

Agenda Item: GB-A.
Meeting Date: May 10, 2021

Subject: ORDINANCE NO. 903- AN ORDINANCE AMENDING CHAPTERS 17 AND 18 OF THE DACONO MUNICIPAL CODE REGARDING METHANE SOIL GAS TESTING AND MITIGATION.

Presenter: Jennifer Krieger, AICP, Community Development Director

Background: Ordinance 903 amends Chapters 17 and 18 of the Dacono Municipal Code regarding methane soil gas testing and mitigation. This ordinance establishes requirements for testing for and mitigation of methane soil gas in connection with the subdivision of property or construction of structures within the City.

Amendments to Section 17-71, Preliminary Plats and Data, update the submittal requirements for preliminary plats. A new submittal requirement will include:

- Land Use Summary Table identifying the total number of lots, lot sizes, table of outlots including dimensions, total acreage, and ownership, and tracts containing oil and gas facilities with the facility name(s) and API number(s) as designated by the Colorado Oil and Gas Conservation Commission.
- The Community Development Director may require a methane gas assessment when records maintained by the Colorado Oil and Gas Conservation Commission reflect there has been a spill or leak at an oil and gas facility located on the property or when there is other evidence of methane gas in the area.

Ordinance 903 also creates a new Chapter 18 Article 7 regarding methane gas. This new Article establishes additional building code regulations and processes in connection with the construction of a structure where there are qualifying methane levels.

A new Sec. 18-160, Methane Gas Assessment Required, authorizes the Community Development Director to require a methane gas assessment meeting the requirements of the City's Standards and Specifications for the Design and Construction of Public Improvements prior to issuance of a building permit for any structure when records maintained by the Colorado Oil and Gas Conservation Commission reflect there has been a spill or leak at an oil and gas facility located on the property, or when there is other evidence of methane gas in the area.

This Article also enables the Building Official to establish additional requirements, such as a methane mitigation plan, and implement procedures for reviewing building permit plans, inspecting structures, and issuing certificates of occupancy where methane is present.

Recommended Action: Staff is recommending approval of Ordinance 903 on first reading.

ORDINANCE NO. 903

AN ORDINANCE AMENDING CHAPTERS 17 AND 18 OF THE DACONO MUNICIPAL CODE REGARDING METHANE SOIL GAS TESTING AND MITIGATION.

WHEREAS, the City is located in Weld County, Colorado, which overlays the Wattenberg Gas Field in the Denver Basin of Colorado; and

WHEREAS, the productive Wattenberg Gas Field enables Weld County to produce over 77% of all crude oil and 15% of all natural gas in the State of Colorado; and

WHEREAS, because of this highly productive geologic formation, there are a significant number of oil and gas wells located within the City; and

WHEREAS, these wells, and associated pipelines and processing equipment, have the potential to leak methane gas and provide a potential pathway for subsurface migration and emissions of methane to the atmosphere or into structures, which can pose a substantial risk to public health;

WHEREAS, , the City Council finds methane gas testing and mitigation as required herein is reasonable and necessary in order to protect the public health, safety, and welfare of the City's current and future residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:

Section 1. Section 17-71 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

Sec. 17-71. Preliminary plats and data.

Preliminary plats and data shall include the following information:

- (1) Preliminary plat. The preliminary plat shall be drawn to scale, using a scale of not less than one (1) inch equals one hundred (100) feet. ~~Ten (10) copies of the plat~~ An electronic copy of the plat containing the following information shall be submitted:
 - a. Name of subdivision.
 - b. Legal description of the subdivision.
 - c. Names and addresses of subdivider, engineer, surveyor and owners.
 - d. Date of preparation, scale and north arrow.

- e. Total acreage of subdivision.
 - f. Location and dimensions of all existing streets, alleys, easements and watercourses within and adjacent to the subdivision and the names of such streets.
 - g. Location and dimensions of all proposed streets, alleys, easements, lot lines and other areas to be reserved or dedicated for parks, schools or other public uses.
 - h. Existing and proposed topography at two-foot intervals.
 - i. Designation of areas subject to flooding, including floodplain, floodway and base flood elevations.
 - j. Land use breakdown, including number of lots and lot sizes. Land Use Summary Table identifying total number of lots, lot sizes, table of outlots including dimensions, total acreage, and ownership, and tracts containing oil and gas facilities with the facility name(s) and API number(s) as designated by the Colorado Oil and Gas Conservation Commission.
 - k. Proposed sites for multifamily, commercial, industrial, open space or other nonpublic areas.
 - l. Vicinity map of the surrounding area within one (1) mile, showing streets and location of existing municipal boundary lines.
 - m. Such additional information as may be required by the City in order to adequately describe proposed utility systems, surface improvements or other construction projects within the area to be subdivided, including proposed construction phasing plans.
- (2) In addition to the preliminary plat, ~~three (3) copies~~ an electronic copy of each of the following supporting documents, designed to meet all applicable standards contained in Article 5 of this Chapter and contained in the City “Standards and Specifications for the Design and Construction of Public Improvements,” as may be amended from time to time, shall be submitted:
- a. Existing and proposed utility systems ~~and drainage~~ and grading plans.
 - b. Phase II drainage report.

- c. Preliminary construction plans, prepared in accordance with the City's Standards and Specifications.
 - d. Geologic and mining hazards report.
 - e. Traffic impact analysis (~~if determined necessary by the City engineer~~).
 - f. Soils and pavement design report.
 - g. The Community Development Director may require a methane gas assessment when records maintained by the Colorado Oil and Gas Conservation Commission reflect there has been a spill or leak at an oil and gas facility located on the property, or when there is other evidence of methane gas in the area.
 - (i) The Dacono Standards and Specification for the Design and Construction of Public Improvements shall be followed for conducting the methane gas assessment.
 - (ii) If qualifying levels of methane gas are present on site, mitigation measures are required following the requirements in the Standards and Specifications for the Design and Construction of Public Improvements.
- (3) Draft of proposed covenants, whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.
 - (4) Application for rezoning, if required, for the development of the subdivision;
 - (5) Such additional information as may be required by the ~~Planning Commission~~ Community Development Director in order to conduct a full and complete review and to determine that the subdivision is capable of being constructed without an adverse effect on the surrounding area.

Section 2. Chapter 18 of the Dacono Municipal Code is hereby amended by the deletion of Section 18-42 concerning Parks and recreational fees.

Section 3. Chapter 18 of the Dacono Municipal Code is hereby amended by the addition of a new Article 7 to read as follows:

ARTICLE 7 – Methane Gas

Sec. 18-160. Methane Gas Assessment Required.

A. The Community Development Director may require a methane gas assessment meeting the requirements of the City’s Standards and Specifications for the Design and Construction of Public Improvements (herein, “City’s Standards and Specifications”) prior to issuance of a building permit for any structure when records maintained by the Colorado Oil and Gas Conservation Commission reflect there has been a spill or leak at an oil and gas facility located on the property, or when there is other evidence of methane gas in the area. If a methane gas assessment was previously conducted for an area that includes the site of the building permit application, a copy of such assessment shall be provided with the building permit application and shall be updated as the Community Development Director may require. The applicant for a building permit shall ensure that any plans for which a methane gas assessment is required by this Article clearly and conspicuously state, on the plans, that such an assessment is required and has been submitted to the City.

B. If the methane gas assessment reveals qualifying levels of combustible gas are present at the site for which a building permit is requested, as such qualifying levels are set forth in Section 11 of the City’s Standards and Specifications, mitigation measures are required. No building permit shall be issued for new buildings or enclosed structures, additions, or conversions of a building or structure to habitable or occupiable space regulated by this Article unless designed in accordance with the recommendations contained in a report prepared by a State of Colorado registered Professional Engineer and in conformance with the City’s Standards and Specifications. Additionally, if there is reason to believe potentially dangerous concentrations of methane are present at the site of an existing structure, the City may require the owner of the existing structure to perform an investigation in the interest of protecting the public health. If elevated levels of methane gas are present on the site, mitigation measures may be required by the City.

(1) Building Permits. A Colorado Registered Professional Engineer retained by the building permit applicant shall perform the inspection of all methane gas control measures and provide documentation as to installation meeting the manufacturer’s guidelines.

a. The Building Official shall identify critical inspection points whereby the Professional Engineer retained by the building permit applicant, or such Engineer’s designee as may be approved by the Building Official, shall submit necessary documentation.

- b. The Building Official may issue a building permit or parts thereof incrementally as the Building Official determines is in the interest of public health and safety.

(2) Certificates of Occupancy.

- a. In order to document required inspections and any mitigation measures undertaken, the following signed and stamped certification shall be submitted when a certificate of occupancy is requested:
 - 1. I am a Registered Professional Engineer in the State of Colorado, and I am knowledgeable in the field of methane soil gas control and mitigation systems and the City's Standards and Specifications relating to methane gas.
 - 2. The soil gas control and mitigation systems installed within this project have been constructed under my direct supervision. As-built plans, vendor specifications, installation requirements, and warranty information are included with this statement.
- b. At the time of the final inspection, the registered Professional Engineer shall furnish a signed statement attesting that methane gas mitigation systems constructed or installed for the building or structure have been constructed or installed in accordance with the manufacturer's recommendations and all applicable federal, state, and local standards and requirements.
- c. At least forty-eight hours prior to a request for issuance of a certificate of occupancy, further certification shall be submitted to the City by the registered Professional Engineer demonstrating the building has been tested by a licensed, qualified third-party testing service, following industry standards, and determined to be free from any concentration of gases that the control system was designed to mitigate. A copy of the test results shall be included with this statement.
- d. As a condition of issuance of a certificate of occupancy, the Professional Engineer shall provide the owner of the property written instructions stating the required service maintenance and testing for the methane gas mitigation system that has been installed.

- (3) If an in-home methane detector is to be used as part of the methane gas mitigation system, the City shall refer the building permit application to Mountain View Fire Rescue for review and comment. Any objections to the type of in-home methane detector raised by Mountain View Fire Rescue shall be addressed prior to issuance of a building permit. If no response is received from Mountain View Fire Rescue within fourteen (14) days of the date of referral, this shall be noted on the building permit application and the in-home methane detector may be installed as proposed by the building permit applicant.
- (4) Methane Gas Placard Required. A placard indicating the structure is designated as being located in an area with LEL methane gas must be present at all times during construction. Failure to post such placard may result in stop-work order until appropriate disclosures are posted.
- (5) Methane Gas Cost Agreement. Outside experts may be required to review plans and verify accuracy. The building permit applicant shall be required to execute a cost agreement to defray the City's actual costs for planning, engineering, legal and other costs incurred by the City in connection with the application.

C. The Building Official may rely on the notations on the building plan submitted with the application for a building permit to determine whether a methane gas assessment is required for the structure. Where such an assessment is required, the Building Official shall verify that the assessment was submitted and further verify that the Professional Engineer inspecting the building has issued the certificate described in subsection B(2)a, above. The Building Official shall have no obligation to independently evaluate the adequacy of any design requirements contained in the assessment or to verify compliance with the structure constructed in accordance with those design requirements.

Section 4. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 5. Any person charged with a violation of this ordinance, upon conviction thereof, shall be subject to the General Penalty in Section 1-70 of the Dacono Municipal Code, which provides for incarceration for a period not to exceed three hundred sixty-four (364) days, a fine not to exceed one thousand dollars (\$1,000.00), or both such fine and imprisonment. As provided in Section 1-70(b), each and every day during any portion of which any violation is

committed, continued or permitted shall be a separate violation, and the violator shall be punished accordingly.

Section 6. The repeal or modification of any provision of any prior ordinance by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED BY TITLE this ____ day of _____, 2021.

PUBLIC HEARING AND SECOND READING WILL BE THE ____ DAY OF _____, 2021, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.

READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this ____ day of _____, 2021.

CITY OF DACONO, COLORADO

Joe Baker, Mayor

ATTEST:

Valerie Taylor, City Clerk

Summary of Ordinance No. _____, “AN ORDINANCE AMENDING CHAPTERS 17 AND 18 OF THE DACONO MUNICIPAL CODE REGARDING METHANE SOIL GAS TESTING AND MITIGATION”: Adopts requirements for testing for, and mitigation, of methane soil gas in connection with subdivision of property or construction of structures within the City.