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TOWN/CITY LAND USE CODE

ARTICLE 9 – OIL AND GAS DRILLING AND PRODUCTION

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9.1 Purpose

These regulations are enacted to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the present and future residents of the *Town/City*. It is the *Town's/City's* intent by enacting these regulations to facilitate the development of oil and gas resources within the *Town/City*, 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.

9.2 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.

2. Commission or OGCC. Commission or OGCC means the Oil and Gas Conservation Commission of the State.

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.

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 the *Town/City* or by the *Town's/City's* designee, who shall have the authority to inspect well sites to determine compliance with this Article and other applicable ordinances of the *Town/City*.

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 of 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 Commission Form *2* or a subsequently file Commission Form 10.

10. Owner. Owner means any person with a working interest ownership in oil and gas or a leasehold interest therein.

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. 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.

15. 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 the *Town/City*.

16. Well. Well means an oil and gas well or an injection well.

17. Well head. Well head means the equipment attaching the surface equipment to

the wellbore equipment at the well.

18. Well site. Well site means that area surrounding a proposed or existing well or wells and accessory structures and equipment necessary for drilling, completion, recompletion, workover, development and production activities.

B. All terms used herein that are defined in the Act or in 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.

9.3 Requirements and Procedures

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 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/City* in accordance with the procedures defined in this Article.

2. The granting of such conditional use permit shall not relieve the operator from otherwise complying with all applicable regulatory requirements of the *Town/City*, the State and the United States.

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.

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 the *Town/City* of installation of such additional equipment.

5. Within thirty (30) days after completion of operations, the applicant shall provide to the *Town/City* "as-built" drawings showing all facilities, pipelines, flow lines and gathering lines which the applicant has placed on the land subject to this permit.

B. **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 the inspectors of the *Town/City* at reasonable times to determine compliance with applicable provisions of this Article, the *Town/City* *Uniform Fire Code*, the *Town/City* *Uniform Building Code* and all other applicable *Town/City* health or safety standards. For the purpose of implementing and enforcing the provisions of this Article, *Town/City* personnel have the right to enter upon private property after reasonable notification to the operator, which provides the operator an opportunity to be present.

C. **Inspection Fee.**

1. The inspection fee shall be four hundred dollars ($400.00) per well for each year or part of a year during which such well has not been plugged and abandoned. No inspection fee shall be due for any year following the year in which a well is plugged and abandoned, unless a conditional use permit is granted with respect to such well. No inspection fee shall be due for any calendar year in which the fee for an application for conditional use permit, as provided in Subsection E below, is paid. Any inspection fee which becomes due and payable after January 1 of each year shall be paid by the operator within thirty (30) days after receipt of an invoice from the *Town/City*. An operator contesting the amount of the invoice may, upon payment of the invoice under protest, appeal directly to the *Town Board/City Council*.

2. If the operator fails to pay the inspection fee imposed by this section when due, a penalty of ten (10) percent shall be added to the amount of the fee due, together with interest on the amount due at the rate of one (1) percent for each month or portion thereof for which the fee is unpaid. The *Town/City* Clerk. may, in his or her sole discretion, waive the penalty for good cause shown.

3. The *Town/City* may recover in an action at law the amount of the inspection or other fees and costs imposed by the provisions of this section, penalty and interest due and unpaid under this section as well as all costs, including attorney fees, incurred by the *Town/City* if it prevails in the enforcement of this Article.

D. **Use Tax.** All operators must conform to applicable provisions of this Code relating to taxation.

E. **Application Fee.** A nonrefundable fee of one thousand dollars ($1,000.00) shall accompany the application.

9.4 Application Elements

A. An application for a conditional use permit pursuant to this Article shall be filed with the *Town/City* Clerk and shall include the following information:

1. Application Requirements – Site Plan. The site plans for a well site submitted with an application for a use by conditional review shall be submitted on one (1) or more plats or maps, at a scale not less than one (1) inch to fifty (50) feet, showing the following information:

a. 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 resource shall be considered in the location of the tank battery. Existing tank ba tteries and transmission and gathering lines within six hundred sixty (660) feet of the well site shall be shown.

b. The location of layout including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.

c. True north arrow.

d. Existing improvements, if any, within a radius of six hundred sixty (660) feet of the proposed well.

e. Existing utility easements and other rights-of-way of record, if any, within a radius of six hundred sixty (660) feet of the proposed well.

f. Existing irrigation or drainage ditches within four hundred (400) feet of the well site or production site, if any.

g. 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.

h. Location of access roads.

i. Well site or production site and existing lease boundaries.

j. The names of abutting subdivisions or the names of owners of abutting, unplatted property within four hundred (400) feet of the well site or production site.

k. The name and address of the operator and the name of the person preparing the site plan or map.

2. Application Requirements – Vicinity Maps. The vicinity maps for a well site or production site submitted with an application for a use permitted by conditional review shall be submitted on one (1) or more plats or maps showing the following information:

a. 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 within a four-hundred (400) foot radius of the proposed well.

b. Location of existing oil and gas wells as reflected in OGCC records. This information shall be submitted on a map and shall include any and all wells within a one-thousand (1,000) foot radius of the proposed location for the well.

c. Location of drill site. The information to be submitted shall be Commission Form 2 and shall include the Parcel Tax Identification Number.

3. Application Requirements – Narrative. In addition to the site plans and the vicinity maps required in Subsection 1 and 2 above, the application shall include the following:

a. The operator's and surface owner's names and addresses, copies of any required OGCC Form 2 and designation of agent, if applicable.

b. An operating plan.

c. A list of all permits or approvals obtained or yet to be obtained from local, state or federal agencies other than OGCC.

d. 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.

e. A plan for weed control at the well site.

f. A fire protection plan that is mutually acceptable to the operator and the appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to application to the *Town/City*, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.

g. Sanitary facilities must comply with Section 602(g) of the OGCC regulations.

9.5 Review Criteria

A. The *Board of Trustees/City Council* shall approve an application for a use permitted by conditional review for a well site if the application submitted by the applicant conforms to the following requirements:

1. The site plans for a well site application comply with the requirements of Section 9.4 A.1 of this Article.

2. The vicinity maps for a well site application comply with the requirements of Section 9.4 A.2 of this Article.

3. The narrative for a well site application complies with the requirements of Section 9.4 A.3 of this Article.

4. The well location and setbacks comply with the requirements of Section 9.8 of this Article.

5. When applicable, compliance with the provisions for mitigation of noise required in Section 9.10 of this Article.

6. When applicable, compliance with the provisions for visual special mitigation required in Section 9.11 of this Article.

7. When applicable, compliance with the provisions for geologic hazards, floodplains or floodway required in Section 9.16 of this Article.

8. When applicable, compliance with the provisions for wildlife mitigation procedures required in Section 9.18 of this Article.

9. The *Board of Trustees'/City Council's* decision shall be based upon evidence presented in the application and at public hearing. Following the conclusion of the public hearing, the *Board of Trustees/City Council* may proceed to render its provisional decision orally on the application, or it may take the matter under advisement until an announced date certain not to exceed fourteen (14) days, 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 *Board's/Council's* decision, request a rehearing to demonstrate that removal or modification of one (1) 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 *Board of Trustees'/City 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 *Board of Trustees/City Council*. The *Town/City* Attorney shall prepare the written resolution for the *Board of Trustees'/City Council's* 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 *Board of Trustees'/City 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 *Board of Trustees'/City Council's* final action or decision on an application shall be deemed to have been made as of the date upon which the *Board of Trustees/City Council* executes the written resolution, which shall constitute the final decision of the *Board of Trustees/City Council*.

9.6 Notice to Proceed

A. Prior to commencement of operations for which a use permitted by conditional review has been approved, a "Notice to Proceed" shall be obtained from the *Town/City* Clerk. The *Town/City* Clerk shall issue the "Notice to Proceed" upon receipt of the following:

1. A copy of the resolution approving a use permitted by conditional review for a well or wells.

2. A copy of the approved site plan.

3. A copy of an approved extra legal vehicle or load permit issued by the *Town/City* Clerk pursuant to this Code, if applicable.

4. Copies of any necessary state or federal permits issued for the operation, if not previously submitted.

9.7 Building Permit

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

9.8 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, but subject to the exception in Subsection 3 below, in all areas of the *Town/City*, the following apply:

1. A wellhead location shall be set back not less than three hundred fifty (350) feet from any occupied building or occupied building permitted for construction and shall be set back not less than seventy-five (75) feet from any public right-of-way.

2. Production tanks and/or associated on-site production equipment shall be set back not less than three hundred fifty (350) feet from any occupied building or occupied building permitted for construction and shall be set back not less than seventy-five (75) feet from any public right-of-way.

3. Location and setback requirements will be waived if an exception has been granted by the Director pursuant to Rule 603(b) of the Commission and a copy of waivers from each person owning an occupied building or building permitted for construction within three hundred fifty (350) feet of the proposed location is submitted as part of the application for use by conditional review.

4. When wells are existing, buildings shall not be constructed withing 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.

5. 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 flowlines 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.

9.9 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.

9.10 Noise Regulation and Special Mitigation Measures

A. The application of a conditional use permit shall not relieve an operator from complying with all applicable state laws and regulations concerning noise.

B. 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.

C. Where a well and well site do not comply with the required setback or other requirements of this Article or where the well and well 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:

1. Nature, proximity, location and type of adjacent development;

2. Prevailing weather patterns, including wind directions;

3. Vegetative cover on or adjacent to the site; or

4. Topography.

D. The level of required mitigation may increase with the proximity of the well and well site to areas of particular noise sensitivity or the level of noise emitted by the well and well site. One (1) or more of the following additional noise abatement measures may be required:

1. Acoustically insulated housing or cover enclosing the motor or engine;

2. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted, and proposed mitigation measures; or

3. Any abatement measures required by the Commission for high-density areas, if applicable.

9.11 Visual Impact/Aesthetics Regulation and Special Impact Measures

A. Visual Impacts and Aesthetics

1. To the maximum extent practicable, oil and gas facilities shall be located away from prominent natural features, such as distinctive rock and land forms, vegetative patterns, ditch crossings, *Town/City*-approved open space areas and other approved landmarks.

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

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

4. 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.

5. 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.

6. 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.

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

8. 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.

B. **Special Mitigation Measures; Visual.** Where a well or well site does not comply with the required setback or other requirements of this Article, or in areas of increased visual sensitivity, such as a location near an occupied subdivision, the applicant shall submit a visual mitigation plan including one (1) or more of the following standards, as appropriate:

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

2. One (1) or more of the following landscaping practices may be required, where practicable, on a site specific basis:

a. Establishment and proper maintenance of ground covers, shrubs and trees.

b. Shaping cuts and fills to appear as natural forms.

c. Cutting rock areas to create irregular forms.

d. Designing the facility to utilize natural screens.

e. Construction of fences for use with or instead of landscaping.

C. **Other Special Mitigation Measures** The applicant shall keep the *Town/City* 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 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.

9.12 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 the *Town/City* with Commission Form 4 at the time that it is filed with the Commission. The applicant shall abandon flowlines in accordance with applicable state rules and regulations.

9.13 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/City* on a timely basis. The *Town/City* shall comply with the same confidentiality requirements which bind the Commission.

9.14 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.

9.15 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.

9.16 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 E mergency Management Act.

9.17 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 access roads. Access roads to tank batteries shall be subject to review by the *Town's/City's* Engineer in accordance with the following minimum standards:

a. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of six (6) inches thick compacted to a minimum density of ninety-five (95) 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.

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/City's* Engineer.

c. Maintained so as to provide a passable roadway free of ruts at all times.

2. Wellhead access roads. Access roads to wellheads shall be subject to review by the *Town's/City's* Engineer in accordance with the following minimum standards:

a. A graded, dirt roadway compacted to a minimum density of ninety-five (95) percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures and approved by the *Town's/City's* Engineer.

b. 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's/City's* Engineer.

c. Maintained so as to provide a passable roadway generally free of ruts.

3. Public access roads. An extra-legal vehicle or load permit shall be required for all extra-legal vehicles or loads as defined in Sections 42-4-401 through 42-4-411, C.R.S., which use *Town/City* streets. Said permit, if required, shall be obtained from the *Town/City* Clerk prior to such use. The applicant shall comply with all *Town/City* and state regulations regarding weight limitations on streets within the

Town/City, and the applicant shall minimize extra-legal truck traffic on streets within the *Town/City*.

9.18 Wildlife Impact Mitigation

A. **Wildlife** When a well site or production site is located within a designated moderate (blue) or high impact zone (red) on the 1987 Cumulative Impact Maps prepared by the Colorado Division of Wildlife, the applicant shall consult with the Colorado Division of 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 Division of Wildlife after consultation with the *Town/City*.

B. **Endangered Species.** The applicant shall not engage in activities which, in the opinion of the Colorado Division of Wildlife, threaten endangered species.

9.19 Emergency Response Costs

The operator shall reimburse the *Town/City* or the fire district for any emergency response costs incurred by the *Town/City* 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 the mistake of the *Town/City*.

9.20 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 the *Town/City* unless approval has been granted by the *Board of Trustees/City Council*. The unlawful drilling or redrilling of any well or the production therefrom is 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) or by imprisonment for not more than one (1) year, or by both s uch fine and imprisonment. Each day of such unlawful operation constitutes a separate 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, the *Town/City* 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.

D. **False or Inaccurate Information.** The *Board of Trustees/City Council* 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/City* 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 the *Town/City* 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/City* shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorney's fees incurred.

9.21 – XX Reserved