

SECTION 12-1900 OIL AND GAS OPERATIONS

12-1901 General Purpose and Intent

- A. The purpose of this Section is to establish rules that provide reasonable limitations and safeguards for the exploration and production of oil and gas resources in the County. The goal is to provide a framework for the responsible exploration and production of oil and gas resources in a manner that conserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects the public health, safety, welfare and the environment of the County. The intent of these regulations is to provide for a separate and distinct approval process for Oil and Gas Operations based on performance standards.
- B. The County intends to avoid duplicative permit processes or requirements. The County will review permit applications concurrently with other required state or federal agency permitting processes whenever possible and practicable.
- C. Relationship to Other Arapahoe County Requirements. Any Oil and Gas Operation shall also be required to comply with all other applicable Arapahoe County Regulations and requirements that are in addition to the requirements of this Section 12-1900, including but not limited to, the most recent editions of the Arapahoe County Infrastructure Design and Construction Standards, the Stormwater Management Manual, the Grading, Erosion and Sediment Control Manual, and the Arapahoe County Building Code.

12-1902 Authority

This Section of the Arapahoe County Land Development Code is authorized by, *inter alia*, C.R.S. §§29-20-101, *et seq.*, 30-28-101, *et seq.*, 30-28-201, *et seq.*, and 34-60-101, *et seq.*

12-1903 Applicability

- A. All Oil and Gas Operations on public and private land within the unincorporated areas of the County shall comply with this Section 12-1900.
- B. No Person shall engage in, cause, allow or conduct any Oil and Gas Operations prior to obtaining an Oil and Gas Operations Permit unless the operations fall within the exemptions in Section 12-1904.
- C. Any such Oil and Gas Operations Permit issued pursuant to this Section 12-1900 shall encompass within its authorization the right of the operator, its agents, employees, subcontractors, independent contractors, or any other person to perform that work reasonably necessary to conduct the activities authorized by the Permit, subject to all other applicable County Regulations and requirements.
- D. Oil and Gas Operations Permits may be issued for sites that are within the Agricultural zone districts and Industrial zone districts, and within PUD zone districts where Oil and Gas

Operations are specifically listed as an allowed or permitted use. Oil and Gas Operations Permits may be issued in all other zone districts only upon showing that there is no other reasonable alternative to access the oil and gas resources.

12-1904 Exemptions

The following Oil and Gas Operations are exempt from this Section 12-1900:

12-1904.01 Mapping activities. Mapping activities that do not result in any surface disturbance.

12-1904.02 Existing Oil and Gas operations. Operation and maintenance of well sites, wells and pipelines that are legal nonconforming uses under Section 12-1905. Any expansion of a nonconforming Oil and Gas Operation shall comply with Section 12-1905.

12-1904.03 Modifications to existing well sites or production facilities. When a well is allowed under an approved Oil and Gas Operations Permit, any twinning, deepening, or recompleting of a well, or relocation of accessory equipment or gathering lines or flowlines does not require a new permit and shall be administratively approved so long as all applicable regulations of the County and the State are met, and the operator has submitted a revised site and operating plans to the Planning Division depicting any changes from the approved permit.

12-1905 Nonconforming Oil and Gas Operations.

Oil and Gas Operations that were legally established before the effective date of this Section 12-1900 and that do not conform to the regulatory provisions of this Section shall be allowed to continue, so long as the Operations otherwise remain legal and comply with subsections 12-1905.01 through 12-1905.04.

12-1905.01 Extension, Expansion and Alteration of Nonconforming Oil and Gas Operations. A legal nonconforming Oil or Gas Operation shall not increase the extent of the nonconforming use beyond that expressly permitted by a previous land use approval.

12-1905.02 Relocation. A legal nonconforming Oil or Gas Operation shall not be moved, in whole, or in part, unless said Oil or Gas Operation first obtains an Oil and Gas Operations Permit.

12-1905.03 Abandonment of Nonconforming Oil or Gas Operation. A legal nonconforming Oil or Gas Operation cannot be discontinued or abandoned for a period longer than one (1) year. The resumption of any Oil and Gas Operation that has been discontinued or abandoned for a period longer than one (1) year is not allowed without the approval of an Oil and Gas Operations Permit under this Section 12-1900.

12-1905.04 Damage or Destruction. A legal nonconforming Oil or Gas Operation that is demolished or destroyed by an Act of God or through any manner not willfully accomplished by or

for the owner may be restored so long as it restored within a period of one (1) year from the date of the damage or destruction.

12-1906 Oil and Gas Operations

12-1906.01 Minor Oil and Gas Operation. A permit application for a Minor Oil and Gas Operation shall be reviewed administratively by the Planning Division under Section 12-1909.02. A Minor Oil and Gas Operation shall be defined as any of the following:

- A. A well site built and operated to explore for or to produce petroleum and/or natural gas, including accessory equipment such as well site flow pipelines, separators, dehydrators, pumping units, tank batteries, and other equipment that is not within fifteen hundred (1,500) feet of a residential structure, public facilities, water body, wildlife area, riparian area, nature area, or public open space or park, and that does not fall within the definition of a Major Oil and Gas Operation as set forth in section 12-1906.02 below.
- B. Intermediate well lines which extend from a wellhead, gathering lines, and ancillary equipment including, but not limited to, drip stations, vent stations pigging facilities, chemical injection stations, and valve boxes.
- C. Temporary storage and construction staging yard in place for less than six months.

12-1906.02 Major Oil and Gas Operation. A permit application for a Major Oil and Gas Operation shall be reviewed pursuant to the procedures set forth in Section 12-1909.03. A Major Oil and Gas Operation is defined as any of the following:

- A. A well site built and operated to explore for or to produce petroleum and/or natural gas, including accessory equipment such as well site flow pipelines, separators, dehydrators, pumping units, tank batteries, and other equipment, that is within fifteen hundred (1,500) feet of a residential structure, public facilities, water body, wildlife area, riparian area, nature area, or public open space.
- B. Centralized production facilities.
- C. Water injection sites, centralized water transfer stations, centralized water pump stations and associated facilities serving multiple well pads.
- D. Storage yards and construction staging yards in place for longer than six months.
- E. A comprehensive drilling plan that includes multiple well sites.

F. Any other Oil and Gas Operations not meeting the definition of Minor Oil and Gas Operations.

12-1906.03 Standards for Measurement of Distance. For purposes of section 12-1906, the distance between a well site and any residential structure, water body, wildlife area, riparian area, nature area, or public open space or park shall be measured in a straight line, without regard to intervening structures or objects, from the nearest boundary of well site and any associated areas of disturbance, to the nearest boundary, perimeter, or portion of the residential structure, water body, wildlife area, riparian area, nature area, or public open space or park. The Planning Division's determination of the distance shall be final and may not be appealed.

12-1906.04 Decision Making Authority

APPLICATION TYPE	AUTHORITY		
	Planning Division Manager	Planning Commission	Board of County Commissioners
MINOR	Decision		Appeal
MAJOR		Recommendation*	Decision*
*Public Hearing Required			

12-1907 Application Submittal Requirements for Oil and Gas Operations Permit.

12-1907.01 This Section shall apply to those Oil and Gas Operations not exempt under Section 12-1905.

12-1907.02 General. An applicant seeking an Oil and Gas Operations Permit to conduct an Oil and Gas Operation shall submit an application to the Planning Division containing the information required by this Section. An applicant may provide a copy of an application for permit to drill submitted to the Colorado Oil and Gas Conservation Commission as documentation for one or more of the following submittal requirements in this Section 12-1907 if it contains information sufficient to demonstrate compliance with this Section, and that the relevant information is highlighted.

12-1907.03 Submittal Requirements for Oil and Gas Operations Permit. An applicant for an Oil and Gas Operations Permit shall submit the following information:

- A. Applicant. The name, address, telephone number, fax number, and e-mail address of the applicant; and if the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant and also stating the same information for the agent.
- B. Any application for an Oil and Gas Operations Permit must be accompanied by the appropriate fees.
- C. Surface ownership. Documentation of surface ownership, evidence of surface owner notification, and copies of any surface ownership agreements and leases affecting the area where the Oil and Gas Operation will be conducted (financial terms may be redacted). Name, address, telephone number, fax number, and e-mail address of the surface owner of the property.
- D. Mineral estate ownership. Documentation of mineral ownership, including name, address, telephone number, fax number, and e-mail address of the mineral rights owner(s).
- E. Parcel location. The legal description (referencing lot and block or tract numbers, homesteads, or metes and bounds), property address and common description of the Parcel on which the Oil and Gas Operation is proposed to be located. A copy of the recorded deed or lease to the Parcel should be included.
- F. Identification of previously approved uses. List any permits, or other land use approvals, which have been previously approved for the Parcel on which the Operation is proposed.
- G. Characteristics and current condition of the Oil and Gas Operation location. Provide general description of physical characteristics and current conditions of the site where such Operation is proposed to occur, including streams, irrigation ditches, ponds, soils, roads, vegetation, geologic hazards, and any other characteristics requested by the Planning Division to determine potential impacts.
- H. List and map of adjacent property owners. A listing of all landowners and land uses that are adjacent to the boundaries of the Parcel on which the Oil and Gas Operation is proposed, including all properties that are separated from the Parcel by a roadway or would be adjacent to the Parcels except for the existence of the roadway. The source for the best-available information to identify those landowners is the Arapahoe County Assessor's Office.
- I. Site Plan, 24-inch x 36-inch, drawn to scale with north arrow, including the following:
 - 1. Vicinity map.
 - 2. Operation location. Location of the Oil and Gas Operation on a United States Geological Survey quadrangle map or on a recorded plat if the proposed Oil and Gas Operation is within an approved subdivision, with the location highlighted so that it is easy to see.
 - 3. Distances. A map indicating the specific location and distance from the Oil and Gas Operation site of any existing residential structure, water body, wildlife area, riparian area,

nature area, or public open space or park that is within fifteen-hundred (1500) feet of the proposed Oil and Gas Operation and any proposed mitigation plan. The distance between an Oil and Gas Operation site and any residential structure, waterbody, wildlife area, riparian area, nature area, or public open space or park shall be measured in a straight line, without regard to intervening structures or objects, from the nearest boundary of the well site and any associated areas of disturbance to the nearest boundary, perimeter or portion of the residential structure, water body, wildlife area, riparian area, nature area, or public open space or park.

4. Topographic features. Streams, lakes, ponds, water bodies, wetlands, contour lines and elevations, within one (1) mile radius of the area to be disturbed by the proposed Oil and Gas Operation.
 5. Roads. All public and private roads 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. Easements. Easements recorded or historically used that provide access to or across, or other use of, the Parcel.
 7. Boundaries of districts, municipalities or subdivisions. Locations of special district boundaries, municipalities or subdivisions within one (1) mile of the Parcel.
 8. Proximity of other wells and other Oil and Gas Operations. Location of wells and other Oil and Gas Operations within one (1) mile of the Parcel.
 9. Proximity of Groundwater wells. Location of all groundwater wells within one (1) mile of the Parcel.
 10. Utility easements and rights-of-way.
 11. Existing improvements.
 12. Proposed facilities such as structures, pipelines, tanks, wells, pits, flowlines, impoundment facilities, staging and storage areas and equipment.
 13. Site features such as Special Flood Hazard Areas, water bodies, drainage patterns, aquatic habitat, vegetative cover, wildlife migration routes, riparian areas, and nature areas.
 14. Existing and proposed topography at five-foot intervals or some other interval established by the Planning Department as necessary to portray the direction and slope of the area affected by the Oil and Gas Operation.
 15. All boundaries of the leasehold interest upon which the Operation will take place.
- J. Applications and permits. Copies of all local, state and federal applications required for the Oil and Gas Operation, and permits when issued. If the applicant has not received approval from the

COGCC, the Planning Division shall process the application conditioned on the submittal of an approved COGCC permit.

- K. Lighting plan showing location and type of proposed lighting in compliance with this section 12-1900.
- L. Fencing plan in compliance with this section, 12-1900.
- M. An operating plan including the method and schedule, including hours of operation, for drilling, completion, transporting, production, and post-operation.
- N. A weed management plan for the management and prevention of noxious weeds on the site.
- O. A map and truck traffic report that identify the access route to and within the Parcel, and a narrative estimating the number and types of vehicles anticipated per day, including vehicle weights, that will travel over the route. Surface treatment and roadway condition must be specified for all roadways along the route.
- P. Identification of irrigation ditches and other water structures, and evaluation of any impacts to the structures or water quality.
- Q. A traffic analysis of the impacts of the Operation to the roadway system within the County in accordance with the County's requirements for a Traffic Impact Study.
- R. A written description of the type, character, and density of existing and proposed vegetation on the Parcel, a summary of the impacts of the Oil and Gas Operation on vegetation, and the proposed mitigation plan.
- S. An emergency response plan that addresses fire protection and hazardous spills, including the name, address, and phone number, including 24-hour emergency numbers for at least two (2) persons responsible for emergency field operations, proposed signage, access/evacuation routes, and health care facilities anticipated to be used. The plan shall include a provision for the Oil and Gas Operator to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency.
- T. Water quality non-point source impacts.
 - 1. Identification of all water bodies. An inventory and location of all water bodies within one (1) mile of the proposed Oil and Gas Operation.
 - 2. Description of existing water quality. A description of existing water quality for all water bodies within one (1) mile of the Oil and Gas Operation, based upon a current baseline water quality analysis.
 - 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 measures for any such pollution.

- 4. Mitigation and avoidance. Proposed avoidance and mitigation measures to minimize the water quality impacts associated with the Operation. Proposed mitigation may include a Grading, Erosion and Sediment Control ("GESC") documents required under this Section.
- U. Water supply. If fresh or potable water is required for any Oil and Gas Operation, identification of the proposed source.
- V. Cultural survey. If requested by the Planning Division, a cultural, historical, and/or archeological survey of the Parcel prepared by a qualified professional.
- W. Drainage analysis prepared in accordance with the County's Stormwater Management Manual and a GESC plan prepared in accordance with the County's GESC Manual.
- X. Wildfire hazards. An assessment of wildfire hazards within one (1) mile of the Parcel, and a plan for mitigating wildfire hazards.
- Y. Existing and future land uses. A written summary of the existing uses of the Parcel and any known, planned future land uses of the Parcel after completion of the Operation.
- Z. Technical infeasibility or operational conflict waiver. Documentation of the basis for any technical infeasibility or operational conflict waiver from the Oil and Gas Operations Standards that the applicant may request pursuant to Section 12-1911.

12-1908 Coordination with State or Federal Actions and County Permit Process.

Final action by the County on an Oil and Gas Operations Permit application may be delayed until any required Environmental Assessment (EA), Environmental Impact Statement (EIS) or other permit by a state or federal agency is issued, so that the County will have the benefit of the analysis and determinations made by other entities in reaching its own decision.

12-1909 Permit Application Review Procedures for Minor and Major Oil and Gas Operations.

12-1909.01 General Review Procedures.

- A. Pre-Submittal. A pre-submittal meeting is required for all Oil and Gas Operations. Pre-submittal meetings provide an opportunity to review the application process, number of required referral packets, and fees. Pre-submittal meetings may be waived upon approval of the Planning and Engineering Divisions.
- B. Determination of Completeness. Within three (3) working days of receiving an Oil and Gas Permit application, the Planning Division shall notify the applicant in writing that the application is either complete or incomplete, or shall indicate a date by which such determination shall reasonably be made.

- B. Incomplete Application. If the application is not complete, the Planning Division shall inform the applicant, in writing, by certified mail, of the deficiencies and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) days of the postmarked or certified date of the mailing of the notification of incompleteness, the application shall be considered withdrawn.
- C. Complete Application. If the application is complete, the Planning Division shall notify the applicant, in writing, that processing has begun. A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of this Section.
- D. Concurrent Review

Staff and outside referral agency review will be conducted concurrently.

1. Planning and Engineering staff review. The site plan and other elements of the Oil and Gas Operations Permit application will be reviewed for compliance with the requirements of this Code.

2. Review by Referral Agencies. Upon determination that the application is complete, the Planning Division may require that the application materials or a portion thereof be submitted for review and recommendations by referral agencies identified at the pre-submittal meeting, such as fire districts, Arapahoe County Sheriff's Dept, drainage authorities, water and sewer service providers, conservation districts, Colorado Division of Parks and Wildlife, Colorado Department of Public Health and Environment, adjacent counties or municipalities, or others with expertise or authority pertinent to the application.

- E. Third-Party Technical Reviews. Upon determination that the application is complete, the Planning Division may require that the application materials or a portion thereof be submitted to a technical consultant deemed by the Planning Division to be appropriate and necessary to complete the review. The cost associated with such review shall be paid by the applicant.

12-1909.02 Review of Minor Oil and Gas Operations

- A. Determination of completeness by the Planning Division. The Planning Division shall make a determination of completeness following the procedure in Section 12-1909.01, prior to beginning any review of the application.
- B. Review by Referral Agencies. Upon determination that the application is complete, the Planning Division may require that the application materials or any portion thereof be submitted to referral entities for review and comment, such as fire districts, Arapahoe County Sheriff's Dept, drainage authorities, water and sewer service providers, conservation districts, or others specific to the identified site.
- C. Public notice shall be provided as follows:
 - 1. The posting of a sign on the Parcel indicating that an application for an Oil and Gas Operations Permit has been filed with Planning Division shall be completed by the applicant in accordance with Section 17-101 of this Code.
 - 2. Mail notification of the filing of an application for an Oil and Gas Operations Permit shall be completed by the applicant in accordance with Section 17-102 of this Code to all Affected Parties as defined in Section 12-1914.
 - 3. The Planning Division shall be responsible for publishing a notice of application in a newspaper of general circulation in the County.
- D. Comment period. The comment period shall be thirty (30) days from the date of sign posting, mail notification, or the publication date of the notice of application, whichever is the latest.
- E. Administrative decision. Upon expiration of the comment period, the Planning Division may approve, approve with conditions, or deny the application, after taking into consideration the Oil and Gas Operations Standards set forth in Section 12-1910.
- G. Notice of administrative decision. Within five (5) working days of the decision on the application for a Minor Oil and Gas Operations Permit, the Planning Division shall notify the applicant, the Board of County Commissioners and the County Attorney, in writing, of the decision to approve, approve with conditions or deny the application.
- H. Reconsideration of administrative decision by the Board of County Commissioners. Within fourteen (14) days after receipt of the notice of administrative decision, the Board may, in its discretion, decide to reconsider the administrative decision.
 - 1. Schedule reconsideration. The Planning Division shall schedule a hearing for reconsideration of the administrative decision to be held within twenty-one (21) days of receipt by the Board of the notice of administrative decision.

2. Notice of the public hearing to reconsider the Planning Division's decision shall be provided at least fourteen (14) days prior to the public hearing date in the same manner as set forth in Section 12-1909.02 C.
 3. Decision by the Board. The Board may affirm, reverse and/or amend the administrative decision. The Board may consider the evidence that was before the Planning Division, and any additional evidence that may be presented to the Board regarding compliance with the requirements of this Section.
- J. Appeals to the Board of County Commissioners. Any Aggrieved Party by an administrative decision on a Minor Oil and Gas Operations Permit application may file an appeal to the Board.
1. Notice of appeal. A written notice of appeal setting forth the reasons why the Board should modify or reverse the administrative decision shall be submitted to the Planning Division within ten (10) days of the notice of administrative decision.
 2. Schedule public hearing. If the Board decides to hear the appeal, the Planning Division shall schedule a hearing for the Board to hear the appeal and render its decision within forty-five (45) days of receipt of the notice of appeal.
 3. Public notice. Notice of the public hearing to consider the appeal of the Planning Division's decision shall be provided at least fourteen (14) days prior to the public hearing in the same manner as set forth in Section 12-1909.02 C.
 4. Decision by the Board. The Board may affirm, reverse and/or amend the Planning Division's administrative decision. The Board may consider the evidence that was before the Planning Division and any additional evidence that may be presented to the Board regarding compliance with the requirements of this section.

12-1909.03 Review for Major Oil and Gas Operations.

- A. Review by the Planning Division. After a Major Oil and Gas Operation Permit application is deemed complete, the concurrent 21-day staff review and outside referral period shall commence.
- B. Applicant meeting. Within five (5) working days of the completion of the concurrent review period, Staff shall contact the applicant to schedule a meeting to review any necessary modifications and relevant outside referral agency comment related to the Oil and Gas Operations Permit application materials.
- C. Application re-submittal. The applicant shall revise its application if requested by the Planning Division to address relevant review and referral comments received. D. Planning Division

Report. The Planning Division shall prepare a report that identifies whether the Oil and Gas Operation complies with the Oil and Gas Operation Standards set forth in Section 12-1910 within five (5) working days of receipt of revised/corrected plans which adequately address the review comments.

E. Following the determination that the application complies with 12-1910, the Application shall be placed on the next available public hearing agenda of the Planning Commission.

F. Planning Commission.

1. The Planning Commission, following a properly noticed public hearing, shall consider the application for a Major Oil and Gas Operation Permit.

2. The following public notice of the Planning Commission hearing shall be required:

a. The posting of a sign on the Parcel providing public notice of the nature of the application shall be completed by the applicant no less than fourteen (14) days prior to the public hearing in accordance with section 17-101 of this Code.

-b. Mail notification of the public hearing to all Affected Parties as defined in Section 12-1914 shall be provided by the applicant in accordance with Section 17-102 of this Code.

c. The Planning Division shall be responsible for publishing a notice of public hearing in a newspaper of general circulation in the County no less than fourteen (14) days prior to the date of the hearing.

3. Planning Commission decision. Following the public hearing, the Planning Commission shall recommend approval, approval with conditions or denial of the application after consideration of the Oil and Gas Operations Standards set forth in Section 12-1910.

G. Board of County Commissioners. The Board, upon proper notice of a public hearing in the same manner as provided for in subsection 12-1909.03 B. 2., shall consider the application for a Major Oil and Gas Operations Permit. Following a public hearing and after considering the recommendation of the Planning Commission, the Board shall approve, approve with conditions or deny the application for a Major Oil and Gas Operations Permit, after consideration of the Oil and Gas Operations Standards set forth in Section 12-1910.

12-1910 Oil and Gas Operations Review Standards.

An Oil and Gas Operation shall comply with the following standards and criteria unless a technical infeasibility or operational conflict waiver is granted under Section 12-1911:

12-1910.01 Drainage and Erosion Control. The Oil and Gas Operation shall be conducted

in accordance with an approved drainage plan and GESC documents.

12-1910.02 Public Roadway and Traffic Impacts.

- A. 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. A County access permit shall be required for all Oil and Gas Operations which access a County road.
- B. Maintenance agreement or financial assurance. If the projected use of the public roads resulting from the Oil and Gas Operation will result in a need for an increase in roadway improvements, maintenance or snow removal, the County may require the Operator to:
 - 1. Enter into an agreement with the County whereby the Operator provides for private maintenance, improvements and snow removal, or reimburses the County for such increased costs; and/or
 - 2. Provide financial assurance in a form and amount acceptable to the County to cover the costs of impacts to the roads.
- C. An Oversize Moving Permit shall be required for all oversized/overweight trucks and equipment which use County roads. The permit, if required, shall be obtained from the Engineering Services Division prior to mobilization.
- D. All public roads shall be kept free of debris, mud, trash and waste material from oil and gas operations.

12-1910.03 Wildlife. The Oil and Gas Operation shall not cause Significant Adverse Impact to wildlife and wildlife habitat. The operator shall implement such mitigation procedures as recommended by the Colorado Division of Parks and Wildlife.

12-1910.04 Livestock and Livestock Grazing. The Oil and Gas Operation shall not cause Significant Adverse Impact to livestock or livestock grazing. Fencing or other agreements between private grazing operations and the Oil and Gas Operator may be used to satisfy this requirement.

12-1910.05 Water Quality.

- A. Surface Waters. The Oil and Gas Operation shall not cause Significant Degradation in the quality or quantity of surface waters from the addition of Non-Point Source Pollution.
- B. Water Wells. The Oil and Gas Operation shall not cause Significant Degradation in the water quality or water pressure of any public or private water wells.
- C. Water Body Setbacks. Activities associated with the Oil and Gas Operation shall be located a minimum of 500 feet from any Water Body unless such a setback would interfere with spacing requirements established by the Colorado Oil and Gas Conservation Commission.

12-1910.06 Cultural and Historic Resources. The Oil and Gas Operation shall not cause Significant Degradation of cultural or historic resources.

12-1910.07 Wildfire Hazard. The Oil and Gas Operation shall not cause a significant risk of wildfire hazard.

12-1910.08 Floodplain Restrictions. Oil and Gas Operations shall not be located in a floodplain, as defined in this Code, unless the applicant can show no other reasonable alternative location for the Oil and Gas Operations exists. Oil and Gas Operations approved within a floodplain must comply with Section 12-2000 of this Code.

12-1910.09 Noise Regulation and Special Mitigation Measures.

- A. At a minimum, any equipment used in the drilling, completion or production of a well must not exceed maximum permissible noise levels set forth at section 25-12-103, C.R.S.
- B. Based upon the specific site characteristics, the nature of the proposed activity, and its proximity to surrounding development, and type and intensity of the noise emitted, additional noise abatement measures may be required or requested. The level of required or requested mitigation may increase with the proximity of the facility to existing residences and platted subdivision lots and/or the level of noise emitted by the facility. One or more of the following additional noise abatement measures may be required or requested:
 - 1. Acoustically insulated housing or covers enclosing any motor or engine;
 - 2. Screening of the site or noise-emitting equipment by fence or landscaping;
 - 3. Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
 - 4. A noise management plan specifying the hours of maximum noise and the type, frequency, and level of noise emitted; and/or operation; and/or
 - 5. Construction of buildings or other enclosures may be required where facilities create noise and visual impacts that cannot otherwise be mitigated because of proximity, density, and/or intensity of adjacent land use.

12-1910.10 Setback Requirements. A minimum setback of at least 450 feet shall be required between the well site and the closest existing residential structure, unless the affected residential property owner has waived this requirement in writing.

12-1910.11 Closed-loop Systems. Closed-loop systems are preferred in lieu of pits. If pits are necessary, they shall be constructed in accordance with all applicable state and federal regulations.

12-1911 Building Permits Required.

Building permits shall be obtained from the Arapahoe County Building Division for all structures to which the Arapahoe County Building Code applies.

12-1912 Waiver of Oil and Gas Operation Requirements.

12-1912.01 Technical Infeasibility Waiver. One or more of the Oil and Gas Operations Standards set forth in this Section may be waived during the application process, if the Operator demonstrates to the satisfaction of the County that it is technically infeasible to comply with the standard(s). To be granted a waiver from a standard for technical infeasibility, the burden is on the Operator to demonstrate that there is no economical technology commercially available to conduct the Oil and Gas Operation in compliance with the County standard, and the applicant will implement the best available technology to conduct the Oil and Gas Operation in compliance with the County standard to the maximum extent feasible; and

A. The waiver will not cause substantial injury to the owner or occupant of adjacent property; and

B. The waiver will not cause substantial injury to human health, safety, or welfare or to the environment.

12-1912.02 Operational Conflict Waiver. A waiver of any of the requirements within this section 12-1900, or a condition imposed upon Permit approval, may be granted where the application of the requirement or condition would result in an operational conflict with the requirements of the Colorado Oil and Gas Conservation Act or implementing regulations. For purposes of this subsection, an operational conflict exists where actual application of a County requirement or condition of approval conflicts in operation with the State statutory scheme, and such conflict would materially impede or destroy the Colorado Oil and Gas Conservation Commission's goals of fostering the responsible, balanced development and production and utilization of the natural resources of oil and gas in the State of Colorado in a manner consistent with the protection of the environment and wildlife resources. If the Board determines that compliance with any of the requirements of this Section or condition of Permit approval results in an operational conflict with the state statutory or regulatory scheme, a waiver may be granted, in whole or in part, to the extent necessary to remedy the operational conflict. The Board may mitigate any impacts of a waiver by conditioning approval as necessary to protect the public health, safety, and welfare. Any such condition shall not conflict with the requirements of the COGCC.

12-1913 Enforcement and Penalties.

12-1913.01 Oil and Gas Operations in Violation of These Regulations. Any Operator engaging in Oil and Gas Operations who does not obtain an Oil and Gas Operations Permit pursuant to this section, who does not comply with Oil and Gas Operations Permit requirements, or who acts outside the jurisdiction of the Oil and Gas Operations Permit, may be enjoined by the County from engaging in such Oil and Gas Operations and may be subject to such other criminal or civil liability as may be prescribed by law. In addition, if the County prevails in whole or part in any action, the operator shall pay all reasonable attorney fees and expert costs incurred by the County.

12-1913.02 Revocation of Oil and Gas Operations Permit.

- A. The County may, following notice and hearing, revoke an Oil and Gas Operations Permit granted pursuant to this Section if any of the activities conducted by the Operator violate the conditions of the Oil and Gas Operations Permit or this Section, or constitute material changes in the Oil and Gas Operation approved by the County. The County shall provide written notice to the Operator of the violation or the material changes, and the time and date of the hearing. No less than thirty (30) days prior to the revocation hearing, the County shall provide written notice to the permit holder setting forth the violation and the time and date for the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than fourteen (14) days prior to the hearing. Following the hearing, the County may revoke the Oil and Gas Operations Permit or may specify a time by which revocation shall occur if satisfactory action is not taken to correct the violation.
- B. The County may also consider revocation of an Oil and Gas Operations Permit under this Section if false, misleading, deceptive or inaccurate information or documentation was provided upon which approval of an Oil and Gas Operations permit was based, which the applicant, its authorized agents, or employees knew or reasonably should have known was materially false, misleading, deceptive or inaccurate.

12-1913.03 Transfer of Permits. An Oil and Gas Operations Permit may be transferred only with the written consent of the County. The County shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Oil and Gas Operations Permit and this Section, and appropriate state and federal regulations and conditions, that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public, and the environment; and that an adequate guaranty of financial security can be timely made.

12-1913.04 Inspection. The County may enter and inspect any property subject to this Section at reasonable hours for the purpose of determining whether an Oil and Gas Operation is in violation of the provisions of this Section.

12-1913.05 No Review or Approval for Persons Subject to Enforcement Action. No permit application shall be processed or approved pursuant to this Section for an Operator, or for a Parcel that is subject to an ongoing enforcement action.

12-1914 Commencement of Operation.

The Oil and Gas Operation shall be commenced within two years of the issuance of an Oil and Gas Operations Permit under this Section or the permit shall terminate and be of no force and effect.

12-1915 Definitions.

All terms used in Section 12-1900 that are defined in the Oil and Gas Conservation Act of the State of Colorado ("Act") or in the Oil and Gas Conservation Commission ("COGCC") Rules and

Regulations and are not otherwise defined in this Section are defined as provided in the Act or in such rules and regulations. All other words used in this Section are given their usual, customary, and accepted meaning, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in that industry. When not clearly otherwise indicated by the context, the following words and phrases used in this Section 12-1900 have the following meanings:

- A. **Abandonment of Nonconforming Use:** The intent to not continue the legally established nonconforming Oil and Gas Operation coupled with the discontinuance of the nonconforming Oil and Gas Operation.
- B. **Affected Parties:** The owners or residents of real property within 1500 feet of the subject Parcel when the Oil and Gas Operation is located on private land, and within 1500 feet of the section (640 acres) when the Oil and Gas Operation is located on public land. This term also includes the owners or residents of non-adjacent property within an existing subdivision or 35-acre or larger tract development, if any part of an existing subdivision or 35-acre or larger tract development is within 1500 feet of the subject Parcel when the Oil and Gas Operation is located on private land, or within 1500 feet of the section (640) acres) when the Oil and Gas Operation is located on public land.
- C. **Aggrieved Party:** The applicant, the owner of the subject Parcel, or any Affected Party.
- D. **Applicant:** The person making an application for an Oil and Gas Permit on behalf of the operator or owner.
- E. **Board:** The Board of County Commissioners of Arapahoe County, Colorado.
- F. **Centralized Facility:** A support facility capable of serving multiple well pads consisting of one or more compressors, generators, or equipment for treating water, gas, and oil.
- G. **Code:** Arapahoe County Land Development Code.
- H. **COGCC:** The Colorado Oil and Gas Conservation Commission.
- I. **County:** Arapahoe County, Colorado, its officers, employees and agents.
- J. **Flowline:** A pipeline from the wellhead downstream through the production facilities ending at the gas metering equipment or the oil loading point.
- K. **Gathering Line:** A pipeline that transports gas from a current production facility to a transmission line or main.
- L. **Groundwater.** Subsurface waters in a zone of saturation.
- M. **Injection well:** any hole drilled into earth into which fluids are injected for the purposes of secondary recovery, storage, or disposal pursuant to COGCC approval.

- N. Intermediate Line:** A pipeline transporting produced gas, oil, or water from one well pad after it passes through production metering equipment to a gathering line.
- O. Manager:** the Manager of the Arapahoe County Planning Division.
- P. Non-Point Source (NPS) Pollution:** Pollution that is caused by or attributable to diffuse sources. Typically, NPS pollution results from land runoff, precipitation, atmospheric deposition, or percolation.
- Q. Oil and Gas Operations:** Exploration for and/or the production of oil or gas resources, including the siting, drilling, deepening, recompletion, reworking, refracturing or abandonment of an oil and gas well, underground injection well or gas storage well; production facilities related to any such wells, including the installation of flow lines and gathering lines; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation, reclamation and related activities associated with the development of oil and gas resources.
- R. Oil and Gas Permit:** The zoning approval issued by the County for all Oil and Gas Operations pursuant to this Section 12-1900.
- S. Operating Plan:** A general description of a well site or production site identifying the purpose, use, typical staffing, seasonal or periodic considerations, routine hours of operation, source of services/infrastructure and other information related to the regular functioning of the facility.
- T. Operation:** Oil and gas operations.
- U. Operator:** The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the operation.
- V. Parcel:** A tract or lot of land upon which the Oil and Gas Operation will occur.
- W. Permanent Equipment:** Equipment located onsite for a duration of time greater than six months effective one year after the drilling and completion of a well.
- X. Person:** Any individual, partnership, corporation, association, company, or other public or corporate entity, including but not limited to the state or federal governments, and any of their political subdivisions, agencies. or instrumentalities.
- Y. Planning Commission:** Arapahoe County Planning Commission.
- Z. Planning Division:** Arapahoe County Planning Division.
- AA. Production Facilities:** All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flow lines, and other equipment directly associated with oil wells, gas wells or injection wells.

- BB. Public Facilities:** May include, but not be limited to, open space, parks, educational facilities, child-care facilities, nursing homes, board and care facilities, churches, and hospitals.
- CC. Referral Agency:** An agency, organization, or technical consultant deemed appropriate and necessary, by the County, to review an application and provide professional analysis and recommendations, including, without limitation, other County offices and departments, and/or municipal, state, or federal agencies having an interest in, or authority over, all or part of the application or permit.
- DD. Significant Degradation:** Of considerable or substantial consequence in the lowering in grade or desirability or the lessening of quality.
- EE. Significant Adverse Effect/Impact:** An impact of an action, after mitigation, that is considerable or substantial, and unfavorable or harmful; includes social, economic, physical, health, aesthetic and historical impact, and biological impacts including but not limited to, effects on natural resources or the structure or function of affected ecosystems.
- FF. Water Body:** A perennial or intermittent river, stream, lake, reservoir, pond, spring or wetland, but does not include irrigation ditches or roadway drainage ditches or artificial lakes or ponds or wetlands that are created and used for the primary purpose of agricultural operations. A Water Body may be described as one of the following:
1. Intermittent River, Stream, Lake, Reservoir, Pond, Spring or Wetland. A Water Body that normally holds water or flows at least 60 days a year as a result of ground water discharge or surface runoff.
 2. Natural Water Body. A Water Body not created for the purpose of a land use change.
 3. Perennial River, Stream, Lake, Reservoir, Pond, Spring or Wetland. A Water Body that normally holds water or flows continuously during all of the year as a result of ground water discharge or surface runoff.
- GG. Well Site:** Shall mean the areas that are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well, or injection well and its associated well pad.