

TOWN OF  
**COAL CREEK, COLORADO**  
P.O. Box 36  
Coal Creek, Colorado 81221

**ORDINANCE 1 SERIES 2011**

**AN ORDINANCE RELATING TO REGULATIONS FOR OIL AND GAS OPERATIONS.**

The Town of Coal Creek Board of Trustees does Repeal Ordinance 1 Series 2009 and does enact the following ordinance:

**SECTIONS:**

1. General Purpose
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| <b>Purpose</b> |
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These regulations are enacted to provide for the safety, preserve the health, promote the prosperity, order, comfort and convenience of the present and future residents of the Town of Coal Creek (Town). It is the Town's intent by enacting these regulations to facilitate the development of oil and gas resources within the Town, while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that under Colorado law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements. The State has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources, and in the prevention of waste and protection of the correlative rights of

common source owners and producers to a fair and equitable share of production profits. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner. 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.

## Definitions

- A. 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:
1. Act. Act means the Oil and Gas Conservation Act of the State of Colorado.
  2. Commission or OGCC. Commission or OGCC means the Oil and Gas Conservation Commission of the State of Colorado.
  3. Day. Day means a period of twenty-four (24) consecutive hours.
  4. Director. Director means the Director of the Oil and Gas Conservation Commission of the State of Colorado.
  5. Injection well. Injection well means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage or disposal, pursuant to authorizations granted by the Commission.
  6. Inspector. Inspector means any person designated by Coal Creek or by the Town's designee, who shall have the authority to inspect well sites to determine compliance with this Article..
  7. Oil and gas well. Oil and gas well means any hole drilled into the earth for the purpose of exploring for or extracting oil, gas or other hydrocarbon substances.
  8. Operating plan. 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 services/infrastructure, and any other information related to regular functioning of that facility.
  9. Operator. Operator means the person designated by the working interest owners as operator and named in COGCC's Forms 2 and 2A.
  10. Owner. Owner shall mean the person who has the right to drill into and produce

from a pool and to appropriate the oil or gas produced there from either for such owner or others or for such owner and others, including owners of a well capable of producing oil or gas.

11. Production site. 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.
  12. Reentering. Reentering means accessing an existing well bore for either the original or amended purpose, provided that such well has not been abandoned.
  13. Sidetracking. Sidetracking means entering the same well head from the surface, but not necessarily following the same well bore, throughout its subsurface extent when operations deviation from such well bore is necessary to reach the objective depth because of an engineering problem.
  14. Town. Town of Coal Creek, Colorado.
  15. Twinning. Twinning means the drilling of a well within a radius of fifty (50) 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.
  16. Use tax. Use tax means the tax paid by a consumer for using, storing, distribution or otherwise consuming tangible personal property or taxable services inside Coal Creek.
  17. Well. Well shall mean an oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.
  18. Well head. Well head means the equipment attaching the surface equipment to the wellbore equipment at the well.
  19. Well site. 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.
- B.** All terms used herein that are defined in the Colorado Oil and Gas Commission rules and regulations and are not otherwise defined in Subsection A above shall be defined as provided in the Act or in such rules and regulations.

## Requirements

### **A. Proposed New Wells, Redrilling Certain Wells and Other Specific Enhancements.**

- 1.** It shall be unlawful for any person to drill a well that has not been previously permitted under this Article, reactivate a plugged or abandoned well or to 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 Coal Creek in accordance with the procedures defined in this Article.
- ~~1.2.~~ The granting of such conditional use permit shall not relieve the operator from otherwise complying with all applicable regulatory requirements of Coal Creek, the State of Colorado and the United States.
- ~~2.3.~~ 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.
- ~~3.4.~~ The conditional use permit is limited to the current proposed facilities as shown in the approved 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 plan, the applicant must, except in a situation where additional equipment is necessary for a period of fourteen (14) days or less, notify Coal Creek of installation of such additional equipment.
- ~~4.5.~~ Within thirty (60) 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 placed on the land subject to this permit.

## Inspections

Inspections of oil and gas wells are set forth in the COGCC’s regulations and shall be conducted by the State of Colorado Oil and Gas inspector. Any problems or concerns must be addressed with the State inspector.

## Administrative Review Procedures

### **Step 1: Pre-Application Conference**

A pre-application conference is mandatory for all administrative development applications. A town designated representative may grant a waiver from the requirement for a pre-application conference upon finding that the on-site and off-site impacts of the proposed development are likely to be minimal.

### **Step 2: Application Submittal**

The Applicant shall submit a complete application and all applicable submittal material in one package to the Town Clerk. The submittal will be reviewed for completeness within 14 days. After the initial application is determined to be complete, the Applicant shall not make any changes to the development application or any accompanying plans or information, unless changes or additional information is requested in writing and approved by a Town Board action

### **Step 3: Review and Initial Comments to Applicant**

After receipt of a complete application, the plans will be distributed to Town designated representatives. The application will be reviewed for technical accuracy, compliance with the Town's Land Use Code, and other relevant regulations and ordinances, and shall evaluate the proposal according to adopted review criteria. The application will be reviewed within 21 days either by the Coal Creek's designated representative and/or the Town of Coal Creek's designated referral agencies. Comments provided by referral agencies or the Town's designated representative will be communicated to the applicant in a review report.

### **Step 4: Submission of Revised Application**

- a. After the initial comments are received by the Applicant, the Applicant shall revise the development application as necessary to respond to all comments in the initial report and shall submit the revised application package to the Town Clerk. The Applicant is encouraged to work with the town designated representative to resolve any concerns. Revised plans shall reflect all resolutions. Any remaining issues should be documented and communicated to both the Town designated representative and applicable agencies. The revised application shall include the Applicant's response to each comment raised by the Town designated representatives.
- b. The Applicant shall submit the revised application and related materials to the Town Clerk within one hundred twenty (120) days. If a revised application is not received within this time frame, the Applicant will be notified that the lack of submittal constitutes a withdrawn project unless a revised application is received within an additional sixty (60) days and approved by the Town Board. If an application is not submitted and no extension has been approved by the Town in the allowed one hundred eighty (180), the application shall be considered withdrawn. Any resubmittal of the application will be treated as a new application.

### **Step 5: Review and Final Comments**

- ~~a.~~a. Once the COGCC notifies the applicant that the application is complete, notices of application must be sent out to the surrounding property owners, within the set distance set forth in the COGCC regulations.

When notifications are sent out, the applicant must supply the Town with proof that such notifications have been sent to the required property owners.

- b. After an application has been submitted for second review, the project will be reviewed by the Town designated representative and referral agencies with outstanding comments in the initial comments. The timeframe for this review will range from ten to twenty-one (14 - 21) days as determined by Coal Creek's designated representative, based on the level of complexity of the outstanding comments. Written comments will be submitted by the town designated representatives. Comments will include a final recommendation on the application.
- c. A public hearing will be posted on the Town's posting places two weeks prior to the hearing. The public can make comments regarding the drilling at this hearing.
- d. A final report compiling all comments will be provided to the Applicant. The report will outline any comments left to be addressed. Any comments left unaddressed will become recommended conditions of approval.

**Step 6: Final decision by Town Board**

The final approval of the Oil and Gas Drilling Operations application shall be made by the Town's of Coal Creek's Board of Trustees. The Board will render its provisional decision, or it may take the matter under advisement and make a decision within (14) days after the public hearing or at the next scheduled Town Board meeting. In the event that an application is granted with conditions the applicant may, within fourteen (14) days of the Board's decision, request a rehearing to demonstrate that removal or modification of one (1) or more of the conditions 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. The Board of Trustees' final decision shall be made orally and will be stated on the Application for Oil and Gas Drilling Operations.

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| <b>Application Elements</b> |
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- A. An application for a conditional use permit pursuant to this Article shall be filed with the Coal Creek Town Clerk and shall include the following information:
  - 1. Completed Coal Creek Oil and Gas Application with required attachments.
  - 2. A completed Oil and Gas Location Assessment, Form 2A, that is prepared for the COGCC to obtain a permit to drill.
  - 3. Application Requirements – Additional Information. In addition to Oil and Gas Location Assessment required in Subsection 1 above, the application may include the following:

An emergency response plan that is mutually acceptable to the operator and the appropriate fire district 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.

## **Building Permit**

Building permits must be obtained for all aboveground structures to which the International Building Code applies.

## **Well Location and Setbacks**

- A.** All wells shall be set at a distance not less than the minimum setback allowed by OGCC rules and regulations.
- B.** Notwithstanding the foregoing, in all areas of Coal Creek, the following apply:
  - 1.** When wells are existing, buildings shall not be constructed within the following distances:
    - a.** Buildings not necessary to the operation of the well shall not be constructed within two hundred (200) feet of any such well.
    - b.** Any building to be used as a place of assembly, institution or school shall not be constructed within three hundred fifty (350) feet of any well.
  - 2.** When wells are existing, lots and roads shall not be platted within the following distances:
    - a.** Lots shall not be platted within one hundred fifty (150) feet of an existing oil or gas well or its production facilities
    - b.** Lots intended to be used as a place of assembly, institution or school shall not be platted to allow a building site within three hundred fifty (350) feet of an existing oil or gas well or its production facilities.
    - c.** Streets shall not be platted within seventy-five (75) feet of an existing oil or gas well or its production facilities, provided however, that streets may cross collection flow lines at right angles.
    - d.** Lots and streets may be platted over well and production sites that have been abandoned and reclaimed in accordance with Section 9.12 of this Article. Such platting shall only occur after the completion of the abandonment and reclamation process.

## **Compliance with State Environmental Requirements**

The approval of an oil and gas 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.

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

The approval of a use permitted by conditional review shall not relieve the operator from complying with all Commission rules with respect to abandonment and plugging of wells. The operator shall provide Coal Creek with Commission Form 6 at the time that it is filed with the Commission. The applicant shall abandon flow lines in accordance with applicable state rules and regulations.

### **Seismic Operations**

The approval of a use permitted by conditional review 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. Coal Creek shall comply with the same confidentiality requirements which bind the Commission.

### **Signage**

The approval of an oil and gas conditional use permit shall not relieve the operator from complying with all Commission rules with respect to signs. In addition, the operator shall maintain in good, readable condition all signs required by Commission regulations.

### **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.

### **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.

### **Access Roads**

- A. All private roads used to maintain access to the tank batteries or the well site shall be improved and maintained according to the following standards:
  - 1. Tank battery and Wellhead access roads. Access roads to tank batteries shall be



subject to review by the towns designated representative in accordance with the following minimum standards:

- a. A graded gravel roadway subject to agreement between the surface owner and the Oil Company.
  - b. 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's building inspector.
  - c. Maintained so as to provide a passable roadway free of ruts at all times.
2. Public access roads. An extra-legal vehicle or load permit shall be required for all extra-legal vehicles or loads (as may be defined in the Town's ordinances or the Colorado Revised State Statutes), which use Coal Creek streets. The applicant shall comply with all of Coal Creek 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 of Coal Creek.

## Violation and Enforcement

- A. 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 Coal Creek unless prior approval has been granted by the Board of Trustees. The unlawful drilling or re-drilling of any well or the production there from is deemed a violation of this Article.
- B. 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 the oil and gas conditional use permit may be punished by a fine of not more than one thousand dollars (\$1,000.00). Each day of such unlawful operation constitutes a separate and distinct violation.
- C. 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 oil and gas conditional use permit, Coal Creek's 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, or any such other remedy as requested or applied for under law.
- D. False or Inaccurate Information.** The Board of Trustees may revoke an oil and gas 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.

- E. 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 use permitted by conditional review.
- F. Recovery of Fees.** Should Coal Creek 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.
- F. Indemnification.** The Owner shall release the Town and shall fully protect, defend, indemnify and hold harmless the Town, its officers, its Board of Trustees, directors, employees, agents and representatives from and against any and all claims, costs (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or other dispute resolution costs), losses, damages, causes of action, or liability of any nature regarding the obligations referenced in this ordinance to the extent caused by Owner or any third parties.

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| <b>Exceptions</b> |
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- A. Special Exception Requests.** An applicant may request special exceptions to provisions of this Article. All applications where a special exception is requested will be processed in accordance with the review criteria and procedures in this Article. A request for a special exception shall be reviewed in a duly noticed public hearing by the Town Board acting in a quasijudicial capacity. Requests for special exceptions for proposed facilities may include, but not be limited to, one of more of the following factors:
  - i. Topographic characteristics of the site;
  - ii. Duration of use of the facility;
  - iii. Proximity of occupied structures to the facility;
  - iv. Ownership status of adjacent and/or affected land;
  - v. Construction of adequate infrastructure to serve the project; or
  - vi. Planned replacement and/or upgrading of facility equipment.
- B. Granted Exceptions.** If the Board of Trustees finds, based upon competent evidence in the record, the compliance with regulations of this Article is impossible, a special exception may be granted permanently or for a period of defined duration. Upon completion of the defined duration, the application shall receive additional review by the Town Board in a duly noticed public hearing. The Town Board, upon showing of good cause by the applicant, may:
  - i. Further extend the special exception;
  - ii. Require that the facility be brought into compliance with the review criteria; or

iii. Revoke the special exception approval.

**C. Operational Conflicts Special Exception.** Special exceptions to this Section may be granted where the requirements of the Article actually conflict in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be processed in accordance with the review criteria and procedures outline in this Article and heard in a noticed public hearing by the Board of Trustees. The applicant shall have the burden of pleading and proving both an actual, material, irreconcilable operational conflict between the requirements of this Section and those of the Act or the COGCC in the context of a specific application, and that compliance with the Colorado Oil and Gas Conservation Commission (COGCC) Act alone adequately fulfills the Town's responsibilities to protect and promote the health, safety, and convenience, order, prosperity and general welfare of the present and future residents of the Town. For purposes of this section, an operational conflict exists where the Town condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the COGCC'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 protection of public health, safety, and welfare, including protection of the environment and wildlife resources. Additional Town requirements in areas regulation the COGCC, which also fall within Town land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the applicant, shall be presumed not to present an operational conflict. If the Board of Trustees finds, based upon competent evidence in the record, that compliance with the requirements of this Article shall result in operational conflicts with the state statutory and regulatory scheme, a special exception to the Article may be granted, in whole or in part, but only to the extent necessary to remedy the operational conflict. The Board of Trustees may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant approval. Any such condition shall be designed and enforced so that the condition itself does not conflict with the requirements of the COGCC.

**D.** If the applicant or any interested party wishes to seek judicial review of a final Board of Trustees' decision on the exception request, appeal to the district court shall be pursuant to C.R.C.P. Rule 106(a)4. (Res. No. 2008-33, § 1(Exh. A), 11-17-2008.)

Introduced as a bill and passed on its first reading and ordered published in the Canon City Daily Record by title only this \_\_\_\_ day of \_\_\_\_\_.

Published in the Canon City Daily Record by title only this \_\_\_\_ day of \_\_\_\_\_.

Passed on its second reading;

ADOPTED THIS \_\_\_\_ day of \_\_\_\_\_.

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Connie Higgs, Mayor

ATTEST:

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Connie Gjelsness, Pro-Tem Clerk