

**TOWN OF TIMNATH, COLORADO  
ORDINANCE NO. 13, SERIES 2024**

**AN ORDINANCE ADOPTING AMENDMENTS TO THE “TIMNATH LAND USE  
CODE, 2015 EDITION”, WHICH HAS BEEN ADOPTED BY REFERENCE INTO THE  
TOWN OF TIMNATH MUNICIPAL CODE**

**WHEREAS**, The Town of Timnath (the “Town”) is a home rule municipality operating under the Timnath Home Rule Charter adopted on November 7, 2006, as amended in 2015, 2022 and 2023, (the “Charter”) and the Town’s Municipal Code (the “Code”). Pursuant to the Charter, the Code and the authority given home rule municipalities, the Town may adopt and amend ordinances; and

**WHEREAS**, Section 16-1-10 of the Code states that the Town has adopted by reference the Land Use Code of the Town of Timnath, Colorado (the “Land Use Code”), which is fully incorporated into the Code as fully set forth therein; and

**WHEREAS**, The Land Use Code was restated and reenacted in Ordinance 15, Series 2015 and has been amended fifteen times since its reenactment; and

**WHEREAS**, The Town planners have proposed additional amendments to the Land Use Code, as set forth in the attachment hereto; and

**WHEREAS**, The Timnath Town Council and Timnath Planning Commission held a public joint work session to review many of the proposed changes to the Land Use Code on April 23, 2024 and a Town Council public work session on June 11, 2024; and

**WHEREAS**, The Timnath Planning Commission held a regularly scheduled meeting and Public Hearing on June 18, 2024 and recommended approval of the Land Use Code Amendment No. 16 to Town Council unanimously by 5-0 vote; and

**WHEREAS**, The Timnath Town Council held a regularly scheduled meeting and Public Hearing on July 23, 2024 and upon hearing the statements of staff and the public, and giving consideration to the recommendations wishes to adopt amendment to the Land Use Code; and

**WHEREAS**, The Town Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of public health, welfare, peace, safety and property and that this Ordinance is necessary for the protection of public convenience and welfare.

**NOW, THEREFORE, THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO,  
ORDAINS:**

**SECTION 1 – AMENDMENTS**

1. The Town Council hereby adopts the amendments to the Land Use Code set forth as Exhibit A

**SECTION 2 – SEVERABILITY**

If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or parts be declared unconstitutional or invalid.

**SECTION 3 – REPEAL**

Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

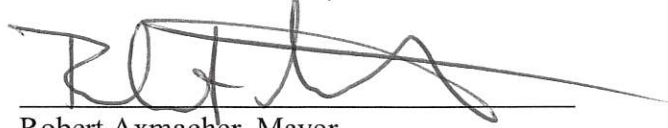
**ARTICLE 4 – EFFECTIVE DATE**

This Ordinance shall take effect upon adoption at second reading, as provided by Section 3.5.5 of the Charter.

**INTRODUCED, MOVED, ADOPTED AND ORDERED PUBLISHED BY TITLE BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH ON FIRST READING, ON JUNE 9, 2024, AND SET FOR PUBLIC HEARING AND SECOND READING AT 6:00 P.M. ON JUNE 23, 2024 AT THE TIMNATH ADMINISTRATION BUILDING, 4750 SIGNAL TREE DRIVE, TIMNATH COLORADO.**

**MOVED, SECONDED AND FINALLY ADOPTED ON SECOND READING FOLLOWING PUBLIC HEARING BY THE TIMNATH TOWN COUNCIL ON JUNE 23, 2024.**

**TOWN OF TIMNATH, COLORADO**



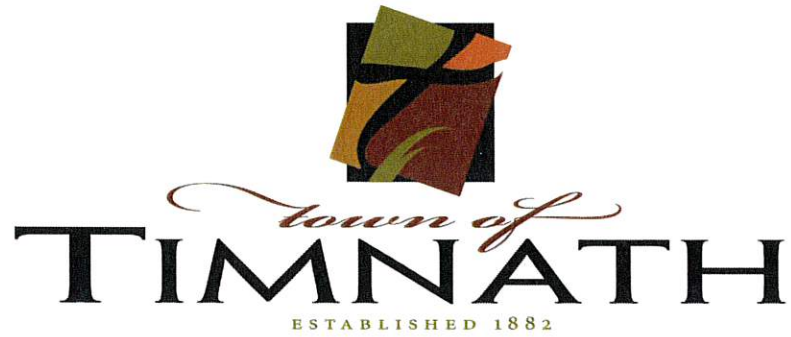
Robert Axmacher, Mayor

**ATTEST:**

  
Milissa Peters-Garcia, CMC  
Town Clerk



**EXHIBIT A**  
Land Use Code Amendments  
(see attached)



## **Land Use Code Amendments 16**

(All page and section numbers are subject to change with the inclusion of these amendments)



## Article 6. Land Subdivision

### 6.6.2.A. Circulation General Requirements

**Summary:** The Design Criteria Manual, last adopted in 2016, provides guidance and standards for designing and constructing public improvements in public rights-of-way and easements. According to Section 3.1 of the Manual, the street standards, design criteria, and construction specifications apply to all public and private transportation improvements, including all development projects, within the Town’s Growth Management Area (GMA). Section 3.2 states that the Town adopts by reference the Loveland version of the Larimer County Urban Area Street Standards (LCUASS). This text amendment clarifies that private streets must comply to the Town’s adopted street standards and specifications.

***The recommended code language below includes text being deleted in strikeout format and text being added in red.***

#### Existing

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#### 6.6.2 Circulation

##### A. General Requirements

1. All streets must be designed consistent with the Timnath Design Criteria Manual and the Town’s adopted Larimer County Urban Street Standards.

#### Proposed

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#### 6.6.2 Circulation

##### A. General Requirements

**CHANGED** - 1. All streets must be designed consistent with ~~to~~ the **most recently adopted** Timnath Design Criteria Manual and the **Loveland version of the** ~~Town’s adopted~~ Larimer County Urban Street Standards. **The Timnath Design Criteria Manual and adopted Larimer County Urban Street Standards are incorporated by reference and made a part of this Code.**

## Article 10. Annexation Procedures

### 10.6 Annexation Petitions – Petition Signatures (page 196)

**Summary:** The Town’s Land Use Code is inconsistent with the requirements of the Colorado Municipal Annexation Act of 1965 (CRS Secs. 31-12-101, *et seq.*) (the “Annexation Act”) for signatures required for a landowner petition. This is a request to revise the percentage of landowner signatures required for a valid annexation petition to be consistent with the Annexation Act.

***The recommended code language below includes text being deleted in strikeout format and text being added in red.***

Existing \_\_\_\_\_

10.6.2 Upon receipt of the Annexation Petitions and accompanying documents, the Petition shall be processed and considered as follows:

10.6.1.2 Petition for annexation. A Petition for Annexation, in a form acceptable to the Town Attorney and complying with the requirements of the Act. The Town may provide a standard form petition. The Petition shall be signed by 100% of the owners of the private property described in the Petition.

Proposed \_\_\_\_\_

10.6.2 Upon receipt of the Annexation Petitions and accompanying documents, the Petition shall be processed and considered as follows:

**CHANGED** - 10.6.1.2 Petition for annexation. A Petition for Annexation, in a form acceptable to the Town Attorney and complying with the requirements of the Act **may be submitted to the Town**. The Town may provide a standard form petition. **A Petition for Annexation** shall be signed by **persons comprising more than fifty percent of the landowners in the area and owning more than fifty percent of the area, excluding public streets and alleys and any land owned by the Town, of the** ~~100% of the private property~~ described in the Petition.

## Article 10. Annexation Procedures

**Summary:** This amendment to Sections 10.2.9, 10.5.1.10, 10.5.4 and 10.9.3.2 provides clarity that only owners of private property petitioning for annexation to the Town of Timnath enter into an annexation agreement. This minor inclusion provides greater clarification of the Town’s annexation procedures.

*The recommended code language below includes text being deleted in strikeout format and text being added in red.*

### 10.2 Statement of Policy and Review Criteria (page 192)

Existing \_\_\_\_\_

10.2.9 The property owner and the developer, if any, shall enter into an annexation agreement with the Town to address the matters described in this Article and any variations to the application of this Code for development of the property to be annexed.

**Proposed** \_\_\_\_\_

**CHANGED** - 10.2.9 The **private** property owner ~~and the developer~~, shall enter into an annexation agreement with the Town to address the matters described in this Article and any variations to the application of this Code for development of the property to be annexed.

### 10.5 Annexation Application (page 195)

Existing \_\_\_\_\_

10.5.1.10 Authorization from the owners of private property within the property being annexed that the applicant has the right to negotiate an annexation agreement and submit an annexation to the Town or a statement that the annexation will be subject to an election.

**Proposed** \_\_\_\_\_

**CHANGED** - 10.5.1.10 Authorization from the owners of private property, **excluding public streets and alleys and any land owned by the Town**, within the property being annexed that the applicant has the right to negotiate an annexation agreement and submit an annexation to the Town or a statement that the annexation will be subject to an election.

Existing \_\_\_\_\_



10.5.4 Annexation Agreement. The Town Staff and the property owner(s) shall negotiate an Annexation Agreement, addressing the items of concern in the Town Staff evaluation, issues of concern to the owner of the property being annexed, and other applicable requirements of this Code. The draft agreement acceptable to the property owner shall accompany any annexation petition filed with the Town. Annexation Agreements shall not override processes subsequent to Annexation for which public hearings are required.

### **Proposed**

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**CHANGED** - 10.5.4 Annexation Agreement. The Town Staff and the property owner(s), **excluding public streets and alleys and any land owned by the Town**, shall negotiate an Annexation Agreement, addressing the items of concern in the Town Staff evaluation, issues of concern to the owner of the property being annexed, and other applicable requirements of this Code. The draft agreement acceptable to ~~the~~ **such** property owner(s) shall accompany any annexation petition filed with the Town. Annexation Agreements shall not override processes subsequent to Annexation for which public hearings are required.

## **10.9 Minor Annexation (page 202)**

### **Existing**

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#### 10.9.3 Petition Phase.

10.9.3.2 Annexation agreement. Town staff and the property owner(s) shall negotiate an annexation agreement, if necessary. Items for discussion include, but are not limited to, future improvement of substandard roads, encroachment of buildings on current or future right-of-way, right-of-way dedications, easements for wet and dry utilities, etc.

### **Proposed**

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#### 10.9.3 Petition Phase.

**CHANGED** - 10.9.3.2 Annexation agreement. Town staff and the **private** property owner(s) shall negotiate an annexation agreement, if necessary. Items for discussion include, but are not limited to, future improvement of substandard roads, encroachment of buildings on current or future right-of-way, right-of-way dedications, easements for wet and dry utilities, etc.

## **Article 10. Annexation Procedures**

**Summary:** the Town Land Use Code does not address a situation where the Town annexes an enclave (property completely surrounded by property already within the Town) or Town-owned property, so this is a suggestion to add that an enclave or Town-owned property may be annexed by the process set forth in the Colorado Constitution and the Annexation Act.

### **Proposed New Section 10.10**

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#### **ADDED - 10.10 Enclaves / Town-Owned Property**

**10.10.1 Definition. An enclave is defined as any unincorporated area entirely contained within the boundaries of a municipality that has been surrounded for a period of not less than three years.**

**10.10.2 The Town may annex by Ordinance enclaves or land owned in fee by the Town, pursuant to C.R.S. § 31-12-106 and in accordance with Colorado Constitution.**



## **Article 12. Oil and Gas Drilling and Production**

### **Summary**

In Colorado, oil and gas development is regulated by the Energy and Carbon Management Commission (ECMC), formerly known as the Colorado Oil and Gas Conservation Commission (COGCC). ECMC manages all below-ground aspects of oil and gas drilling and conducts the state permitting process. Operators must secure permits from both ECMC and the Town through separate processes before commencing any new activities.

Senate Bill 19-181, passed in 2019, grants local governments increased authority in regulating oil and gas development. This means that local authorities now have the discretion to enact regulations that are more stringent than those set by the ECMC. Nevertheless, operators are still obligated to comply with state regulations, even if local regulations are less strict.

Key aspects of regulating the siting and surface impacts of oil and gas operations include zoning and setback standards, procedural requirements, design standards, and reclamation requirements. Timnath's Oil and Gas regulations currently align with ECMC rules. In instances where the local code is less stringent or lacks specific provisions, ECMC regulations serve as the baseline.

At the April 23rd and the June 11th Work Sessions, Council provided policy direction to staff to draft zoning and setback standards to further restrict new development of oil and gas facilities. The proposed code amendment can be found on the following pages, with key elements of the updated code discussed below.

### **Updated Standards**

The proposed code primarily focuses on restrictive zoning and setback standards for new oil and gas development, which are necessary and reasonable to protect public health and the environment. Key updates include:

- Oil and gas facilities will be limited to Agricultural and Industrial zone districts.
- A 2,000-foot setback is required from all building units.
- A 2,000-foot setback is required from areas where people may congregate outdoors, such as parks, trails and natural areas.
- Waiver for building units: A reduced setback is allowed if all building unit owners and tenants within the setback area provide explicit informed consent.
- Residential Waiver: The 2000-foot setback can be reduced to 1000 feet for residential building units if all affected owners and tenants within 2,000 feet provide explicit informed consent.
- A neighborhood meeting is required for all oil and gas development.
- Mailed notice must be sent to property owners and tenants within a 2,000-foot radius of the proposed site.

### **Application Procedures**

Before any oil and gas development can proceed, operators must obtain surface use and down-hole permits from the Energy and Carbon Management Commission (ECMC), in addition to

meeting Timnath’s local requirements. State-level approvals will include a series of plans and requirements, such as impact assessments, financial assurances, and an air quality monitoring plan. The proposed code updates aim to regulate surface activities and avoid redundancy with ECMC rules.

**The recommended code language below includes text being deleted in strikeout format and text being added in red.**

**Table 2.1 Hearing Process and Notice Requirements (page 20)**

2.9.8	Conditional Use Review	√	√		PC/ TC	PC	TC	√	√	√	
12.4.2	Condition Use Review – Oil & Gas	√	√	√	PC/ TC	PC	TC	√	√	√	

**Table 4.1 Standard District Table of Permitted Uses (page 60)**

Gas, oil and other hydrocarbon well drilling production (as permitted by state and local regulations)

A	RE	R1	R2	R3	R4	RMU	CMU	B	NC	CC	RC	I	HC
C	€	*	*	*	*	*	*	€	€	€	€	C	*

**ARTICLE 12. Oil and Gas Drilling and Production (pages 235 - 249)**

**12.1 Purpose**

The intent of these regulations is to **protect the public health, safety, and welfare, and the environment and wildlife resources by** managing the development of oil and gas resources within the Town **to anticipate, avoid, minimize and mitigate adverse impacts to existing, planned, and future land uses** while mitigating potential land use conflicts ~~between such development and existing, as well as planned, land uses.~~ Under Colorado law, the surface and mineral estates are separate and distinct interests in land and one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements. Municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority.

**12.2 Definitions**

All terms used in this Article that are defined in the Act or in Commission regulations and are not otherwise defined in this section, are defined as provided in the Act or in such regulations as of the effective date of this Article. All other words used in this Article 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 said oil and gas industry. When not clearly otherwise indicated by the context, the following words and phrases used in this Article have the following meanings:

**Act:** means the Oil and Gas Conservation Act of the State, as may be amended from time to time.



**Applicant:** means any person applying for a Conditional Use Permit from the Town in accordance with this Article.

**Building Unit:** means a Residential Building Unit; and every five thousand (5,000) square feet of building floor area in commercial facilities or every fifteen thousand (15,000) square feet of building floor area in warehouses that are operating and normally occupied during working hours.

**Commission or ~~COCGC~~ **ECMC**:** means the Colorado Oil and Gas Conservation Commission **Energy and Carbon Management Commission**.

**Conditional Use Permit:** means a conditional use permit granted by the Town in accordance with this Article.

**County:** means Larimer or Weld County, Colorado whichever the case may be.

**Day:** means a calendar day.

**Dedicated Injection Well:** means any Class II wells used for the exclusive purpose of injection fluids or gas from the surface for enhanced oil recovery or the disposal of E&P wastes. A gas storage well is not a dedicated injection well.

**Director:** means the Director of the ~~Oil and Gas Conservation~~ **Energy and Carbon Management** Commission of the State of Colorado or any member of the Director's staff authorized to represent the Director.

**EPA:** means the Environmental Protection Agency.

**High Occupancy Building Unit:** means (a) any operating Public School as defined in §22-7-703(4), C.R.S. Nonpublic School as defined in § 22-30.5-103.6(6.5), C.R.S., Nursing Facility as defined in § 25.5-4- 103(14), C.R.S., Hospital, Life Care Institutions as defined in § 12-13-101, C.R.S., or Correctional Facility as defined in § 17-1-102(1.7), C.R.S., provided the facility or institution regularly serves 50 or more persons; or (b) an operating Child Care Center as defined in § 26-6-102(1.5). C.R.S.

**Inspector:** means any person designated by the Town, or by the Town's designee, who shall have the authority to inspect Well Sites to determine compliance with this Article and other applicable ordinances of the Town.

**Oil Well:** means a well, the principal production of which at the mouth of the well is oil, as defined by the Act.

**Operating Plan:** means a general description of a Well Site or a Production Site identifying purpose, use, typical staffing, seasonal or periodic considerations, routine hours of operating, source of services/ infrastructure, travel routes of trucks and frequency of trips to the site, and any other information related to regular functioning of that facility.

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

**Owner:** means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced therefrom either for such owner or other or for such owner and others, including owners of a well capable of producing oil or gas, or both.

**Production Site:** means the area surrounding proposed or existing production pits or other accessory equipment required for oil and gas production, at which may also be located tanks and tank batteries, exclusive of transmission and gathering pipelines.

**Reentering:** means accessing an existing well bore for either the original or amended purpose, provided that such well has not been abandoned.

**Residential Building Unit:** means a building or structure designed for use a place of residency by a person, a family, or families. The terms includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes.

**State:** means the State of Colorado.

**Surface Use Agreement:** shall mean any agreement in the nature of a contract or other form of document binding on the Operator, including any lease, damage agreement, waiver, local government approval or permit, or other form of agreement, which governs the operator's activities on the surface in relation to locating a Well, Well Site, pipeline or any other Oil and Gas Facility that supports oil and gas development located on the Owner's property.

**Town:** means the Town of Timnath, Colorado.

**Town Code:** means the Town's Municipal Code as may be amended from time to time.

**Twinning:** means the drilling of a well within a radius of fifty feet from an existing well bore when the well cannot be drilled to the objective depth or produced because of an engineering problem, such as a collapsed casing or formation damage.

**Well:** means an oil or gas well, and Oil 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.

**Wellhead:** means the equipment attaching the surface equipment to the wellbore equipment at the Well.

**Well Site:** means 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 Dedicated Injection Well and its associated well pad.

### **12.3 Requirements and Procedures**

12.3.1 Proposed New Wells, Redrilling Certain Wells and Other Specific Enhancements. It shall be unlawful for any person to drill a well that has not been previously permitted under this Article, change the purpose of the Well (i.e. from a vertical well, to directional, or horizontal, or vice a versa), reactivate a plugged or abandoned Well, or perform initial installation of accessory equipment or pumping systems (in cases where a well is not being drilled) unless a Conditional Use Permit has first been granted by the Town in accordance with the procedures defined in this Article.

A. The granting of such Conditional Use Permit shall not relieve the Operator from otherwise complying with all applicable regulatory requirements of the Act, the Town, the State, and the United States.

B. When a Conditional Use Permit has been granted for a Well, reentry of such Well for purposes of Sidetracking, Twinning, deepening, recompleting or reworking shall not require a separate Conditional Use Permit.

C. The Conditional Use Permit shall be limited to the current proposed facilities as shown in the approved site plan. To the extent the Applicant desires, after initial completion of a well, to place additional equipment on a tank battery or Wellhead location which was not shown in the approved site plan, the Applicant must, except in a situation where additional equipment is necessary for a period of fourteen (14) days or less, notify the Town of installation of such additional equipment and update the site plan to reflect the changed conditions.

12.3.2. As-Built Drawings. Within thirty (30) days after completion of operations, the Applicant shall provide to the Town “as-built” drawings showing all facilities, pipelines, flow lines and gathering lines which the Applicant has installed subject to the Conditional Use Permit.

12.3.3. Inspections. In recognition of the potential impacts associated with oil and gas drilling and well operation in an urban setting, all wells and accessory equipment and structures may be inspected by an Inspector at reasonable times to determine compliance with applicable provisions of this Article, and all other applicable Town, County, or State health or safety standards. For the purpose of implementing and enforcing the provisions of this Article, Town personnel so designated have the right to enter upon private property reasonable notification to the Operator.

12.3.4. Inspection Fee. The Town may impose inspection fees for inspection and monitoring for road damage and compliance with local fire codes, land use permit conditions, and the Town building code.

12.3.5. Taxation. All Operators must conform to applicable provisions of this Article and the Town Code relating to taxation.

12.3.6. Application Fee. A nonrefundable fee of one thousand dollars (\$1,000) shall accompany the application for any Conditional Use Permit.



12.3.7. Fee Agreement. The Applicant and the Town shall enter into an “Agreement for Payment of Land Use Application Review Expenses Incurred by the Town” or a similar agreement prior to the issuance of a Conditional Use Permit.

12.3.8. Conditional Use Review. This is a discretionary approval process for uses which have unique or specific characteristics that could create greater than expected impacts. The process results in approvals with conditions to ensure they will not have a significant adverse impact on surrounding properties, or denials if the impacts can’t be mitigated.

- A. Referrals. Referrals shall be sent to all affected agencies and local governments, and specific property owners, if applicable.
- B. Staff review and reporting. Staff shall review the application and coordinate changes or necessary resubmittals with the applicant. Staff shall then submit a report to the Planning Commission explaining how the application is or is not consistent with the conditional use application review criteria in Section 12.18. The staff will also make a recommendation for approval, approval with conditions, or denial.
- C. Planning Commission review of the conditional use application. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the conditional use review criteria in Section 12.18. The Planning Commission will then recommend to the Town Council approval, approval with conditions, or denial.
- D. Town Council hearing and action on the conditional use. The Council shall hold a public hearing on the conditional use application. Following the public hearing, the Council may, by resolution, approve, conditionally approve or deny the conditional use application based on the conditional use review criteria in Section 12.18 and the intent of this Code. A conditional use permit may be granted for a limited time period, may be granted subject to conditions as the Council may prescribe to satisfy the review criteria, and may be revoked for cause.

#### **12.4 Application Elements**

12.4.1. An application for a Conditional Use Permit pursuant to this Article shall be filed with the Community Development Director and shall include the following information:

- A. Site Plan. The site plans for a Well Site or Production Site submitted with a Conditional Use Permit application shall be submitted on one or more plats or maps, at a scale not less than one inch to fifty feet, showing the following information:
  - 1. The proposed location of Production Site facilities or Well Site facilities associated with the Well in the event production is established, if applicable. Future development of the oil and gas

resources shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within one thousand (1,000) feet of the Well Site or Production Site shall be shown.

2. The location of layout including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.
3. True north arrow.
4. Existing improvements, if any, within a radius of ~~one~~ **two** thousand (~~1~~**2**,000) feet of the proposed Well.
5. Existing utility easements and other rights-of-way of record, if any, within a radius of ~~one~~ **two** thousand (~~1~~**2**,000) feet of the proposed Well.
6. Existing irrigation or drainage ditches within ~~five hundred~~ **one thousand** (~~500~~**1,000**) feet of the Well Site or Production Site, if any.
7. The Applicant's drainage and erosion control plans for the Well Site or Production Site and the area immediately adjacent to such site, if applicable.
8. Location of access roads.
9. The boundaries of the Well Site or Production Site and existing lease boundaries.
10. The parcel lines and names of abutting subdivisions or the names of owners of abutting, unplatted property within ~~one~~ **two** thousand (~~1~~**2**,000) feet of the Well Site or Production Site.
11. The name and address of the Operator and the name of the person preparing the site plan or map.
12. The landscaping and visual abatement plans for the Well Site and/or Production Site including a visual depiction of the proposed privacy fence.
13. Approval signature blocks for Planning Commission and Town Council.

**B. Preliminary Site Analysis. The Preliminary Site Analysis shall include maps with the following information:** ~~Vicinity Maps. The vicinity maps for a Well Site or Production Site submitted with a Conditional Use Permit application shall be to scale and submitted on one or more plats or maps showing the following information within ½ mile of the proposed improvements:~~

1. **All drilling and spacing units proposed by the applicant within one (1) mile of the Town's boundaries; and** ~~Location of all existing waterbodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7.5 minute series or assessor base maps which indicate topographic detail and show all existing waterbodies and watercourses with a physically defined channel.~~
2. **All features defined below that are wholly or partially within one (1) mile of the proposed oil and gas facility:** ~~Location of existing Oil~~

Wells as reflected in COGCC records. This information shall be submitted on a map and shall include any and all Wells:

3. Location of drill site. The information to be submitted shall be Commission Form 2 or as may be modified from time to time and shall include the Parcel Tax Identification Number:
  - a. Any residences or platted residential properties;
  - b. Any facility classified as a high occupancy building as defined by the ECMC;
  - c. Any licensed school, nursing facility as defined in 25.5-4-103(14), C.R.S., hospital, life care institutions as defined in 12-13-101, C.R.C., or correctional facility as defined in 17-1-102(1.7), C.R.S.. or an operating child/elderly care center;
  - d. Public parks or Town property intended to be used for Public parks;
  - e. Publicly maintained trails and trailheads or Town property intended to be used for public trails and trailheads;
  - f. Outdoor venues, playgrounds, recreational fields, amphitheatres, or other similar places of outdoor assembly;
  - g. Existing and approved oil and gas facilities and pipelines;
  - h. Areas within the FEMA 100-Year Floodplain boundary;
  - i. The centerline of all USGS perennial and intermittent streams and the map will indicate which surface water features are downgradient;
  - j. Active reservoirs and public and private water supply wells of public record;
  - k. Wetlands;
  - l. High priority habitat as defined by the ECMC; and
  - m. Disproportionately impacted communities, as defined by the ECMC.

C. Narrative. In addition to the site plans and the vicinity maps required in this subsection 12.4., the application shall include the following:

1. The Operator's and surface owner's names and addresses, copies of any required COGCC **ECMC** forms and designation of agent, if applicable.
2. An Operating Plan
3. A list of all permits or approvals obtained or yet to be obtained from local, State or federal agencies other than COGCC **ECMC**.
4. An emergency response plan that is mutually acceptable to the Operator and the appropriate fire district(s), sheriff's office, local law enforcement, and other emergency responders that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the Well, and provisions for access by emergency response entities.



5. A plan for weed control at the Well Site or Production Site.
6. A fire protection plan that is mutually acceptable to the Operator and the appropriate fire district(s) that includes planned actions for possible emergency events and any other pertinent information. Prior to application to the Town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.
7. Sanitary facilities that comply with Rule 602 of the ~~ECMC~~ **ECMC** Rules and Regulations.

**D. Alternative Location Analysis.** Prior to the required neighborhood meeting, the Town will review all proposed locations for the oil and gas facility to determine which locations, if any, meet Land Use Code requirements and will prepare a report summarizing its findings with respect to the proposed locations. The alternative location analysis must include, at a minimum, the following:

1. A map depicting the following elements within three (3) miles of the proposed surface location. (This requirement is limited to one (1) mile for a proposed single vertical or directional well):
  - a. All mineral rights held or controlled by the applicant;
  - b. All drilling and spacing units proposed by the applicant; and
  - c. The location of all features listed in the “Preliminary Site Analysis.”
2. Unless waived by the Director of Community Development, the alternative location analysis shall evaluate a minimum of three potential locations that can reasonably access the mineral resources within the proposed drilling and spacing unit(s), including the following information for each site:
  - a. General narrative description of each location;
  - b. Any location restrictions that the site does not satisfy;
  - c. Any existing surface use agreements or other documentation regarding legal property rights;
  - d. Off-site impacts that may be associated with each site;
  - e. Proposed truck traffic routes and access roads for each location; and
  - f. Any information pertinent to the applicable review criteria that will assist the Director of Community Development in evaluating the locations.

**E. Memorandum of Understanding.** The Applicant and the Town shall enter into a Memorandum of Understanding to be negotiated simultaneous with the issuance of a Conditional Use Permit.

**12.4.2. Application Procedures, Notice Provisions, and Public Hearings.**

- A. Application Procedures per Section 2.9.3 of this code shall apply.
- B. Notice Provisions ~~per Section 2.9.4 of this code shall apply.~~ **All oil and gas facility conditional use applications shall be required to notify all**

**property owners and tenants within the Town of Timnath for all neighbor referral, neighborhood meetings and public hearing notices, as outlined in Section 2.9.4 of this code.**

C. Public Hearings per Section 2.9.5 of this code shall apply.

**D. After a proposed location has been selected for the oil and gas facility, a neighborhood meeting must be held.**

#### **12.5 Notice to Proceed**

**Intentionally deleted.**

#### **12.6 Building Permit**

A Town of Timnath Building Permit must be obtained for all aboveground structures to which the Town Code applies.

#### **12.7 Oil and Gas Operations Buffering Facility Development Standards**

~~12.7.1. Oil and Gas Operations Buffer Yard Standards.~~ The following requirements shall apply to Production Site and Well Site: **Location restrictions for new oil and gas facilities or enlarged or expanded existing oil and gas facilities.**

~~12.7.1.1 Measured.~~ The buffer yard shall be measured as either the distance from the outer edge of an Production Site or Well Site to the nearest wall or corner of any Residential Building Unit or High Occupancy Building Unit or, if any Colorado Oil and Gas Conservation Commission adopted setback measurement method applicable to a Residential Building Unit or High Occupancy Building Unit results in a greater distance between the Production Site or Well Site and the Residential Building Unit or High Occupancy Building Unit at issue, then the Colorado Oil and Gas Conservation Commission setback measurement method shall be used. Allowed Zone Districts. Oil and gas facilities may only be located on property within:

**A. The Industrial (I) zone district; or**

**B. The Agriculture (A) zone district**

~~12.7.1.2 Minimum Buffer Distances.~~ The following minimum buffer distances shall apply: **Setbacks. Setbacks for new oil and gas facilities cannot be modified pursuant to 2.9.15 of this code. Setbacks are measured as the shortest distances from the edge of the working pad surface.**

~~A. Residential Building Unit.~~ The minimum buffer between a Residential Building Unit and any Production Site or Well Site shall be five hundred (500) feet, or the Colorado Oil and Gas Conservation Commission designated setback distance, whichever is greater.

**No working pad surface shall be located within two thousand (2,000) feet from the following:**

**1. Building unit(s) that are not subject to a waiver from all building unit owner(s) and tenants explicitly agreeing with informed consent to the proposed oil and gas location;**



2. The property line of any school facility, hospital, medical clinic, senior living or assisted living facility, multi-family dwelling, or state licensed daycare as defined by Colorado state law.
3. The property boundary line of any property containing a public park or property intended to be used for a public park;
4. The easement or parcel boundary of publicly maintained trails and trailheads or Town property intended to be used for publicly maintained trails and trailheads;
5. The edge of outdoor venues, playgrounds, recreational fields, amphitheaters, or other similar places of outdoor assembly.

B. *High-Occupancy Building Units*. The minimum buffer between a High Occupancy Building Unit and any Production Site or Well Site shall be one thousand (1,000) feet, or the Colorado Oil and Gas Conservation Commission designated setback distance, whichever is greater. **No oil and gas locations may be located between one thousand (1,000) feet and two thousand (2,000) feet of any residential building unit, unless the following condition is satisfied:**

1. All existing building unit owners and tenants of any of the affected residential properties within two thousand (2,000) feet of the relevant point of measurement explicitly agree with informed consent to the proposed oil and gas location.

C. The minimum buffer between public playgrounds, parks, recreational fields, or community gathering spaces and any oil and gas location shall be one thousand (1,000) feet, or the Colorado Oil and Gas Conservation Commission designated setback distance, whichever is greater. **No working pad surface shall be located within one thousand (1,000) feet from the following:**

1. Public water supply surface intakes or public water wells;
2. Ditches that transport water used by, or to augment, a public water supply system; or
3. Conservation easements.

### Buffer Yard Requirements

Type—Base Standard (plants per 100 linear feet along affected property line)*	Option Width	Plant Multiplier**	Option—Add 6" Wall	Option—Add 3' Berm or 6" Fence
	500 Feet	1.25		
	525	1.00		
	550	0.90		
6 Shade Trees	575	0.80	0.75	0.85
7 Ornamental Trees or Type 2 Shrubs***	600 Feet	0.70		
5 Evergreen Trees	625 Feet	0.60		

35 Shrubs (Type 2)	650 Feet	0.50		
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\*“Base standard” for each type of buffer yard is that width which has a plant multiplier.

\*\*“Plant multipliers” are used to increase or decrease the amount of required plants based on providing a buffer yard of reduced or greater width or by the addition of a wall, berm or fence.

\*\*\* Shrub types: Type 1: 4’ -8’ High Type 2: Over 8’ High

**12.7.2. Setbacks from Oil and Gas Facilities**

**12.7.2.1 Pre-Production Phase.** For permitted or existing oil and gas locations where all permitted wells have not entered completions, no new residential, commercial, or mixed-use building units shall be allowed within 1,000 feet of such oil and gas location. This includes, but is not limited to, school facilities, hospitals, medical clinics, senior living or assisted living facilities, or state licensed daycares. This section does not apply to industrial, agricultural, or open space uses. Measurements shall be taken from the edge of the oil and gas location.

**12.7.2.2 Early Production Phase.** Unless waived as described below, no new residential, commercial, or mixed use shall be allowed to be constructed within 1,000 feet of permitted or existing working pad surfaces for three years after the final well permitted for the location has been put into production. This includes, but is not limited to, school facilities, hospitals, medical clinics, senior living or assisted living facilities, or state licensed daycares. This section does not apply to industrial, agricultural, or open space uses. Measurements shall be taken from the edge of the working pad surface.

- A. Surface owner may waive this requirement to begin construction on platted lots but new construction must meet minimum setback requirements listed under “Production Phase”;
- B. Surface owner must comply with noticing requirements in “Plat Requirements” below, and
- C. Buildings will not receive a certificate of occupancy until the three years has expired or at the discretion of the Director of Community Development.

**12.7.2.3 Production Phase.** For permitted working pad surfaces where all permitted wells have been in production for more than three years, or the permit has otherwise lapsed, been revoked, or forfeited, and is not subject to renewal or reissuance:

- A. No new residential, commercial, or mixed-use lots, school facilities, hospitals, medical clinics, senior living or assisted living facilities, parks, or state licensed daycares may be platted within the following minimum setbacks:



<b>Oil and gas production facility</b>	<b>Setback</b>
<b>Oil and gas production facility without wells</b>	<b>200'</b>
<b>1-2 wells</b>	<b>200'</b>
<b>3-24 wells</b>	<b>350'</b>
<b>25 or more wells</b>	<b>500'</b>

- B. Measurements shall be taken from the closest edge of the working pad surface.**
- C. The setback from a flowline or gathering line shall be a minimum of 50 feet. Increased setbacks shall be evaluated on a case-by-case basis, with the determining locational factor being the size, pressure, and type of pipeline being proposed.**

**12.7.2.4 Post-Production Phase. For oil and gas wells that have been abandoned, no building may be placed within 200 feet of the well-bore. There shall be access for ingress and egress to the buffer of a width of not less than 26 feet. An applicant may be granted an “alternative compliance buffer” as described below.**

~~12.7.1.3~~ **A. Alternative compliance buffer reduction from plugged and abandoned wells. Upon Applicant request, the decision maker Director of Community Development may approve a reduced buffer distance from a plugged and abandoned well for which reclamation has been completed, all of the aforementioned in accordance with Colorado Oil and Gas Conservation Commission regulations; in lieu of the minimum 200-foot buffer distances set forth in the immediately preceding Subsection (b), provided that the approved reduced buffer is no less than 50 feet in width and 100 feet in length. The plugged and abandoned well shall be located in the center of the buffer. There shall be access for ingress and egress to the buffer of a width no less than 26 feet.** feet from the permanently abandoned Well and meets the requirements specified below:

- A. B. Procedure.** To request alternative compliance, an alternative compliance buffer reduction plan shall be prepared and submitted in accordance with the submittal requirements established by the Director. At a minimum, the plan must:
  1. Clearly identify and discuss the proposed buffer reduction and the ways in which the plan will equally well or better eliminate or minimize the nuisances and reduce the **potential** adverse effects **to the level achieved by the 200-foot buffer.** referenced in the purpose of this Article than would a plan which complies with the separation and spacing standards of this Article.
  2. Include information regarding environmental testing and monitoring for the Well Site. **Engineering review, S**site investigation, sampling, and monitoring shall be conducted to

demonstrate that the Well has been properly abandoned and that soil, air and water quality have not been, **and will not be,** adversely impacted by oil and gas operations or facilities or other sources of contamination. Such sampling and monitoring shall be conducted by a qualified environmental engineering or consulting firm with experience in oil and gas investigations. Director approval that the sampling and monitoring plan contains the information required pursuant to this Article is required prior to sampling occurring and such plan shall include, but is not limited to, the following:

- a. Site survey, historical research, and/or physical locating techniques to determine exact location and extent of oil and gas operations and facilities.
- b. Documentation of plugging activities, abandonment and any subsequent inspections.
- c. Soil sampling, including soil gas testing.
- d. Groundwater sampling.
- e. Installation of permanent groundwater wells for future site investigations.
- f. A minimum of five (5) years of annual soil gas and groundwater monitoring at the well location.

3. Upon completion of the site investigation and sampling, not including the ongoing monitoring, the consultant must provide a written report verifying that the soil and groundwater samples meet applicable EPA and State residential regulations and that a reduced buffer would not pose a greater health or safety risk for future residents or users of the site. Otherwise, the ~~decision maker~~ **Director of Community Development** may specify an appropriate buffer distance or require that the following actions be completed by a qualified professional before development may occur, including but not limited to:

- a. Remediation of environmental contamination to background levels.
- b. Well repair or re-plugging of a previously abandoned well.

*B. Review Criteria.* To approve an alternative compliance buffer reduction plan, the ~~decision maker~~ **Director of Community Development** must first find that the proposed alternative plan eliminates or minimizes the nuisances and reduces the adverse effects referenced in the purpose of this Section equally well or better than would a plan which complies with the separation and spacing standards of this Section.

*C. Disclosure.* If any Residential Building Unit, or High Occupancy Building Unit is proposed to be located within one thousand (1,000)



feet of an Production Site or Well Site, the following requirements shall apply:

1. At such time as the property to be developed is platted or replatted, the plat shall show the one-thousand-foot radius on the property from such Production Site or Well Site and shall contain a note informing subsequent property owners that certain lots shown on the plat are in close proximity to an Production Site or Well Site.
2. For residential developments requiring a declaration pursuant to the Colorado Common Interest Ownership Act, a statement shall be included in such declaration specifying the lots within such residential development upon which dwellings may be constructed that are within one thousand (1,000) feet of an Production Site or Well Site. The approved plat for such residential development shall be attached to the recorded declaration. Where no such declaration is required, the property owner shall record a statement on the property where the dwelling is located indicating that such property is located within one thousand feet of an o Production Site or Well Site.

*D. Fencing.* If any residential development is proposed to be located within five hundred (500) feet of an oil and gas location, and if an existing fence does not surround the oil and gas location, the developer must erect a 6' privacy fence that restricts public access to the Production Site or Well Site along the property boundary between the Production Site and Well Site and the development.

#### 12.7.2. Exceptions

*12.7.2.1 Existing Oil and Gas Locations.* The location and setback requirements may be waived if an exception has been granted by the Director pursuant to COGCC Rule 604.

*12.7.2.2 Existing Surface Use Agreement or Site Specific Development Plan.* An Owner or Applicant may agree to locate future Building Units closer to existing or proposed Oil Well than otherwise allowed under COGCC Rule 604 pursuant to a valid Surface Use Agreement or site specific development plan (as defined in § 24-68-103, C.R.S., that establishes vested property rights as defined in § 24-68-103, C.R.S.) that expressly governs the location of Wells or Production Facilities on the surface estate.

**12.7.3. Fencing. A fencing plan must be submitted as part of the application and such plan must demonstrate how the oil and gas facility will comply with the following requirements:**

**A. The production site and well site must be fenced to prevent unauthorized access. The fencing must:**

- 1. Completely surround facilities;**
- 2. Be no less than six (6) feet in height;**



3. Be noncombustible and allow for adequate ventilation;
  4. May not consist of solid masonry walls; and
  5. Must be visually compatible with surrounding land uses.
- B. Each fence enclosure must be equipped with at least one gate. Each gate must meet the following requirements:**
1. Gates must provide adequate access for emergency responders and the operator must provide Poudre Fire Authority with a “Knox Padlock” or “Knox Box with a key” to allow emergency access to the oil and gas location.

## **12.8 Compliance with State Environmental Requirements**

The approval of a Conditional Use Permit shall not relieve the Operators from complying with all current applicable State and federal regulations and standards concerning air quality, water quality, and waste disposal.

## **12.9 Noise Regulation and Special Mitigation Measures**

12.9.1 The application of a Conditional Use Permit shall not relieve an Operator from complying with all applicable State laws and regulations concerning noise.

12.9.2 Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all occupied buildings to the extent practicable.

12.9.3 Where a Well and Well Site or Production Site do not comply with the required setback or other requirements of this Article or where the Well and Well Site or Production Site are in an area of particular noise sensitivity, additional noise mitigation may be required. An area of particular noise sensitivity includes but is not limited to the following: hospitals, dwelling units, nursing homes, hotels, churches and designated wildlife preserves. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:

- A. Nature, proximity, location and type of adjacent development;
- B. Prevailing weather patterns, including wind directions;
- C. Vegetative cover on or adjacent to the site; or
- D. Topography.

12.9.4 The level of required noise mitigation may increase with the proximity of the Well and Well Site or Production Site to areas of particular noise sensitivity or the level of noise emitted by the Well and Well Site or Production Site. One or more of the following additional noise abatement measures may be required:

- A. Acoustically insulated housing or cover enclosing the motor or engine;

- B. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted, and proposed mitigation measures; or
- C. Any abatement measures required by the Commission for high-density areas, if applicable.

## **12.10 Visual Impact/Aesthetics Regulation and Special Impact Measures**

### **12.10.1 Visual Impacts and Aesthetics.**

A. To the maximum extent practicable, oil and gas facilities shall be located away from prominent natural features, such as distinctive rock and landforms, vegetative patterns, ditch crossings, Town or County approved open space areas and other approved landmarks to abate the visual impacts of oil and gas facilities.

B. To the maximum extent practicable, oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.

C. To the maximum extent practicable, the Applicant shall use structures of minimal size to satisfy present and future functional requirements.

D. To the maximum extent practicable, when clearing trees and vegetation for construction of oil and gas facilities, the Applicant shall feather and thin edges of vegetation. The Applicant shall replant cleared trees and vegetation to screen facilities to the maximum extent practicable.

E. To the maximum extent practicable, the Applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.

F. The Applicant shall replace earth adjacent to water crossings at slopes less than the normal angle of repose with the soil type of the site.

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

1. Facilities shall be painted as follows:
  - a. Uniform, noncontrasting, nonreflective color tones.
  - b. Color matched to land, not sky, slightly darker than adjacent landscape.
  - c. Exposed concrete colored to match soil color.

12.10.2 Special Mitigation Measures; Visual. Where a Well, Well Site, or Production Site does not comply with the requirements of this Article, or in areas of increased visual sensitivity as determined by the Town in its sole discretion, such as a location near to and/or visible from a residential area, the Applicant shall submit a visual mitigation plan including one or more of the following standards, as appropriate:

- A. To the maximum extent practicable, exterior lighting shall be directed away from residential areas, or shielded from said areas to eliminate glare.

- B. One or more of the following landscaping practices may be required, where practicable, on a site specific basis:
1. Establishment and proper maintenance of ground covers, shrubs and trees.
  2. Shaping cuts and fills to appear as natural forms.
  3. Cutting rock areas to create irregular forms.
  4. Designing the facility to utilize natural screens.
  5. Construction of fences for use with of landscaping and or berming.

12.10.3 Other Special Mitigation Measures. The Applicant shall keep the Town and public and private streets or roads reasonably free of mud or other materials during drilling and completion operations and during well operations. The Applicant shall use its best efforts to keep the Well Site or Production Site free of trash, litter and other refuse during and at the completion of drilling and shall not in any case bury said trash. The Operator shall construct and manage pits in accordance with applicable State and federal regulations.

#### **12.11 Abandonment and Plugging of Wells**

The approval of a Conditional Use Permit shall not relieve the Operator from complying with all Commission rules with respect to abandonment and plugging of Wells. The Operator shall provide the Town with any Commission plugging and/or abandonment application at the time that it is filed with the Commission. The Applicant shall abandon flowlines in accordance with applicable State rules and regulations.

#### **12.12 Seismic Operations**

The approval of Conditional Use Permit shall not relieve the Operator from complying with all Commission rules and regulations with respect to seismic operations. All notices which an Operator is required to file with the Commission with respect to seismic operations shall be filed with the Town on a timely basis. The Town shall comply with the same confidentiality requirements which bind the Commission.

#### **12.13 Signage**

The approval of a Conditional Use Permit shall not relieve the Operator from complying with all Commission rules with respect to signs and signage. In addition, the Operator shall maintain in good, readable condition all signs required by the Land Use Code.

#### **12.14 Reclamation**

The approval of a Conditional Use Permit shall not relieve the Operator from complying with all Commission rules and regulations with respect to site reclamation.

#### **12.15 Geologic Hazard, Floodplain, Floodway Location Restrictions**

All equipment at Well Sites and Production Sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement, or subsidence and to the extent necessary to comply with the Federal Emergency Management Act.

## 12.16 Access Roads

12.16.1. All private roads used to maintain access to the tank batteries or the Well Site or Production Site shall be improved and maintained according to the following standards:

- A. Tank battery access roads. Access roads to tank batteries shall be subject to review by the Town Engineer in accordance with the following minimum standards: A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of six inches thick compacted to a minimum density of ninety-five percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 3, Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition.
  - 1. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the Town Engineer.
  - 2. Maintained so as to provide a passable roadway free of ruts and snow at all times.
- B. Wellhead access roads. Access roads to Wellheads shall be subject to review by the Town's Engineer in accordance with the following minimum standards:
  - 1. A graded, dirt roadway compacted to a minimum density of ninety-five percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures and approved by the Town Engineer.
  - 2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval by the Town Engineer.
  - 3. Maintained so as to provide a passable roadway generally free of ruts and snow at all times.
- C. Public access roads. An extra-legal vehicle or load permit shall be required for all extra- legal vehicles or loads as defined in §§ 42-4-401 through 42-4-411, C.R.S., which use Town streets. Said permit, if required, shall be obtained from the Town Engineer prior to such use. The Applicant shall comply with all Town and State regulations regarding weight limitations on streets within the Town, and the Applicant shall minimize extra- legal truck traffic on streets within the Town and provide accessible roads free of ruts and snow.

## 12.17 Wildlife Impact Mitigation



- 12.17.1 Wildlife. When a Well Site or Production Site is located within a designated Sensitive Wildlife Habitat as shown on a map prepared by the Colorado Parks & Wildlife, the Applicant shall consult with Colorado Parks & Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. The Operator shall implement such mitigation procedures as are recommended by Colorado Parks & Wildlife after consultation with the Town.
- 12.17.2 Endangered Species. The Applicant shall not engage in activities which, in the opinion of the Colorado Parks & Wildlife, threaten endangered species.

### **12.18 Review Criteria**

- 12.8.1 Staff and the Planning Commission shall review and make recommendations to the Town Council who shall then approve a Conditional Use Permit application if the application submitted by the Applicant conforms to the following requirements:
- A. The site plans for a Well Site or Production Site application comply with the requirements of Section 12.4 of this Article.
  - B. The vicinity maps for a Well Site or Production Site application comply with the requirements of Section 12.4 of this Article.
  - C. The narrative for a Well Site or Production Site application complies with the requirements of Section 12.4 of this Article.
  - D. The Well location and setbacks comply with the requirements of Section 12.7 of this Article.
  - E. When applicable, compliance with the provisions for mitigation of noise required in Section 12.09 of this Article.
  - F. When applicable, compliance with the provisions for visual special mitigation required in Section 12.10 of this Article.
  - G. When applicable, compliance with the provisions for geologic hazards, floodplains or floodway required in Section 12.15 of this Article.
  - H. When applicable, compliance with the provisions for wildlife mitigation procedures required in Section 12.17 of this Article.
  - I. The Applicant and the Town have entered into a Memorandum of Understanding as required by Section 12.4 of this Article.
- 12.8.2 The Council decision shall be based upon evidence presented in the application, submitted as part of the public record, and at the public hearing. Following the conclusion of the public hearing, the Council may proceed to render its provisional decision orally on the application, or it may take the matter under advisement until the next regularly scheduled Town Council meeting, at which time it shall orally render its decision. In the event that an application is granted with conditions the Applicant may, within fourteen (14) days of the Council decision, request a rehearing to demonstrate that removal or modification of one or more of the conditions is necessary to prevent waste or protect owners of correlative rights in a common source to a fair share of production profits or that the decision is otherwise inconsistent with State laws and regulations. Following the

Council's oral announcement of its decision, and any subsequent rehearing, a written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings of the Council. The Town Attorney shall prepare the written resolution for Council consideration within fourteen (14) days of the oral decision, or any subsequent rehearing. Such written resolution shall be adopted within twenty-one (21) days of the announcement of the Council's oral decision, unless the Applicant requests rehearing, in which case the written resolution shall be adopted within thirty (30) days of the oral decision. For the purposes of judicial review, the Council's final action or decision on an application shall be deemed to have been made as of the date upon which the Council executes the written resolution, which shall constitute the final decision of the Council.

### **12.19 Emergency Response Costs**

The Operator shall reimburse the Town or the fire district for any emergency response costs incurred by the Town or the fire district in connection with activity at the Well Site or Production Site, except that the Operator shall not be required to pay for emergency response costs where the response was precipitated by an error of the Town.

### **12.20 Violation and Enforcement**

12.20.1 Unlawful to Construct or Install Unapproved Oil and Gas Facilities. Except as otherwise provided in this Article, it is unlawful to construct, install or cause to be constructed or installed any oil and gas facility within the Town unless approval has been granted by the Council. The unlawful drilling or redrilling of any Well or the production therefrom is a violation of this Article.

12.20.2 Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil, gas or Injection Well, Well Site or Production Site or commits any act or omission in violation of any provision of this Article or of the conditions and requirements of a Conditional Use Permit may be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment. Each Day of such unlawful operation constitutes a separate violation.

12.20.3 Civil Action. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this Article or the conditions and requirements of the Conditional Use Permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other

appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

12.20.4 False or Inaccurate Information. The Council may revoke a Conditional Use Permit if it is determined after an administrative hearing 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 or employees, knew, or reasonably should have known, was materially false, misleading, deceptive or inaccurate.

12.20.5 Prospective Application. Unless specifically provided otherwise, this Article shall apply only to Wells which are drilled in the Town on and after the date that this Article is adopted. The Reentering of a Well in existence prior to the date of adoption of this Article for purposes of deepening, reCompleting or reworking shall not require approval of a Conditional Use Permit.

12.20.6 Recovery of Fees. Should the Town prevail in any action for legal or equitable relief for a violation of the provisions of this Article, in addition to any other penalties or remedies which may be available, the Town shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorney's fees incurred.

**12.21 Reserved**