

**LUDC
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GARFIELD COUNTY, COLORADO

Article 9: Pipelines

ARTICLE 9 PIPELINES

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ARTICLE 9: PIPELINES

9-101. APPLICABILITY.

A. Length and Diameter.

An application for a pipeline must be submitted for any pipeline proposed to be located within unincorporated Garfield County, excluding those on public or municipal lands, which are:

1. Greater than 12 inches in diameter and over 2 miles in length or 2 cumulative miles if separated by municipal or public lands; or
2. Any pipeline that is more than 5 miles in length or 5 cumulative miles if separated by municipal or public lands.

B. Permit Required.

A Land Use Change Permit for a pipeline is required prior to the issuance of any other County permit necessary for pipeline operations. However, pipeline operations that do not require a building or other associated County permit must still obtain a Land Use Change Permit per this Code, as necessary.

9-102. SUBMITTAL REQUIREMENTS.

The following information must be submitted with an application for a pipeline:

A. General Application Materials.

General Application Materials as provided in section 4-203.B.

B. Vicinity Map.

A Vicinity Map as provided in section 4-203.C.

C. Site Plan.

A Site Plan as provided in section 4-203.D.

D. Project Overview.

A description of the project including the length and diameter of the pipeline, pipeline commodity, general description of the pipeline, and pipeline route.

E. Property Ownership and Authority to File Application.

1. Identity of owner of the parcel. This can be provided as a map or Plat showing the parcel with the pipeline easement crossing the parcel.
2. Evidence of authority of Applicant to file the application as follows:
 - a. If the property owner of the parcel is not an individual (i.e. an entity or a trust), applicant must submit a recorded Statement of Authority or a recorded power of attorney for the individual authorized to encumber the property on behalf of the entity; and
 - b. Letter of Authorization signed by the property owner authorizing Applicant to file the application; or
 - c. Deed, easement, surface use agreement, or BLM right-of-way subject to the following:
 - (1) Memorandum of the applicable instrument that has been recorded in the County (rather than the actual instrument) if it recites that the instrument relates to the location of a pipeline and provides information showing the location of the pipeline; or

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- (2) The actual deed, easement, surface use agreement, or BLM right-of-way. The Applicant may redact confidential and proprietary information.
 - (3) For cases in which the evidence of authority (i.e., deed, easement, surface use agreement, or BLM right-of-way) contains conditions, the Applicant shall provide a statement that it will comply with the terms and conditions of the applicable instrument.
 3. The Applicant may sign the County's Payment Agreement Form as the authorized representative.
 4. The Applicant should submit all applicable BLM rights-of-way with the application, but the BLM access agreement may be provided at a later date.

F. Adjacent Properties.

For individual rights-of-way, a diagram showing adjacent properties and the approximate location of buildings and their uses within a distance of 350 feet of any proposed structure, facility, or area to be disturbed.

G. Regulatory Permit Requirements.

The permit agency name, permit/action driving task, and the task to be performed to obtain the permit, prior to issuance of the permit by the County.

H. Primary Project Participants.

The names, address, and phone numbers of the company representative; company and individual acting as an agent for the company; construction company contacts; and Federal and State agency contacts.

I. Project Facilities.

Any permanent project facilities such as permanent rights-of-way, widths, meter stations, valve sets, etc, and any temporary rights-of-way, width during construction, construction facilities, etc.

J. Construction Schedule.

The estimated start and end dates for construction, days of the week in which construction will occur, and hours of day during which construction will occur.

K. Sensitive Area Survey.

A Sensitive Area Survey shall be submitted by a qualified professional and shall provide the type and area of concern within and adjacent to the pipeline right-of-way, including but not limited to sensitive plant and animal populations and wildlife critical habitat, as such populations are defined by state and federal referral agencies, and Waterbodies. The Survey shall provide a method or plan for compliance with protection measures and state and federal laws as identified by these agencies pertaining to the identified sensitive areas. This submittal requirement does not apply in previously-disturbed corridors or rights-of-way and/or areas permitted by the COGCC.

L. Reclamation, Revegetation, and Soil Plan.

A Reclamation, Revegetation and Soil Plan that includes the following information:

1. A plant material list that includes scientific and common names and the application rate in terms of Pure Live Seed per acre, a planting schedule that includes timing, methods, and mulching, and a map with a calculation of the surface area disturbance in acres of the area impacted (where the soil will be disturbed).

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2. Provisions for salvaging on-site topsoil, a timetable for eliminating topsoil and/or aggregate piles and a plan that provides for soil cover if any disturbances or stockpiles will sit exposed for a period of 90 days or more.
 3. A Weed Management Plan for all Garfield County listed noxious weeds and State of Colorado listed noxious weeds that are targeted for statewide eradication. The Plan shall include a site specific map and weed inventory. A Weed Management Plan is required if an area 1 acre or greater is disturbed for the purposes of site construction, development or grading but not including areas serving the long-term function of the site (i.e. building footprint, road surface or permanent parking areas).
 4. A revegetation security may be required if, in the determination of the County Vegetation Manager, the proposed project has:
 - a. A potential to facilitate the spread of noxious weeds;
 - b. A potential to impact watershed areas;
 - c. A potential for visual impacts from public viewing corridors;
 - d. Steep Slopes 15% or greater or unstable areas; and/or
 - e. Disturbs an area 1 acre or greater where topsoil is exposed for the purposes of site construction, development or grading but does not comprise the long-term functioning of the site (i.e. building footprint, road surface or permanent parking areas).
 5. The revegetation security will be in an amount to be determined by the County Vegetation Manager that will be site specific and based on the amount of disturbance. The security shall be held by the County until vegetation has been successfully reestablished, or for a period of time approved by the County Vegetation Manager in any specific land use action, according to the Reclamation and Revegetation Standards section in the Garfield County Weed Management Plan. The County Vegetation Manager will evaluate the reclamation and revegetation prior to the release of the security. The security shall be subject to all provision of Article 13.

M. Weed Management Plan.

A Weed Management Plan for all Garfield County-listed noxious weeds and State of Colorado-listed noxious weeds that are targeted for statewide eradication.

N. Emergency Response Plan.

A Fire Protection and Hazardous Materials Spills Plan that specifies planned actions for possible emergency events, a listing of persons to be notified of an emergency event, proposed signage, and provisions for access by emergency response teams. The emergency plan must be acceptable to the appropriate fire district or the County Sheriff, as appropriate. The plan shall include a provision for the operator to reimburse the appropriate emergency service provider for costs incurred in connection with emergency response for the Operator's activities at the site.

O. Traffic Impact.

For construction traffic that will use a County road, the anticipated types of vehicles, number of each type, anticipated number of trips per day per each type, County roads to be used, and the percentage of the construction traffic that will travel on each road.

P. Staging Areas.

The general location of the staging areas required for pipeline construction.

Q. Pressure Testing.

Indicate the quantity of water or other fluid required, legal source of water if utilized, and the disposition of the water or other fluid after testing.

9-103. REVIEW PROCESS.

A pipeline application shall be reviewed according to the following process:

A. Pre-Application Conference.

A pre-application conference shall be conducted pursuant to section 4-101.A, unless waived by the Director.

B. Determination of Application Completeness Review.

1. Determination of Application Completeness Review shall be conducted pursuant to section 4-101.B.
2. Once the application is deemed technically complete, the Director will provide to the Applicant in writing:
 - a. The number of copies to be delivered to the County;
 - b. The date upon which the Director will render a decision; and
 - c. The notice that the Applicant is required to mail to the Adjacent Property Owners.

C. Review by Referral Agency.

Review by referral agency shall be conducted pursuant to section 4-101.C. with the following modifications:

1. Upon the filing of a complete application, the Director shall promptly forward 1 copy to the County Road and Bridge, Vegetation Management, and Engineering Departments, the Oil and Gas Liaison, the County Sheriff, the appropriate fire district, and any adjacent municipality for comment.

D. Evaluation by Director/Staff Review.

Evaluation by Director/Staff Review shall be conducted pursuant to section 4-101.D.

E. Notice of Pending Application.

Within 7 days after the application has been determined complete the Applicant shall provide notification by certified mail to all property owners within 200 feet of the route and a sign shall be posted on the portions of the route crossing or adjacent to a public road. Both the notice and the sign shall indicate that an application has been made and provide the phone number of the Community Development Department where information regarding the application may be obtained.

F. Decision.

Within 30 days of the date of determination of completeness, the Director may approve, conditionally approve or deny the application. Within 10 business days, the Director shall inform the Applicant and the BOCC in writing of the decision.

1. Approve the Application. If the application satisfies all of the applicable requirements of this Code, the application shall be approved.
2. Conditionally Approve. The application may be approved with conditions determined necessary for compliance with this Code and may include, but are not limited to, the relocation or modification of proposed access roads, facilities, or structures; landscaping, buffering, or screening; posting of adequate financial guarantees; compliance with specified surface reclamation measures; or any other measures necessary to

mitigate any significant impact on surrounding properties and public infrastructure.

3. Deny the Application. If the application fails to satisfy the standards of this Code, and compliance cannot be achieved through reasonable conditions of approval, the application shall be denied.
4. Failure to make a decision. For an application submitted by a Public Utility or power authority, failure by the Director to make a determination on the application within the timelines set forth in C.R.S. § 29-20-108, shall result in the application being considered approved and the County may process Applicant's building, access, or other permits, provided the Applicant builds the pipeline in compliance with the application.
5. Waiting Period. The Director shall issue a decision on the application to the Applicant and provide a copy to the BOCC. The decision is not final and no permit shall be issued for 14 days after the date of the Director's decision.
6. Unless otherwise approved by the decision-making body, an Applicant has 1 year from the date of approval to satisfy any remaining conditions precedent to issuance of a Land Use Change Permit.

G. Call-Up.

Pursuant to section 4-112, the BOCC may call up the Director's decision no later than 10 days after the date of the decision.

H. Applicant's Right of Appeal of Conditional Approval.

1. Filing an Appeal. In the event that the Director denies or conditionally approves a pipeline application, the Applicant shall be entitled to appeal the decision to the BOCC. The Applicant must file an appeal for this purpose with the Director in writing no later than 10 days after the date of the Director's decision.
2. Notice. Applicant shall provide written notice at least 15 days prior to the Public Hearing to all property owners within 200 feet of the route and a sign shall be posted on the portions of the route crossing or adjacent to a public road. Published notice shall be accomplished by putting the hearing on the BOCC agenda
3. BOCC Review. The BOCC shall review the Director's decision at a Public Hearing held as soon as practical after the date the appeal was filed and after proper notice.
4. Public Hearing. At the Public Hearing the BOCC shall consider evidence related to the Director's decision, which may be presented by County staff, the Applicant, or interested members of the public. The BOCC shall not be limited in their review to the subject of the appeal, and may review any aspect of the pipeline application. Based upon this evidence, the BOCC may affirm the Director's decision, or may approve the application with modified, altered, deleted, or added conditions. No County building, grading, access, or other permit shall be issued, or the Applicant otherwise allowed to proceed with the operation, until the BOCC acts on the Director's decision at the Public Hearing.

I. Permit Issuance.

After approval of a Land Use Change Permit for a pipeline and completion of the 14-day waiting period, the Applicant shall be entitled to have processed any necessary building, grading, or access permits, or to otherwise proceed with the proposed operation.

J. Completion of Approval.

Upon completion of any pipeline, the Applicant shall submit a statement from a qualified professional engineer certifying the completion of the project in compliance with the Land Use Change Permit. A digital copy of the surveyed pipeline as-built will be provided to the Community Development Department.

K. Amendments.

Amendments to an approved pipeline Land Use Change Permit shall follow the provisions of section 4-106.

9-104. REVIEW CRITERIA.

An application for a pipeline shall be approved, conditionally approved, or denied in accordance with the following standards and criteria:

A. Located Along Perimeters.

As a general guide, rights-of-way and any associated facilities shall be located along the perimeters of surface property ownerships and not within areas of agricultural crop production. Nonperimeter locations will be acceptable if the surface owner agrees and there is no adverse impact on adjacent properties.

B. Noise Abatement.

1. Any equipment used in construction or operation of a pipeline must comply with either the COGCC Rules and Regulations in regards to noise abatement or C.R.S. Article 12 of Title 25, as appropriate for the type of pipeline.
2. All power sources used in pipeline operations shall have electric motors or muffled internal combustion engines.

C. Visual Impact.

Pipeline operations shall be located in a manner to minimize their visual impact and disturbance of the land surface.

D. Access Points to Public Roads.

Access points to public roads shall be reviewed by the County Road and Bridge Department. All access and oversize or overweight vehicle permits must be obtained from the County Road and Bridge Department prior to beginning operation. All proposed transportation rights-of-way to the site shall also be reviewed and approved by the County Road and Bridge Department to minimize traffic hazards and adverse impacts on public roadways. Existing roads shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise. Any new roads created as a result of the pipeline construction, intended to be permanent for maintenance and repair operations, shall be placed behind a locked gate or other barriers, preventing use by Recreational Vehicles. Any gates or barriers need to be consistent with the surface owner's preferences.

E. Air Contaminant Emissions.

Air contaminant emissions shall be in compliance with the applicable permit and control provisions of the Colorado Air Pollution Prevention and Control Act, C.R.S., Title 25, Article 7.

F. Water Quality Control Standards.

All operations shall comply with all applicable CDPHE Water Quality Control Standards.

G. Reclamation Plan.

The proposed Reclamation Plan shall provide for a reasonable reclamation schedule in light of the specific surface use and surrounding land uses, and may require

recontouring and revegetation of the surface to pre-disturbance conditions. The Director may also approve a plan for an alternative post-disturbance reclamation, provided the surface owner and the Applicant agree.

H. Removal of Abandoned Pipeline.

Should an abandoned pipeline be removed, it will be subject to the original revegetation and weed management requirements in the original application.

9-105. ENFORCEMENT

Enforcement, violations, and appeals are subject to all provisions of Article 12.