

## ARTICLE XI

### Oil and Gas Exploration and Production

#### Sec. 17-181. Purpose.

These regulations are enacted to protect and promote the health, safety, morals, convenience, order, prosperity or general welfare of the present and future residents of the Town. It is the Town's intent by enacting these regulations to facilitate the 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 oil and gas 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 oil and gas interests, subject to compliance with the provisions of these regulations and any other 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 particularly 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 and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with these regulations. Local governments have a recognized, traditional authority and responsibility to regulate land use within their Jurisdiction, including use for oil and gas drilling. These regulations are intended as exercise of this land use authority. Should it be established by competent evidence that a proposed oil or gas facility cannot be operated in compliance with these regulations, land use approval for such a facility may be denied. (Ord. 557, 1997)

#### Sec. 17-182. Definitions.

(a) Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

- (1) *Act* shall mean the Oil and Gas Conservation Act of the State.
- (2) *Commission* or *OGCC* shall mean the Oil and Gas Conservation Commission of the State.
- (3) *Day* shall mean a period of twenty-four (24) consecutive hours.
- (4) *Director* shall mean Director of the Oil and Gas Conservation Commission of the State.
- (5) *Inspector* means any person designated by the Town Administrator, who shall have the authority to inspect a well site to determine compliance with this Article and other applicable ordinances of the Town.
- (6) *Mineral owner* means any person having title or right of ownership in subsurface oil or leasehold interest therein.
- (7) *Operating plan* means a general description of a facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, any mitigation plans and any other information related to regular functioning of that facility.
- (8) *Operator* means the person designated by the owner or lessee of the mineral rights as the operator and so identified in Oil and Gas Conservation Commission applications.

(9) *Surface owner* means any person having title or right of ownership in the surface estate of real property or leasehold interest therein.

(10) *Twinning* means the drilling of a well adjacent to or near an existing well bore when the said existing well cannot be drilled to the objective depth and/or produced due to an engineering problem such as collapsed casing or formation damage.

(11) *Well* means a hole drilled into the earth for the purpose of exploring for or extracting oil, gas or other hydrocarbon substances or for purposes of recharging, secondary recovery, storage or disposal.

(12) *Wellhead* means the mouth of the well at which oil or gas is produced.

(13) *Well site* means that area surrounding a proposed or existing well or wells, tank and tank batteries, and accessory structures and equipment necessary for the operation of drilling and production activities.

(b) All terms used herein that are defined in the Act or in Commission regulations and are not otherwise defined in Subsection (a) of this Section shall be defined as provided in the Act or in such regulations.

(c) All other words used herein shall be 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. (Ord. 557, 1997)

#### **Sec. 17-183. Well and tank batteries location and setbacks.**

(a) In all areas of the Town except as provided for in Subsection (b) below, the following shall apply:

(1) A wellhead location shall not be established less than three hundred fifty (350) feet from any approved subdivision platted building lot, any occupied building, any proposed building for which a building permit has been issued where the primary use includes regular occupancy, or any building for which a certificate of occupancy has been issued.

(2) Production tanks and/or associated on-site production equipment proposed for installation shall be located not less than three hundred fifty (350) feet from any building or building permitted for construction.

(3) Wellheads, tank batteries and associated on-site production equipment shall be located not less than one hundred (100) feet from the edge of any public right-of-way. This requirement may be waived as part of the use by special review process at the request of the surface owner if such request is consistent with public safety.

(b) Where compliance with OGCC spacing rules, regulations or orders makes it impossible for the applicant to meet the setbacks stipulated in Subsection (a) of this Section, the applicant shall not be required to fully meet the above described setbacks to the maximum extent possible within the OGCC spacing regulations and may be required to implement special mitigation measures as described herein. (Ord. 557, 1997)

#### **Sec. 17-184. Floodplain and floodway location restrictions.**

The well and tank battery shall comply with all applicable federal, state and local laws and regulations

when located in a floodway or a one-hundred-year floodplain area. All equipment at production sites located within a floodway or a one-hundred-year floodplain shall be anchored as necessary to prevent flotation, lateral movement or collapse or shall be surrounded by a berm with a top elevation at least one (1) foot above the level of a one-hundred-year flood. Any activity or equipment at any well site within a floodway or a one-hundred-year floodplain shall comply with the Federal Emergency Management Act and shall not endanger the eligibility of residents of the Town to obtain federal flood insurance. (Ord. 557, 1997)

**Sec. 17-185. Disposal of drilling mud and exploration and production waste.**

No drilling mud or other drilling fluids shall be disposed of at the drilling site. All exploration and production waste shall be disposed of in accordance with OGCC regulations. (Ord. 557, 1997)

**Sec. 17-186. Seismic operations.**

All persons shall comply with all OGCC rules with respect to seismic operations. In addition, the owner or operator shall provide at least fifteen (15) days' advance written notice to the Town Administrator and the Fire District whenever seismic activity will be conducted within the city. (Ord. 557, 1997)

**Sec. 17-187. Signage.**

The well and tank battery owner or operator shall comply with all OGCC rules with respect to signage. In addition, the owner or operator shall maintain in good, readable condition all signs required by such OGCC regulations. (Ord. 557, 1997)

**Sec. 17-188. Access roads.**

All private roads used to access the tank battery and the wellhead shall be improved and maintained according to the following standards:

- (1) Tank battery access roads. Access roads to tank batteries shall, at a minimum, be:
  - a. A graded gravel roadway at least twenty (20) feet wide and with a minimum unobstructed overhead clearance of thirteen (13) feet six (6) inches, 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 percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures approved by the Town. The aggregate material, at a minimum, shall meet the requirements for Class 6, Aggregate Base Course as specified in the Colorado Department of Highways *Standard Specifications for Road and Bridge Construction*, latest edition.
  - b. Grades shall be established so as to provide drainage from the roadway surface and shall be constructed to allow for cross-drainage of waterways (i.e., roadside swells, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval of the Town.
  - c. Maintained so as to provide a passable roadway generally free of ruts.

(2) No mud or gravel, except minor and nominal amounts, shall be carried onto the Town streets. If mud or gravel is carried onto the Town streets, the owner or operator shall insure that the streets are promptly cleaned.

(3) No public facilities such as curbs, gutters, pavement, water or sewer lines, etc., shall be damaged by vehicles entering or leaving the site. In the event of damage, the owner and operator, jointly and severally, shall indemnify the Town for any reasonable repair costs.

(4) All tank battery and wellhead access roads which intersect a paved Town street or alley shall be paved to standards determined by the Town from the existing paved roadway to the edge of the public right-of-way. (Ord. 557, 1997)

**Sec. 17-189. Compliance with state environmental requirements.**

Operators shall conform to all current Town, County, state and federal regulations and standards concerning air quality, water quality and noise. (Ord. 557, 1997)

**Sec. 17-190. Noise regulation and special mitigation measures.**

(a) State law and regulations concerning noise abatement (Title 25, Article 12, C.R.S.) shall apply to all operations together with applicable local government ordinances, rules or regulations.

(b) Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from a buildings certified or intended for occupancy to the extent practicable.

(c) Special mitigation measures.

(1) Where a well or tank battery does not comply with the required setback or other portions of the ordinance codified in this Article or where the well or tank battery is in an area of particular noise sensitivity (for example, near hospitals), additional noise mitigation may be required. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:

- a. Nature and proximity of adjacent development (design, location, type).
- b. Prevailing weather patterns, including wind directions.
- c. Vegetative cover on or adjacent to the site.
- d. Topography.

(2) Based upon the specific site characteristics set forth above, nature of the proposed activity, and its proximity to surrounding development and type and intensity of the noise emitted, some additional noise abatement measures may be required. The level of required mitigation may increase with the proximity of the well and well site to existing residences and platted subdivision lots, and/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:

- a. Acoustically insulated housing or cover enclosing the motor, engine or compressor.
- b. Vegetative screen consisting of trees and shrubs.
- c. Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
- d. Noise management plan identifying and limiting hours of maximum noise emissions, type, frequency, and level of noise to be emitted, and proposed mitigation measures.

- e. Lowering the level of pumps or tank battery.
- f. Requirement for electric motors only. (Ord. 557, 1997)

**Sec. 17-191. 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, river crossings and other 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) At all times, the applicant shall attempt to avoid the removal of trees.

(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 at an angle, which insures stability for the soil type of the site.

(7) 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, similar to Munsell soil color coding system.

b. Color matched to land, not sky, slightly darker than adjacent landscape.

(9) Storage tanks and other facilities shall be kept clean and well painted and otherwise properly maintained.

(b) Special mitigation measures. Where a well or tank battery does not comply with the required setback or other portions of the ordinance codified in this Article, or in areas of increased visual sensitivity determined by the Town, the applicant shall submit a visual mitigation plan which shall include but not be limited to one (1) or more of the following standards:

(1) Exterior lighting shall be directed away from residential areas or shielded from said areas to eliminate glare.

(2) Construction of buildings or other enclosures may be required where facilities create noise and visual impacts nonmitigable because of proximity, density and/or intensity of adjacent residential land use.

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

- a. Establishment and proper maintenance of adequate 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 or walls such as woven wood or rock for use with or instead of landscaping.

(4) Safety measures. Any well located less than three hundred fifty (350) feet from an occupied building shall be equipped with blowout preventers during drilling. (Ord. 557, 1997)

**Sec. 17-192. Wildlife impact mitigation.**

(a) When one (1) or more wells or tank batteries are located within wildlife sensitive areas as identified by the Town's comprehensive plan, the applicant shall consult with the Division of Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. Site and cumulative impact recommendations shall be submitted for review and comment by the Town, not to exceed the recommendations of the Division of Wildlife.

(b) Multiple sites. In lieu of a site specific mitigation review for each well and well site, the applicant may submit to the Town a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities. (Ord. 557, 1997)

**Sec. 17-193. Recordation of flow lines.**

All flow lines, including transmission and gathering systems, shall have their location recorded with the Weld County Clerk and Recorder within thirty (30) days of completion of construction. Abandonment of any flow lines shall be recorded with the Weld County Clerk and Recorder within thirty (30) days after abandonment. (Ord. 557, 1997)

**Sec. 17-194. Reclamation.**

The operator shall comply with all Commission rules with respect to site reclamation. The OGCC Drill Site Reclamation Notice shall be filed with the Town at the same time it is sent to the surface owner. (Ord. 557, 1997)

**Sec. 17-195. Abandonment and plugging of wells.**

(a) The operator shall comply with all OGCC rules with respect to abandonment and plugging of wells.

(b) Operators of wells which are to be abandoned upon the completion of drilling and not be put into production shall notify the Fire District not less than two (2) hours prior to commencing plugging operations.

(c) Operators of formerly producing wells shall notify the Fire District not less than two (2) working days prior to removing production equipment or commencing plugging operations.

(d) The operator shall provide copies of all OGCC plugging and abandonment reports to the Town at the same time they are filed with the OGCC. (Ord. 557, 1997)

**Sec. 17-196. Operations within one-half mile of development.**

(a) Any proposed well or associated equipment, such as tank batteries, located within one-half (½) mile of existing buildings or existing or platted development, as measured from the nearest point of the plat boundary or existing building, shall comply with the following requirements:

(1) All tank batteries shall be restricted to one (1) site per each one hundred sixty (160) acres wherever practicable.

(2) All drilling rigs shall be equipped with blowout preventers.

(3) All production wells shall be equipped with automatic control valves on the wellhead which close in the well with a sudden change in pressure.

(4) All production wellheads and tank batteries shall be fenced with a fence sufficient for safety and aesthetics.

(5) At least fifteen (15) days prior to the first Planning and Zoning Commission meeting to consider a use by special review in any location described in paragraph (1) of this Section, the applicant shall notify by first class mail or hand delivery to all surface land owners within one-half (½) mile of the wellhead and tank battery and adjacent to the surface parcel in which the proposed well is to be located of the proposed well and the date, time and place of the first Planning and Zoning Commission meeting.

(6) Except for electrically operated drilling rigs or drilling rigs equipped with enhanced efficiency mufflers on any drilling or workover rig operating within one-half (½) mile of an occupied residential building, the bit and drilling pipe shall not be inserted into or removed from the hole for routine operations such as for bit change or logging, between the hours of 11:00 p.m. and 6:00 a.m. This requirement shall not apply in emergencies. This requirement may be waived by written permission of the occupants of all residential buildings within one-half (½) mile of the drilling site.

(7) Wellhead access roads to well-heads located within one-half (½) mile of existing buildings shall meet the construction standards of Section 17-188 of this Chapter.

(b) Exceptions to the provisions of this Section may granted by the Board of Trustees as part of its resolution granting the use by special review only if the owner or operator demonstrates by a preponderance of evidence that the waiver or variance is necessary to prevent waste or protect correlative rights and can provide equivalent mitigation measures for the standards waived. (Ord. 557, 1997)

**Sec. 17-197. Building permit.**

Building permits shall be obtained for all aboveground structures as required by the Town Uniform Building and Fire Codes then in effect. (Ord. 557, 1997)

**Sec. 17-198. Requirements and procedures.**

(a) Proposed new wells, redrilling and enhanced recovery operations. Within all zone districts, it shall be unlawful for any person to drill a well, reactivate a plugged or abandoned well or perform initial installation of accessory equipment or pumping systems unless a special use permit has first been granted by the Town in accordance with the procedures in the ordinance codified herein, where applicable. The initial special use permit shall allow any twinning of a well and relocation of accessory equipment or gathering and transmission lines so long as the standards in this Article are met. If any twinning of a well or relocation of accessory equipment or gathering and transmission lines occurs, then not less than thirty

(30) days prior to such activity, the operator shall file a revised site plan with the Town depicting any changes from the approved special use permit. When a special use permit has been granted for a well, reentry of such well for purposes of sidetracking, deepening, recompleting or reworking shall not require a special use permit amendment. The granting of such use by special review shall not relieve the operator from otherwise complying with all applicable regulatory requirements of this jurisdiction, the State and United States.

(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 shall be subject to inspection by inspectors of the Town at all times to determine compliance with applicable provisions of this Article, the Uniform Fire Code, as adopted by the Town, the Uniform Building Code, as adopted by the Town and other applicable Town ordinances and regulations. (Ord. 557, 1997)

### **Sec. 17-199. Site plan application elements.**

An application for a use by special review pursuant to this Article shall be filed with the Planning and Zoning Commission or other official designated by the Town, and shall include the following information:

(1) Vicinity Map: application elements.

a. Location and name (if any) of all existing water bodies 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 will show all existing water bodies and watercourses with a physically defined channel within a four-hundred-foot radius of the proposed well. For any existing water body or watercourse topographically lower and within two thousand (2,000) feet or less from the drill site, a description shall be submitted of proposed methods to be employed to prevent water pollution or contamination of the water body or watercourse.

b. Location and type of water supply (rivers, creeks, lakes, ponds, wells and ditches or similar features). This information may be shown on a plat or map or may be a written description. Source of all water to be used in the drilling operation of the proposed wells shall be noted. Also include methods and routes for transporting water to the well site.

c. Location of drill site. This information shall be submitted on a plat or map of the section in which the drill site is to be located. The scaled plat of the section will include and clearly show the following information:

1. All dimensions of the section (north line, south line, west line and east line) as shown on USGS 7.5 minute quadrangle maps.

2. Location of drill site, given in feet from two (2) lines of the section, e.g. one thousand (1,000) feet from the north line and one thousand six hundred (1,600) feet from the west line.

3. Township and range information.,

4. Section number.

5. Location expressed in appropriate  $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$  section.

6. True north arrow.

7. Parcel tax identification number.

(2) Site map. This information for the site shall be submitted on a scaled plat or map showing:

a. Proposed location of the wellhead, tank battery and recorded or unrecorded flow lines associated with the proposed well in the event production is established. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and flow lines within a half mile radius of the proposed location shall be shown.

b. Location of layout, including, without limitation, positions of the rig, mud reserve pits, racks and all other structures and equipment.

c. True north arrow.

d. Any and all existing surface improvements and equipment within one-half ( $\frac{1}{2}$ ) mile. Existing subdivisions may be shown by shading or color in lieu of showing any and all existing surface improvements.

e. Recorded or known unrecorded existing utility easements and other rights-of-way.

f. Irrigation or drainage ditches within four hundred (400) feet of the wellhead.

g. Drainage and erosion control plans for on-site and off-site drainage.

h. Location of access roads, either private or public.

i. Site and lease boundaries.

j. Adjacent surface owners within one thousand five hundred (1,500) feet of the wellhead and tank battery.

k. A title block showing scale, date of preparation, identity of preparer including name, address and telephone number and identity of applicant.

(3) Narrative elements. In addition to the mapped information required in Subsections (1) and (2) of this Section, the application shall also include:

a. The operator's and surface owner's names and addresses, copies of any legal instruments of public record identifying the applicant's interest in the property and any required OGCC form 1, Designation of Agent.

b. An operating plan.

c. A listing 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 including, but not limited to, listing of local telephone numbers of the public and private entities and individuals to be notified in the event of an emergency, means of identifying location of well and provisions to be made for access by emergency response entities to secured facilities.

e. Plans designed to minimize negative effects. Negative effects are deemed to include but are not limited to noise levels, air, water and land quality impacts, vibration and odor levels, visual impacts, wildlife impacts, waste disposal and public safety. (Ord. 557, 1997)

**Sec. 17-200. Application review criteria.**

(a) The Planning and Zoning Commission and Board of Trustees decision to approve or deny an application shall be made and determined based upon the proposed facility's compliance with all applicable performance standards and other requirements of these regulations and by applying the following evaluative criteria to the evidence in the record of proceedings before the Planning and Zoning Commission and Board of Trustees:

- (1) Whether the special use will be consistent with the Town's current comprehensive plan.
- (2) Whether the special use will be compatible with existing conforming surrounding and probable future land uses.
- (3) Whether the special use will cause an unreasonable demand on Town services.
- (4) Whether the special use will unreasonably and adversely affect traffic flow and parking in the surrounding area.
- (5) Whether the public welfare requires approval of the special use.

(b) The Planning and Zoning Commission recommendation and Board of Trustees resolution shall be based upon competent evidence presented in the application and at the public hearing. Following the conclusion of the public hearing, the Planning and Zoning Commission and the Board of Trustees may proceed to verbally render their provisional decision on the application or they may take the matter under advisement to an announced date certain not to exceed thirty (30) days, at which time they shall verbally render their provisional decision. (Ord. 557, 1997)

**Sec. 17-201. Consideration of waste and correlative rights.**

(a) In the event that an application is provisionally denied based upon the criteria of paragraphs (a) (1) through (5) of Section 17-200, the applicant may, within ten (10) days, request a rehearing to demonstrate how issuance of the permit is necessary to prevent waste or protect owners of correlative rights in a common source to a fair share of production profits.

(b) If the applicant demonstrates by a preponderance of the evidence that the use by special review must be granted to prevent waste, or to protect owners of correlative rights in a common source of oil and/or gas to a fair share of production profits, the Board of Trustees shall grant the use by special review, but may attach reasonable mitigation conditions to the use by special review to protect the health, safety and welfare of the public. (Ord. 557, 1997)

**Sec. 17-202. Written resolution of decision.**

(a) Following the Board of Trustees oral announcement of its decision and any subsequent rehearing, a written resolution shall be adopted in ten (10) days or less as its final action or decision on the application. This written resolution shall set forth findings based upon competent evidence in the record of proceedings before the Board of Trustees and any applicable federal, state or Town statutes, rules, regulations or policies.

(b) For the purpose of judicial review, the Town's final action or decision regarding the application shall be deemed to have been made as of the date upon which the Board of Trustees executes the written resolution, which shall constitute the Board of Trustees final action or decision. (Ord. 557, 1997)

**Sec. 17-203. Notice to proceed.**

Prior to commencement of construction, drilling, re-drilling or enhanced recovery operations for which a use by special review has been previously granted, a Notice to Proceed shall be obtained from the Town. A copy of any necessary state or federal permits issued for the operation shall be provided to the Town. (Ord. 557, 1997)

**Sec. 17-204. Reports and inspections.**

(a) The operator of any producing oil or gas well within the Town shall provide to the Fire District proof of insurance required by any Town, county, state or federal law or regulation, and certification of compliance with the conditions of any special use permit, the requirements of this Article and the Uniform Building and Fire Codes, as adopted by the Town, annually.

(b) As a condition of any special use permit for any oil or gas exploration or production activity or operation, the holder or agent of the special use permit shall allow inspections by the Town personnel at any reasonable hour. Failure to allow inspections shall result in an immediate suspension of the special use permit. Failure to allow inspections for more than thirty (30) days shall result in revocation of the special use permit, subject only to appeal to the Board of Trustees. The Board of Trustees decision on a special use permit revocation based on failure to allow inspections shall be final. (Ord. 557, 1997)

**Sec. 17-205. Inspection and reporting fees.**

Any operator of any oil and gas well within the Town shall remit to the Town an annual inspection and reporting fee. The fee shall be determined annually by the Town Manager or his or her designee and shall be set to cover the reasonable costs of the Town to inspect oil and gas wells and process the annual reports of operators. This fee shall be paid not later than February 1 of the year following that for which the fee is due. Wells which have been plugged and abandoned are exempt from this fee. (Ord. 557, 1997)

**Sec. 17-206. Violation and enforcement.**

(a) It is unlawful to construct or install unapproved oil and gas facilities. 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 Board of Trustees or its designee pursuant to this Code. The unlawful drilling or re-drilling of any well or the production therefrom shall constitute a public nuisance. The Town shall have the right to abate the nuisance at the sole reasonable expense of the operator of the nuisance by any means to include but not be limited to:

- (1) Injunctive relief.
- (2) A stop work order issued by the Town Administrator.
- (3) Criminal charges.
- (4) Removal of the nuisance by the Town personnel or Town contractors.

(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 and gas well or well site in violation of any provision of this Article or of the conditions and requirements of the special 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 such fine and imprisonment. Each day of such unlawful operation shall constitute a separate violation. Any subsequent violation after any conviction of a violation of this Article shall be punished

by a minimum fine of five hundred dollars (\$500.00) for each subsequent violation which may not be suspended by the Court.

(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 this Article or the conditions and requirement of the special use permit, the Town Administrator, 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 abate nuisances and/or to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

(d) False or inaccurate information. The Board of Trustees may revoke approval of a facility if it is determined at a public 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 and employees, knew or reasonably should have known, was false, misleading, deceptive or inaccurate. The applicant and Town staff shall be provided with an opportunity to be heard at the public meeting prior to the Board of Trustees rendering its decision.

(e) For the purpose of implementing and enforcing these regulations, Town personnel may enter onto subject property upon notification of the permittee, lessee or the other party holding a legal interest in the property; if such entry is denied, the Town shall have the right to obtain an order from a court of competent jurisdiction to obtain entry.

(f) In any action for legal or equitable relief, 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 should the Town prevail. (Ord. 557, 1997)

**Sec. 17-207. Severability.**

If any provision of the ordinance codified in this Article is found by a court of competent jurisdiction to be invalid, the remaining provisions of the ordinance codified in this Article will remain valid, it being the intent of the Board of Trustees that the provisions of the ordinance codified in this Article are severable. (Ord. 557, 1997)

**Secs. 17-208—17-215. Reserved.**