surface waters from the addition of non-point source pollution.

8.8.1.2. Water wells: The Oil and Gas Operation shall not cause degradation in the water quality or water pressure of any public or private water source. Baseline water testing shall be required within one mile and

up to three (3) miles or as recommended by the designated County authority. In addition, the recommendations of the Rio Grande County Hydrogeological Study compiled in December 2012 by Davis Engineering Service, Inc., Geologic Solutions and HRS Water Consultants, Inc. shall be implemented. This document is available on the Rio Grande County Land Use Website as well as the COGCC website. This requirement shall be funded by the applicant/operator.

8.8.1.3. Aquifer protection. At a minimum, the Operator shall comply with COGCC Rules as well as the Rio Grande County Hydrogeological Study recommendations. (Pg. 4, (1) (2); (Pg. 5-6 (3), (4.)

8.8.1.4. As a condition of any permit issued by Rio Grande County, all Oil and Gas Operations shall strictly comply with all state and federal water pollution standards and shall strictly comply with Colorado water use requirements. Determination of a violation of state or federal water quality standards or Colorado water use requirements may be grounds for suspension or revocation of any County permit independent of any state or federal action. Any such County action shall be taken by the Board of County Commissioners only after a properly noticed public hearing and with due consideration of the permit holder's right of due process of law.

8.8.1.5. "Green" drilling fluids: It is encouraged that the Oil and Gas Operation use environmentally benign, chemically inert, water-based drilling fluids shall be required.

8.8.1. 6. As a condition of any permit granted by Rio Grande County the Applicant shall be required to submit copies directly to the Rio Grande County Land Use Office of any water testing results that are also required as other Regulatory Agencies.

(a) For the purpose of establishing baseline water quality, prior to the commencement of drilling or any re-stimulation of a well (if more than twelve months have passed since the most recent sampling), groundwater samples shall be collected, at the permit holder's cost, from a minimum of four (4) water wells within one half mile and/or up to three miles of the well site and all proposed BHLs, prior to the commencement of any drilling activities . Samples from adjudicated or permitted springs within one half mile of the well site and all proposed BHLs may be substituted for well samples if sufficient wells are not available. Such sampling is subject to the consent of the owner of the wells. If there are not four available wells within one mile of the well site or any of the BHLs, the maximum number of wells available shall be sampled. All samples shall be collected by a qualified independent contractor experienced in water quality sampling and shall be sent to a State of Colorado or federally certified laboratory for analysis.

(b) Water wells to be sampled shall be selected based on the following criteria:

- (1) Proximity to the proposed oil and gas location. Wells closest to the proposed location are preferred.
- (2) Type of groundwater feature: Domestic water wells are preferred over stock or other wells. Springs or seeps shall be sampled if no water wells are available within one mile up to three (3) miles of the proposed location.
- (3) Local topography and hydrogeology. Groundwater and surface water flow directions should be assessed in selecting sampling locations. Locations down gradient or downstream from the proposed location are preferred. Where the groundwater gradient is known or may be inferred, selection of sampling wells up and down gradient is preferred with down gradient preferred over up gradient.
- (4) Multiple identified aquifers available: Where multiple defined aquifers are present, the sampling locations should attempt to sample from different aquifers when possible.

8.8.1.7. The groundwater samples shall be analyzed for the following, using testing procedures and protocols prescribed by COGCC Rules and including but not limited to:

- (1) pH units (EPA Method 150.2 or calibrated field instrument)
- (2) Specific conductance
- (3) Alkalinity (total bicarbonate and carbonate as CaCO₃)
- (4) Total dissolved solids (TDS)
- (5) Presence of bacteria (iron related, sulfate reducing slime forming, and coliform)
- (6) Total petroleum hydrocarbons (TPH) and BTEX compounds (benzene, toluene, ethylbenzene, total and xylene)
- (7) Dissolved gases (methane, ethane, propane)
- (8) Major anions, including but not necessarily limited to, chloride, sulfate, sodium, bromide, fluoride, magnesium, nitrate and nitrite as N, phosphorus
- (9) Major cations (calcium, iron, magnesium, manganese, potassium, sodium)

(10) Other elements, including but not necessarily limited to arsenic, barium, boron, chromium (total), selenium, strontium, and cadmium

(11) Hydrogen sulfide (H₂S) shall be measured using a field test method (12) Field observations such as odor, color, sediment, bubbles, and effervescence shall be noted and recorded.

8.8.1.7.1 If free gas or a dissolved methane concentration greater than 1.0 milligram per liter (mg/l) is detected in a water well, gas compositional analysis and stable isotope analysis of the methane (carbon and hydrogen – ¹²C -¹³C, ¹H and ²H) shall be performed to determine gas type and origin. If test results indicate a thermogenic origin or a mixture of thermogenic and biogenic gases or if the methane concentration increases by more than 5.0 mg/l between sampling periods or increases to more than 10.0 mg/l the operator shall notify the well and land owners, Rio Grande County Land Use, and the COGCC immediately.

8.8.1.7.2. Testing results shall include the analysis for the above listed parameters, location of the water well (GPS latitude and longitude accurate to six (6) decimal places of a degree), distance and direction from any sample site to the nearest oil or gas well site or other oil and gas facility and to any BHL (GPS latitude and longitude accurate to six (6) decimal places of a degree), depth of the water well, depth and identification of aquifers (if identifiable), and date of sampling. Such results, upon prior approval by the respective well owner, shall be submitted to the well owner, COGCC, Rio Grande County Land Use, and any applicable water district and/or central water provider within 30 days of the date of sample collection.

8.8.1.7.3. Rio Grande County, as a condition of any permit, may require further water well sampling at any time in response to complaints from land or water well owners.

8.8.1.7.4. Subsequent groundwater sampling shall be conducted using the same sampling procedures and analytical criteria as the initial testing:

(a) 6 to 12 months following any well completion or facility installation.

(b) 72 months after the last sampling required by section

8.1.1(G)(1), above.

(c) Additional testing may be required if changes in water quality are identified.

8.8.1.8. Storm water: The operator shall submit a storm water management plan and comply, at a minimum, with the state storm water management plan and standards.

8.8.1.9. Monitoring: An approved or conditionally approved facility shall:

- a. Comply with COGCC water-bearing formation protection procedures and requirements as well as the Rio Grande Hydrogeology Study.
- b. Until such time as final reclamation of a site has been completed as described in the COGCC Reclamation Regulations, all test and survey reports and water well testing information that have been required by the COGCC (to determine the presence of waste or occurrence of pollution), as well as the results from well-head monitoring to allow safe and convenient determinations of pressure and fluid flow, shall be forwarded to the Rio Grande County Land Use Office.
- c. All oil and gas operations shall comply with all applicable state water quality standards and classifications established by the Water Quality Control Commission (Colorado Department of Public Health).

8.8.1.10. Comply with the Division of Water Resources regarding ground water management for beneficial uses of produced water related to coal bed methane production.

- a. Identify physical source of water and legal entitlement to use such water (e.g., Water Court decree for irrigation, dust control and drilling).
- b. Onsite containment and disposal of water associated with the facility shall be in accordance with applicable federal, state and county requirements and all other provisions of this Article.

8.8.2. Air Quality.

8.8.2.1. No oil and gas operation shall cause degradation or violate any state or federal air quality law or regulation under the Clean Air Act.

8.8.2.2. Air emissions from the operation shall be, at a minimum, in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Section 7, C.R.S.

8.8.2.3. Odors and Dust. Oil and gas facilities and equipment shall be operated in such a manner that odors and dust do not constitute a nuisance or hazard to public health, safety, welfare and environment.

Odors: At a minimum, compliance with COGCC Rules section 805(b)(1) shall be met.(Air Quality Control Commission, Regulation No.2 Odor Emission, 5 C.C.R. 1001-4)

8.8.2.4. Fugitive Dust. Operators shall employ practices for control of fugitive dust. Such practices shall include, but are not limited to, the use of speed restrictions, regular road maintenance, application of water and other dust suppressants, and restriction of construction activity during high-wind days. Additional management practices such as road surfacing, wind breaks/barriers, or automation of wells to reduce truck traffic may also be implemented.

8.8.2.5. Any Oil and Gas Operator engaged in clearing or leveling of land, or owner or operator of land that has been cleared, which is greater than five (5) acres and may constitute the source of fugitive dust, shall be required to use all available and practical methods technologically feasible and economically reasonable, to minimize such fugitive dust emissions.

8.8.2.6. “Greenhouse Gas” Reduction: The Operator shall make every reasonable effort to minimize methane emissions by using all feasible “green completion” techniques [pursuant to COGCC Rules Section 805 (3)] and the installation of “low bleed” pneumatic instrumentation.

8.8.2.7. Emission Control Equipment. The Operator shall comply with all existing Federal EPA rules.

8.8.3. Wildlife and Species of concern. An Applicant shall consult with the local Division of **Parks** and Wildlife office to mitigate undue impacts affecting the migration of wildlife or any wildlife habitat.

8.8.3.1. The Oil and Gas operation shall not cause significant degradation of wildlife, or to their habitat, including any federal, state or Colorado Natural Heritage program-identified species of concern.

8.8.3.2. At a minimum, the operation shall comply with the CPW recommended Standard Operating Practices (SOPs) for oil and gas operations in Colorado and COGCC Rules.

8.8.4. Geologic Hazard Areas.

Floodplains. The applicant shall not locate an oil and gas facility within a geologic hazard area as determined by the State of Colorado Geological Survey. All facilities shall comply with the adopted County floodplain ordinance when

they are located, wholly or in part, in a one hundred (100) year floodplain area as shown on Federal Emergency Management Agency's Flood Insurance Rate Maps.

8.8.5. Waste Management and Disposal.

8.8.5.1. When a facility becomes operational, all construction-related debris shall be removed from the site. The site shall be maintained free of debris and excess materials at all times during operation.

8.8.5.2. Burning of trash will be allowed on site, in burn barrels with appropriate mitigation practices such as cover screens and in compliance with any burning restrictions. (In accordance with the 900 Series Rule of the COGCC)

8.8.5.3. All human waste shall be fully contained and disposed of off the site at an appropriately licensed facility in accordance with all County regulations.

8.8.5.4. Operators shall ensure that all E and P (exploration and production) waste is properly stored, handled, transported, treated, recycled or disposed of to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources pursuant to COGCC 900 series Rules and all other state and federal rules, regulations, and permit conditions.

8.8.5.5. Secondary containment shall be constructed or installed around all tanks containing crude oil, condensate or produced water, with greater than ten thousand (10,000) milligrams per liter (mg/l) total dissolved solids (TDS) and shall be sufficient to contain the contents of the largest single tank in the project area plus sufficient freeboard to contain precipitation. Secondary containment structures shall be sufficiently impervious to contain discharged material.

8.8.5.6. A written management plan for waste minimization through beneficial reuse and recycling of E and P waste is required. The plan shall describe the proposed use of the waste, method of waste treatment, and product quality assurance, and shall include a copy of any certification or authorization that may be required by other laws, rules or regulations.

8.8.5.7. E and P waste management activities shall be conducted and facilities constructed and operated, to protect the waters of the County from significant environmental impacts from E and P waste.

8.8.6. Produced Water Disposition.

Finding: The County finds that the characteristics of produced water can vary from a nearly potable water quality suitable for livestock and irrigation to a highly

saline, high TDS, radioactive liquid laced with metals, hydrocarbons and chemicals. Therefore, appropriate disposition of produced water is wholly dependent on its quality.

8.8.6.1. Due to the scope and depth of groundwater resources, only closed loop (pitless) drilling systems shall be permitted by Rio Grande County unless, a special exception is granted under Section 10.0 of this Article. In addition, closed containment of stored fluids shall be utilized to the maximum extent feasible.

8.8.6.2. The final disposition of produced water from any Oil and Gas Operation will be determined by the most environmentally beneficial method based upon its relevant characteristics. The water will be tested by a state and/or U.S. EPA-approved analytical laboratory in the State of Colorado for contaminants, including but not limited to salts, metals, hydrocarbons, chemical residues, total dissolved solids and radioactive materials. The disposal method will be determined in consultation with the COGCC and the Colorado Department of Public Health and Environment, in accordance with relevant regulatory agency requirements and industry best management practices. The Land Use Administrator shall receive all copies of the test results, which will be public information.

8.8.6.3. Pipelines and flow lines should be constructed and maintained in conformance with applicable COGCC pipeline regulations and industry best management practices.

8.8.7. Fracturing (frac'ing)/Cavitation.

8.8.7.1. The permit holder shall provide to the Rio Grande County Office of Emergency Management a list, including Material Safety Data Sheets, of all chemicals, additives and organics used on site. This information will be held in strictest confidence and shared with other relevant local emergency response personnel only on a "need to know" basis.

8.8.7.2. Only substances approved by the COGCC shall be used for hydraulic frac'ing.

8.8.7.3 The permit holder, as a condition of the permit, shall post and participate in the www.fracfocus.org website.

8.8.8. Surface Disturbance Standards.

8.8.8.1. Agricultural Resources: Subject to COGCC spacing requirements for wells, a facility(s) shall be located so as to reasonably minimize surface use necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land and/or land in general. This standard

may be waived if verified written consent is obtained from the surface owner.

8.8.8.2. Recreational Resources: The Oil and Gas Operation shall not cause degradation in recreational activities in the County such as hiking, hunting, fishing or related activities.

8.8.8.3. Cultural and Historic Resources: The Oil and Gas Operation shall not cause degradation of cultural, historic, or scientific resources or disturbance to archeological sites.

8.8.8.4. Economic Resources and Activities: The Oil and Gas Operation shall not cause any decrease in the County's ability to generate energy from renewable sources.

8.8.9. Flowline and Gathering System Recordation

8.8.9.1. The location of all flow lines and gathering systems shall be recorded with the Rio Grande County Clerk and Recorder within 90 days of installation. GPS coordinates (latitude and longitude accurate to six (6) decimal places of a degree) shall be used to define the location of the flow line(s) or gathering system. Copies of the location notice shall be filed with the Utility Notification Center of Colorado ("Call Before You Dig") (www.colorado811.org) and the surface owner.

8.8.9.2. All flow lines or gathering systems shall be marked with yellow locating tape placed 2 feet above the pipe if steel pipe is used. If non-metallic pipe is used a tracing wire must also be installed.

8.8.9.3. Upon abandonment of any flow line or gathering system or any portion of either a notice of abandonment shall be filed with the Rio Grande County Clerk and Recorder, the Utility Notification Center of Colorado ("Call Before You Dig") (www.colorado811.org), and the surface owner within 90 days of the abandonment.

8.8.9.4. If the flow line or gathering system is removed a notice of such removal shall be filed with the Rio Grande County Clerk and Recorder, the Utility Notification Center of Colorado ("Call Before You Dig") (www.colorado811.org), and the surface owner within 90 days of the removal.

8.9. Roads and Access.

Finding: Existing roads shall be used to the greatest extent practicable to avoid erosion and minimize the land area devoted to oil and gas operations. Roadbeds shall be engineered to avoid or minimize impacts to riparian areas or wetlands to the extent practicable. If a site disturbance is unavoidable the impacts shall be mitigated where feasible and practicable, operators are encouraged to share access roads when developing a field. All roads shall be routed to complement other land usage. All operators/employees vehicles shall not travel outside of the original access road boundaries. Operators/employees shall adhere to any Covenants/Home Owner Association Rules and Regulations that may apply to areas within a platted subdivision.

8.9.1. Ingress and Egress: Ingress and egress points to public roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

8.9.2. Access roads: Roads serving facilities, including existing and/or proposed roads which connect a facility to a county road or state highway shall be reviewed in accordance with *Article XVII, Design Standards (pg) 173-177 and Article XVIII, Improvements (pg.) 181-191*, as applicable. (Rio Grande County Development Code.)

8.9.3. Use of subdivision roads: In those instances where an operator accesses a facility via a road or roads with a county-approved subdivision and a governing entity exists (e.g. homeowners' association) with legal authority to grant access rights over such roads and/or negotiate agreements with respect to their use, the operator should negotiate a fair and reasonable road maintenance or road improvement agreement with such entity for the purpose of paying or making in-kind contributions for its pro rata share of the cost of maintaining or improving the affected road(s). Such agreement or memorandum of understanding (MOU) shall be recorded with the Clerk and Recorder.

8.9.4. Private Access Roads: For those roads located between the site on which a facility is proposed and the county road or state highway serving such a facility, the applicant shall provide written documentation as part of the application demonstrating that it has the legal right to use such road(s) for the purpose of accessing the facility. The applicant shall demonstrate that such road(s) can provide adequate physical access to the proposed facility, in accordance with applicable Land Development Code Regulations. (Article XVII and XVIII.)

8.9.5. Maintenance Agreement: If the projected use of the public road resulting from the Oil and Gas Operation will result in a need for an increase in roadway maintenance or snow removal on county roads, the county shall require the operator to:

(a) Reimburse the County for any short-term costs above normal maintenance costs.

(b) Provide a bond or other financial assurance in an amount acceptable to the County to cover any costs of repairing longer term impacts to the road(s) and other County-owned infrastructure resulting from the

operation, which have not been offset by overweight vehicle fees and impact fees.

8.9.6. State Highway Access: If access is directly off a state highway, the applicant must have an approved Colorado Department of Transportation State Highway Access Permit for the proposed facility.

8.9.7. Use of Equipment. The operator shall:

- a. Remove, or require the removal of, tire chains from its heavy equipment before entering onto a County road.
- b. Clear and restore the condition of the road as promptly as reasonable under the circumstances if mud and/or debris are tracked onto the County road by the operator's equipment.

8.9.8. Hazardous Materials: Full disclosure, including Material Safety Data Sheets (MSDS), of all hazardous materials that will be transported on any public or private roadway within the county for the Oil and Gas Operation must be provided to the Rio Grande County Office Emergency Management. This information will be held in strictest confidence and shared with other emergency response personnel only on a "need to know" basis.

8.10. Weed Control.

The applicant shall be responsible for ongoing weed control for all permitted facilities and along the access roads under the Applicant's control leading to such facilities. The appropriate weed control methods, and species to be controlled, shall be determined through review and recommendation of the Rio Grande County Weed Department and other regulatory agencies, as determined by the Weed Department, in accordance with the Colorado Noxious Weed Act and any applicable resolution of the Board of County Commissioners for the management and eradication of noxious weeds in Rio Grande County.

8.11. Reclamation: Interim and final reclamation shall be governed by the approved reclamation plan for the facility.

8.11.1. The reclamation plan shall provide for a reasonable reclamation schedule pursuant to COGCC rules and considering the specific surface use and surrounding land uses. COGCC rules regarding reclamation shall be considered the minimum standard.

8.11.2. Interim reclamation should take place on an ongoing basis throughout the duration of the project (e.g. as wells are completed, portions of well pads can be reclaimed; ground surface can be re-vegetated after pipelines or power lines are buried).

8.11.3. Re-Vegetation Plan. Where facilities reduce or destroy existing vegetation, the Applicant in consultation with the NRCS shall develop a re-vegetation plan for the site:

(a) The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related components. The Applicant may, in consultation with the NRCS, develop a standard re-vegetation format for all sites within the County, for submittal with Oil and Gas Operations Permit applications. Generally, measures more stringent than those recommended by the NRCS and/or other agencies shall not be required. Re-contouring and re-vegetation of the surface to pre-disturbance conditions equivalent to adjacent undisturbed areas will generally be required.

(b) The County may also approve a plan for an alternative post-disturbance reclamation.

(c) Each Operator is encouraged to consult with the responsible official or governing body of a homeowner's association or common interest community in which the facility may be located, with respect to any weed control, reclamation or mitigation plan currently in effect.

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

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

8.11.6. Protection and Monitoring: Newly reclaimed areas should be adequately fenced for two years or until interim and final reclamation. Progress of all

disturbed areas shall be monitored with a standardized evaluation cover measurement approved by the NRCS.

XII.9. Public Health, Safety & Welfare Protections.

9.1. Emergency Preparedness and Response Plan: An applicant for an Oil and Gas Operations Permit is required to provide an emergency preparedness and response plan that fulfills all the requirements of the plan adopted by the County. This plan must be reviewed by the Rio Grande County Office of Emergency Management, which will make its' recommendations to the relevant Planning Commission(s). The plan shall be filed with the County and updated on an annual basis or as conditions change (e.g. turnovers in responsible field personnel, change in substances used). The emergency plan shall, at a minimum, consist of the following information:

9.1.1. Name, address and phone number, including a twenty-four hour emergency number of at least two (2) persons responsible for emergency field operations.

9.1.2. A printed map, including GPS coordinates, showing the names, location and description of all facilities, including the size and type of all pipelines and isolation valves. (Note: Isolation valves shall not be operated by anyone except the owner of the pipeline.) The as-built facilities map that includes the information regarding the location of isolation valves shall be held confidentially by the County's Emergency Management Officer or other County designee, and shall only be disclosed in the event of an emergency. The Office of Emergency Management shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. § 24-72-204 (3)(a)(IV).

9.1.3. A written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.

9.1.4. A fire prevention response and safety plan.

9.1.5. Project-specific emergency preparedness plans are required for any project that involves drilling or penetrating through known or likely zones of hydrogen sulfide gas, as determined by the County's office of Emergency Management Officer prior to beginning field operations.

9.2. Inspections.

9.2.1. Twenty four-hour contact: The applicant shall provide the telephone number of a contact person who may be reached twenty four (24) hours a day for purposes of being notified of any proposed County inspection under this section or in case of emergency. Any permitted Oil and Gas Operation site may be

inspected by Rio Grande County at any time to ensure compliance with the requirements of the approved development plan, provided that at least one (1) hour notice is given to the contact person at the telephone number supplied by the applicant. Calling the number (or leaving a message on an available answering or voice mail service) at least one hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer. By accepting an approved Oil and Gas Operations Permit, the applicant grants consent to such inspections. The cost of any inspection deemed reasonable and necessary by the County shall be borne by the applicant.

9.2.2. Right to Enter: As a condition of any County permit and for the purpose of implementing and enforcing this Section, duly authorized County personnel may enter onto subject property upon notification of the permit holder, lessee or other party holding a legal interest in the property. If such entry is denied, the County shall have the right to obtain an order from a court of competent jurisdiction to obtain entry.

XII.10. Financial Assurance

10.1 Financial Assurance for Road Damage and Construction

The Applicant may be required to provide financial assurance in favor of Rio Grande County in an amount to be determined by the Rio Grande County Commissioners, which is sufficient to ensure restoration of any damage to County roads caused by the Applicant's permitted activities and/or to ensure construction of any required public roadways to appropriate design standards. The form of the financial assurance must be acceptable to the County. If a commercial bond is provided, the bonding company must be currently authorized to provide bonds for federally funded projects.

10.2. Financial Assurance for Erosion Control

The Applicant may be required to provide financial assurance in favor of Rio Grande County in an amount to be determined by the Rio Grande County Commissioners, which is sufficient to mitigate any erosion or excessive deposition of eroded sediment caused by the Applicant's permitted activities. The form of the financial assurance must be acceptable to the County. If a commercial bond is provided, the bonding company must be currently authorized to provide bonds for federally funded projects.

10.3. Assurance for Merchant/Vendor Financial Payment

The Applicant may be required to provide financial assurance in favor of local merchants/vendors in an amount not to exceed \$100,000 in a County-held escrow account. If so required, this would assure that local merchants/vendors would be paid for services rendered for the drilling operations. If no claims are made to the

County within 3 months after drilling operations have been concluded, the funds along with any interest accrued will be returned to the Applicant.

No funds will be paid and dispersed from the account unless a judgment has been filed and awarded by the courts.

XII.11. Transfer of Interest.

An Operator shall not be allowed to transfer its interest in, nor be replaced as Operator of, permitted oil and gas facilities unless and until financial assurance requirements, if any, for the transferee or new operator have been provided in a form satisfactory to the County.

XII.12. Liability Insurance.

12.1. Operators shall be required to carry insurance against personal injury, property damage, environmental damage and general liability in amounts to be determined by the County in reasonable relationship to the risks presented by the scope of operations to be permitted. This amount shall be subject to annual review and revision by the County and shall be reviewed and may be revised at any time following an incident involving substantial damage. All drilling, oil service, waste disposal or other subcontractors employed by the operator shall be subject to insurance requirements bearing a reasonable relationship to the nature and scope of work to be done for the operator as evidenced by the contract with subcontractor which shall be submitted to the County at least thirty (30) days prior to commencement of any work. The operator shall be required to provide prior notice to the County of at least thirty (30) days of any new subcontractor or increase in the scope of work of an existing subcontractor. No work shall commence until the County requirement for insurance has been determined and evidence of insurance has been submitted to the County Land Use Department for an insurer licensed to operate in the State of Colorado. Required insurance coverage shall be provided by insurers with an A.M. Best rating of at least A (VIII) or by a self-insurance program approved by the Colorado Insurance Commission and re-approved on an annual basis. Insurance certificates shall require at least thirty (30) days' notice to the County prior to termination of coverage for any reason and shall include the County as a named insured. The amount of any deductibles and the existence of any exclusion are subject to approval by the County as reasonably within the financial responsibility of the operator or subcontractor. If insurance and self-insurance requirements are not met within the thirty (30) days' notice period, the affected operations of operators or subcontractors shall be terminated until such time as the new insurance requirement is met.

(a) General Liability: Coverage should be a minimum Combined Single Limit of one million dollars (\$1,000,000.00) per person per occurrence for bodily injury and property damage, with total coverage per occurrence equal to one million dollars (\$1,000,000.00) times the number of people who may be at risk at any one

time, as determined by the county based on the Operator's or subcontractor's scope of operations. The policy should carry a maximum deductible of twenty five thousand dollars (\$25,000.00).

(b). Well Control: Five million dollars (\$5,000,000.00) per occurrence. In addition, a well control service contract with a well control service provider approved by the COGCC must be submitted. A combined well control service/well control insurance contract is preferred.

(c) Environmental Liability: Not less than one million dollars (\$1,000,000.00) per occurrence per well, with a deductible of no greater than twenty five thousand dollars (\$25,000.00) per occurrence. Environmental Impairment (or seepage and pollution) shall be either included in the coverage or written as separate coverage applicable to bodily injury and property damage, including losses of use of that damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, or settlement of claims; all in connection with a loss arising from the insured site. Such coverage shall not exclude damage to the lease site. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.

(d) All insurance coverage shall include Rio Grande County as a "certificate holder" so that the County will receive notice of any policy cancellation.

12.2. Certificates and Policies of Insurance: Certificates of insurance must be provided to the County Land Use Administrator, designee or County Attorney evidencing all coverage and endorsements required by this Article with the Oil and Gas Drilling Permit Application. The acceptance of a certificate without the required limits and/or coverage shall not be deemed a waiver of these requirements. Copies of original policies confirming coverage must be provided prior to the issuance of a permit.

12.3. Failure to maintain insurance is a cause for revocation of permit: Substantive violations that is, a failure at any time for any reason to have in force required insurance coverage) shall result in revocation of the permit to operate, and all permitted operations shall cease consistent with safety considerations until a valid insurance certificate has been supplied to the County Land Use Department.

12.4. Operator's and Subcontractor's Dual Responsibility: For clarity, the performance of any work on the operator's premises by a subcontractor who has not fully met these requirements in advance shall be deemed a substantive violation by the Operator and may also be deemed a substantive violation by the subcontractor or grounds for refusal to approve operation by the subcontractor in the County.

XII.13. Conduct of Public Hearing.

A public hearing shall be conducted in accordance with the following process.

13.1. Rights of All Persons: Any person may appear at a public hearing and submit evidence, including oral testimony, either individually or as a representative of an organization. Comments may also be submitted in written form before the hearing with sufficient copies for the Board.

13.2. Public hearing proceedings shall be as follows:

13.2.1. Applicant's presentation: The applicant shall make an oral and/or a written presentation that informs persons at the hearing of the nature, location, and scope of the proposed operation. This presentation shall not be made by County staff or consultants, and may be waived by the Chairperson if there are no members of the public at the hearing and the Applicant has previously explained the proposed operation to the review body conducting the hearing.

13.2.2. Questions by the review body: The review body may ask questions of the Land Use Department, or the Applicant, or anyone else who is present.

13.2.3. Public comments: Public comments shall be heard. Written comments that have been received at least five (5) business days prior to the date of the hearing shall be reported by the Land Use Department and acknowledged to be part of the hearing record.

13.2.4. Ex Parte communications: Members of the decision-making bodies shall not engage in ex parte communication about applications under review or reasonably anticipated to come under review. If an ex parte communication is attempted by telephone, in person, by fax or other means outside of a regularly scheduled meeting, the member of the decision-making body involved shall first attempt to stop the party from the prohibited behavior, then document the communication and notify the Land Use Administrator by telephone or in written form. The Land Use Administrator shall report that documentation at the next meeting or hearing on the subject application. No ex parte communication shall be considered by a decision-making body, or any of its members, in making a decision on an Oil and Gas Permit matter.

13.2.5. Applicant response: The Applicant may respond to any comments made by the public, the Land Use Department, or the review body.

13.2.6. Land Use Department response: The Land Use Department may respond to any statement made by the Applicant, the public, or the review body.

13.3. Time limits for testimony: The Chairperson conducting the public hearing shall set reasonable time limits for testimony or presentation of evidence. If any testimony or evidence is so limited, the person offering that testimony or evidence shall have an opportunity to enter it into the record in writing at the public hearing.

13.4. Continuance of public hearing: At the conclusion of the hearing, the body conducting it may continue the public hearing to a fixed date and time. An Applicant shall have the right to request and be granted, on a showing of good cause, one continuance of each required hearing. All subsequent continuances shall be granted at the discretion of the body conducting the public hearing and upon a finding that good cause has been shown for the continuance.

13.5. Closure of public hearing and acceptance of written testimony after closure. If the hearing is not continued, it shall be closed. At the close of the hearing, the chairperson of the body conducting the hearing may leave the record open for a defined period of time during which only written comment will continue to be accepted. If no such time period is defined, no further written comment shall be accepted after the hearing is closed, except that any public comments received in writing prior to the hearing shall be made part of the record by the Land Use Department pursuant to Article 11.2.3.,

13.5.1. No Ex parte comments accepted. The chairperson shall announce that there shall be no ex parte comments accepted by members of the decision-making body.

13.5.2. All written comments received become part of record. All written comments, along with supporting referenced data, received within the specified comment period, shall be made a part of the record and shall be available for public inspection at the Land Use Department when the hearing is conducted by the Planning Commission. When the hearing is conducted by the Board, copies of all such comments shall be made available at the Administration Office. All timely written submittals shall be made a part of the record of the proceeding.

13.5.3. Record of public hearing: The body conducting the public hearing shall record the public hearing by any appropriate means, including audio-tape or videotape, and written minutes. The written and taped record of oral proceedings, including testimony and statements of personal opinions, the minutes of the hearing and other meetings of the review body, all applications, exhibits, and papers submitted in any proceeding before the decision-making, administrative, or review body, the Land Use Department's report, and the decisions of the review and decision-making bodies, shall constitute the record. Those materials, on presentation to the County, shall become the public property of the County and shall not be removed from County possession without proper written authorization from the custodian of the record.

13.5.4. Materials are part of the public record: Said materials shall be public information, available to the public at the Land Use Administration office during regular business hours. This department, as official custodian of those records, may make such rules, with reference to the inspection of

such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the Land Use Department.

XII.14. Exemptions/Limitations/Amendments/Penalties.

14.1. Special Exception Request.

The Applicant may request special exceptions to provisions of this Article. Requests for special exceptions for proposed facilities may include, but not be limited to, one or more of the following factors:

- a. Topographic characteristics of the site.
- b. Duration of use of the facility.
- c. Proximity of the facility to occupied structures.
- d. Ownership status of adjacent and/or affected land.
- e. Construction of adequate infrastructure to serve the project.
- f. Planned replacement and/or upgrading of facility equipment.

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

- a. Further extend the Special Exception.
- b. Require that the facility be brought into compliance with the performance standards.
- c. Revoke the Special Exception approval.

14.3. Operational Conflicts Special Exception: All applications where a special exception or waiver due to operational conflicts is requested shall be processed and heard in a noticed public hearing by the Board of County Commissioners. The Applicant shall have the burden of pleading and proving by a preponderance of the evidence both an actual, material, irreconcilable operational conflict between the requirements of this Article and those of the COGCC Act, or the Colorado Oil and Gas Conservation Commission (“COGCC”), in the context of a specific application, and that compliance with the COGCC Act alone adequately fulfills the County’s responsibilities to protect and promote the health, safety, and convenience, order, prosperity and general welfare of the present and future residents of the County. For purposes of this article, operational conflict exists where the County’s condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme; and such conflict would unreasonably materially impede or destroy the state’s interest in the development, production, and utilization of oil and gas resources in the state, and the protection of the public health, safety and welfare. An operational conflict may occur where the County

regulation prohibits an activity, which the COGCC through its valid regulations, have clearly authorized, or authorizes a particular activity, which the COGCC or its valid regulations, has clearly prohibited. Additional County requirements in areas regulated by the COGCC, which also fall within County land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the Applicant, shall be presumed not to present an operational conflict. If the Board of County Commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this Article shall result in operational conflicts with the state statutory and regulatory scheme, a special exception or waiver to this Article may be granted, in whole or in part, but only to the extent necessary to protect the state's demonstrated compelling interest or to alleviate that burden on the Applicant that has been found to be unreasonable. The Board of County Commissioners may condition the approval of a special exception or waiver as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval. Also, a special exception or waiver may be granted if strict compliance with this chapter due to special topographic or other conditions outside the control of the Applicant would impose extraordinary hardship on the Applicant. This shall not include any hardship caused by the Applicant's own decisions or choices or any other self-imposed hardship.

14.4. Limitations.

14.4.1. General. Issuance of an Oil and Gas Facility Permit shall authorize only the well(s) and/or related facilities for which it is issued.

14.4.2. No Authority to Re-enter Abandoned Well: An oil and gas drilling permit shall not constitute authority for the re-entering and drilling of an abandoned well. Re-entry and drilling of an abandoned well shall require a new Oil and Gas Operations Permit. Any shut-in or temporarily abandoned well approved by the COGCC director pursuant to COGCC Rules Section 319b shall not be considered an abandoned well for the purposes of this section.

14.4.3. Permit duration: Oil and gas operations shall be commenced within one (1) year of the date of approval. Failure to commence the permitted activity within one (1) year shall cause the permit to expire. A new permit may be approved subject to the submission and full review of a new application. Requirements for an application or review process which are substantially the same as the original application may be waived by the Land Use Administrator.

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

14.4.5. Violations: If the conditions of approval of the permit are not maintained, the applicant shall be considered in violation of these regulations and the permit shall be subject to the penalty and revocation provisions of this Code.

15.5. Amendments.

15.5.1. When a facility has been approved and the applicant desires to modify the subject facility by changes to equipment, site layout, approved operating plan, etc., an amendment to the original application shall be required if the level of impact will be increased as a result of the modification.

15.5.2. The Land Use Department may approve minor amendments to an approved oil and gas facility. Authorized minor amendments include those that do not alter the basic intent and character of the approved permit, are consistent with the performance standards herein, are deemed necessary in light of technical and engineering considerations, or are discovered during actual construction, and could not have been reasonably anticipated during the initial review process.

15.5.3. Minor amendments must comply with all relevant Rio Grande County Regulations. Minor amendments may include, but are not limited to, variations in the location of the well pad which do not decrease the approved setback to residential or commercial structures, minor changes to equipment which do not increase the cumulative horsepower rating to greater than fifty (50) horsepower, deviations to the location of access roads which are wholly contained on site and are approved by the owner of the surface rights, and modifications to the visual mitigation plan which do not adversely impact adjoining property owners or the general public. (See Section 4.25, above)

15.5.4. Modifications which are required in order for the facility to continue operating and must be done immediately in order to maintain the existing level of production, may be done on an emergency basis, without prior notice to or approval by the Land Use Department, provided that such modifications do not include the addition of equipment or operation of the facility which would exceed those defined in Article 6.2.11. The applicant shall provide the Land Use Department with notification of emergency modifications by filing a written amendment to the application, specifying the modifications made, within two (2) working days of their completion.

16.6. Penalties and Enforcement.

16.6.1. Civil Action: In case any building, or structure, equipment, or activity is, or is proposed to be, erected, constructed, reconstructed, altered, or used, or conducted, or any land is, or is proposed to be, used in violation of any provision of this Article, or an Applicant fails to comply with any other provisions of the Article or the Rio Grande County Land Use Code or fails to comply with any conditions placed upon any approval of a facility, the County Attorney, or where the Board of County Commissioners deems it appropriate, the District Attorney, in addition to other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceed to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use. In the event that enforcement action is required to be taken under the provisions of this Article, Rio Grande County shall be entitled to collect its reasonable attorney's fees and costs incurred in any such action from the operator.

16.6.2. False or Inaccurate Information. The Board of County Commissioners may revoke approval of a facility if it is determined at a public meeting, held on at least ten (10) days-notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate. The applicant and the Land Use Department shall be provided with an opportunity to be heard at the public meeting prior to the Board of County Commissioners' rendering its decision.

XII. 17. Enforcement: The Oil and Gas Regulations are an addendum to the Rio Grande County Development Code. Enforcement action as well as other regulations within may be applied to the process and procedures for approval and/or denial of a permit.

17.1. Zoning

17.1.1. Any person, firm or corporation violating any such regulation, provision or amendment shall be subject to actions and penalties set forth in CRS 30-28-124., or any other current applicable Revised Statute and any other legal action provided by appropriate law.

17.1.2. The Land Use Administrator or an authorized representative is authorized to enter upon private property for the purpose of administering Oil and Gas Regulations. The owner of the property shall give the Land Use Administrator free access after Rio Grande County has given reasonable notice for such survey inspection. If access is denied, the Land Use Administrator may apply to the District Court of Rio Grande County for an order authorizing entry. If a violation is found to exist, the County Land Use Administrator or authorized representative shall give written/verbal notice to the violator to correct such violation. If the violation is of immediate concern in regards to the public, health and/or safety, a cease and desist order will be issued immediately. Should the violator fail to

correct the violation within the timeframe, the Rio Grande County Land Use Administrator or authorized representative may request that the County Sheriff deliver a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The summons and complaint shall require that the violator appear in County Court at a definite time and place stated therein to answer and defend the charge. One copy of said summons and complaint shall be served upon the violator by the County Sheriff and the Rio Grande County Land Use Administrator shall retain one copy each, and the Sheriff to the Clerk of the County Court shall transmit one copy. Notwithstanding the foregoing, the issuance of a written notice as specified in the paragraph above shall in no way or manner be deemed a prerequisite to the institution of any enforcement proceedings set forth herein; and provided further, that compliance with such written notice shall not necessarily be deemed to be a defense to any alleged violation of the Land Development Code in any court action instituted seeking full compliance therewith, but evidence of compliance with such order may be introduced as a matter in mitigation and extenuation. The County Attorney's Office is hereby authorized to enforce the provisions of this Section on behalf of the Board of County Commissioners

17.2. Suspension of Approval

17.2.1. The Board of County Commissioners may suspend or withdraw any approval of a plan or may require certain corrective measures to be taken following determination that the information provided by the applicant upon which such approval was based, is false or inaccurate. A written notice from the Board of County Commissioners or its designated representative shall be served upon the applicant, setting out a clear and concise statement of the alleged facts and directing the applicant to appear at a certain regular meeting of the Board of County Commissioners not less than ten (10) days nor more than thirty (30) days after the date of service of notice. The Board of County Commissioners shall determine at the meeting the nature and extent of alleged false or inaccurate information, and shall consider any new significant information that has been brought to its attention, and shall, for good cause shown, suspend or withdraw any approval or require certain corrective measures to be taken.

18.3. Nuisance

18.3.1. Any violation of the County Land Development Code shall be deemed a nuisance.

18.3.2. Any person who violates the provisions of the County Land Development Code, specifically Oil and Regulations, is liable upon conviction of a fine of not more than \$100.00 for each day the cited violations continue shall be deemed a separate offense, and/or by imprisonment in the County jail for not more than ten (10) days.

18.4. Cumulative Effect

18.4.1. The foregoing remedies and enforcement provision shall be cumulative and not exclusive and shall be in addition to any together remedies and enforcement provisions provided by law.