

3. **PARKS & RECREATION** (presenter: Marilyn Hilgenberg)
SUPPLEMENTAL BUDGET AND APPROPRIATION - "FISHING IS FUN" GRANT
Motion to adopt and order published on second reading an ordinance enacting a supplemental budget and appropriation to the 2013 City of Loveland budget for a Federal grant from the United States Fish and Wildlife Service for construction of certain components of the River's Edge Natural Area Development Project
 This is an administrative action. The ordinance appropriates grant funding of \$90,000 for the River's Edge Natural Area project. The first reading of the ordinance was approved unanimously by City Council at the March 5, 2013 meeting.
4. **DEVELOPMENT SERVICES** (presenter: Bethany Clark)
PUBLIC HEARING
HISTORIC DESIGNATION LOVELAND ELKS LODGE-ORDINANCE AMENDMENT
A motion to approve on first reading an Ordinance amending Ordinance #5743 and Designating as a Historic Landmark the Loveland Elks Lodge/Loveland Hotel located at 103 East 4th Street in Loveland, Colorado
 A public hearing to consider a legislative action to adopt an ordinance on first reading amending Ordinance #5743 and designating as a Historic Landmark the "Loveland Elks Lodge" at 103 East 4th Street. This ordinance modifies the name under which the historic structure located at 103 East 4th Street is designated.

END OF CONSENT AGENDA

CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

CITY COUNCIL

- a. **Citizens' Report** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*
- b. **Business from Council** *This is an opportunity for Council Members to report on recent activities or introduce new business for discussion at this time or on a future City Council agenda.*
- c. **City Manager Report**
- d. **City Attorney Report**

PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council quorum present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

5. **CITY CLERK** (presenter: Terry Andrews)
APPROVAL OF COUNCIL MINUTES
Motion to approve Council minutes from the February 26, 2013 study session.
 This is an administrative action to approve the Council minutes. This item is on the regular agenda as not all Councilors were present at the meeting.

6. **DEVELOPMENT SERVICES**
PUBLIC HEARING

(presenter: Greg George)

OIL AND GAS DEVELOPMENT REGULATIONS

Motion to adopt on second reading an ordinance adding to the Loveland Municipal Code Chapter 18.77 for the regulation of oil and gas operations and Chapter 18.78 for setbacks for development from oil and gas operations in the City of Loveland

This item is a legislative action to consider adoption of an ordinance on second reading to establish regulations on oil and gas development. The first reading of the ordinance was approved with five councilors voting in favor of the ordinance and four against at the March 5, 2013 meeting. The ordinance would:

- Require operators to obtain a permit from the City prior to locating an oil and gas facility within Loveland city limits.
- Provide two processes and each with a different mix of standards for obtaining a permit.
 - **Mandatory process:** The mandatory process would require compliance with standards referred to as “baseline standards.” These standards are designed to protect public health, safety and welfare and the environment, while avoiding preemption by state law and the Colorado Oil and Gas Conservation Commission (COGCC) regulations. The permit would require approval by the Planning Commission, with possible appeal to City Council.
 - **Optional process:** The optional process would be strictly voluntary and would require compliance with standards referred to as “enhanced standards,” in addition to most of the baseline standards. These standards are designed to mitigate adverse impacts on public health, safety and welfare and the environment to a greater degree than required by the COGCC. To encourage operators to agree to comply with these higher enhanced standards that might otherwise be preempted by state law, the permit would be approved by the Director of Development Services, with no appeal to either the Planning Commission or City Council. Any appeal would be to Larimer County District Court.

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CALL TO ORDER Mayor Gutierrez called the regular meeting of the Loveland City Council to order on the above date at 6:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL Roll was called and the following responded: Gutierrez, Farley, Klassen, Trenary, McKean, Shaffer, Fogle, Taylor and Clark.

PROCEDURAL INFORMATION

Mayor Gutierrez made the following procedural announcement: Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it. Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption of the staff recommendation for those items. Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.

CONSENT AGENDA Mayor Gutierrez asked if anyone in the audience, Council or staff wished to remove any of the items or public hearings listed on the Consent Agenda. Councilor Farley asked for item 6 to be removed from the Consent Agenda. Councilor Shaffer moved to approve the Consent Agenda, with the exception of item 6. The motion was seconded by Councilor Trenary and a roll call vote was taken with all councilors present voting in favor thereof.

1. CITY MANAGER

**Approval of Council Minutes
 Motion**

Administrative Action: The minutes from the February 12, 2013 study session and the February 19, 2013 regular meeting were approved.

**2. CITY MANAGER
PUBLIC HEARING**

**Amendment to Municipal Code Pertaining to Senior Advisory Board
 Ordinance #5747**

Legislative Action: A Public hearing was held and "AN ORDINANCE AMENDING SECTION 2.60.240 OF THE LOVELAND MUNICIPAL CODE PERTAINING TO THE SENIOR ADVISORY BOARD" was approved and ordered published on second reading.

3. FINANCE

PUBLIC HEARING

Supplemental Budget And Appropriation-Fleet And Police Funds

Ordinance # 5748

Administrative Action: A Public Hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR EXPENSES RELATED TO THE COST OF FUEL AND PARTS FOR THE OPERATION OF THE CITY FLEET AND FOR POLICE OVERTIME

EXPENSES FOR SPECIAL INVESTIGATIONS" was approved and ordered published on second reading.

4. DEVELOPMENT SERVICES

Vacating Portion Of Drainage Easements- Mineral First Subdivision

Ordinance #5749

Legislative Action: A Public Hearing was held and a motion making the findings in Section V of the Staff memorandum dated February 19, 2013 was approved and "AN ORDINANCE VACATING A PORTION OF DRAINAGE EASEMENTS ON LOTS 5 AND 6, BLOCK 1, MINERAL FIRST SUBDIVISION, CITY OF LOVELAND" was approved and ordered published on second reading.

5. DEVELOPMENT SERVICES

Vacating Portion Of Drainage Easements- Mineral First Subdivision

Ordinance #5750

Legislative Action: A Public Hearing was held and a motion making the findings in Section V of the Staff memorandum dated February 19, 2013 was approved and "AN ORDINANCE VACATING A PORTION OF DRAINAGE EASEMENTS ON LOTS 5 AND 6, BLOCK 1, MINERAL FIRST SUBDIVISION, CITY OF LOVELAND" was approved and ordered published on second reading.

6. PUBLIC WORKS

Sale of City Property

This item was removed from the Consent Agenda and will be considered on the Regular Agenda.

7. PARKS & RECREATION

IGA with Thompson School District R2-J For Joint Use Facilities

Resolution #R-19-2013

Administrative Action: Resolution #R-19-2013, approving an Intergovernmental Agreement between the City of Loveland and Thompson School District R2-J concerning joint use of facilities was approved.

RESOLUTION # R-19-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND AND THOMPSON SCHOOL DISTRICT R2-J FOR JOINT USE OF FACILITIES

WHEREAS, the City of Loveland and Thompson School District R2-J (collectively, the "Parties") are political subdivisions of the State of Colorado duly organized and existing in accordance with Colorado law; and

WHEREAS, Section 29-1-203 of the Colorado Revised Statutes authorizes intergovernmental agreements between and among political subdivisions of the State of Colorado to cooperate or contract with one another to provide functions, services or facilities lawfully authorized to each; and

WHEREAS, the Parties agree that cooperation and coordination with each other can result in better fiscal and physical management of the Parties' respective facilities; and

WHEREAS, the Parties have a history of mutually beneficial reciprocal facility use and recognize that as governmental entities serving a majority of the same public, it is prudent to work together for mutual gain; and

WHEREAS, the Parties seek to replace and update the current Intergovernmental Agreement Concerning Joint Use of Facilities dated February 4, 1998 (the "Original Agreement"), by entering into the Intergovernmental Agreement Concerning Joint Use of Facilities attached hereto as Exhibit "A" and incorporated herein by reference (the "2013 Agreement"); and

WHEREAS, the City Council finds that it is in the best interest of its citizens to enter into and participate in the 2013

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Agreement.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO AS FOLLOWS, that:

Section 1. The 2013 Agreement is hereby approved and the Original Agreement is replaced and superseded by the 2013 Agreement.

Section 2. The City Manager is hereby authorized and directed to enter into the 2013 Agreement, subject to such modifications in form or substance as the City Manager, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 3. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED day of March, 2013.
Cecil A. Gutierrez, Mayor
ATTEST:
Teresa G Andrews, City Clerk
Exhibit Available in the City Clerk’s Office

8. DEVELOPMENT SERVICES

WAIVER OF FEES – CONSTRUCTION BY LOVELAND HABITAT FOR HUMANITY

Resolution #R-20-2013 Administrative Action: Resolution #R-20-2013 waiving certain development fees for the construction of eight residences by Loveland Habitat for Humanity was approved.

RESOLUTION #R-20-2013

A RESOLUTION WAIVING CERTAIN DEVELOPMENT FEES FOR CONSTRUCTION OF EIGHT RESIDENCES BY LOVELAND HABITAT FOR HUMANITY

WHEREAS, Loveland Habitat for Humanity, Inc., a Colorado nonprofit corporation (“Habitat”) has requested that the City waive certain City-imposed development fees, including capital expansion and enterprise fees, for eight residences that it will construct in 2013 in Loveland, Colorado, including 7 residences located in Koldeway Industrial 3rd Subdivision at 1726, 1750, 1802, and 1886 9th Street, 873 Libra Court, 904 N. Boise Avenue, and 1916 E. 11th Street; and 1 residence located in Wards 3rd Subdivision at 1232 Raven Place, (collectively, the “Residences”); and

WHEREAS, Loveland Municipal Code Section 16.38.075 provides that the City Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed upon new development upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, that such facilities relieve the pressures of growth on City-provided facilities, and that such facilities do not create growth or growth impacts; and

WHEREAS, Habitat is willing and able to enter into one or more development agreements with the City pursuant to which Habitat will agree to construct the Residences for the benefit of low and moderate income Loveland households.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the City Council finds that the waiver of the development fees, capital expansion fees, and enterprise fees which results from the adoption of this Resolution will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, that such facilities relieve the pressures of growth on City-provided facilities, and that such facilities do not create growth or growth impacts.

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Section 2. That capital expansion fees in a total amount not to exceed \$100,232.56 payable for the construction of the Residences are hereby waived for the purpose described above.

Section 3. That as provided in Loveland Municipal Code Section 16.38.075, when a capital related fee is waived as set forth in Section 2, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund.

Section 4. That development fees, including, but not limited to, all building permit fees, plan review fees, and any and all other fees, due and payable for construction of the Residences between permit application and final certificate of occupancy (but not including capital expansion fees, enterprise fees such as system impact fees, raw water fees, tap fees or other enterprise fees) in a total amount not to exceed \$20,564.00 are hereby waived for the purpose described above.

Section 5. That enterprise fees, including system impact fees, raw water fees, tap fees, or any other enterprise fees, payable for construction of the Residences in a total amount not to exceed \$65,000.00 are hereby waived for the purpose described above.

Section 6. That the amount of the waived enterprise fees, in an amount not to exceed \$65,000.00 as set forth in Section 5 hereof, shall be paid by the City into the City's enterprise funds from the general fund of the City, and that such funds have been appropriated in the City's 2013 budget. It is anticipated that the enterprise fees due for the Residences will exceed the \$65,000.00 waived hereunder and the remaining balance of enterprise funds due shall be paid by Habitat.

Section 7. That the waiver of the fees described in Sections 2, 4, and 5 hereof shall be conditioned upon the City, through its City Manager, and Habitat entering into one or more development agreements, which development agreements shall provide for the waiver of said fees in exchange for the construction of the Residences, as well as such other conditions as the City Manager shall deem necessary.

Section 8. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 5th day of March 2013.

Cecil Gutierrez, Mayor

ATTEST:

Teresa G. Andrews, City Clerk

9. PARKS & RECREATION

PUBLIC HEARING

IGA WITH COLORADO PARKS & WILDLIFE – "FISHING IS FUN" GRANT

1. Resolution #R-21-2013

Administrative Actions: Resolution #R-21-2013, approving an Intergovernmental Agreement between the City of Loveland and the State of Colorado Division of Parks and Wildlife to accept a "Fishing is Fun" grant for enhancements to the River's Edge Natural Area, was approved.

RESOLUTION # R-21-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE STATE OF COLORADO DIVISION OF PARKS AND WILDLIFE TO ACCEPT A "FISHING IS FUN" GRANT FOR ENHANCEMENTS TO THE RIVER'S EDGE NATURAL AREA

WHEREAS, the City of Loveland (the "City") is a home rule municipality organized and existing in accordance with Colorado law; and

WHEREAS, the Division of Parks and Wildlife is a division of the Department of Natural Resources of the State of Colorado ("DPW"); and

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WHEREAS, Section 29-1-203(1) of the Colorado Revised Statutes authorizes intergovernmental agreements between the City and DPW to cooperate or contract with one another to provide any function or service lawfully authorized to each; and

WHEREAS, DPW, as part of its Fishing is Fun in Colorado program, distributes grant funds provided by the U.S. Department of Interior's Fish and Wildlife Service to qualified entities for the purpose of improving fisheries and otherwise increasing recreational fishing opportunities; and

WHEREAS, the City has applied for and has been offered a grant of ninety thousand dollars (\$90,000.00) on a reimbursable match basis where the City will match the grant with one hundred thirty six thousand three hundred sixty dollars (\$136,360.00); and

WHEREAS, the City will use such grant funds to enhance the River's Edge Natural Area including the development of trails to provide access to the shoreline, bank stabilization, an ADA accessible fishing dock, and a belly boat ramp as identified in the proposed subgrant agreement attached hereto as Exhibit "A" and incorporated herein by reference (the "Subgrant Agreement"); and

WHEREAS, City Council finds that it is in the best interest of the citizens of the City to approve and enter into the Subgrant Agreement.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO AS FOLLOWS, that:

Section 1. The Subgrant Agreement is hereby approved.

Section 2. The City Manager is hereby authorized and directed to enter into the Subgrant Agreement, subject to such modifications in form or substance as the City Manager, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 3. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED 5th day of March, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

Teresa G. Andrews, City Clerk

Exhibit Available in the City Clerk's Office

2. **1st Rdg Ord. and P.H.** A Public Hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR A FEDERAL GRANT FROM THE UNITED STATES FISH AND WILDLIFE SERVICE FOR CONSTRUCTION OF CERTAIN COMPONENTS OF THE RIVER'S EDGE NATURAL AREA DEVELOPMENT PROJECT" was approved and ordered published on first reading.

10. CITY MANAGER
REPORT OF THE CITY COUNCIL'S ANNUAL GOAL-SETTING SESSION

Motion Administrative Action: a motion accepting and approving the Report of the City Council's Annual Goal-Setting Session, was approved.

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11. CITY MANAGER

AMENDMENT OF THE HANDBOOK FOR BOARDS AND COMMISSIONS

Resolution #R-22-2013

Administrative Action: Resolution #R-22-2013 amending the City of Loveland Handbook for Boards and Commissions was approved.

RESOLUTION #R-22-2013

A RESOLUTION AMENDING THE CITY OF LOVELAND HANDBOOK FOR BOARDS AND COMMISSIONS

WHEREAS, Section 2.60.010 of the Loveland Municipal Code authorizes the City Council to adopt a Handbook for Boards and Commissions to guide the City of Loveland's advisory boards and commissions regarding policy and procedures; and

WHEREAS, the City Council desires to amend the previously-adopted Handbook for Boards and Commissions.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the Handbook for Boards and Commissions (revised June 2008) is hereby repealed and replaced by the Handbook for Boards and Commissions (revised March 2013), a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

Section 2. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 5th day of March, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

Teresa G. Andrews, City Clerk

Exhibit Available in the City Clerk's Office

12. HUMAN RESOURCES

SCHEDULED CHANGE OF MEETING DATES – FIRE RETIREMENT PLAN BOARD

Resolution #R-23-2013

Administrative Action: Resolution #R-23-2013, amending the scheduled meeting dates of the City of Loveland Fire Retirement Plan Board, was approved.

RESOLUTION #R-23-2013

A RESOLUTION AMENDING THE SCHEDULED MEETING DATES OF THE CITY OF LOVELAND FIRE RETIREMENT PLAN BOARD

WHEREAS, on December 18, 2012, City Council adopted Resolution #R-87-2012 setting forth the 2013 meeting dates for the City's boards and commissions, including the City of Loveland Fire Retirement Plan Board (the "Board"); and

WHEREAS, the Board meeting dates are currently set on the third Friday of January, April, July and October at 10:00 a.m., in the Administrative Conference Room, 2nd Floor, Fire Administration Building, 410 East Fifth Street, Loveland, Colorado (the "Original Meeting Dates"); and

WHEREAS, in order to timely review the quarterly and annual statements for the Fire Retirement Plan, the Board at a special meeting on February 7, 2013, unanimously approved a motion to recommend that City Council change the Board meeting dates; and

WHEREAS, the Board desires to move the Board's meeting dates to the first Friday of March, June, September and December at 10:00 a.m., in the Administrative Conference Room, 2nd Floor, Fire Administration Building, 410 East Fifth Street, Loveland, Colorado (the "Revised Meeting Dates").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the meeting dates adopted in Resolution #R-87-2012 are hereby amended to change the Board's meeting dates from Original Meeting Dates to the Revised Meeting Dates.

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Section 2. That Resolution #R-87-2012, as amended herein and by prior resolutions, shall remain in full force and effect.
 Section 3. That pursuant to City Code Section 2.14.020B, the City Clerk is directed to publish the revised meeting dates established by this Resolution within seven days after the date of this Resolution in a newspaper of general circulation in the City and in addition post such notice of revised meeting dates in a conspicuous place in the City Municipal Building.
 Section 4. That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 5th day of March, 2012.
 Cecil Gutierrez, Mayor
 ATTEST:
 Teresa G. Andrews, City Clerk

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

a) Citizens' Reports None

b) Business from Council

- McKean Attended a tour of the American Eagle Distributors
- Farley Commended Councilor Shaffer on the panel she served on at the Artist's Collective forum with City Employees: Marcie Erion and Suzanne Janssen and Artspace advocate Felicia Harmon.
- Klassen Attended the Larimer County visioning event held at the Ranch. Consensus of Council was to remove 15 and 16 on the Regular Agenda tonight, due to the anticipated length of the meeting. Mayor Gutierrez directed Council to forward any concerns and questions to staff and cc: City Council.
- Clark Announced that in 2013 the Corn Roast and the Pro Cycling Tour would work together to make that weekend a combined event. Councilor Fogle moved to add Councilor Clark to the Title 18 Committee. The motion was seconded by Councilor Klassen and a roll call vote was taken with six councilors voting in favor and Councilors Shaffer and Trenary voting against.
- Trenary Attended the Big Thompson Watershed Forum. Participated in the first two weekends with one more scheduled for this weekend. City of Loveland Fire personnel, students from local high schools as well as citizen volunteers will be going around the City on three consecutive Saturdays starting February 23, 2013 distributing Carbon monoxide and smoke detectors, as well as checking existing detectors, for the "Leaders Abroad Urging Rights, Equality, and Non-violence" (LAUREN) project".
- Shaffer Attended the Unity in the Community held annually in Longmont. Encouraged Downtown business owners and residents to attend the Loveland Downtown Team meetings held on the 1st Tuesday of the month. There was discussion regarding the Sustainability study at the Transportation Advisory Board meeting.
- Gutierrez Attended the Emergency Managers of Colorado conference held at the Embassy Suites. Mayor Gutierrez commended Loveland Employee Pat Mialy on all of her hard work for this 3rd annual event.

c) City Manager Report

Cahill Announced the Parks and Recreation Annual Report was completed and available for the City and on the Website.

d) City Attorney Report None

PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

6. PUBLIC WORKS

PUBLIC HEARING

Sale of City Property – 905,915,925,933 and 935 N. Taft Ave

Ordinance #5751

Administrative Action: Facilities Manager, Ken Cooper introduced this item to Council. This is an administrative action approving the sale of approximately 5.2 acres of City-owned property located at 905, 915, 925, 933 and 935 N. Taft Avenue, which were parcels acquired for the Taft Avenue widening project. Councilor Farley read a letter to Councilor from Kyle Dallabetta, suggesting possible uses, if the City would retain possession of this property. Councilor Shaffer moved to approve on second reading and ordered published on first reading an "ORDINANCE AUTHORIZING THE SALE OF 905,915,925,933 AND 935 TAFT AVE". The motion seconded by Councilor Klassen, carried with seven Councilors present voting in favor, and Councilors Shaffer and Farley voting against.

19. CITY MANAGER

Water Enterprise Funding

Resolution #R-16-2013

Administrative Action: This item was introduced by Utility Accounting Manager, Jim Lees. This resolution provides funding mechanisms for the Water Enterprise through external and internal loans, and a series of rate increases, and an annual transfer of funds from the General Fund to the Water Enterprise. This funding will be used to improve the Water Treatment Plant and undertake a comprehensive water line replacement program. Councilor Shaffer moved to approve Resolution #R-16-2013 on first reading. Councilor Klassen seconded the motion, which carried with five Councilors voting in favor and Councilors Farley, Shaffer, Gutierrez and Trenary voting against.

RESOLUTION #R-16-2013

A RESOLUTION CONCERNING FUNDING FOR THE WATER ENTERPRISE TO IMPROVE THE WATER TREATMENT PLANT AND UNDERTAKE A COMPREHENSIVE WATER LINE REPLACEMENT PROGRAM

WHEREAS, for well over one hundred years, the City of Loveland Water Utility has provided the Loveland community with a safe and reliable source of potable water at some of the lowest rates in the State of Colorado; and

WHEREAS, the Water Utility is now facing significant financial challenges due to escalating regulatory requirements, increasing operation and maintenance costs, aging infrastructure, and water treatment plant capacity limitations; and

WHEREAS, to meet these challenges and provide for the City's future economic growth and development, the Water Utility must improve the water treatment plant and undertake a comprehensive water line replacement program; and

WHEREAS, the City Council desires to secure adequate funding for the Water Utility to meet these project needs through a combination of sources, specifically external borrowing, internal borrowing, General Fund transfer, and water rate increases, designed to equitably distribute the financial impacts between current and future Water Utility customers and the citizens of Loveland who will benefit from the City's future economic growth and development; and

WHEREAS, Section 13-3(b) of the Loveland Municipal Charter provides that loans from one utility account to another shall be allowed with the City Council's approval, but shall require the affirmative vote of a majority of the entire City Council; and

WHEREAS, the Loveland Municipal Charter and Code provide that all utility rates, charges, and fees shall be set by the City Council by resolution adopted upon two readings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the City Council hereby directs the City Manager to secure for the City Council's future consideration and approval as the Board of the City's Water Utility Enterprise a twenty-year amortized loan from an external source (or sources) to the Water Enterprise, on the most advantageous terms available as determined by the City Manager, in consultation with the City Attorney and the City's Executive Fiscal Advisor, in the principal amount necessary to pay all financing costs and establish any required reserves to achieve net loan proceeds of Ten Million Dollars (\$10,000,000).

Section 2. That the City Council hereby authorizes and approves the Power Enterprise loaning to the Water Enterprise in 2013 Six Million Dollars (\$6,000,000) to be repaid by the Water Enterprise to the Power Enterprise in eight annual, fully-amortized principal and interest payments with the interest to be determined and accrue at the variable rate and in the manner required by Loveland Municipal Charter Section 13-3(b).

Section 3. That the City Council hereby directs that, in each year during the eight-year term of the loan contemplated in Section 2 above, the City Manager shall include in the City's annual budget and appropriation ordinances for each of those years the transfer of Seven Hundred Fifty Thousand Dollars (\$750,000) from the General Fund to the Water Enterprise to be used by the Water Enterprise to pay the principal due on the Six Million Dollar (\$6,000,000) loan from the Power Enterprise.

Section 4. That the City Council hereby adopts the following rate increases across all Water Utility customer classes for each of the next nine years as listed below, said rate increases to take effect beginning with billings mailed on or after January 1 of the then-current year:

2014	13% increase
2015	9% increase
2016	9% increase
2017	9% increase
2018	9% increase
2019	9% increase
2020	8% increase
2021	8% increase
2022	8% increase

The rate increases adopted herein shall be in addition to, and not in lieu of, any other rate increases for water service that may hereafter be adopted by the City Council to more accurately reflect the cost of providing water service to the Water Utility's customers.

Section 5. That this Resolution shall be effective as of the date of its adoption on second reading as provided in the Loveland Municipal Code.

ADOPTED this 5th day of March, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

14. DEVELOPMENT SERVICES

PUBLIC HEARING

OIL AND GAS DEVELOPMENT REGULATIONS

1st Rdg Ord. and P.H.

Legislative Action: Development Services Director Greg George introduced this item to Council.

This item is a legislative action to consider adoption of an ordinance on first reading to establish regulations on oil and gas development. The ordinance would:

- Require operators to obtain a permit from the City prior to locating an oil and gas facility within Loveland city limits.
- Provide two processes and each with a different mix of standards for obtaining a permit.

o Mandatory process: The mandatory process would require compliance with standards referred to as "baseline standards." These standards are designed to protect public health, safety and welfare and the environment, while avoiding preemption by state law and the Colorado Oil and Gas Conservation Commission (COGCC) regulations. The permit would require approval by the Planning Commission, with possible appeal to City Council.

o Optional process: The optional process would be strictly voluntary and would require compliance with standards referred to as "enhanced standards," in addition to most of the baseline standards. These standards are designed to mitigate adverse impacts on public health, safety and welfare and the environment to a greater degree than required by the COGCC. To encourage operators to agree to comply with these higher enhanced standards that might otherwise be preempted by state law, the permit would be approved by the Director of Development Services, with no appeal to either the Planning Commission or City Council. Any appeal would be to Larimer County District. Mayor Gutierrez opened the public hearing at 7:39 p.m. Carol Dowding, 3241 Ivy Ct., spoke in support of the ordinance if an amendment was made to the Optional process, to include an appeal to the Directors decision, and to extend the moratorium; Dawn Autsin, 1613 20th St, requested the City ban fracking; Steve Fancher, 2001 Frances spoke in support of the ordinance; Jake Matter, Assistant to the Attorney General related to matters of Oil and Gas told Council more work was needed regarding the mandatory process identified in the ordinance; Doug Riley, 4116 Alvalita Del Sol Drive, spoke in support of the ordinance; Matthew Fredricey spoke in opposition of the ordinance and requested this matter be placed before the voters; William E. Street, 217 N. Jefferson Ave spoke in opposition of the ordinance; Alita Savory, 600 Pierce Ave, spoke in opposition of the ordinance; Nick Peterson, 822 E. 5th St, spoke in opposition of ordinance, and asked for public vote; Dillion Meur, 1703 Greeley Drive, spoke in opposition to the ordinance; Mike Guinn, 2115 117th St, Noble Energy, spoke in support of ordinance; Andrew Fischer, 2423 15th St S.W. would like to vote on this issue; Linda

Pirshbacher, 1974 Windham spoke in opposition of the ordinance, Cassiah Givens, 2423 15 St. S.W., spoke in opposition and requested a vote; Daniel Lorgan, 2830 Carina, spoke in opposition and requested Council extend the moratorium; Mary Baes Meyer, 444 Logan Ave, spoke in opposition and requested an extension to the moratorium; Bret Nye, 1704 Fire Rock Ct, spoke in opposition of the ordinance; Lenina Olivas 1195 W. 45th St, spoke in opposition. Drake Riskie, 3418 Sheridan Ave spoke in opposition of the ordinance; Lucia Herrera, 767 Monroe Ave., spoke in opposition and requested this matter be referred to the voters; Anita Monkers, resident, spoke in support of the ordinance; Michelle Mandaville, 525 Arrowhead, spoke in opposition and requested the matter be voted on; Lori Collins, spoke in support of the ordinance; Ryan Millard 2903 Montana Place, spoke in opposition of the ordinance; Linda Sandahl, 4170 Garfield Ave, spoke in opposition of the ordinance; Andy Peterson, 1805 Morning Glory, spoke in support of ordinance; Barbara Case, 2475 Glendale Ct. spoke in opposition to the ordinance, Esther Menninger, 2874 Chicory spoke in support of the ordinance; Tom Buchanan 910 W. 8th, spoke in support of the ordinance; Susan Aldridge, Anadarko attorney, spoke regarding the ordinance, Timothy Anderson, 3906 Poudre and employee of Nobel Energy spoke in support of the ordinance; Korby Bracken, Anadarko; spoke in support and stated they are the most regulated industry in the country regarding air and water quality; Johnny Westerop, spoke in opposition of the ordinance; Linda Schlosky, 1651 E. 6th spoke in opposition of the ordinance. Mayor Gutierrez requested a break at 10:40 p.m. Council reconvened at 10:50 p.m. Carla Massaro, 425 Ontero spoke in opposition of the ordinance and requested the matter be placed before the voters; Evi Buckner Osler, 3354 Valley Oak Drive, spoke in opposition of the ordinance; Latin 2075 Grays peak spoke in opposition of the ordinance; Kathy Hartman, 945 E 6th St spoke in opposition of the ordinance; Sharon Carlyle spoke in opposition of the ordinance, Brian Lambert spoke in opposition of the ordinance; Carla Westin, 226 S. Washington, spoke in opposition of the ordinance; Kyle Foster, 1944 Markham Ct, spoke in opposition of the ordinance; Linda Owen, 1642 Pinon, spoke in opposition of the ordinance; Nicholas Fredricey, 1360 20th St, S.W., spoke in opposition of the ordinance; Judy Freeman, 1641 Pinon Ct, spoke in opposition of the ordinance, Robert Henry Schott 4782 W. Eisenhower, spoke in opposition of the ordinance; Jack Cantley, 6295 Bluff Lane, spoke in support of the ordinance; Evelyn King, 6321 14th St, spoke in support of the ordinance; Bob Houston, 713 Cold Dr. spoke in support of the ordinance; Jeff Fredricey, spoke in opposition of the ordinance, Angela loathia, 536 E. 5th St, spoke in opposition of the ordinance. Mayor Gutierrez closed the public hearing at 11:39 p.m. Councilor Shaffer moved to approve and order published "AN ORDINANCE ADDING TO THE LOVELAND MUNICIPAL CODE CHAPTER 18.77 FOR THE REGULATION OF OIL AND GAS OPERATIONS AND CHAPTER 18.78 FOR SETBACKS FOR DEVELOPMENT FROM OIL AND GAS OPERATIONS IN THE CITY OF LOVELAND" on first reading. The motion seconded by Councilor McKean, was approved with five voting in favor and Councilors Trenary, Shaffer, Farley and Gutierrez voting against.

21. FINANCE

DECEMBER 2012 PRELIMINARY FINANCIAL REPORT

Information only item. This item was removed from the Agenda

19. CITY MANAGER

INVESTMENT REPORT FOR JANUARY 2013

Information only item. This item was removed from the Agenda

City Council
March 5, 2013
Page 12 of 12

ADJOURNMENT

Having no further business to come before Council, the March 5, 2013 Regular Meeting was adjourned at 1:27 a.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor



CITY OF LOVELAND
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 2
MEETING DATE: 3/19/2013
TO: City Council
FROM: City Manager's Office
PRESENTER: Bill Cahill

TITLE:

Appointment of members to Fire and Rescue Advisory Commission and Human Services Commission

RECOMMENDED CITY COUNCIL ACTION:

Motion to appoint Eugene Culbertson as a City Commission Member on the Fire and Rescue Advisory Commission for a term effective until June 30, 2015

Motion to appoint Audra Montoya as a regular member on the Human Services Commission for a term effective until June 30, 2015

OPTIONS:

1. Adopt the action as recommended
2. Deny the action

DESCRIPTION:

This is an administrative Item recommending appointment of a member to the Fire and Rescue Advisory Commission and the appointment of a member to the Human Services Commission

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

SUMMARY:

Eugene Culbertson was interviewed for a City Commission Member vacancy on Loveland's Fire and Rescue Advisory Commission ("FRAC".) The interview committee recommends the appointment of Eugene Culbertson to FRAC for a term effective until June 30, 2015. One City Commission Membership remains for a partial term. Recruiting continues for that vacancy.

Jacqueline Elliott resigned from the Human Services Commission in February. City Council had approved the appointment of Audra Montoya as an Alternate member on Human Services Commission at its August 7, 2012 meeting. Per the Handbook for Boards and Commissions, "Alternates shall assume unexpired terms in instances of resignation or removal..." At its February meeting, the Commission considered and approved the recommendation of appointing Ms. Montoya to the Human Services Commission for a term effective until June 30, 2015.

REVIEWED BY CITY MANAGER: 

LIST OF ATTACHMENTS:

None



PARKS AND RECREATION DEPARTMENT

Civic Center • 500 East Third Street • Loveland, Colorado 80537

AGENDA ITEM: 3
MEETING DATE: 3/19/2013
TO: City Council
FROM: Gary Havener, Parks and Recreation Department
PRESENTER: Marilyn Hilgenberg, Parks and Recreation Department

TITLE:

Consideration of an ordinance on second reading enacting a supplemental budget and appropriation to the 2013 City of Loveland budget for a Federal grant from the United States Fish and Wildlife Service for construction of certain components of the River's Edge Natural Area Development Project.

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on second reading.

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

The ordinance appropriates grant funding of \$90,000 for the River's Edge Natural Area project.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

The grant provides funding for part of the project, originally budgeted with City funds in the 2012 Budget. The grant will reduce the amount need to be reappropriated, increasing the funding available for other projects.

SUMMARY:

The City of Loveland has been granted a \$90,000 Colorado Fishing is Fun grant, funded through the United States Fish and Wildlife Service, but administered through a subcontract with the State of Colorado. The grant funds will be used for trails, fishing access, and a handicapped accessible fishing dock at the new River's Edge Natural Area.

REVIEWED BY CITY MANAGER: 

LIST OF ATTACHMENTS:

An ordinance on second reading enacting a supplemental budget and appropriation to the 2013 City of Loveland budget for a Federal grant from the United States Fish and Wildlife Service for construction of certain components of the River's Edge Natural Area Development Project.

FIRST READING March 5, 2013

SECOND READING March 19, 2013

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR A FEDERAL GRANT FROM THE UNITED STATES FISH AND WILDLIFE SERVICE FOR CONSTRUCTION OF CERTAIN COMPONENTS OF THE RIVER’S EDGE NATURAL AREA DEVELOPMENT PROJECT

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the City budget for 2013; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2013, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues in the amount of \$90,000 from a Fishing is Fun Grant in the Open Space Fund 202 are available for appropriation. Revenues in the total amount of \$90,000 are hereby appropriated for construction of certain components of the River’s Edge Natural Area Development Project and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

Supplemental Budget Open Space Fund 202		
Revenues		
202-51-590-0000-32000	Federal Grant	90,000
Total Revenue		90,000
 Appropriations		
202-51-590-0000-49399	Other Capital	90,000
Total Appropriations		90,000

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

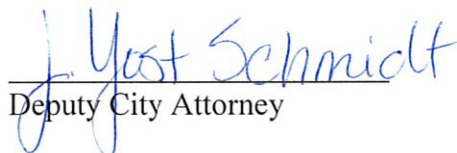
ADOPTED this 19th day of March, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 4
MEETING DATE: 3/19/2013
TO: City Council
FROM: Greg George, Development Services
PRESENTER: Bethany Clark, Community & Strategic Planning

TITLE:

An Ordinance amending Ordinance #5743 and Designating as a Historic Landmark the Loveland Elks Lodge Located at 103 East 4th Street in Loveland, Colorado

RECOMMENDED CITY COUNCIL ACTION:

Public Hearing and motion to adopt on first reading an Ordinance amending Ordinance #5743 and Designating as a Historic Landmark the Loveland Elks Lodge Located at 103 East 4th Street in Loveland, Colorado

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

A public hearing to consider a legislative action to adopt an ordinance on first reading amending Ordinance #5743 and designating as a Historic Landmark the "Loveland Elks Lodge" at 103 East 4th Street. This ordinance modifies the name under which the historic structure located at 103 East 4th Street is designated.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

SUMMARY:

On February 19, 2013 City Council passed on second reading Ordinance #5743 designating as a Historic Landmark the Loveland Elks Lodge/Loveland Hotel located at 103 East 4th Street. On February 25, 2013 the City Attorney's Office received a letter from an attorney representing the owner of the building directly east of the Loveland Elks Lodge. The letter indicated that the adjacent owner was operating their business under the trade name "Loveland Hotel" and to avoid confusion for their patrons asked for the name "Loveland Hotel" to be removed from the designation title. This amending ordinance modifies the name under which the historic structure located at 103 East 4th Street is designated from "Loveland Elks Lodge/Loveland Hotel" to "Loveland Elks Lodge" and further clarifies the historical reference to the "Loveland Hotel".

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

- A. Ordinance

FIRST READING: March 19, 2013

SECOND READING: _____

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE #5743 AND DESIGNATING AS A HISTORIC LANDMARK THE LOVELAND ELKS LODGE #1051 LOCATED AT 103 EAST 4TH STREET IN LOVELAND, COLORADO

WHEREAS, on February 19, 2013, City Council adopted Ordinance #5743 on second reading, designating the building located on that real property described on **Exhibit A** attached hereto and incorporated herein by reference (“Property”), known as 103 East 4th Street, Loveland, Colorado, as a historic landmark pursuant to Chapter 15.56 of the Loveland Municipal Code (“Code”); and

WHEREAS, the building so designated was originally constructed as the Lovelander Hotel in 1913, was purchased by the Loveland Elks Lodge #1051 in 1927, and has been operated as the Loveland Elks Lodge since its purchase; and

WHEREAS, Ordinance #5743 designated the building located on the Property as a historic structure under the name “Loveland Elks Lodge/Loveland Hotel”; and

WHEREAS, the building adjacent to the Loveland Elks Lodge #1051 at 111 East 4th Street, Loveland, Colorado was constructed sometime between 1918 and 1927 as an addition to the original Lovelander Hotel and continues to operate under the registered trade name “Lovelander Hotel”; and

WHEREAS, the City Council desires to amend Ordinance #5743 to modify the name under which the historic structure located on the Property is designated from “Loveland Elks Lodge/Loveland Hotel” to “Loveland Elks Lodge #1051”.

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

Section 1. Ordinance #5743 is hereby amended to substitute “Loveland Elks Lodge #1051” for “Loveland Elks Lodge/Loveland Hotel” throughout, with the intended and resulting effect that the building located on the Property and designated as a historic structure under that Ordinance shall be known as the “Loveland Elks Lodge #1051”.

Section 2. Ordinance #5743 shall remain in full force and effect in accordance with its terms, as amended by this Ordinance.

Section 3. As provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance

has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 4. That the City Clerk is hereby directed to record this Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

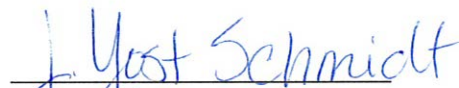
Signed this ____ day of _____, 2013

Cecil A. Gutierrez, Mayor

Attest:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney

Exhibit A

LOTS THIRTEEN (13) AND FOURTEEN (14), BLOCK FOURTEEN (14), ORIGINAL TOWN (NOW CITY) OF LOVELAND, WITH ALL RIGHTS AND PRIVILEGES UNDER PARTY-WALL AGREEMENT; TOGETHER WITH EASEMENT ON WEST THREE FEET OF LOT FIFTEEN (15); ALL ACCORDING TO SUBDIVISION PLAT FILED SEPTEMBER 18, 1878, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

Mayor Gutierrez called the Study Session of the Loveland City Council to order at 6:30 p.m. on the above date. Councilors present: Gutierrez, Clark, Farley, McKean, Trenary, Klassen, Fogle and Shaffer. Councilor Taylor was absent. City Manager, Bill Cahill was also present.

1. PUBLIC WORKS

North Front Range Regional Transit Vision

Public Works Director, Keith Reester presented this item to Council. City of Loveland Transit (COLT) Manager, Marcy Rathie reviewed the history of the City's transit services and provided information on the various consolidation and governance options identified during the study. The study was sponsored by the City of Fort Collins, the City of Loveland, the Town of Berthoud, and The North Front Range Metropolitan Planning Organization (MPO). Additional stakeholders include Larimer County, the Town of Windsor, and the Town of Timnath. A steering committee comprised of a citizen and an elected official from each of the participating entities was established early in the study and met several times over the past twelve months. The Steering committee's project focused on the feasibility of consolidation of regional transit services for operations, governance, and decision-making to achieve the goals of: 1) improving service; 2) increasing ridership; and 3) improving transit cost-effectiveness. Needs statements developed by the steering committee were used to determine consolidation of the systems was feasible. The recommendation made was to pursue regional consolidation of Fixed Route and Paratransit service through Intergovernmental Agreements with all parties interested. Council discussion ensued. Council directed staff to move forward with the next steps to present the committee's recommendations to governing entities and facilitate community dialog.

2. CULTURAL SERVICES

Scientific and Cultural Facilities District (SCFD) and alternative art district models

Cultural Services Director, Susan Ison presented this item to Council. City Attorney, John Duval was present to address Council and answer questions. In November, 2012, City Council directed Cultural Services staff to return for a study session on the SCFD and other potential art district models. The goal was to identify dedicated funding for increased operating expenses associated with a museum expansion. Ms. Ison reviewed the history and purpose of the Denver area SCFD, how it is funded and what the funds can be used for. The process of starting a new SCFD was outlined with additional information given on tax initiatives for the arts in other cities and nascent activity elsewhere in Larimer County. Creating a new SCFD would support not only the museum but other arts-related, cultural and scientific organizations in Loveland and could be accomplished by putting a measure on the ballot for a countywide sales tax of one-tenth of one percent. Council discussion ensued. Council directed staff to move forward and pursue discussion with Fort Collins and Estes Park toward creating a common district.

The study session was adjourned at 9:27 p.m.

Respectfully Submitted,

Jeannie M. Weaver, Deputy City Clerk

Cecil A. Gutierrez, Mayor



CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 6
MEETING DATE: 3/19/2013
TO: City Council
FROM: Greg George, Development Services Director
 John Duval, City Attorney
PRESENTER: Greg George

TITLE:

A public hearing and second reading of an ordinance adding to the Loveland Municipal Code Chapter 18.77 for the Regulation of Oil and Gas Operations and Chapter 18.78 for Setbacks for Development from Oil and Gas Operations within the City of Loveland

RECOMMENDED CITY COUNCIL ACTION:

Move to adopt, on second reading, an ordinance adding to the Loveland Municipal Code Chapter 18.77 for the Regulation of Oil and Gas Operations and Chapter 18.78 for Setbacks for Development from Oil and Gas Operations in the City of Loveland.

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

This item is a legislative action to consider adoption of an ordinance on second reading to establish regulations on oil and gas development. The first reading of the ordinance was approved with five councilors voting in favor of the ordinance and four against, at the March 5, 2013 meeting. The ordinance would:

- Require operators to obtain a permit from the City prior to locating an oil and gas facility within Loveland city limits.
- Provide two processes and each with a different mix of standards for obtaining a permit.
 - **Mandatory process:** The mandatory process would require compliance with standards referred to as “baseline standards.” These standards are designed to protect public health, safety and welfare and the environment, while avoiding preemption by state law and the Colorado Oil and Gas Conservation Commission (COGCC) regulations. The permit would require approval by the Planning Commission, with possible appeal to City Council.
 - **Optional process:** The optional process would be strictly voluntary and would require compliance with standards referred to as “enhanced standards,” in addition to most of the baseline standards. These standards are designed to mitigate adverse impacts

on public health, safety and welfare and the environment to a greater degree than required by the COGCC. To encourage operators to agree to comply with these higher enhanced standards that might otherwise be preempted by state law, the permit would be approved by the Director of Development Services, with no appeal to either the Planning Commission or City Council. Any appeal would be to Larimer County District Court.

BUDGET IMPACT:

- Positive
- Negative
- Neutral or negligible

City Council directed that fees be charged to operators of oil and gas facilities to cover the cost to the City for processing the permit and performing inspections. Adoption of such fees is provided for in the ordinance. The ordinance also contemplates that City Council will be setting capital expansion fees for oil and gas development within the City.

SUMMARY:

On March 5, 2013, City Council adopted the ordinance on first reading on a vote of 5 to 4. The ordinance included in the packet for second reading contains redline revisions to the ordinance that received first reading. The revisions are in response to comments received from Council members, citizens and others testifying at the March 5 Council meeting.

If City Council adopts the ordinance on second reading at this meeting the ordinance would become legally effective on April 2, 1013.

REVIEWED BY CITY MANAGER: *William D. Cabell*

LIST OF EXHIBITS:

- 1. Draft ordinance (revised copy)
- 2. Draft ordinance (clean copy)
- 3. City staff memorandum

FIRST READING: March 5, 2013

SECOND READING: March 19, 2013

ORDINANCE #

AN ORDINANCE ADDING TO THE LOVELAND MUNICIPAL CODE CHAPTER 18.77 FOR THE REGULATION OF OIL AND GAS OPERATIONS AND CHAPTER 18.78 FOR SETBACKS FOR DEVELOPMENT FROM OIL AND GAS OPERATIONS WITHIN THE CITY OF LOVELAND

WHEREAS, on May 15, 2012, the City Council adopted Ordinance No. 5685 as an emergency ordinance; and

WHEREAS, Ordinance No. 5685 imposed a nine (9) month moratorium on the City’s acceptance, processing and approval of all applications for City licenses, permits and any other approvals needed to conduct oil and gas operations within the City; and

WHEREAS, this moratorium began on May 16, 2012, and was set to expire on February 16, 2013; and

WHEREAS, on December 18, 2012, the City Council adopted Ordinance No. 5735 to extend the moratorium from February 16, 2013, to the earlier of April 15, 2013, or on the date that an ordinance adopted by City Council to enact local oil and gas regulations becomes law; and

WHEREAS, the primary purpose of the moratorium has been to give City staff and this Council a reasonable opportunity to investigate the extent of the City’s legal authority to regulate oil and gas operations occurring within the City and to consider the adoption and implementation of local oil and gas regulations consistent with that authority in order to protect the environment, wildlife resources and the public’s health, safety and welfare; and

WHEREAS, in that process it was determined that under Colorado law the ~~City is prohibited from adopting and enforcing local~~regulation of oil and gas ~~operations by home rule municipalities, such as Loveland, is a matter of mixed statewide and local concern and, as such, the City has the legal authority to enact its own oil and gas regulations so long as those regulations that~~ are not in “operational conflict” with state law, ~~including~~and the oil and gas regulations which have been adopted by the Colorado Oil and Gas Conservation Commission (“Commission”); and

WHEREAS, ~~in the exercise of that legal authority, the Council recognizes the State of Colorado’s interest in fostering the responsible and balanced development of the State’s oil and gas resources in a manner consistent with the protection of the environment, wildlife and the public’s health, safety and welfare and its legal authority to do so, the~~but Council finds that ~~believes~~ it is ~~also~~ important for the City to have a role in minimizing the adverse impacts that

oil and gas development within the City ~~would~~ likely have on the City’s environment and on its residents’ health, safety and welfare; and

WHEREAS, the Council therefore ~~finds~~believes that this Ordinance is a proper and necessary exercise of the City’s general police power and of its ~~home rule~~legal authority to regulate zoning and land use, in order to regulate oil and gas operations and facilities within the City to the full extent permitted by law; and

WHEREAS, the development of oil and gas resources presents unique public health, safety and welfare issues that are ~~currently~~ inadequately addressed in the City’s current zoning and land use regulations; and

WHEREAS, City staff has completed a review of applicable state law and of the Commission’s regulations concerning oil and gas operations, a review of the oil and gas regulations adopted by other local governments throughout ~~Colorado~~the state, and has received and considered input from the public, including from the Anadarko Petroleum Corporation, currently the only oil and gas operator known to have plans to begin new oil and gas operations within the City; and

WHEREAS, as a result of that process, the oil and gas regulations and the building setbacks from oil and gas activities as set out in this Ordinance are necessary to protect the City’s environment; and wildlife resources, and the public’s health, safety and welfare.

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

Section 1. That a new Chapter 18.77 is hereby added to the Loveland Municipal Code to read in full as follows:

Chapter 18.77

Oil and Gas Regulations

Sections:

- 18.77.010 Authority.**
- 18.77.015 Purpose.**
- 18.77.020 Applicability.**
- 18.77.025 Rules of Construction and Definitions.**
- 18.77.030 Zoning.**
- 18.77.035 Alternative Permit Processes.**
- 18.77.040 Conceptual Review.**
- 18.77.045 Planning Commission Review Process.**
- 18.77.050 Administrative Review Process.**
- 18.77.055 Baseline Standards for Planning Commission Review Process.**
- 18.77.060 Baseline Standards for Planning Commission and Administrative Review Processes.**
- 18.77.065 Enhanced Standards for Administrative Review Process.**
- 18.77.070 Application Requirements.**

- ~~18.77.075~~ ~~Prohibited Oil and Gas Facilities.~~
- ~~18.77.07580~~ Variances.
- ~~18.77.0805~~ Transfer of Permits.
- ~~18.77.08590~~ Other Applicable Code Provisions.
- ~~18.77.0905~~ Emergency Response Costs.
- ~~18.77.095100~~ Application and Inspection Fees.
- ~~18.77.1005~~ Capital Expansion Fees.
- ~~18.77.10510~~ Reimbursement for Consultant Costs.
- ~~18.77.1105~~ Adequate Transportation Facilities
- ~~18.77.11520~~ Insurance and Performance Security.
- ~~18.77.1205~~ Inspections, ~~and~~ Right to Enter and Enforcement.
- ~~18.77.12530~~ Violations, Suspension and Revocation of Permits, Civil Actions and Penalties.
- ~~18.77.1305~~ Conflicting Provisions.

18.77.010 Authority.

This Chapter 18.77 is enacted pursuant to the city’s police powers and land-use authority under Article XX of the Colorado Constitution, Title 31 of the Colorado Revised Statutes, the OGC Act, the COG regulations and under all other applicable laws, rules and regulations. ~~However, it~~ is ~~not~~ the intent of this chapter that these powers and authority be exercised in a manner that ~~will not~~~~would~~ create an operational conflict with the provisions of the OGC Act or the COG regulations, which conflict ~~w~~could arise if any application of this chapter has the effect of materially impeding or destroying a state interest as expressed in the OGC Act or the COG regulations. ~~The provisions~~~~It is therefore the intent~~ of this chapter are therefore to~~that its provisions~~ be interpreted and applied in a manner that is consistent and in harmony with any conflicting provisions of the OGC Act or the COG regulations, so as to avoid ~~any~~ operational conflict.

18.77.015 Purpose.

The purpose of this chapter is to generally protect the public’s health, safety and welfare and the environment and more specifically to regulate oil and gas operations within the city so as to minimize the potential land use conflicts and other adverse impacts that may negatively affect existing and future land uses when oil and gas operations occur within the city near those uses. This purpose is intended to be achieved in a manner that recognizes the state’s interests in oil and gas operations as expressed in C.R.S. § 34-60-102, which include: fostering the responsible and balanced development of the state’s oil and gas resources in a manner consistent with the protection of the public’s health, safety and welfare, including protection of the environment and wildlife resources; protecting public and private interests against waste in both the production and use of oil and gas; and allowing Colorado’s oil and gas pools to produce up to their maximum efficient rate subject to the prevention of waste, protection of the public’s health, safety and welfare, protection of the environment and wildlife resources, and the protection and enforcement of the rights of owners and producers to a common source of oil and gas so that each owner and producer obtains a just and equitable share of production from that source.

18.77.020 Applicability.

Except as otherwise provided in this section, the provisions of this chapter shall apply to all surface oil and gas operations occurring within the city's boundaries, which shall include, without limitation, any oil and gas operation requiring the commission's issuance or reissuance of a drilling permit or any other permit under the COG regulations. Prior to any person commencing any such operations within the city, that person shall apply for and receive an oil and gas permit from the city in accordance with the provisions of this chapter. This chapter, however, shall not apply to those surface oil and gas operations for which a drilling permit was issued under the COG regulations prior to April ~~215~~, 2013, the effective date of this chapter, and under which permit the oil and gas operations were commenced before April ~~215~~, 2013. It shall also not apply to any surface oil and gas operations occurring on real property annexed into the city on or after April ~~215~~, 2013, provided those operations are occurring as of the effective date of the annexation pursuant to a drilling permit issued under the COG regulations. This chapter shall apply to all other surface oil and gas operations occurring within the city's boundaries after April ~~215~~, 2013.

18.77.025 Rules of Construction and Definitions.

A. The words, terms and phrases expressly defined in this section shall have the meaning hereafter given them, unless the context requires otherwise. The words, terms and phrases used in this chapter not defined in this section shall have the meaning given to them in the OGC Act, the COG regulations ~~orand~~ in chapter 18.04 of this code, and where there is more than one definition, the controlling definition shall be the one that is most consistent with the city's authority described in Section 18.77.010 and with the city's purposes for enacting this chapter as described in Section 18.77.015. Words, terms and phrases not defined in this section, the Act, the COG regulations or chapter 18.04, shall be given their commonly accepted meaning unless they are technical in nature, in which case they should be given their technical meaning generally accepted by the industry in which they are used. Therefore, for those words, terms and phrases peculiar to the oil and gas industry, they shall be given that meaning which is generally accepted in the oil and gas industry. Words, terms and phrases of a legal nature shall be given their generally accepted legal meaning.

B. When determining the end date of a time period under this chapter, the day on which the time period begins shall not be counted and the last day shall be included in the count. If the last day is a Saturday, Sunday or federal or state legal holiday, that day shall be excluded in the count.

C. "Abandonment" shall mean the plugging process of cementing a well, the removal of its associated production facilities, the removal or abandonment in-place of its flowline, and the remediation and reclamation of the wellsite.

D. "Act" or "OGC Act" shall mean the Colorado Oil and Gas Conservation Act as found in Title 34, Article 60 of the Colorado Revised Statutes, as amended.

E. “Adverse effect” or “adverse impact” shall mean the impact of an action that is considerable or substantial and unfavorable or harmful. The term includes social, economic, physical, health, aesthetic, historical impact, and/or biological impacts, including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

F. “Administrative review process” shall mean the expedited and enhanced review process set out in section 18.77.050.

~~G. “APD” shall mean an application for a permit to drill, deepen, re-enter or recomplete and operate under the COG regulations.~~

~~H.~~—“Applicant” shall mean any person possessing the legal right to develop oil or gas underlying land located within the city’s boundaries and who has applied for an oil and gas permit under this chapter.

~~HI.~~ “Application” shall mean an application filed with the city by any person requesting an oil and gas permit under this chapter.

~~IJ.~~ “Baseline standards” shall mean those review standards and operation requirements set out in sections 18.77.055 and 18.77.060.

~~JK.~~ “Best management practices” shall mean the best proven and commercially practicable techniques, technologies and practices that are designed to prevent or minimize~~reduce~~ adverse impacts caused by oil and gas operations ~~to air, water, soil or biological resources, and to minimize adverse impacts~~ to the public health, safety ~~or~~and welfare, including the environment and wildlife resources.

~~KL.~~ “Building” shall mean any residential or non-residential structure designed and permitted to be occupied by natural persons.

~~LM.~~ “City manager” shall mean the city’s duly appointed city manager or his or her designee.

~~MN.~~ “Code” shall mean the duly adopted ordinances of the city including, without limitation, the Loveland Municipal Code, as amended.

~~N.~~ “COG permit” shall mean a permit issued by the commission to drill, deepen, re-enter or recomplete and conduct any other oil and gas operation as allowed under the COG regulations.

O. “COG rule” or “COG regulations” shall mean the Colorado oil and gas rules and regulations duly adopted by the commission, as amended, including 2 Colo. Code Regs. ~~F.~~400; et seq.

P. “Commission” shall mean the Oil and Gas Conservation Commission of the State of Colorado.

Q. “Completion” shall mean, for the completion of an oil well, that the first new oil is produced through wellhead equipment into leased tanks from the ultimate producing interval after the production string has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production string has been run. A dry hole shall be considered completed when all provisions of plugging are complied with as set out in the COG regulations. Any well not previously defined as an oil or gas well, shall be considered completed ninety (90) days after reaching total depth. If approved by the director of the commission, a well that requires extensive testing shall be considered completed when the drilling rig is released or six months after reaching total depth, whichever is later.

R. “Completion combustion device” shall mean any ignition device, installed horizontally or vertically used in exploration and production operations to combust otherwise vented emissions from completions.

S. “Current planning” shall mean the city’s current planning division.

T. “Day” shall mean a calendar day.

U. “Designated agent” shall mean the designated representative of any operator.

V. “Development review team” or “DRT” shall mean the city’s development review team.

~~W~~. “Director” shall mean the director of the city’s development services department or his or her designee.

~~X~~. “Enhanced standards” shall mean those review standards and best management practices set out in section 18.77.065.

~~Y~~. “Fracking” shall mean all the stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geological formation to enhance production of oil and gas.

~~Y~~. “Gas” shall mean all natural gases and all hydrocarbons not defined in this section as oil.

~~Z~~. “Hydraulic fracturing” shall mean all the stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geological formation to enhance production of oil and gas.

~~AAZ~~. “Inspector” shall mean any person designated by the city manager who shall have the authority to inspect a well site to determine compliance with this chapter and any other applicable city ordinances.

~~BBAA~~. “Minimize adverse impacts” shall mean, whenever reasonably practicable, to avoid significant adverse impacts to wildlife resources, ~~or significant adverse impacts to the~~

environment, or to the public's health, safety or welfare from oil and gas operations, minimize the extent and severity of those impacts that cannot be avoided, mitigate the effects of unavoidable remaining impacts, and take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts.

~~BB. "Most effective performance technologies and practices" shall mean the application of proven emerging techniques and technologies or other best management practices used in conducting oil and gas operations which avoid, neutralize, exclude, eliminate, mitigate or minimize adverse on and off site impacts to the public health, the environment, landowners, and natural resources, and which may reduce conflicts between operators and potentially adversely affected landowners.~~

CC. "Natural area" shall mean those areas described or identified as natural areas in the City of Loveland Open Lands Plan, dated March 2003.

DD. "Oil" shall mean crude petroleum oil and any other hydrocarbons, regardless of gravities, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas before or after it leaves the reservoir.

EE. "Oil and gas facility" shall mean equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, gathering, treatment or processing of oil or gas.

FF. "Oil and gas operations" or "operations" shall mean exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, re-entering, recompletion, reworking or abandonment of an oil and gas well, underground injection well or gas storage well; production operations related to any such well including the installation of flowlines and gathering lines; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation or reclamation activities associated with such operations.

GG. "Operator" shall mean a person who has the legal right under a permit issued under this chapter 18.77 and under a COG permit issued by the commission to conduct oil and gas operations on the surface within the city's boundaries by drilling into and producing from a pool and to appropriate the oil or gas produced therefrom either for the operator or for the operator and an owner.

HH. "Outdoor assembly area" shall mean an improved facility, not within a building, designed to accommodate and provide a place for natural persons to congregate, but shall not include the backyards of residential buildings.

II. "Owner" shall mean any person having an ownership interest in the oil and gas resources underlying land either as the owner of a corporeal estate in realty or as an owner of a leasehold interest therein.

JJ. “Permit” or “oil and gas permit” shall mean a permit issued by the city to an applicant under this chapter.

KK. “Person” shall mean any natural person, corporation, association, partnership, limited liability company, receiver, trustee, executor, administrator, guardian, fiduciary or any other kind of entity or representative, and includes any department, agency or instrumentality of the state or any political subdivision thereof and any county, city and country, home rule municipality, statutory municipality, authority or special district.

LL. “Pit” shall mean any natural or man-made depression in the ground used for oil or gas exploration or production purposes. A pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils. This shall include, without limitation and as applicable, “production pits,” “special purpose pits,” “reserve pits,” “multi-well pits” and “drilling pits,” as these are defined in the COG regulations.

MM. “Planning commission” shall mean the city’s planning commission as established in code section 2.60.210.

NN. “Planning commission review process” shall mean the review process set out in section 18.77.045.

OO. “Seismic operations” shall mean all activities associated with the acquisition of seismic data including, but not limited to, surveying, shothole drilling, recording, shothole plugging and reclamation.

PP. “Setback” shall mean the distance on the surface estate between the following, as applicable: a wellhead, intermediate line, gathering line or oil and gas facility structure boundary and the closest projection of a building or structure, property line of a platted lot or unplatted tract of land or a permitted oil and gas operation.

QQ. “Significant degradation” shall mean any degradation to the environment that will require significant efforts and expense to reverse or otherwise mitigate that degradation.

RR. “State” shall mean the State of Colorado.

SS. “Surface water body” shall include, but not be limited to, rivers, streams, ditches, reservoirs, and lakes.

TT. “Surface owner” shall mean any person having title or right of ownership in the surface estate of real property or any leasehold interest therein.

UU. “VOC_s” shall mean volatile organic compounds.

VV. “Well” shall mean an oil or gas well, a hole drilled for the purpose of producing oil or gas, or a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

WW. “Well blowdown” shall mean the maintenance activity designed to remove fluids from mature wells during which time gas is often vented to the atmosphere.

XX. “Well completion” shall mean the process that perforates well casing, stimulates the reservoir using various techniques including, but not limited to, acid treatment and hydraulic fracturing, allows for the flowback of oil or natural gas from wells to expel drilling and reservoir fluids, and tests the reservoir flow characteristic, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.

YY. “Wellhead” shall mean the equipment attached to the casing head of an oil, gas or injection well above the surface of the ground.

ZZ. “Wetlands” shall have the same meaning as this word is defined in code section 18.41.110.

18.77.030 Zoning.

Notwithstanding any provision in this code to the contrary, oil and gas operations shall be permitted in all of the city’s zoning districts, planned unit developments, general development plans, unit developments and within any other city-approved land uses, but only if a permit has been issued to the extent required by this chapter and an APDCOG permit has been issued by the commission for those oil and gas operations.

18.77.035 Alternative Permit Processes.

Any person applying for a permit under this chapter must proceed under the planning commission review process as provided in section 18.77.045, unless the applicant voluntarily chooses to proceed under and qualifies for the expedited and enhanced administrative review process as provided in section 18.77.050. The permit application under the planning commission review process shall be reviewed and granted or denied on the basis of the applicable baseline standards set out in sections 18.77.055 and 18.77.060 and any other applicable standards and requirements in this chapter and code. A permit application under the administrative review process shall be reviewed and granted or denied under the applicable baseline and enhanced standards set out in sections 18.77.060 and 18.77.065 and any other applicable standards and requirements in this chapter and code.

18.77.040 Conceptual Review.

Prior to any person submitting an application under this chapter, that person shall first schedule with current planning and attend a conceptual review meeting with the city’s development review team. Current planning shall schedule such meeting within fourteen (14) days after a written request for the meeting has been received. At least fourteen (14) days before the scheduled conceptual review meeting, the person requesting the meeting shall submit to current planning in electronic form or one (1) hard-copy sets of all applications, plans, studies and other documents that such person has filed or will be required to file with the

commission under the COG regulations to obtain an APDCOG permit for the oil and gas operations proposed to be conducted within the city. The purpose of the conceptual review meeting is to give the prospective applicant and the city's development review team the opportunity to discuss the proposed oil and gas operations and to discuss the city's application and review processes under this chapter. This will include a discussion as to whether the prospective applicant is interested in using the expedited and enhanced administrative review process rather than the planning commission review process. Within ~~ten~~five (105) days after the meeting, current planning shall provide the prospective applicant with the development review team's written comments and recommendations concerning the proposed oil and gas operations. When these comments and recommendations are sent to the prospective applicant by current planning, the prospective applicant shall have three (3) months thereafter in which to file with current planning an application for the proposed oil and gas operations. Failure to file that application within this time period will require the prospective applicant to schedule and conduct another conceptual review meeting under this section for those oil and gas operations. However, in the event current planning fails to timely provide DRT's written comments and recommendations to the prospective applicant, the prospective applicant may proceed to file its application with current planning within three (3) months thereafter.

18.77.045 Planning Commission Review Process.

A. *Application Completeness Review.* After an application has been filed with current planning, the director shall review the application for completeness to determine its compliance with the applicable requirements of section 18.77.070. If the director determines that any of those applicable requirements have not been satisfied, the director shall, within ~~four~~five (154) days after the application is filed, notify the applicant in writing of any deficiencies in the application. This process of review and notice of deficiency shall continue until the director determines the application satisfies all applicable requirements of section 18.77.070 and is, therefore, a complete application. The director shall notify the applicant in writing that the application is complete within ~~four~~five (154) days after the later of the filing of the application or the filing of the last application resubmittal in response to a notice of deficiency from the director. Promptly thereafter, current planning shall post the complete application on the city's website for public review, but excluding any information required in this chapter to be kept confidential.

B. *Development Review Team.* After an application is filed with current planning and has been determined by the director to be a completed application, it shall be reviewed by the DRT. The DRT shall review the application for conformance with the applicable provisions of this chapter and any other applicable provisions of this code. As part of this review, the DRT may meet with the applicant or the applicant's representatives to discuss the application and to present the DRT's questions, concerns and recommendations. Within thirty (30) days after the application has been determined by the director to be a complete application, the DRT shall complete its review by submitting a written report of its findings and recommendations to the applicant and the director. The report shall also be posted on the city's website with the application, but excluding any information required under this chapter to be kept confidential. Within thirty (30) days of the issuance of the DRT's report, the applicant may supplement its application in response to the DRT report.

C. *Neighborhood Meeting.* Promptly after the director has issued the written determination that the application is complete, current planning shall schedule a neighborhood meeting to be held within forty-five (45) days of the director's written determination of completeness. Once that neighborhood meeting has been scheduled, notices of the neighborhood meeting shall be provided in accordance with all applicable requirements of code chapter 18.05. The mailed notice required for neighborhood meetings under chapter 18.05 shall also be sent to the surface owner or owners of the parcel or parcels of real property on which the oil and gas operations are proposed to be located. In addition to the other contents required for the mailed notice under chapter 18.05, the mailed notice shall state that the application can be reviewed prior to the neighborhood meeting on the city's website or at current planning's office. The neighborhood meeting shall be conducted by current planning. The applicant or a representative of the applicant shall attend the neighborhood meeting and be available to answer questions concerning the application. The objective of a neighborhood meeting shall be to inform noticed persons and other interested citizens attending the meeting of the scope and nature of the proposed oil and gas operations under the application and how the operations will be regulated under this chapter and the COG regulations. Notwithstanding the foregoing, the director may waive the provisions of this paragraph C. if the director determines that the City's required notices and neighborhood meeting under this paragraph will be duplicative of the notice and neighborhood meeting requirements under the COG regulations for the applicant's APDCOG permit. To be considered duplicative, the commission's neighborhood meeting must be held within the city.

D. *Planning Commission Hearing.* Current planning shall schedule the application for a public hearing before the planning commission within forty-five (45) days after the DRT has finished its review of the application. Notice of the hearing shall be provided in accordance with all applicable requirements of chapter 18.05. The mailed notice required in chapter 18.05 for this hearing shall also be mailed to the surface owner or owners of the parcel or parcels of real property on which the oil and gas operations are to be located. In addition, the mailed and published notices shall state that the complete application can be reviewed by the public on the city's website or at current planning's office.

E. *Planning Commission Hearing Procedures.* The planning commission's public hearing shall be conducted as a quasi-judicial proceeding. Subject to the planning commission chairperson's discretion to limit the time and scope of testimony and to make allowances for the adequate presentation of evidence and the opportunity for rebuttal, the order of the hearing shall be as follows: (1) explanation and nature of application by current planning staff; (2) applicant's presentation of evidence and testimony in support of the application; (3) public comment and presentation of evidence; (4) applicant's rebuttal presentation; and (5) motion, discussion and vote by the planning commission on the application. No person making a presentation and providing testimony or comment at the hearing shall be subject to cross-examination. However, during the hearing members of the planning commission and the city attorney may make inquiries for the purposes of eliciting new information and to clarify information presented.

F. *Planning Commission Decision.* The planning commission shall consider the application based solely on the testimony and evidence submitted at the hearing, the applicable provisions of this chapter and any other applicable provisions of this code. At the conclusion of the

presentation of testimony and evidence, the planning commission shall vote to grant, grant with conditions or deny the oil and gas permit requested in the application under consideration. A condition may only be imposed on the grant of an oil and gas permit if the applicant agrees to that condition on the record of the hearing. An applicant's refusal to agree to any such condition shall not be used by the planning commission as a basis, in whole or part, to deny the applicant's requested oil and gas permit, unless the condition is expressly required by this chapter 18.77. In granting, granting with conditions or denying an application for an oil and gas permit, the planning commission shall adopt its written findings and conclusions within thirty (30) days of its decision at the hearing.

G. Appeal of Planning Commission Decision. The planning commission's decision described in paragraph F. of this section may be appealed to the city council by the applicant and any "party in interest" as defined in section 18.80.020. The written notice of appeal shall be filed with current planning within ten (10) days of the effective date of the planning commission's final decision, which date shall be the date the planning commission adopts its written findings and conclusions. The appeal shall be filed and conducted in accordance with the applicable provisions in chapter 18.80 for appeals from the planning commission to the city council. The council's decision in the appeal hearing to grant, grant with conditions or deny the applicant's request for an oil and gas permit shall, like the planning commission's decision, be based on the applicable provisions of this chapter and any other applicable provisions of this code. The council shall also not impose any condition on its grant of the oil and gas permit unless the applicant agrees to the condition on the record of the council's appeal hearing. An applicant's refusal to agree to any such condition shall not be used by the city council to deny the permit unless the condition is expressly required by this chapter 18.77.

18.77.050 Administrative Review Process.

A. Applicant's Election to Use Administrative Review Process. As an alternative to processing an application using the planning commission review process set out in section 18.77.045, an applicant may elect to use the expedited and enhanced administrative review process set out in this section. In electing to use this administrative review process, the applicant must acknowledge and agree in its application to all of the following: (1) that by using this administrative review process to obtain an expedited review, the applicant's application will not only be subject to the baseline standards in section 18.77.060, but also the enhanced standards in section 18.77.065, which enhanced standards ~~might~~could reasonably be interpreted to be in operational conflict in one or more respects with the COG regulations; ~~(2) that the applicant is waiving any such operational conflicts, but only for the purpose of obtaining a permit under this administrative review process;~~ ~~(23)~~ that to the extent the enhanced or negotiated standards imposed through this administrative review process are not already included as conditions in the applicant's APDCOG permit, the applicant will request the commission to add such enhanced standards as additional conditions to the applicant's APDCOG permit; and ~~(34)~~ that if for any reason the applicant wishes to revoke its election to use this administrative review process or to withdraw from the process once started, but still desires an oil and gas permit under this chapter, it will be required to follow and meet all of the requirements of the planning commission review process.

B. *Application Completeness Review.* An application reviewed under this section shall be reviewed by the director for completeness using the same process used in the planning commission review process as set out in section 18.77.045.A.

C. *Development Review Team.* After an application is filed with current planning and determined by the director to be a complete application, it shall be reviewed by the DRT. The DRT shall review the application for conformance with the applicable provisions of this chapter and any other applicable provisions of this code. As part of this review, the DRT may meet with the applicant or the applicant's representatives to discuss the application and to present the DRT's questions, concerns and recommendations. Within thirty (30) days after the application has been determined by the director to be a complete application, the DRT shall complete its review by submitting a written report of its findings and recommendations to the applicant and the director. The report shall also be posted on the city's website with the application, but excluding any information required under this chapter to be kept confidential. Within thirty (30) days of the issuance of the DRT's report, the applicant may supplement its application in response to the DRT report.

D. *Neighborhood Meeting.* The neighborhood meeting for an application reviewed under this section shall be scheduled, noticed and conducted or waived in the same manner as under the planning commission review process set out in section 18.77.045.C., but with one addition. The notices mailed under section 18.77.045.C. shall state that the application is being reviewed under the administrative review process and notify the recipients of the notice that they will have until fifteen (15) days after the neighborhood meeting is held or after such other date set by the director if the neighborhood meeting is waived by the director as provided in section 18.77.045.C. in which to submit to current planning for the director's consideration any comments and information, in written, electronic or photographic form, related to the subject application as provided in paragraph E. of this section.

E. *Public Comment.* Within fifteen (15) days after the neighborhood meeting is held, or after such other date set by the director if the neighborhood meeting is waived by the director as provided in section 18.77.045.C., any person may file with current planning for the director's consideration and to be included in any record on appeal taken under paragraph H. of this section, any comments and information, in written, electronic or photographic form, relevant to the director's consideration of the subject application under this section. Current planning shall preserve all of the comments and information received under this section to ensure that they are included in any record of appeal. These comments and information shall also be made available for review by the applicant. The applicant may supplement its application in response or rebuttal to the comments and information submitted by the public. The applicant must file this supplemental information with current planning within fifteen (15) days after the deadline for the public's submittal of its comments and information. Any comments and information received by current planning after the deadlines set forth herein, shall not be considered by the director in his or her decision and shall not be included in the record of any appeal under paragraph H. of this section.

F. *Director's Negotiations with Applicant.* After receiving the DRT report and all of the public comments and information provided under paragraph E. of this section, the director

~~shall may, in his or her discretion,~~ negotiate with the applicant for standards to be added as conditions to the oil and gas permit in addition to or in substitution of those baseline standards required in section 18.77.060 and the enhanced standards in section 18.77.065, if in the director's judgment such conditions will result in the increased protection of the public's health, safety or welfare or further minimize adverse impacts to surrounding land uses, the environment or wildlife resources. The director shall have ten (10) days after the last of the public comments and information have been submitted under paragraph E. of this section in which to conduct those negotiations. If after those negotiations the applicant agrees in writing to these new standards, they shall be added as conditions to the oil and gas permit if the permit is granted by the director. If the applicant does not agree to these conditions, they shall not be added as conditions to any granted oil and gas permit. In addition, the applicant's refusal to agree to any such conditions shall not be used by the director as a basis, in whole or part, to deny the applicant's requested oil and gas permit, unless the condition is expressly required by this chapter 18.77.

G. *Director's Decision.* Within fifteen (15) days after the expiration of the negotiation period in paragraph F. of this section, the director shall issue his or her written findings and conclusion, granting, granting with conditions to the extent agreed by the applicant under paragraph F. of this section or denying the applicant's requested oil and gas permit. The record which the director must consider in issuing his or her written findings and conclusions shall consist solely of the application, the applicant's supplementals to the application, the DRT report and the public comments and information submitted under paragraph E. of this section. This record shall be used by the director to then determine the application's compliance or noncompliance with the applicable provisions of this chapter and any other applicable provisions in this code.

H. *Appeal of Director's Decision.* The director's decision as set out in his or her written findings and conclusions shall constitute the director's final decision. The director's final decision is not appealable to the planning commission or the city council. The director's final decision may only be appealed by the applicant or a "party in interest," as defined in section 18.80.020, to the district court for Larimer County under Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The record to be considered in the appeal shall consist of the director's written findings and conclusion, the application, the applicant's supplementals to the application, the DRT report, all comments and information provided by the public under paragraph E. of this section and any other evidentiary information the district court orders to be included in the record.

18.77.055 Baseline Standards for Planning Commission Review Process.

All applications considered in the planning commission review process and all oil and gas operations approved under this process shall be subject to and comply with the setback and mitigation requirements set forth in COG rule 604, as amended, in addition to the standards and requirements in code section 18.77.060.

18.77.060 Baseline Standards for Planning Commission and Administrative Review Processes.

All applications considered in the planning commission review process and the administrative review process and all oil and gas operations approved under either process shall be subject to and comply with the following standards and requirements, as applicable:

A. *COG regulations for setback requirements.* All oil and gas operations shall comply with COG rule 603, as amended.

B. *COG regulations for groundwater baseline sampling and monitoring.* All permits for oil and gas operations shall comply with COG rule 318.A.e, as amended.

C. *COG regulations for protection of wildlife resources.* All permits for oil and gas operations shall comply with COG rule series 1200, as amended. The operator shall notify the director if consultation with Colorado Division of Parks and Wildlife is required pursuant to COG rule 306.c.

D. *COG regulations for reclamation.* All permits for oil and gas operations shall comply with COG rule series 1000, as amended. The operator shall provide copies of the commission's drill site reclamation notice to the director at the same time as it is provided to the surface owner.

E. *COG regulations for well abandonment.*

1. All oil and gas facilities shall comply with the requirement for well abandonment set forth in COG rule 319, as amended. The operator shall provide a copy of the approval granted by the commission for the abandonment to the director within thirty (30) days from receiving such approval.

2. The operator shall provide copies of the commission's plugging and abandonment report to the director at the same time as it is provided to the commission.

3. The operator shall notify the Loveland Fire ~~and~~ Rescue Authority not less than two (2) hours prior to commencing plugging operations.

F. *Applications and permits.* Copies of all county, state and federal applications and permits that are required for the oil and gas operation shall be provided to the director.

G. *Burning of trash.* No burning of trash shall occur on the site of any oil and gas operations.

H. *Chains.* Traction chains on heavy equipment shall be removed before entering a city street.

I. *COG regulations for hydraulic fracturing chemical disclosure.* All ~~operators~~permits for oil and gas operations shall comply with COG rule 205.A, as amended. ~~Each~~The operator shall also provide to the Loveland Fire Rescue Authority in hard copy or electronic format the operator's copies of the commission's chemical disclosure ~~registry~~form that the operator has

~~filed with the chemical disclosure registry under COG rule 205.A. Such form shall be filed with the director within five (5) days after the form is filed in the chemical disclosure registry, to the Loveland Fire and Rescue Authority at the same time as it is provided to the commission.~~

J. *Color.* Oil and gas facilities, once development of the site is complete, shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match the land rather than the sky. The color should be slightly darker than the surrounding landscape.

K. *Cultural and historic resources standards.* The installation and operation of any oil and gas facility shall not cause significant degradation of cultural or historic resources, of sites eligible as City Landmarks, or the State or National Historic Register, as outlined in code section 15.56.030.

L. *Stormwater quality and dust control.* All permits for oil and gas operations shall comply with COG rule 805, as amended, plus code chapter 13.20.

M. *Electric equipment.* The use of electric-powered equipment during production operations~~motors for pumping or drilling systems~~ shall be required if a provider of electric power agrees at the provider's customary rates, fees and charges to provide electric service to an oil and gas facility and the cost to make the electrical connection is economically practicable. If available, ~~E~~electric service to the oil and gas facility shall be ~~provided~~acquired by the operator within the shortest time period reasonably practicable. Temporary use of natural gas or diesel generators may be used until electric service is provided. Electric equipment shall not be required during drilling and well completion operations.

N. *Emergency response standards.*

1. In General. Operators agree to take all reasonable measures to assure that oil and gas operations shall not cause an unreasonable risk of emergency situations such as explosions, fires, gas, oil or water pipeline leaks, ruptures, hydrogen sulfide or other toxic gas or fluid emissions, hazardous material vehicle accidents or spills.

2. Emergency Preparedness Plan. Each operator with an operation in the city is required to provide to the City its emergency preparedness plan for operations within the City, which shall be in compliance with the applicable provisions of the International Fire Code as adopted in the city code. The plan shall be filed with the Loveland Fire Rescue Authority and updated on an annual basis, ~~or as conditions change (responsible field personnel change, ownership changes, etc.).~~ The emergency preparedness plan shall contain at least all of the following information:

(a) The designation of the operator's office group or individual(s) responsible for emergency field operations. An office ~~or~~ group or individual(s) designated to handle first response situations, emergency field operations or on-scene incident commands will meet this requirement. A phone number and address of such office group or individual(s) operation shall be required.

- (b) A map identifying the location of pipelines, isolation valves and/or a plot plan, sufficient in detail to enable the Loveland Fire Rescue Authority to respond to potential emergencies. The information concerning pipelines and isolation valves shall be kept confidential by the Loveland Fire Rescue Authority, and shall only be disclosed in the event of an emergency or as otherwise required by law.
- (c) A provision that any spill outside of the containment area that has the potential to leave the facility or to threaten waters of the state and that is required to be reported to the commission or the commission's director shall be immediately reported to the Loveland Fire Rescue Authority emergency dispatch at 911 and to the director promptly thereafter.
- (d) Access or evacuation routes and health care facilities anticipated to be used in the case of an emergency.
- (e) A project-specific emergency preparedness plan for any operation that involves drilling or penetrating through known zones of hydrogen sulfide gas.
- (f) A provision obligating the operator to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency caused by oil and gas operations and not promptly handled by the operator or its agents.
- (g) Detailed information showing that the applicant has adequate personnel, supplies and funding to implement the emergency response plan immediately at all times during construction and operations.
- O. *Noise mitigation.* All permits for oil and gas operations shall comply with COG rule 802, as amended, plus the following:
1. The exhaust from all engines, coolers and other mechanized equipment shall be vented up and in a direction away from the closest existing residences.
 2. Additional noise mitigation may be required based on specific site characteristics, including, but not limit to, the following:
 - (a) Nature and proximity of adjacent development;
 - (b) Prevailing weather patterns, including wind direction;
 - (c) Vegetative cover on or adjacent to the site; and
 - (d) Topography.

3. The level of required noise mitigation may increase with the proximity of the well and well site to existing residences and platted subdivision lots, and the level of noise emitted by the well site. To the extent feasible and not inconsistent with its operations, operator may be required to~~shall~~ use one (1) or more of the following additional noise mitigation measures to mitigate noise impacts:

- (a) Acoustically insulated housing or cover enclosures on motors, engines and compressors;
- (b) Vegetative screens consisting of trees and shrubs;
- (c) Solid wall or fence of acoustically insulating material surrounding all or part of the facility;
- (d) Noise mitigation plan identifying and limiting hours of maximum noise emissions, type, and frequency, and level of noise to be emitted and proposed mitigation measures; and
- (e) Lowering the level of pumps or tank batteries.

P. *Fencing.* After the drilling, well completion and interim reclamation operations are completed, the operator shall install ~~P~~ permanent perimeter fencing six (6) feet in height ~~shall be installed~~ around the entire perimeter of the production~~oil and gas~~ operations site, including gates at all access points. Such gates shall be locked when employees of the operators are not present on the site. Such fencing and gates shall be solid, opaque and consist of masonry, stucco, steel or other similar materials. The director may allow chain link fencing if solid and opaque fencing creates a threat to public safety or interferes with emergency or operations access to the production site.

Q. *Flammable material.* All land within twenty five (25) feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.

R. *Land disturbance standards.* The following mitigation measures shall be used to achieve compatibility and reduce land use impacts:

1. Pad dimensions for a well shall be the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
2. Oil and gas operations shall use structures and surface equipment of the minimal size necessary to satisfy present and future operational needs.
3. Oil and gas operations shall be located in a manner that minimizes the amount of cut and fill.

4. To the maximum extent feasible, oil and gas operations shall use and share existing infrastructure, minimize the installation of new facilities and avoid additional disturbance to lands in a manner that reduces the introduction of significant new land use impacts to the environment, landowners and natural resources.
5. Landscaping plans shall include drought tolerant species that are native and less desirable to wildlife and suitable for the climate and soil conditions of the area. The operator shall submit to the city a temporary irrigation plan and implement said plan, once approved by the city, for the first two years after the plant material has been planted. If it is practicable to provide a permanent irrigation system, the operator shall submit an irrigation plan for permanent watering and the operator shall provide a performance guarantee for such landscaping that is acceptable to the director. Produced water may not be used for landscaping purposes.
6. The application shall include an analysis of the existing vegetation on the site to establish a baseline for re-vegetation upon temporary or final reclamation or abandonment of the operations. The analysis shall include a written description of the species, character and density of existing vegetation on the site and a summary of the potential impacts to vegetation as a result of the proposed operations. The application shall include any commission-required interim and final reclamation procedures and any measures developed from a consultation with current planning regarding site specific re-vegetation plan recommendations.
- S. *Landscaping.* When an oil and gas operation site is less than one hundred (100) feet from a public street, a Type D Bufferyard shall be required between the oil and gas operation and the public street in accordance with the City of Loveland Site Development Performance Standards and Guidelines as adopted in code chapter 18.47.
- T. *Lighting.* All permits for oil and gas operations shall comply with COG rule 803, as amended, plus the following:
1. Except during drilling, completion or other operational activities requiring additional lighting, down-lighting shall be required, meaning that all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture; and
 2. A lighting plan shall be developed to establish compliance with this provision. The lighting plan shall indicate the location of all outdoor lighting on the site and on any structures, and include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures.
- U. *Maintenance of machinery.* Routine field maintenance of vehicles and mobile machinery shall not be performed within three hundred (300) feet of any water body.

V. *Mud tracking.* An operator shall take all practical measures to ensure that the operator's vehicles do not track mud or leave debris on city streets. Any such mud or debris left on city streets by an operator's operation shall be promptly cleaned up by the operator.

W. *Reclamation plan.* The application shall include any interim and final reclamation requirements required by the COG regulations.

X. *Recordation of flowlines.* The legal description of all flowlines, including transmission and gathering systems, shall be filed with the director and recorded with the Larimer County Clerk and Recorder within thirty (30) days of completion of construction. Abandonment of any flowlines shall be filed with the director and recorded with the Larimer County Clerk and Recorder within thirty (30) days after abandonment.

Y. *Removal of debris.* When oil and gas operations become operational, all construction-related debris shall be removed from the site for proper disposal. The site shall be maintained free of debris and excess materials at all times during operation. Materials shall not be buried on-site.

Z. *Removal of equipment.* All equipment used for drilling, re-drilling, maintenance and other oil and gas operations shall be removed from the site within thirty (30) days of completion of the work. Permanent storage of equipment on well pad sites shall be prohibited.

AA. *Signs.* A sign permit shall be obtained for all signs at the oil and gas facility or otherwise associated with the oil and gas operations in accordance with code chapter 18.50, except such permit shall not be required for those signs required by consistent with the COG regulations or this chapter.

BB. *Spills.* Chemical spills and releases shall be reported in accordance with applicable state and federal laws, including, without limitation, the COG regulations, the Emergency Planning and Community Right to Know Act, the Comprehensive Environmental Response Compensation and Liability Act, the Oil and Pollution Act, and the Clean Water Act, as applicable. If a spill or release impacts or threatens to impact a water well, the operator shall comply with existing COG regulations concerning reporting and notification of spills, and the spill or release shall also be reported to the director within twenty-four (24) hours of the operator becoming aware of the spill or release.

CC. *Temporary access roads.* Temporary access roads associated with oil and gas operations shall be reclaimed and re-vegetated to the original state in accordance with COG rule series 1000.

DD. *Development standards for street, electric, water/wastewater, and stormwater infrastructure.* All permits for oil and gas operations shall comply with the development standards for street, electric, water/wastewater and stormwater infrastructure set forth in code chapter 16.24.

EE. *Transportation and circulation.* All applicants shall include descriptions of all proposed access routes for equipment, water, sand, waste fluids, waste solids, mixed waste and all other material to be hauled on the city's streets. The submittal shall also include the estimated weights of vehicles when loaded, a description of the vehicles, including the number of wheels and axles of such vehicles, and any other information required by the city engineer. In addition to any other bonding or indemnification requirements of the city as may be reasonably imposed, all applicants shall provide the city with a policy of insurance in an amount determined by the city engineer to be sufficient to protect the city against any damages that may occur to the city's streets, roads or rights-of-way as a result of any weight stresses or spillage of hauled materials including, without limitation, water, sand, waste fluids, waste solids and mixed wastes.

FF. *Water supply.* The operator shall identify on the site plan its primary source(s) for water used in both the drilling and ~~well completion/production~~ phases of operations. In addition, if requested by the city's ~~The sources and amount of water used in the city shall be documented and record shall be provided to the city annually or sooner, upon request of the city's~~ Water and Power Department director, the applicant's source(s) and amounts of water used in the city shall be documented and a record of it shall be provided to the city or his or her designee. The disposal of water used on site shall also be reported to the Water and Power Department director if requested to ~~detailed~~ including the operator's anticipated haul routes, and the approximate number of vehicles needed to supply and dispose of the water, ~~and the final destination for water used in operation.~~ When operationally feasible, the operator shall minimize adverse impacts caused by the delivery of water to the operation site by truck. If available and commercially viable, the operator shall make a service line connection to a domestic water supplier who is willing to provide such water at the same rates, fees and charges and provided that the amount of the water that can be supplied by that provider can be done so without delay or negative impact to the operator's drilling and well completion operations. When operationally feasible, the operator may alternatively purchase non-potable water from any other sources and transfer that water through ditches or other waterways and/or through above or below ground lines.

GG. *Weed control.* The applicant shall be responsible for ongoing weed control at oil and gas operations sites, pipelines and along access roads during construction and operations, until abandonment and final reclamation is completed pursuant to commission rules. Control of weeds shall comply with the standards in code chapter 7.18.

HH. *Well abandonment.* The operator shall comply with the COG regulations regarding well abandonment. Upon plugging and abandonment of a well, the operator shall provide the director with surveyed coordinates of the abandoned well and shall leave onsite a physical marker of the well location.

II. *Federal and state regulations.* The operator shall comply with all applicable federal and state regulations including, without limitation, the OGC act and the COG regulations.

JJ. *Building permits.* A building permit shall be obtained for all structures as required by the International Fire Code and/or International Building Code as adopted in the city code.

KK. *Floodplains.* All surface oil and gas operations ~~shall be prohibited~~ within the city's floodway and flood fringe districts, as these districts are defined and established in code chapter 18.45, shall be conducted, to the extent allowed under COG regulations, in accordance with all applicable COG regulations, including, without limitation, COG rules 603.k. and 1204. ~~Oil and gas operations shall be permitted within the city's flood fringe districts as defined and established in code chapter 18.45, provided such operations comply with all applicable requirements of chapter 18.45.~~ In addition, if the operator's oil and gas operations will involve any development or structures regulated under the city's Floodplain Building Code in code chapter 15.14, the operator shall also obtain a floodplain development permit before beginning such regulated operations.

LL. *Trash and recycling enclosures.* All applications for oil and gas operations shall comply with the requirements contained in code chapter 7.16, to the maximum extent feasible.

MM. *Representations.* The approved project development plan shall be subject to all conditions and commitments of record, including verbal representations made by the applicant on the record of any hearing or review process and in the application file, including without limitation compliance with all approved mitigation plans.

~~NN. *Domestic water supply.* Oil and gas operation sites shall be connected to a domestic water supply if a domestic water supplier agrees to make such a connection and the site is located in reasonably close proximity to such connection at the supplier's customary rates, fees and charges. Domestic water service to the oil and gas facility shall be provided within the shortest time period reasonably practicable. Temporary use of imported water may be allowed until such water service is provided.~~

~~NN~~ NN. *Seismic operations.* The operator shall provide at least a fifteen (15) day advance notice to the director and the Loveland Rural Fire Authority whenever seismic activity will be conducted within the city.

OO OP. *Access roads.* All private roads used to access the tank battery or the wellhead shall, at a minimum, be:

1. A graded gravel roadway at least twenty (20) feet wide 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 City Engineer. The aggregate material, at a minimum, shall meet the requirements for a Class 6, Aggregate Base Course as specified in the *Colorado Department of Highways Standard Specifications for Road and Bridge Construction*, latest edition.
2. Grades shall be established so as to provide drainage from the roadway surface and shall be constructed to allow for cross-drainage to waterway (i.e. roadside swells,

gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of culvert pipes shall be subject to approval by the city engineer.

PPQQ. *Visual impacts.*

1. To the maximum extent practicable, oil and gas facilities shall be:
 - (a) Located away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings, and other landmarks;
 - (b) Located to avoid crossing hills or ridges;
 - (c) Located to avoid the removal of trees; and
 - (d) Located at the base of slopes to provide a background of topography and/or natural cover.
2. Access roads shall be aligned to follow existing grades and minimize cuts and fills.
3. One (1) or more of the landscaping practices may be required on a site specific bases:
 - (a) Establishment and proper maintenance of adequate ground cover, shrubs and trees;
 - (b) Shaping cuts and fills to appear as natural forms;
 - (c) Cutting rock areas to create irregular forms; and
 - (d) Designing the facility to utilize natural screens.

QQR. *COG regulations for odor.* All oil and gas operations shall comply with COG rule 805.

RRSS. *COG regulations for abandonment of pipelines.* Any pipelines abandoned in place shall comply with COG rule 1103 and the operator’s notice to the commission of such abandonment shall be promptly filed thereafter by the applicant with the director.

SS. *Temporary Housing.* Temporary housing shall be prohibited on any oil and gas operations site, including, without limitation, trailers, modular homes and recreational vehicles, except for the temporary housing customarily provided and required during twenty-four hour drilling, well completion and flowback operations.

18.77.065 Enhanced Standards for Administrative Review Process.

All applications considered in the administrative review process and all oil and gas operations approved under this process shall be subject to and comply with the following standards and requirements, as applicable, in addition to the standards and requirements in code section 18.77.060: The operator shall designate these standards and requirements, to the extent applicable, as agreed upon best management practices on any application the operator files with the commission.

A. *Setbacks.* The following setbacks shall apply to the oil and gas operations. Unless specified otherwise herein, setbacks shall be measured from the closest edge of the oil and gas facility to the nearest wall or corner of the building.

1. Except as required under subparagraph 5, below, all oil and gas ~~facilities~~~~operations~~ shall be located at least five hundred (500) feet from any building, or such greater distance as may be required by the commission.
2. All oil and gas ~~facilities~~~~operations~~ shall be at least two hundred (200) feet from public roads, major above ground utility lines, railroads or any property or lease area line of the oil and gas facility, or such greater distance as may be required by the commission.
3. All oil and gas ~~facilities~~~~operations~~ shall be located at least five hundred (500) feet from: (i) the boundary of any natural area or wetland; (ii) the property line of any property managed by the city's Parks and Recreation Department and any city park; (iii) the operating high water line of any surface water body; (iv) the boundary of the FEMA floodway zoning district as set forth in code chapter 18.45; and (v) the property line of any property subject to a conservation easement managed by a public or non-profit entity, or such greater distance as required by the commission.
4. All oil and gas ~~facilities~~~~operations~~ shall be located at least five hundred (500) feet from any domestic or commercial water well, or such greater distance as required by the commission.
5. All oil and gas ~~facilities~~~~operations~~ shall be located at least one thousand (1,000) feet from any building with an occupancy rating for fifty (50) persons or more and any outdoor assembly area with a capacity of fifty (50) persons or more, or such greater distance as required by the commission.

B. *Commission mitigation regulations.* All oil and gas operations shall comply with the mitigation measures required under commission Rule 604.c, as amended.

C. *Bufferyards.* The bufferyards set forth in Table 1 below, shall be established once the well is in production around the entire perimeter of the oil and gas ~~production~~~~operation~~ sites, excluding vehicular access points, and maintained until the site has been restored in accordance with the final reclamation plan approved by the city and the commission. Bufferyards shall not be required during drilling and well completion operations. The use of xeriscape plant types shall

be used unless a permanent irrigation system is provided by the operator. A temporary irrigation system shall be provided, maintained and operated for xeriscape plant types for a period of two years from planting.

Table 1 - Bufferyards			
Base Standard (plants per 100 linear feet)	Optional Width (feet)	Plant Multiplier	Option: add 6 foot opaque masonry wall
5 canopy trees	150	1.00	.85
6 evergreen trees	170	0.90	
4 large shrubs	190	0.80	
	210	0.70	
	230	0.60	
	250	0.50	

D. *Air quality standards.* Air emissions from oil and gas facilities shall be in compliance with the permit and control provisions of the Environmental Protection Agency, Air Quality Control Commission and Colorado Oil and Gas Conservation Commission. In addition, the operator of the oil and gas facility agrees to employ the following enhanced standards for air quality mitigation.

1. *General duty to minimize emissions.* All continuously operated equipment, including but not limited to, storage vessels and dehydrators shall route vapors to a capture and control device with at least a ninety-eight percent (98%) destruction efficiency. Operators shall submit to the director test data of like equipment or manufacturer’s data demonstrating the control device can meet the destruction efficiency. Any combustion device, auto ignition system, recorder, vapor recovery device or other equipment used to meet the destruction efficiency shall be installed, calibrated, operated and maintained in accordance with the manufacturer’s recommendations, instruction and operating manuals.
2. *Combustion devices.* All flares shall be designed and operated as follows:
 - (a) The combustion devices shall be designed and operated in a matter that will ensure it complies with 40 Code of Federal Regulations (“CFR”) §60.18 (General control device and work practice requirements);
 - (b) The combustion device, **during production operations**, shall be operated with a pilot flame present at all times vapors may be routed to it. Presence of a pilot flame shall be continuously monitored and recorded; and
 - (c) Combustion devices shall be equipped with automatic flame ignition systems in the event the pilot flame is extinguished.

3. *Fugitive emissions.* The operator shall develop and follow a leak detection and repair plan to minimize emissions from fugitive components. The plan will be submitted to the director for incorporation into the permit.
4. *Pneumatic controllers.* The operator shall use only no- or low-bleed pneumatic controllers, where such controllers are available for the proposed application. High-bleed pneumatic controllers may be used where air is the motive gas for operation of the controller and valve.
5. *Well completion practices.* For each well completion operation, the operator shall minimize emissions from the operation as set forth below:
 - (a) For the duration of flowback, route the recovered gas to the sales pipeline once the well has enough gas to safely operate the separator, or like device, and liquid control valves;
 - (b) If flow and gathering lines are not available to comply with subparagraph (a) above, the operator shall capture the recovered gas to a completion combustion device, equipped with a continuous ignition system, to oxidize the recovered gas stream except in conditions that may result in a fire hazard or explosion, or where high heat emissions from the completion device may negatively impact a sensitive area or nearby structure;
 - (c) Operators shall have a general duty to safely maximize resource recovery and minimize releases to the atmosphere during flowback; and
 - (d) Operators shall maintain a log for each well completion operation. The log shall be completed in accordance with the methods outlined in the Environmental Protection Agency's Code of Federal Regulations, specifically 40 CFR Part 60, Subpart OOOO.
6. *Well maintenance and blowdowns.* The operator shall utilize best management practices during well maintenance and blowdowns to minimize or eliminate venting emissions.
7. *Capture of produced gas from wells.* Gas produced during normal production shall be captured, to the maximum extent feasible, and not flared or vented, except in situations where flaring or venting is required to ensure that associated natural gas can be safely disposed of in emergency shutdown situations.
8. *Rod-packing maintenance.* Operators shall replace rod-packing from reciprocating compressors located at facilities approved after April 15, 2013, every twenty-six thousand (26,000) hours of operation or thirty-six (36) months, whichever occurs first.

9. Monitoring compliance and reporting. Operators shall submit to the director an annual report providing the following information concerning the operator's oil and gas operations as related to air emissions:

- (a) Dates when the operator or its agent inspected its oil and gas facilities under its leak detection and repair plan;
- (b) A record of the expected and actual air emissions measured at the facilities;
- (c) The operator's emissions data collected during well completion activities;
- (d) Dates and duration when operator conducted well maintenance activities to minimize air emissions;
- (e) If venting occurred at any time during the reporting period, an explanation as to why best management practices could not have been used to prevent such venting; and
- (f) Dates when reciprocating compressor rod-packing is replaced.

E. *Pipelines.* Any newly constructed or substantially modified pipelines on site shall meet the following requirements:

1. Flowlines, gathering lines and transmission lines shall be sited at a minimum of fifty (50) feet away from residential and non-residential buildings, as well as the high-water mark of any surface water body. This distance shall be measured from the nearest edge of the pipeline. Pipelines and gathering lines that pass within one hundred fifty (150) feet of residential or non-residential building or the high water mark of any surface water body shall incorporate leak detection, secondary containment or other mitigation, as appropriate;
2. To the maximum extent feasible, pipelines shall be aligned with established roads in order to minimize surface impacts and reduce habitat fragmentation and disturbance;
3. To the maximum extent feasible, operators shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize surface impacts; and
4. Operators shall use boring technology when crossing streams, rivers, irrigation ditches or wetlands with a pipeline to minimize negative impacts to the channel, bank and riparian areas.

F. All oil and gas facilities shall comply with the sound limitation standards set forth in code chapter 7.32 after development of the well is complete, meaning while the well is in production. A noise mitigation study shall be submitted with the application to demonstrate compliance with

said code chapter. If necessary to comply with said chapter, a noise screen shall be constructed along the edge of the oil and gas facility between the facility and existing residential development or land zoned for future residential development.

18.77.070 Application Requirements.

All applications submitted to current planning shall contain the information required for an APDCOG permit and any additional information required by the city’s “Oil and Gas Development Application Submittal Checklist” approved by the city manager.

~~**18.77.075 Prohibited Oil and Gas Facilities.**~~

~~Notwithstanding any provision in this chapter or code to the contrary, the following oil and gas operations and oil and gas facilities shall be prohibited within the city:~~

~~A. Pits;~~

~~B. Commercial disposal facilities regulated by the Colorado Department of Public Health and Environment;~~

~~C. Centralized exploration and production waste management facilities; and~~

~~D. Temporary housing at any oil and gas operations, including without limitation trailers, modular homes and recreational vehicles, except for such housing customarily required during twenty-four hour drilling and fracking operations.~~

18.77.07580 Variances.

A. *Variance Request.* In both the planning commission review and administrative review processes, an applicant may request a variance from any provision of this chapter. A request for a variance under this section may be included in the applicant’s application and shall be processed, reviewed and granted, granted with conditions or denied in accordance with and as part of the planning commission review process or the administrative review process, as applicable. The variance provisions of chapter 18.60 shall not be applicable to a variance request under this chapter.

B. *Grounds for Variance.* A variance from the application of any provision in this chapter shall be granted on the basis of one or more of the following grounds:

1. The provision is in operational conflict with the OGC act or the COG regulations, meaning the application of the provision would have the effect of materially impeding or destroying a state interest as expressed in the COG act or the COG regulations.
2. There is no technology commercially available at a reasonable cost to conduct the proposed oil and gas operations in compliance with the provision and granting a

variance from the operation of the provision will not have an adverse effect on the public health, safety or welfare or on the environment.

3. Protection of the public health, safety and welfare and of the environment would be enhanced by an alternative approach not contemplated by the provision.

4. Application of the provision will constitute a regulatory taking of property without just compensation by the city under Article II, Section 3 of the Colorado Constitution.

5. Application of the provision is impractical or would create an undue or unnecessary hardship because of unique physical circumstances or conditions existing on or near the site of the oil and gas operations, which may include, without limitation, topographical conditions, shape or dimension of the operation site, inadequate public infrastructure to the site, or close proximity of occupied buildings.

18.77.0805 Transfer of Permits.

Oil and gas permits may be assigned to another operator only with the prior written consent of the director and upon a showing to the director that the new operator can and will comply with all conditions of the transferred permit and with all of the applicable provisions ~~of this chapter, the APD and the COG regulations~~. The existing operator shall assign the permit to the new operator on a form provided by the city and the new operator shall also sign the form agreeing to comply with all of the conditions of the permit and all applicable provisions of this chapter.

18.77.08590 Other Applicable Code Provisions.

In addition to the provisions of this chapter, all oil and gas operations conducted within the city shall comply with all applicable provisions of the following code chapters: 3.16, Sales and Use Tax; 7.12, Nuisances - Unsanitary Conditions; 7.16, Solid Waste Collection and Recycling; 7.18, Weed Control; 7.26, Accumulations of Waste Materials; 7.30, Graffiti; 7.36, Fire Protection; 10.04, Traffic Regulations; 10.20, Parking; 12.16, Use of City Rights-of-Way; 12.28, Prohibited Uses of Streets and Other Public Places; 13.18, Stormwater Management; 13.20, Stormwater Quality; 15.08, Building Code; 15.12, Property Maintenance Code; 15.14, Floodplain Building Code; 15.16, Mechanical Code; 15.24, Electrical Code; 15.28, Fire Code, 16.38, Capital Expansion Fees; 16.41, Adequate Community Facilities; 16.42, Street Maintenance Fee; 18.45, Floodplain Regulations; 18.50, Signs; 13.04, Water Service; 13.06, Cross Connection Control; and 19.06, Irrigation.

18.77.0905 Emergency Response Costs.

The operator shall reimburse the Loveland Fire Rescue Authority for any emergency response costs incurred by the Authority in connection with fire, explosion or hazardous materials at the well or production site, except that the operator shall not be required to pay for

emergency response costs where the response was precipitated by mistake of the Authority or in response to solely a medical emergency.

18.77.095100 Application and Inspection Fees.

The city council may establish by resolution fees to be collected at the time an application is filed with current planning for the city's reasonable costs in processing applications under this chapter and for fees thereafter imposed for the city's reasonable costs to conduct inspections to ensure compliance with this chapter. Fees established for inspections shall be nondiscriminatory to only cover the city's reasonable costs to inspect and monitor for road damage and for compliance with the city's fire code, building codes and the conditions of any permit issued under this chapter. However, such inspection fees shall not be based on any costs the city might incur to conduct inspections or monitoring of oil and gas operations with regard to matters that are subject to rule, regulation, order or permit condition administered by the commission.

18.77.1005 Capital Expansion Fees.

Oil and gas operations within the city shall be subject to the capital expansion fees established under code chapter 18.38. The city council may adopt and set such fees by resolution. Any such fees adopted, shall be paid by the operator to the city at the time of issuance of an oil and gas permit under this chapter.

18.77.10510 Reimbursement for Consultant Costs.

If the city contracts with an outside consultant to review and advise the city concerning any applicant's application or in connection with any applicant's hearing conducted under this chapter, the applicant shall reimburse the city for the city's reasonable costs incurred with that consultant. No permit shall be issued and no suspended permit shall be reinstated until the applicant reimburses the city in full for any such costs.

18.77.1105 Adequate Transportation Facilities.

All applications submitted and all permits issued under this chapter shall be subject to all of the applicable adequate community facilities requirements of code chapter 16.41 as they relate solely to the transportation facilities required in code section 16.41.110.

18.77.11520 Insurance and Performance Security.

A. *Insurance.* Every operator granted a permit under this chapter shall procure and maintain throughout the duration of the operator's oil and gas operations a policy of comprehensive general liability insurance, or a self-insurance program approved by the Colorado Insurance Commission, insuring the operator and naming the city as an additional insured, against any liability for personal injury, bodily injury or death arising out of the operator's permitted operations, with coverage of at least one million dollars (\$1,000,000) per occurrence. Unless the operator is self-insured, insurance required by this paragraph A. shall be with

companies qualified to do business in the State of Colorado and may provide for a deductible as the operator deems reasonable, but in no event greater than ten thousand dollars (\$10,000). The operator shall be responsible for payment of any deductible. No such policy shall be subject to cancellation or reduction in coverage limits or other modification except after thirty (30) days prior written notice to the city. The operator shall identify whether the type of coverage is “occurrence” or “claims made.” If the type of coverage is “claims made,” which at renewal the operator changes to “occurrence,” the operator shall carry a twelve (12) month tail. The operator shall not do or permit to be done anything that shall invalidate the policies. In addition, the insurance required by this paragraph A. shall cover any and all damages, claims or suits arising out of the actual, alleged or threatened discharge, disbursement, seepage, migration, release or escape of pollutants, and shall not exclude from coverage any liability or expense arising out of or related to any form of pollution, whether intentional or otherwise. Further, the policies required by this paragraph A. shall be deemed to be for the mutual and joint benefit and protection of the operator and the city and shall provide that although the city is named as additional insured, the city shall nevertheless be entitled to recover under said policies for any loss occasioned to the city or its officers, employees or agents by reason of negligence of the operator or of its officers, employees, agents, subcontractors or business invitees and such policies shall be written as primary policies not contributing to or in excess of any insurance coverage the city may carry. Prior to the issuance of the operator’s permit, the operator shall furnish to the city certificates of insurance evidencing the insurance coverage required herein. In addition, the operator shall, upon request by the city and not less than thirty (30) days prior to the expiration of any such insurance coverage, provide the city with a certificate of insurance evidencing either new or continuing coverage in accordance with the requirements of this section.

B. *Performance Security for Road Damage.* Prior to the issuance of a permit to an applicant, the applicant shall provide the city with a ~~twenty-five thousand dollar~~ (\$~~25,000~~) performance security for each well that is permitted while the well is in operation in the form of an irrevocable letter of credit or equivalent financial security acceptable to the director ~~to cover the city’s costs to repair. Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting any damages~~ to the city’s public rights-of-way ~~caused by the operator’s use of said rights-of-way. In the event this security is insufficient to cover the city’s costs to repair any such damages, the operator shall be liable to the city for those additional costs and the city may pursue a civil action against the operator to recover those costs as provided in section 18.77.125.C.~~ Reclamation and other activities and operations which fall under the COG regulations are exempted from this performance security coverage.

18.77.1205 Inspections, ~~and~~ Right to Enter ~~and~~ Enforcement.

A. *Inspections.* ~~In recognition of the potential adverse impacts associated with oil and gas operations in an urban setting, a~~ All oil and gas operations and facilities may be inspected by the city’s duly appointed inspectors at reasonable times to determine compliance with the applicable provisions of this chapter and all other applicable provisions in this code. ~~However, the city’s inspections shall be limited to the inspection of those matters directly enforceable by the city under this chapter 18.77 as provided in paragraph C. of this section. In the event an inspection is desired by the city relating to a matter not directly enforceable by the city under this chapter, the~~

city shall contact the commission to request that it conduct the inspection and take appropriate enforcement action.

B. *Right to Enter.* Notwithstanding any other provision in this code to the contrary, for the purpose of implementing and enforcing the provisions of this chapter and the other applicable provisions of this code, the city's inspectors shall have the right to enter upon the private property of a permitted operator after reasonable notification to the operator's designated agent, in order to provide the operator with the opportunity to be present during such inspection. Such notice shall not be required in the event of an emergency that threatens the public's health or safety. By accepting an oil and gas permit under this chapter, the operator grants its consent to this right to enter.

C. *Enforcement.* The city's enforcement of the provisions of this chapter 18.77 and of the conditions included in permits issued under this chapter shall be limited to those provisions and conditions that are not in operational conflict with state law or COG regulations and that are enforced by the commission, except when the provision or condition is an enhanced standard imposed and agreed to by the applicant through the administrative review process or agreed to by the applicant in the planning commission review process.

~~C.D.~~ *Designated Agent.* The applicant shall include in its application the telephone number and email address of its designated agent and at least one back-up designated agent who can be reached twenty-four (24) hours a day, seven (7) days a week for the purpose of being notified of any proposed city inspection under this section or in case of an emergency. The applicant shall notify the city in writing of any change in the primary or back-up designated agent or their contact information.

18.77.12530 Violations, Suspension and Revocation of Permits, Civil Actions and Penalties.

A. *Violations.* It shall be unlawful and a misdemeanor offense under this chapter for any person to do any of the following:

1. Conduct any oil and gas operation within the city without a validly issued permit;
2. Violate any enforceable condition of a permit; or
3. Violate any applicable and enforceable provision of this chapter and code.

B. *Suspension and Revocation.* If at any time the director has reasonable grounds to believe than an operator is in violation of any enforceable provision of this chapter or code, the director may suspend the operator's permit. The director shall give the operator's designated agent written notice of the suspension and, upon receiving such notice, the operator shall immediately cease all operations under the permit, except those reasonably required to protect the public's health and safety. The director's written notice shall state with specificity the operator's violation(s). The suspension shall continue in effect until the director determines that

the violation(s) has been satisfactorily corrected. At any time during the suspension, the operator may appeal the director’s action to the City Council by filing with the City Clerk a written notice of appeal stating with specificity the operator’s grounds for appeal. Within thirty (30) days of the City Clerk’s receipt of that notice, a public hearing shall be held before the City Council. The hearing shall be conducted as a quasi-judicial proceeding with the operator having the burden of proof and with the director defending the suspension of the permit. After hearing and receiving evidence and testimony from the operator, from the director and from other city staff and consultants, and after receiving public comment, the City Council may revoke the permit, terminate the suspension of the permit or take such other action as it deems appropriate under the circumstances taking into consideration and balancing the protection of the public’s health, safety and welfare and the operator’s rights under this chapter and state law to conduct its oil and gas operations. Within twenty ~~five~~ **one** (25) days after the hearing, the Council shall adopt its written findings and conclusion supporting its decision. The Council’s written findings and conclusions shall constitute the Council’s final decision that may be appealed to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

C. *Civil Actions.* In addition to any other legal remedies provided under this chapter to enforce violations of this chapter, the city may commence a civil action against an operator committing any such violations in any court of competent jurisdiction and request any remedy available under the law or in equity to enforce the provisions of this chapter, to collect any damages suffered by the city as the result of any violation and to recover any fees, reimbursements and other charges owed to the city under this chapter and code. If the city prevails in any such civil action, the operator shall be liable to the city for all of the city’s reasonable attorney’s fees, expert witness costs and all other costs incurred in that action.

D. *Penalties.* A violation of any **enforceable** provision of this chapter shall constitute a misdemeanor offense punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a term not exceeding one (1) year, or both such fine and imprisonment. A person committing such offense shall be guilty of a separate offense for each and every day, or a portion thereof, during which the offense is committed or continued to be permitted by such person, and shall be punished accordingly.

18.77.1305 Conflicting Provisions.

In the event of any conflict between any provision of this chapter and any other provision of this code, the provision of this chapter shall control.

Section 2. That a new Chapter 18.78 is hereby added to the Loveland Municipal Code to read in full as follows:

Chapter 18.78

Building Setbacks from Oil and Gas Facilities

Sections:

18.78.010 Purpose

18.78.020 Building Setbacks from Oil and Gas Facilities
18.78.030 Variances.

18.78.010 Purpose.

The purpose of this chapter is to generally protect the public’s health, safety and welfare and more specifically to establish setbacks for new development from existing or abandoned oil and gas facilities.

18.78.020 Building Setbacks from Oil and Gas Facilities.

All “buildings,” as defined in code section 18.77.025, except such buildings with an occupancy rating for fifty (50) persons or more, shall be setback a minimum distance of five hundred (500) feet from an existing or abandoned oil and gas facility. All such buildings with an occupancy rating for fifty (50) persons or more and “outdoor assembly areas,” as this term is defined in code section 18.77.025, shall be set back a minimum of one thousand (1,000) feet from any existing or abandoned “oil and gas well,” as this term is defined in code section 18.77.025. Land included in such setback areas shall be ~~designated as restricted to use only as~~ open space and recreational uses ~~such as within that~~ open space, such as play fields, ~~and~~ parks and playgrounds, shall not be permitted ~~within such areas~~.

18.78.030 Variances.

The owner of any real property subject to the setback requirements of section 18.78.020 may request a variance from those setbacks in accordance with the provisions of section 18.77.07580 using the planning review process set out in Chapter 18.77.

Section 3. That Ordinance No. 5685 and Ordinance No. 5735 are hereby repealed.

Section 4. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this ____ day of _____, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

FIRST READING: March 5, 2013

SECOND READING: March 19, 2013

ORDINANCE #

AN ORDINANCE ADDING TO THE LOVELAND MUNICIPAL CODE CHAPTER 18.77 FOR THE REGULATION OF OIL AND GAS OPERATIONS AND CHAPTER 18.78 FOR SETBACKS FOR DEVELOPMENT FROM OIL AND GAS OPERATIONS WITHIN THE CITY OF LOVELAND

WHEREAS, on May 15, 2012, the City Council adopted Ordinance No. 5685 as an emergency ordinance; and

WHEREAS, Ordinance No. 5685 imposed a nine (9) month moratorium on the City's acceptance, processing and approval of all applications for City licenses, permits and any other approvals needed to conduct oil and gas operations within the City; and

WHEREAS, this moratorium began on May 16, 2012, and was set to expire on February 16, 2013; and

WHEREAS, on December 18, 2012, the City Council adopted Ordinance No. 5735 to extend the moratorium from February 16, 2013, to the earlier of April 15, 2013, or on the date that an ordinance adopted by City Council to enact local oil and gas regulations becomes law; and

WHEREAS, the primary purpose of the moratorium has been to give City staff and this Council a reasonable opportunity to investigate the extent of the City's legal authority to regulate oil and gas operations occurring within the City and to consider the adoption and implementation of local oil and gas regulations consistent with that authority in order to protect the environment, wildlife resources and the public's health, safety and welfare; and

WHEREAS, in that process it was determined that under Colorado law the regulation of oil and gas operations by home rule municipalities, such as Loveland, is a matter of mixed statewide and local concern and, as such, the City has the legal authority to enact its own oil and gas regulations so long as those regulations are not in "operational conflict" with state law, including the oil and gas regulations which have been adopted by the Colorado Oil and Gas Conservation Commission ("Commission"); and

WHEREAS, in the exercise of that legal authority, the Council finds that it is important for the City to have a role in minimizing the adverse impacts that oil and gas development within the City will likely have on the City's environment and on its residents' health, safety and welfare; and

WHEREAS, the Council therefore finds that this Ordinance is a proper and necessary

exercise of the City’s general police power and of its home rule authority to regulate zoning and land use, in order to regulate oil and gas operations and facilities within the City to the full extent permitted by law; and

WHEREAS, the development of oil and gas resources presents unique public health, safety and welfare issues that are inadequately addressed in the City’s current zoning and land use regulations; and

WHEREAS, City staff has completed a review of applicable state law and of the Commission’s regulations concerning oil and gas operations, a review of the oil and gas regulations adopted by other local governments throughout Colorado, and has received and considered input from the public, including from the Anadarko Petroleum Corporation, currently the only oil and gas operator known to have plans to begin new oil and gas operations within the City; and

WHEREAS, as a result of that process, the oil and gas regulations and the building setbacks from oil and gas activities as set out in this Ordinance are necessary to protect the City’s environment and wildlife resources, and the public’s health, safety and welfare.

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

Section 1. That a new Chapter 18.77 is hereby added to the Loveland Municipal Code to read in full as follows:

Chapter 18.77

Oil and Gas Regulations

Sections:

- 18.77.010 Authority.**
- 18.77.015 Purpose.**
- 18.77.020 Applicability.**
- 18.77.025 Rules of Construction and Definitions.**
- 18.77.030 Zoning.**
- 18.77.035 Alternative Permit Processes.**
- 18.77.040 Conceptual Review.**
- 18.77.045 Planning Commission Review Process.**
- 18.77.050 Administrative Review Process.**
- 18.77.055 Baseline Standards for Planning Commission Review Process.**
- 18.77.060 Baseline Standards for Planning Commission and Administrative Review Processes.**
- 18.77.065 Enhanced Standards for Administrative Review Process.**
- 18.77.070 Application Requirements.**
- 18.77.075 Variances.**
- 18.77.080 Transfer of Permits.**
- 18.77.085 Other Applicable Code Provisions.**
- 18.77.090 Emergency Response Costs.**

- 18.77.095 Application and Inspection Fees.**
- 18.77.100 Capital Expansion Fees.**
- 18.77.105 Reimbursement for Consultant Costs.**
- 18.77.110 Adequate Transportation Facilities**
- 18.77.115 Insurance and Performance Security.**
- 18.77.120 Inspections, Right to Enter and Enforcement.**
- 18.77.125 Violations, Suspension and Revocation of Permits, Civil Actions and Penalties.**
- 18.77.130 Conflicting Provisions.**

18.77.010 Authority.

This Chapter 18.77 is enacted pursuant to the city's police powers and land-use authority under Article XX of the Colorado Constitution, Title 31 of the Colorado Revised Statutes, the OGC Act, the COG regulations and under all other applicable laws, rules and regulations. It is the intent of this chapter that these powers and authority be exercised in a manner that will not create an operational conflict with the provisions of the OGC Act or the COG regulations, which conflict could arise if any application of this chapter has the effect of materially impeding or destroying a state interest as expressed in the OGC Act or the COG regulations. The provisions of this chapter are therefore to be interpreted and applied in a manner that is consistent and in harmony with any conflicting provisions of the OGC Act or the COG regulations, so as to avoid an operational conflict.

18.77.015 Purpose.

The purpose of this chapter is to generally protect the public's health, safety and welfare and the environment and more specifically to regulate oil and gas operations within the city so as to minimize the potential land use conflicts and other adverse impacts that may negatively affect existing and future land uses when oil and gas operations occur within the city near those uses. This purpose is intended to be achieved in a manner that recognizes the state's interests in oil and gas operations as expressed in C.R.S. § 34-60-102, which include: fostering the responsible and balanced development of the state's oil and gas resources in a manner consistent with the protection of the public's health, safety and welfare, including protection of the environment and wildlife resources; protecting public and private interests against waste in both the production and use of oil and gas; and allowing Colorado's oil and gas pools to produce up to their maximum efficient rate subject to the prevention of waste, protection of the public's health, safety and welfare, protection of the environment and wildlife resources, and the protection and enforcement of the rights of owners and producers to a common source of oil and gas so that each owner and producer obtains a just and equitable share of production from that source.

18.77.020 Applicability.

Except as otherwise provided in this section, the provisions of this chapter shall apply to all surface oil and gas operations occurring within the city's boundaries, which shall include, without limitation, any oil and gas operation requiring the commission's issuance or reissuance of a drilling permit or any other permit under the COG regulations. Prior to any person

commencing any such operations within the city, that person shall apply for and receive an oil and gas permit from the city in accordance with the provisions of this chapter. This chapter, however, shall not apply to those surface oil and gas operations for which a drilling permit was issued under the COG regulations prior to April 2, 2013, the effective date of this chapter, and under which permit the oil and gas operations were commenced before April 2, 2013. It shall also not apply to any surface oil and gas operations occurring on real property annexed into the city on or after April 2, 2013, provided those operations are occurring as of the effective date of the annexation pursuant to a drilling permit issued under the COG regulations. This chapter shall apply to all other surface oil and gas operations occurring within the city's boundaries after April 2, 2013.

18.77.025 Rules of Construction and Definitions.

A. The words, terms and phrases expressly defined in this section shall have the meaning hereafter given them, unless the context requires otherwise. The words, terms and phrases used in this chapter not defined in this section shall have the meaning given to them in the OGC Act, the COG regulations or in chapter 18.04 of this code, and where there is more than one definition, the controlling definition shall be the one that is most consistent with the city's authority described in Section 18.77.010 and with the city's purposes for enacting this chapter as described in Section 18.77.015. Words, terms and phrases not defined in this section, the Act, the COG regulations or chapter 18.04, shall be given their commonly accepted meaning unless they are technical in nature, in which case they should be given their technical meaning generally accepted by the industry in which they are used. Therefore, for those words, terms and phrases peculiar to the oil and gas industry, they shall be given that meaning which is generally accepted in the oil and gas industry. Words, terms and phrases of a legal nature shall be given their generally accepted legal meaning.

B. When determining the end date of a time period under this chapter, the day on which the time period begins shall not be counted and the last day shall be included in the count. If the last day is a Saturday, Sunday or federal or state legal holiday, that day shall be excluded in the count.

C. "Abandonment" shall mean the plugging process of cementing a well, the removal of its associated production facilities, the removal or abandonment in-place of its flowline, and the remediation and reclamation of the wellsite.

D. "Act" or "OGC Act" shall mean the Colorado Oil and Gas Conservation Act as found in Title 34, Article 60 of the Colorado Revised Statutes, as amended.

E. "Adverse effect" or "adverse impact" shall mean the impact of an action that is considerable or substantial and unfavorable or harmful. The term includes social, economic, physical, health, aesthetic, historical impact, and/or biological impacts, including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

F. "Administrative review process" shall mean the expedited and enhanced review process set out in section 18.77.050.

G. “Applicant” shall mean any person possessing the legal right to develop oil or gas underlying land located within the city’s boundaries and who has applied for an oil and gas permit under this chapter.

H. “Application” shall mean an application filed with the city by any person requesting an oil and gas permit under this chapter.

I. “Baseline standards” shall mean those review standards and operation requirements set out in sections 18.77.055 and 18.77.060.

J. “Best management practices” shall mean the best proven and commercially practicable techniques, technologies and practices that are designed to prevent or minimize adverse impacts caused by oil and gas operations to the public health, safety or welfare, including the environment and wildlife resources.

K. “Building” shall mean any residential or non-residential structure designed and permitted to be occupied by natural persons.

L. “City manager” shall mean the city’s duly appointed city manager or his or her designee.

M. “Code” shall mean the duly adopted ordinances of the city including, without limitation, the Loveland Municipal Code, as amended.

N. “COG permit” shall mean a permit issued by the commission to drill, deepen, re-enter or recomplete and conduct any other oil and gas operation as allowed under the COG regulations.

O. “COG rule” or “COG regulations” shall mean the Colorado oil and gas rules and regulations duly adopted by the commission, as amended, including 2 Colo. Code Regs. 400; et seq.

P. “Commission” shall mean the Oil and Gas Conservation Commission of the State of Colorado.

Q. “Completion” shall mean, for the completion of an oil well, that the first new oil is produced through wellhead equipment into leased tanks from the ultimate producing interval after the production string has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production string has been run. A dry hole shall be considered completed when all provisions of plugging are complied with as set out in the COG regulations. Any well not previously defined as an oil or gas well, shall be considered completed ninety (90) days after reaching total depth. If approved by the director of the commission, a well that requires extensive testing shall be considered completed when the drilling rig is released or six months after reaching total depth, whichever is later.

R. "Completion combustion device" shall mean any ignition device, installed horizontally or vertically used in exploration and production operations to combust otherwise vented emissions from completions.

S. "Current planning" shall mean the city's current planning division.

T. "Day" shall mean a calendar day.

U. "Designated agent" shall mean the designated representative of any operator.

V. "Development review team" or "DRT" shall mean the city's development review team.

W. "Director" shall mean the director of the city's development services department or his or her designee.

X. "Enhanced standards" shall mean those review standards and best management practices set out in section 18.77.065.

Y. "Gas" shall mean all natural gases and all hydrocarbons not defined in this section as oil.

Z. "Hydraulic fracturing" shall mean all the stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geological formation to enhance production of oil and gas.

AA. "Inspector" shall mean any person designated by the city manager who shall have the authority to inspect a well site to determine compliance with this chapter and any other applicable city ordinances.

BB. "Minimize adverse impacts" shall mean, whenever reasonably practicable, to avoid significant adverse impacts to wildlife resources, the environment, or to the public's health, safety or welfare from oil and gas operations, minimize the extent and severity of those impacts that cannot be avoided, mitigate the effects of unavoidable remaining impacts, and take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts.

CC. "Natural area" shall mean those areas described or identified as natural areas in the City of Loveland Open Lands Plan, dated March 2003.

DD. "Oil" shall mean crude petroleum oil and any other hydrocarbons, regardless of gravities, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas before or after it leaves the reservoir.

EE. "Oil and gas facility" shall mean equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, gathering, treatment or processing of oil or gas.

FF. “Oil and gas operations” or “operations” shall mean exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, re-entering, recompletion, reworking or abandonment of an oil and gas well, underground injection well or gas storage well; production operations related to any such well including the installation of flowlines and gathering lines; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation or reclamation activities associated with such operations.

GG. “Operator” shall mean a person who has the legal right under a permit issued under this chapter 18.77 and under a COG permit issued by the commission to conduct oil and gas operations on the surface within the city’s boundaries by drilling into and producing from a pool and to appropriate the oil or gas produced therefrom either for the operator or for the operator and an owner.

HH. “Outdoor assembly area” shall mean an improved facility, not within a building, designed to accommodate and provide a place for natural persons to congregate, but shall not include the backyards of residential buildings.

II. “Owner” shall mean any person having an ownership interest in the oil and gas resources underlying land either as the owner of a corporeal estate in realty or as an owner of a leasehold interest therein.

JJ. “Permit” or “oil and gas permit” shall mean a permit issued by the city to an applicant under this chapter.

KK. “Person” shall mean any natural person, corporation, association, partnership, limited liability company, receiver, trustee, executor, administrator, guardian, fiduciary or any other kind of entity or representative, and includes any department, agency or instrumentality of the state or any political subdivision thereof and any county, city and country, home rule municipality, statutory municipality, authority or special district.

LL. “Pit” shall mean any natural or man-made depression in the ground used for oil or gas exploration or production purposes. A pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils. This shall include, without limitation and as applicable, “production pits,” “special purpose pits,” “reserve pits,” “multi-well pits” and “drilling pits,” as these are defined in the COG regulations.

MM. “Planning commission” shall mean the city’s planning commission as established in code section 2.60.210.

NN. “Planning commission review process” shall mean the review process set out in section 18.77.045.

OO. “Seismic operations” shall mean all activities associated with the acquisition of seismic data including, but not limited to, surveying, shothole drilling, recording, shothole plugging and reclamation.

PP. “Setback” shall mean the distance on the surface estate between the following, as applicable: a wellhead, intermediate line, gathering line or oil and gas facility structure boundary and the closest projection of a building or structure, property line of a platted lot or unplatted tract of land or a permitted oil and gas operation.

QQ. “Significant degradation” shall mean any degradation to the environment that will require significant efforts and expense to reverse or otherwise mitigate that degradation.

RR. “State” shall mean the State of Colorado.

SS. “Surface water body” shall include, but not be limited to, rivers, streams, ditches, reservoirs, and lakes.

TT. “Surface owner” shall mean any person having title or right of ownership in the surface estate of real property or any leasehold interest therein.

UU. “VOCs” shall mean volatile organic compounds.

VV. “Well” shall mean an oil or gas well, a hole drilled for the purpose of producing oil or gas, or a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

WW. “Well blowdown” shall mean the maintenance activity designed to remove fluids from mature wells during which time gas is often vented to the atmosphere.

XX. “Well completion” shall mean the process that perforates well casing, stimulates the reservoir using various techniques including, but not limited to, acid treatment and hydraulic fracturing, allows for the flowback of oil or natural gas from wells to expel drilling and reservoir fluids, and tests the reservoir flow characteristic, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.

YY. “Wellhead” shall mean the equipment attached to the casinghead of an oil, gas or injection well above the surface of the ground.

ZZ. “Wetlands” shall have the same meaning as this word is defined in code section 18.41.110.

18.77.030 Zoning.

Notwithstanding any provision in this code to the contrary, oil and gas operations shall be permitted in all of the city’s zoning districts, planned unit developments, general development plans, unit developments and within any other city-approved land uses, but only if a permit has

been issued to the extent required by this chapter and a COG permit has been issued by the commission for those oil and gas operations.

18.77.035 Alternative Permit Processes.

Any person applying for a permit under this chapter must proceed under the planning commission review process as provided in section 18.77.045, unless the applicant voluntarily chooses to proceed under and qualifies for the expedited and enhanced administrative review process as provided in section 18.77.050. The permit application under the planning commission review process shall be reviewed and granted or denied on the basis of the applicable baseline standards set out in sections 18.77.055 and 18.77.060 and any other applicable standards and requirements in this chapter and code. A permit application under the administrative review process shall be reviewed and granted or denied under the applicable baseline and enhanced standards set out in sections 18.77.060 and 18.77.065 and any other applicable standards and requirements in this chapter and code.

18.77.040 Conceptual Review.

Prior to any person submitting an application under this chapter, that person shall first schedule with current planning and attend a conceptual review meeting with the city's development review team. Current planning shall schedule such meeting within fifteen (15) days after a written request for the meeting has been received. At least fifteen (15) days before the scheduled conceptual review meeting, the person requesting the meeting shall submit to current planning in electronic form or one (1) hard-copy set of all applications, plans, studies and other documents that such person has filed or will be required to file with the commission under the COG regulations to obtain a COG permit for the oil and gas operations proposed to be conducted within the city. The purpose of the conceptual review meeting is to give the prospective applicant and the city's development review team the opportunity to discuss the proposed oil and gas operations and to discuss the city's application and review processes under this chapter. This will include a discussion as to whether the prospective applicant is interested in using the expedited and enhanced administrative review process rather than the planning commission review process. Within ten (10) days after the meeting, current planning shall provide the prospective applicant with the development review team's written comments and recommendations concerning the proposed oil and gas operations. When these comments and recommendations are sent to the prospective applicant by current planning, the prospective applicant shall have three (3) months thereafter in which to file with current planning an application for the proposed oil and gas operations. Failure to file that application within this time period will require the prospective applicant to schedule and conduct another conceptual review meeting under this section for those oil and gas operations. However, in the event current planning fails to timely provide DRT's written comments and recommendations to the prospective applicant, the prospective applicant may proceed to file its application with current planning within three (3) months thereafter.

18.77.045 Planning Commission Review Process.

A. *Application Completeness Review.* After an application has been filed with current planning, the director shall review the application for completeness to determine its compliance with the applicable requirements of section 18.77.070. If the director determines that any of those applicable requirements have not been satisfied, the director shall, within fifteen (15) days after the application is filed, notify the applicant in writing of any deficiencies in the application. This process of review and notice of deficiency shall continue until the director determines the application satisfies all applicable requirements of section 18.77.070 and is, therefore, a complete application. The director shall notify the applicant in writing that the application is complete within fifteen (15) days after the later of the filing of the application or the filing of the last application resubmittal in response to a notice of deficiency from the director. Promptly thereafter, current planning shall post the complete application on the city's website for public review, but excluding any information required in this chapter to be kept confidential.

B. *Development Review Team.* After an application is filed with current planning and has been determined by the director to be a completed application, it shall be reviewed by the DRT. The DRT shall review the application for conformance with the applicable provisions of this chapter and any other applicable provisions of this code. As part of this review, the DRT may meet with the applicant or the applicant's representatives to discuss the application and to present the DRT's questions, concerns and recommendations. Within thirty (30) days after the application has been determined by the director to be a complete application, the DRT shall complete its review by submitting a written report of its findings and recommendations to the applicant and the director. The report shall also be posted on the city's website with the application, but excluding any information required under this chapter to be kept confidential. Within thirty (30) days of the issuance of the DRT's report, the applicant may supplement its application in response to the DRT report.

C. *Neighborhood Meeting.* Promptly after the director has issued the written determination that the application is complete, current planning shall schedule a neighborhood meeting to be held within forty-five (45) days of the director's written determination of completeness. Once that neighborhood meeting has been scheduled, notices of the neighborhood meeting shall be provided in accordance with all applicable requirements of code chapter 18.05. The mailed notice required for neighborhood meetings under chapter 18.05 shall also be sent to the surface owner or owners of the parcel or parcels of real property on which the oil and gas operations are proposed to be located. In addition to the other contents required for the mailed notice under chapter 18.05, the mailed notice shall state that the application can be reviewed prior to the neighborhood meeting on the city's website or at current planning's office. The neighborhood meeting shall be conducted by current planning. The applicant or a representative of the applicant shall attend the neighborhood meeting and be available to answer questions concerning the application. The objective of a neighborhood meeting shall be to inform noticed persons and other interested citizens attending the meeting of the scope and nature of the proposed oil and gas operations under the application and how the operations will be regulated under this chapter and the COG regulations. Notwithstanding the foregoing, the director may waive the provisions of this paragraph C. if the director determines that the City's required notices and neighborhood meeting under this paragraph will be duplicative of the notice and neighborhood meeting requirements under the COG regulations for the applicant's COG permit. To be considered duplicative, the commission's neighborhood meeting must be held within the city.

D. *Planning Commission Hearing.* Current planning shall schedule the application for a public hearing before the planning commission within forty-five (45) days after the DRT has finished its review of the application. Notice of the hearing shall be provided in accordance with all applicable requirements of chapter 18.05. The mailed notice required in chapter 18.05 for this hearing shall also be mailed to the surface owner or owners of the parcel or parcels of real property on which the oil and gas operations are to be located. In addition, the mailed and published notices shall state that the complete application can be reviewed by the public on the city's website or at current planning's office.

E. *Planning Commission Hearing Procedures.* The planning commission's public hearing shall be conducted as a quasi-judicial proceeding. Subject to the planning commission chairperson's discretion to limit the time and scope of testimony and to make allowances for the adequate presentation of evidence and the opportunity for rebuttal, the order of the hearing shall be as follows: (1) explanation and nature of application by current planning staff; (2) applicant's presentation of evidence and testimony in support of the application; (3) public comment and presentation of evidence; (4) applicant's rebuttal presentation; and (5) motion, discussion and vote by the planning commission on the application. No person making a presentation and providing testimony or comment at the hearing shall be subject to cross-examination. However, during the hearing members of the planning commission and the city attorney may make inquiries for the purposes of eliciting new information and to clarify information presented.

F. *Planning Commission Decision.* The planning commission shall consider the application based solely on the testimony and evidence submitted at the hearing, the applicable provisions of this chapter and any other applicable provisions of this code. At the conclusion of the presentation of testimony and evidence, the planning commission shall vote to grant, grant with conditions or deny the oil and gas permit requested in the application under consideration. A condition may only be imposed on the grant of an oil and gas permit if the applicant agrees to that condition on the record of the hearing. An applicant's refusal to agree to any such condition shall not be used by the planning commission as a basis, in whole or part, to deny the applicant's requested oil and gas permit, unless the condition is expressly required by this chapter 18.77. In granting, granting with conditions or denying an application for an oil and gas permit, the planning commission shall adopt its written findings and conclusions within thirty (30) days of its decision at the hearing.

G. *Appeal of Planning Commission Decision.* The planning commission's decision described in paragraph F. of this section may be appealed to the city council by the applicant and any "party in interest" as defined in section 18.80.020. The written notice of appeal shall be filed with current planning within ten (10) days of the effective date of the planning commission's final decision, which date shall be the date the planning commission adopts its written findings and conclusions. The appeal shall be filed and conducted in accordance with the applicable provisions in chapter 18.80 for appeals from the planning commission to the city council. The council's decision in the appeal hearing to grant, grant with conditions or deny the applicant's request for an oil and gas permit shall, like the planning commission's decision, be based on the applicable provisions of this chapter and any other applicable provisions of this code. The council shall also not impose any condition on its grant of the oil and gas permit unless the

applicant agrees to the condition on the record of the council's appeal hearing. An applicant's refusal to agree to any such condition shall not be used by the city council to deny the permit unless the condition is expressly required by this chapter 18.77.

18.77.050 Administrative Review Process.

A. *Applicant's Election to Use Administrative Review Process.* As an alternative to processing an application using the planning commission review process set out in section 18.77.045, an applicant may elect to use the expedited and enhanced administrative review process set out in this section. In electing to use this administrative review process, the applicant must acknowledge and agree in its application to all of the following: (1) that by using this administrative review process to obtain an expedited review, the applicant's application will not only be subject to the baseline standards in section 18.77.060, but also the enhanced standards in section 18.77.065, which enhanced standards might be interpreted to be in operational conflict in one or more respects with the COG regulations; (2) that to the extent the enhanced or negotiated standards imposed through this administrative review process are not already included as conditions in the applicant's COG permit, the applicant will request the commission to add such enhanced standards as additional conditions to the applicant's COG permit; and (3) that if for any reason the applicant wishes to revoke its election to use this administrative review process or to withdraw from the process once started, but still desires an oil and gas permit under this chapter, it will be required to follow and meet all of the requirements of the planning commission review process.

B. *Application Completeness Review.* An application reviewed under this section shall be reviewed by the director for completeness using the same process used in the planning commission review process as set out in section 18.77.045.A.

C. *Development Review Team.* After an application is filed with current planning and determined by the director to be a complete application, it shall be reviewed by the DRT. The DRT shall review the application for conformance with the applicable provisions of this chapter and any other applicable provisions of this code. As part of this review, the DRT may meet with the applicant or the applicant's representatives to discuss the application and to present the DRT's questions, concerns and recommendations. Within thirty (30) days after the application has been determined by the director to be a complete application, the DRT shall complete its review by submitting a written report of its findings and recommendations to the applicant and the director. The report shall also be posted on the city's website with the application, but excluding any information required under this chapter to be kept confidential. Within thirty (30) days of the issuance of the DRT's report, the applicant may supplement its application in response to the DRT report.

D. *Neighborhood Meeting.* The neighborhood meeting for an application reviewed under this section shall be scheduled, noticed and conducted or waived in the same manner as under the planning commission review process set out in section 18.77.045.C., but with one addition. The notices mailed under section 18.77.045.C. shall state that the application is being reviewed under the administrative review process and notify the recipients of the notice that they will have until fifteen (15) days after the neighborhood meeting is held or after such other date set by the

director if the neighborhood meeting is waived by the director as provided in section 18.77.045.C. in which to submit to current planning for the director's consideration any comments and information, in written, electronic or photographic form, related to the subject application as provided in paragraph E. of this section.

E. *Public Comment.* Within fifteen (15) days after the neighborhood meeting is held or after such other date set by the director if the neighborhood meeting is waived by the director as provided in section 18.77.045.C., any person may file with current planning for the director's consideration and to be included in any record on appeal taken under paragraph H. of this section, any comments and information, in written, electronic or photographic form, relevant to the director's consideration of the subject application under this section. Current planning shall preserve all of the comments and information received under this section to ensure that they are included in any record of appeal. These comments and information shall also be made available for review by the applicant. The applicant may supplement its application in response or rebuttal to the comments and information submitted by the public. The applicant must file this supplemental information with current planning within fifteen (15) days after the deadline for the public's submittal of its comments and information. Any comments and information received by current planning after the deadlines set forth herein, shall not be considered by the director in his or her decision and shall not be included in the record of any appeal under paragraph H. of this section.

F. *Director's Negotiations with Applicant.* After receiving the DRT report and all of the public comments and information provided under paragraph E. of this section, the director shall negotiate with the applicant for standards to be added as conditions to the oil and gas permit in addition to or in substitution of those baseline standards required in section 18.77.060 and the enhanced standards in section 18.77.065, if in the director's judgment such conditions will result in the increased protection of the public's health, safety or welfare or further minimize adverse impacts to surrounding land uses, the environment or wildlife resources. The director shall have ten (10) days after the last of the public comments and information have been submitted under paragraph E. of this section in which to conduct those negotiations. If after those negotiations the applicant agrees in writing to these new standards, they shall be added as conditions to the oil and gas permit if the permit is granted by the director. If the applicant does not agree to these conditions, they shall not be added as conditions to any granted oil and gas permit. In addition, the applicant's refusal to agree to any such conditions shall not be used by the director as a basis, in whole or part, to deny the applicant's requested oil and gas permit, unless the condition is expressly required by this chapter 18.77.

G. *Director's Decision.* Within fifteen (15) days after the expiration of the negotiation period in paragraph F. of this section, the director shall issue his or her written findings and conclusion, granting, granting with conditions to the extent agreed by the applicant under paragraph F. of this section or denying the applicant's requested oil and gas permit. The record which the director must consider in issuing his or her written findings and conclusions shall consist solely of the application, the applicant's supplementals to the application, the DRT report and the public comments and information submitted under paragraph E. of this section. This record shall be used by the director to then determine the application's compliance or

noncompliance with the applicable provisions of this chapter and any other applicable provisions in this code.

H. *Appeal of Director's Decision.* The director's decision as set out in his or her written findings and conclusions shall constitute the director's final decision. The director's final decision is not appealable to the planning commission or the city council. The director's final decision may only be appealed by the applicant or a "party in interest," as defined in section 18.80.020, to the district court for Larimer County under Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The record to be considered in the appeal shall consist of the director's written findings and conclusion, the application, the applicant's supplementals to the application, the DRT report, all comments and information provided by the public under paragraph E. of this section and any other evidentiary information the district court orders to be included in the record.

18.77.055 Baseline Standards for Planning Commission Review Process.

All applications considered in the planning commission review process and all oil and gas operations approved under this process shall be subject to and comply with the setback and mitigation requirements set forth in COG rule 604, as amended, in addition to the standards and requirements in code section 18.77.060.

18.77.060 Baseline Standards for Planning Commission and Administrative Review Processes.

All applications considered in the planning commission review process and the administrative review process and all oil and gas operations approved under either process shall be subject to and comply with the following standards and requirements, as applicable:

A. *COG regulations for setback requirements.* All oil and gas operations shall comply with COG rule 603, as amended.

B. *COG regulations for groundwater baseline sampling and monitoring.* All permits for oil and gas operations shall comply with COG rule 318.A.e, as amended.

C. *COG regulations for protection of wildlife resources.* All permits for oil and gas operations shall comply with COG rule series 1200, as amended. The operator shall notify the director if consultation with Colorado Division of Parks and Wildlife is required pursuant to COG rule 306.c.

D. *COG regulations for reclamation.* All permits for oil and gas operations shall comply with COG rule series 1000, as amended. The operator shall provide copies of the commission's drill site reclamation notice to the director at the same time as it is provided to the surface owner.

E. *COG regulations for well abandonment.*

1. All oil and gas facilities shall comply with the requirement for well abandonment set forth in COG rule 319, as amended. The operator shall provide a copy of the approval granted by the commission for the abandonment to the director within thirty (30) days from receiving such approval.
2. The operator shall provide copies of the commission's plugging and abandonment report to the director at the same time as it is provided to the commission.
3. The operator shall notify the Loveland Fire Rescue Authority not less than two (2) hours prior to commencing plugging operations.

F. *Applications and permits.* Copies of all county, state and federal applications and permits that are required for the oil and gas operation shall be provided to the director.

G. *Burning of trash.* No burning of trash shall occur on the site of any oil and gas operations.

H. *Chains.* Traction chains on heavy equipment shall be removed before entering a city street.

I. *COG regulations for hydraulic fracturing chemical disclosure.* All operators shall comply with COG rule 205.A, as amended. Each operator shall also provide to the Loveland Fire Rescue Authority in hard copy or electronic format the operator's chemical disclosure form that the operator has filed with the chemical disclosure registry under COG rule 205.A. Such form shall be filed with the director within five (5) days after the form is filed in the chemical disclosure registry.

J. *Color.* Oil and gas facilities, once development of the site is complete, shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match the land rather than the sky. The color should be slightly darker than the surrounding landscape.

K. *Cultural and historic resources standards.* The installation and operation of any oil and gas facility shall not cause significant degradation of cultural or historic resources, of sites eligible as City Landmarks, or the State or National Historic Register, as outlined in code section 15.56.030.

L. *Stormwater quality and dust control.* All permits for oil and gas operations shall comply with COG rule 805, as amended, plus code chapter 13.20.

M. *Electric equipment.* The use of electric-powered equipment during production operations shall be required if a provider of electric power agrees at the provider's customary rates, fees and charges to provide electric service to an oil and gas facility and the cost to make the electrical connection is economically practicable. If available, electric service to the oil and gas facility shall be acquired by the operator within the shortest time period reasonably practicable. Temporary use of natural gas or diesel generators may be used until electric service

is provided. Electric equipment shall not be required during drilling and well completion operations.

N. *Emergency response standards.*

1. In General. Operators agree to take all reasonable measures to assure that oil and gas operations shall not cause an unreasonable risk of emergency situations such as explosions, fires, gas, oil or water pipeline leaks, ruptures, hydrogen sulfide or other toxic gas or fluid emissions, hazardous material vehicle accidents or spills.

2. Emergency Preparedness Plan. Each operator with an operation in the city is required to provide to the City its emergency preparedness plan for operations within the City, which shall be in compliance with the applicable provisions of the International Fire Code as adopted in the city code. The plan shall be filed with the Loveland Fire Rescue Authority and updated on an annual basis. The emergency preparedness plan shall contain at least all of the following information:

(a) The designation of the operator's office group or individual(s) responsible for emergency field operations. An office group or individual(s) designated to handle first response situations, emergency field operations or on-scene incident commands will meet this requirement. A phone number and address of such office group or individual(s) operation shall be required.

(b) A map identifying the location of pipelines, isolation valves and/or a plot plan, sufficient in detail to enable the Loveland Fire Rescue Authority to respond to potential emergencies. The information concerning pipelines and isolation valves shall be kept confidential by the Loveland Fire Rescue Authority, and shall only be disclosed in the event of an emergency or as otherwise required by law.

(c) A provision that any spill outside of the containment area that has the potential to leave the facility or to threaten waters of the state and that is required to be reported to the commission or the commission's director shall be immediately reported to the Loveland Fire Rescue Authority emergency dispatch at 911 and to the director promptly thereafter.

(d) Access or evacuation routes and health care facilities anticipated to be used in the case of an emergency.

(e) A project-specific emergency preparedness plan for any operation that involves drilling or penetrating through known zones of hydrogen sulfide gas.

(f) A provision obligating the operator to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency caused by oil and gas operations and not promptly handled by the operator or its agents.

(g) Detailed information showing that the applicant has adequate personnel, supplies and funding to implement the emergency response plan immediately at all times during construction and operations.

O. *Noise mitigation.* All permits for oil and gas operations shall comply with COG rule 802, as amended, plus the following:

1. The exhaust from all engines, coolers and other mechanized equipment shall be vented up and in a direction away from the closest existing residences.

2. Additional noise mitigation may be required based on specific site characteristics, including, but not limit to, the following:

(a) Nature and proximity of adjacent development;

(b) Prevailing weather patterns, including wind direction;

(c) Vegetative cover on or adjacent to the site; and

(d) Topography.

3. The level of required noise mitigation may increase with the proximity of the well and well site to existing residences and platted subdivision lots, and the level of noise emitted by the well site. To the extent feasible and not inconsistent with its operations, operator may be required to use one (1) or more of the following additional noise mitigation measures to mitigate noise impacts:

(a) Acoustically insulated housing or cover enclosures on motors, engines and compressors;

(b) Vegetative screens consisting of trees and shrubs;

(c) Solid wall or fence of acoustically insulating material surrounding all or part of the facility;

(d) Noise mitigation plan identifying and limiting hours of maximum noise emissions, type, and frequency, and level of noise to be emitted and proposed mitigation measures; and

(e) Lowering the level of pumps or tank batteries.

P. *Fencing.* After the drilling, well completion and interim reclamation operations are completed, the operator shall install permanent perimeter fencing six (6) feet in height around the

entire perimeter of the production operations site, including gates at all access points. Such gates shall be locked when employees of the operators are not present on the site. Such fencing and gates shall be solid, opaque and consist of masonry, stucco, steel or other similar materials. The director may allow chain link fencing if solid and opaque fencing creates a threat to public safety or interferes with emergency or operations access to the production site.

Q. *Flammable material.* All land within twenty five (25) feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.

R. *Land disturbance standards.* The following mitigation measures shall be used to achieve compatibility and reduce land use impacts:

1. Pad dimensions for a well shall be the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
2. Oil and gas operations shall use structures and surface equipment of the minimal size necessary to satisfy present and future operational needs.
3. Oil and gas operations shall be located in a manner that minimizes the amount of cut and fill.
4. To the maximum extent feasible, oil and gas operations shall use and share existing infrastructure, minimize the installation of new facilities and avoid additional disturbance to lands in a manner that reduces the introduction of significant new land use impacts to the environment, landowners and natural resources.
5. Landscaping plans shall include drought tolerant species that are native and less desirable to wildlife and suitable for the climate and soil conditions of the area. The operator shall submit to the city a temporary irrigation plan and implement said plan, once approved by the city, for the first two years after the plant material has been planted. If it is practicable to provide a permanent irrigation system, the operator shall submit an irrigation plan for permanent watering and the operator shall provide a performance guarantee for such landscaping that is acceptable to the director. Produced water may not be used for landscaping purposes.
6. The application shall include an analysis of the existing vegetation on the site to establish a baseline for re-vegetation upon temporary or final reclamation or abandonment of the operations. The analysis shall include a written description of the species, character and density of existing vegetation on the site and a summary of the potential impacts to vegetation as a result of the proposed operations. The application shall include any commission-required interim and final reclamation procedures and any measures developed from a consultation with current planning regarding site specific re-vegetation plan recommendations.

S. *Landscaping.* When an oil and gas operation site is less than one hundred (100) feet from a public street, a Type D Bufferyard shall be required between the oil and gas operation and the public street in accordance with the City of Loveland Site Development Performance Standards and Guidelines as adopted in code chapter 18.47.

T. *Lighting.* All permits for oil and gas operations shall comply with COG rule 803, as amended, plus the following:

1. Except during drilling, completion or other operational activities requiring additional lighting, down-lighting shall be required, meaning that all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture; and
2. A lighting plan shall be developed to establish compliance with this provision. The lighting plan shall indicate the location of all outdoor lighting on the site and on any structures, and include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures.

U. *Maintenance of machinery.* Routine field maintenance of vehicles and mobile machinery shall not be performed within three hundred (300) feet of any water body.

V. *Mud tracking.* An operator shall take all practical measures to ensure that the operator's vehicles do not track mud or leave debris on city streets. Any such mud or debris left on city streets by an operator's operation shall be promptly cleaned up by the operator.

W. *Reclamation plan.* The application shall include any interim and final reclamation requirements required by the COG regulations.

X. *Recordation of flowlines.* The legal description of all flowlines, including transmission and gathering systems, shall be filed with the director and recorded with the Larimer County Clerk and Recorder within thirty (30) days of completion of construction. Abandonment of any flowlines shall be filed with the director and recorded with the Larimer County Clerk and Recorder within thirty (30) days after abandonment.

Y. *Removal of debris.* When oil and gas operations become operational, all construction-related debris shall be removed from the site for proper disposal. The site shall be maintained free of debris and excess materials at all times during operation. Materials shall not be buried on-site.

Z. *Removal of equipment.* All equipment used for drilling, re-drilling, maintenance and other oil and gas operations shall be removed from the site within thirty (30) days of completion of the work. Permanent storage of equipment on well pad sites shall be prohibited.

AA. *Signs.* A sign permit shall be obtained for all signs at the oil and gas facility or otherwise associated with the oil and gas operations in accordance with code chapter 18.50

except such permit shall not be required for those signs required by the COG regulations or this chapter.

BB. *Spills.* Chemical spills and releases shall be reported in accordance with applicable state and federal laws, including, without limitation, the COG regulations, the Emergency Planning and Community Right to Know Act, the Comprehensive Environmental Response Compensation and Liability Act, the Oil and Pollution Act, and the Clean Water Act, as applicable. If a spill or release impacts or threatens to impact a water well, the operator shall comply with existing COG regulations concerning reporting and notification of spills, and the spill or release shall also be reported to the director within twenty-four (24) hours of the operator becoming aware of the spill or release.

CC. *Temporary access roads.* Temporary access roads associated with oil and gas operations shall be reclaimed and re-vegetated to the original state in accordance with COG rule series 1000.

DD. *Development standards for street, electric, water/wastewater, and stormwater infrastructure.* All permits for oil and gas operations shall comply with the development standards for street, electric, water/wastewater and stormwater infrastructure set forth in code chapter 16.24.

EE. *Transportation and circulation.* All applicants shall include descriptions of all proposed access routes for equipment, water, sand, waste fluids, waste solids, mixed waste and all other material to be hauled on the city's streets. The submittal shall also include the estimated weights of vehicles when loaded, a description of the vehicles, including the number of wheels and axles of such vehicles, and any other information required by the city engineer. In addition to any other bonding or indemnification requirements of the city as may be reasonably imposed, all applicants shall provide the city with a policy of insurance in an amount determined by the city engineer to be sufficient to protect the city against any damages that may occur to the city's streets, roads or rights-of-way as a result of any weight stresses or spillage of hauled materials including, without limitation, water, sand, waste fluids, waste solids and mixed wastes.

FF. *Water supply.* The operator shall identify on the site plan its primary source(s) for water used in both the drilling and well completion phases of operation. In addition, if requested by the city's Water and Power Department director, the applicant's source(s) and amounts of water used in the city shall be documented and a record of it shall be provided to the city. The disposal of water used on site shall also be reported to the Water and Power Department director if requested to include the operator's anticipated haul routes and the approximate number of vehicles needed to supply and dispose of the water. When operationally feasible, the operator shall minimize adverse impacts caused by the delivery of water to the operation site by truck. If available and commercially viable, the operator shall make a service line connection to a domestic water supplier who is willing to provide such water at the same rates, fees and charges and provided that the amount of the water that can be supplied by that provider can be done so without delay or negative impact to the operator's drilling and well completion operations. When operationally feasible, the operator may alternatively purchase non-potable water from any other sources and

transfer that water through ditches or other waterways and/or through above or below ground lines.

GG. *Weed control.* The applicant shall be responsible for ongoing weed control at oil and gas operations sites, pipelines and along access roads during construction and operations, until abandonment and final reclamation is completed pursuant to commission rules. Control of weeds shall comply with the standards in code chapter 7.18.

HH. *Well abandonment.* The operator shall comply with the COG regulations regarding well abandonment. Upon plugging and abandonment of a well, the operator shall provide the director with surveyed coordinates of the abandoned well and shall leave onsite a physical marker of the well location.

II. *Federal and state regulations.* The operator shall comply with all applicable federal and state regulations including, without limitation, the OGC act and the COG regulations.

JJ. *Building permits.* A building permit shall be obtained for all structures as required by the International Fire Code and/or International Building Code as adopted in the city code.

KK. *Floodplains.* All surface oil and gas operations within the city's floodway and flood fringe districts, as these districts are defined and established in code chapter 18.45, shall be conducted, to the extent allowed under COG regulations, in accordance with all applicable COG regulations, including, without limitation, COG rules 603.k. and 1204. In addition, if the operator's oil and gas operations will involve any development or structures regulated under the city's Floodplain Building Code in code chapter 15.14, the operator shall also obtain a floodplain development permit before beginning such regulated operations.

LL. *Trash and recycling enclosures.* All applications for oil and gas operations shall comply with the requirements contained in code chapter 7.16, to the maximum extent feasible.

MM. *Representations.* The approved project development plan shall be subject to all conditions and commitments of record, including verbal representations made by the applicant on the record of any hearing or review process and in the application file, including without limitation compliance with all approved mitigation plans.

NN. *Seismic operations.* The operator shall provide at least a fifteen (15) day advance notice to the director and the Loveland Rural Fire Authority whenever seismic activity will be conducted within the city.

OO. *Access roads.* All private roads used to access the tank battery or the wellhead shall, at a minimum, be:

1. A graded gravel roadway at least twenty (20) feet wide 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 City Engineer. The aggregate material, at a minimum, shall meet the requirements for a Class 6, Aggregate Base Course as specified in the *Colorado Department of Highways Standard Specifications for Road and Bridge Construction*, latest edition.

2. Grades shall be established so as to provide drainage from the roadway surface and shall be constructed to allow for cross-drainage to waterway (i.e. roadside swells, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of culvert pipes shall be subject to approval by the city engineer.

PP. *Visual impacts.*

1. To the maximum extent practicable, oil and gas facilities shall be:
 - (a) Located away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings, and other landmarks;
 - (b) Located to avoid crossing hills or ridges;
 - (c) Located to avoid the removal of trees; and
 - (d) Located at the base of slopes to provide a background of topography and/or natural cover.
2. Access roads shall be aligned to follow existing grades and minimize cuts and fills.
3. One (1) or more of the landscaping practices may be required on a site specific bases:
 - (a) Establishment and proper maintenance of adequate ground cover, shrubs and trees;
 - (b) Shaping cuts and fills to appear as natural forms;
 - (c) Cutting rock areas to create irregular forms; and
 - (d) Designing the facility to utilize natural screens.

QQ. *COG regulations for odor.* All oil and gas operations shall comply with COG rule 805.

RR. *COG regulations for abandonment of pipelines.* Any pipelines abandoned in place shall comply with COG rule 1103 and the operator's notice to the commission of such abandonment shall be promptly filed thereafter by the applicant with the director.

SS. *Temporary Housing.* Temporary housing shall be prohibited on any oil and gas operations site, including, without limitation, trailers, modular homes and recreational vehicles, except for the temporary housing customarily provided and required during twenty-four hour drilling, well completion and flowback operations.

18.77.065 Enhanced Standards for Administrative Review Process.

All applications considered in the administrative review process and all oil and gas operations approved under this process shall be subject to and comply with the following standards and requirements, as applicable, in addition to the standards and requirements in code section 18.77.060. The operator shall designate these standards and requirements, to the extent applicable, as agreed upon best management practices on any application the operator files with the commission.

A. *Setbacks.* The following setbacks shall apply to the oil and gas operations. Unless specified otherwise herein, setbacks shall be measured from the closest edge of the oil and gas facility to the nearest wall or corner of the building.

1. Except as required under subparagraph 5, below, all oil and gas facilities shall be located at least five hundred (500) feet from any building, or such greater distance as may be required by the commission.
2. All oil and gas facilities shall be at least two hundred (200) feet from public roads, major above ground utility lines, railroads or any property or lease area line of the oil and gas facility, or such greater distance as may be required by the commission.
3. All oil and gas facilities shall be located at least five hundred (500) feet from: (i) the boundary of any natural area or wetland; (ii) the property line of any property managed by the city's Parks and Recreation Department and any city park; (iii) the operating high water line of any surface water body; (iv) the boundary of the FEMA floodway zoning district as set forth in code chapter 18.45; and (v) the property line of any property subject to a conservation easement managed by a public or non-profit entity, or such greater distance as required by the commission.
4. All oil and gas facilities shall be located at least five hundred (500) feet from any domestic or commercial water well, or such greater distance as required by the commission.
5. All oil and gas facilities shall be located at least one thousand (1,000) from any building with an occupancy rating for fifty (50) persons or more and any outdoor assembly area with a capacity of fifty (50) persons or more, or such greater distance as required by the commission.

B. *Commission mitigation regulations.* All oil and gas operations shall comply with the mitigation measures required under commission Rule 604.c, as amended.

C. *Bufferyards.* The bufferyards set forth in Table 1 below, shall be established once the well is in production around the entire perimeter of the oil and gas production site, excluding vehicular access points, and maintained until the site has been restored in accordance with the final reclamation plan approved by the city and the commission. Bufferyards shall not be required during drilling and well completion operations. The use of xeriscape plant types shall be used unless a permanent irrigation system is provided by the operator. A temporary irrigation system shall be provided, maintained and operated for xeriscape plant types for a period of two years from planting.

Table 1 - Bufferyards			
Base Standard (plants per 100 linear feet)	Optional Width (feet)	Plant Multiplier	Option: add 6 foot opaque masonry wall
5 canopy trees	150	1.00	.85
6 evergreen trees	170	0.90	
4 large shrubs	190	0.80	
	210	0.70	
	230	0.60	
	250	0.50	

D. *Air quality standards.* Air emissions from oil and gas facilities shall be in compliance with the permit and control provisions of the Environmental Protection Agency, Air Quality Control Commission and Colorado Oil and Gas Conservation Commission. In addition, the operator of the oil and gas facility agrees to employ the following enhanced standards for air quality mitigation.

1. *General duty to minimize emissions.* All continuously operated equipment, including but not limited to, storage vessels and dehydrators shall route vapors to a capture and control device with at least a ninety-eight percent (98%) destruction efficiency. Operators shall submit to the director test data of like equipment or manufacturer’s data demonstrating the control device can meet the destruction efficiency. Any combustion device, auto ignition system, recorder, vapor recovery device or other equipment used to meet the destruction efficiency shall be installed, calibrated, operated and maintained in accordance with the manufacturer’s recommendations, instruction and operating manuals.
2. *Combustion devices.* All flares shall be designed and operated as follows:
 - (a) The combustion devices shall be designed and operated in a matter that will ensure it complies with 40 Code of Federal Regulations (“CFR”) §60.18 (General control device and work practice requirements);

- (b) The combustion device, during production operations, shall be operated with a pilot flame present at all times vapors may be routed to it. Presence of a pilot flame shall be continuously monitored and recorded; and
 - (c) Combustion devices shall be equipped with automatic flame ignition systems in the event the pilot flame is extinguished.
3. *Fugitive emissions.* The operator shall develop and follow a leak detection and repair plan to minimize emissions from fugitive components. The plan will be submitted to the director for incorporation into the permit.
4. *Pneumatic controllers.* The operator shall use only no- or low-bleed pneumatic controllers, where such controllers are available for the proposed application. High-bleed pneumatic controllers may be used where air is the motive gas for operation of the controller and valve.
5. *Well completion practices.* For each well completion operation, the operator shall minimize emissions from the operation as set forth below:
- (a) For the duration of flowback, route the recovered gas to the sales pipeline once the well has enough gas to safely operate the separator, or like device, and liquid control valves;
 - (b) If flow and gathering lines are not available to comply with subparagraph (a) above, the operator shall capture the recovered gas to a completion combustion device, equipped with a continuous ignition system, to oxidize the recovered gas stream except in conditions that may result in a fire hazard or explosion, or where high heat emissions from the completion device may negatively impact a sensitive area or nearby structure;
 - (c) Operators shall have a general duty to safely maximize resource recovery and minimize releases to the atmosphere during flowback; and
 - (d) Operators shall maintain a log for each well completion operation. The log shall be completed in accordance with the methods outlined in the Environmental Protection Agency's Code of Federal Regulations, specifically 40 CFR Part 60, Subpart OOOO.
6. *Well maintenance and blowdowns.* The operator shall utilize best management practices during well maintenance and blowdowns to minimize or eliminate venting emissions.
7. *Capture of produced gas from wells.* Gas produced during normal production shall be captured, to the maximum extent feasible, and not flared or vented, except in situations where flaring or venting is required to ensure that associated natural gas can be safely disposed of in emergency shutdown situations.

8. *Rod-packing maintenance.* Operators shall replace rod-packing from reciprocating compressors located at facilities approved after April 15, 2013, every twenty-six thousand (26,000) hours of operation or thirty-six (36) months, whichever occurs first.

9. *Monitoring compliance and reporting.* Operators shall submit to the director an annual report providing the following information concerning the operator's oil and gas operations as related to air emissions:

- (a) Dates when the operator or its agent inspected its oil and gas facilities under its leak detection and repair plan;
- (b) A record of the expected and actual air emissions measured at the facilities;
- (c) The operator's emissions data collected during well completion activities;
- (d) Dates and duration when operator conducted well maintenance activities to minimize air emissions;
- (e) If venting occurred at any time during the reporting period, an explanation as to why best management practices could not have been used to prevent such venting; and
- (f) Dates when reciprocating compressor rod-packing is replaced.

E. *Pipelines.* Any newly constructed or substantially modified pipelines on site shall meet the following requirements:

- 1. Flowlines, gathering lines and transmission lines shall be sited at a minimum of fifty (50) feet away from residential and non-residential buildings, as well as the high-water mark of any surface water body. This distance shall be measured from the nearest edge of the pipeline. Pipelines and gathering lines that pass within one hundred fifty (150) feet of residential or non-residential building or the high water mark of any surface water body shall incorporate leak detection, secondary containment or other mitigation, as appropriate;
- 2. To the maximum extent feasible, pipelines shall be aligned with established roads in order to minimize surface impacts and reduce habitat fragmentation and disturbance;
- 3. To the maximum extent feasible, operators shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize surface impacts; and

4. Operators shall use boring technology when crossing streams, rivers, irrigation ditches or wetlands with a pipeline to minimize negative impacts to the channel, bank and riparian areas.

F. All oil and gas facilities shall comply with the sound limitation standards set forth in code chapter 7.32 after development of the well is complete, meaning while the well is in production. A noise mitigation study shall be submitted with the application to demonstrate compliance with said code chapter. If necessary to comply with said chapter, a noise screen shall be constructed along the edge of the oil and gas facility between the facility and existing residential development or land zoned for future residential development.

18.77.070 Application Requirements.

All applications submitted to current planning shall contain the information required for a COG permit and any additional information required by the city's "Oil and Gas Development Application Submittal Checklist" approved by the city manager.

18.77.075 Variances.

A. *Variance Request.* In both the planning commission review and administrative review processes, an applicant may request a variance from any provision of this chapter. A request for a variance under this section may be included in the applicant's application and shall be processed, reviewed and granted, granted with conditions or denied in accordance with and as part of the planning commission review process or the administrative review process, as applicable. The variance provisions of chapter 18.60 shall not be applicable to a variance request under this chapter.

B. *Grounds for Variance.* A variance from the application of any provision in this chapter shall be granted on the basis of one or more of the following grounds:

1. The provision is in operational conflict with the OGC act or the COG regulations, meaning the application of the provision would have the effect of materially impeding or destroying a state interest as expressed in the COG act or the COG regulations.
2. There is no technology commercially available at a reasonable cost to conduct the proposed oil and gas operations in compliance with the provision and granting a variance from the operation of the provision will not have an adverse effect on the public health, safety or welfare or on the environment.
3. Protection of the public health, safety and welfare and of the environment would be enhanced by an alternative approach not contemplated by the provision.
4. Application of the provision will constitute a regulatory taking of property without just compensation by the city under Article II, Section 3 of the Colorado Constitution.

5. Application of the provision is impractical or would create an undue or unnecessary hardship because of unique physical circumstances or conditions existing on or near the site of the oil and gas operations, which may include, without limitation, topographical conditions, shape or dimension of the operation site, inadequate public infrastructure to the site, or close proximity of occupied buildings.

18.77.080 Transfer of Permits.

Oil and gas permits may be assigned to another operator only with the prior written consent of the director and upon a showing to the director that the new operator can and will comply with all conditions of the transferred permit and with all of the applicable provisions of this chapter. The existing operator shall assign the permit to the new operator on a form provided by the city and the new operator shall also sign the form agreeing to comply with all of the conditions of the permit and all applicable provisions of this chapter.

18.77.085 Other Applicable Code Provisions.

In addition to the provisions of this chapter, all oil and gas operations conducted within the city shall comply with all applicable provisions of the following code chapters: 3.16, Sales and Use Tax; 7.12, Nuisances - Unsanitary Conditions; 7.16, Solid Waste Collection and Recycling; 7.18, Weed Control; 7.26, Accumulations of Waste Materials; 7.30, Graffiti; 7.36, Fire Protection; 10.04, Traffic Regulations; 10.20, Parking; 12.16, Use of City Rights-of-Way; 12.28, Prohibited Uses of Streets and Other Public Places; 13.18, Stormwater Management; 13.20, Stormwater Quality; 15.08, Building Code; 15.12, Property Maintenance Code; 15.14, Floodplain Building Code; 15.16, Mechanical Code; 15.24, Electrical Code; 15.28, Fire Code; 16.38, Capital Expansion Fees; 16.41, Adequate Community Facilities; 16.42, Street Maintenance Fee; 18.45, Floodplain Regulations; 18.50, Signs; 13.04, Water Service; 13.06, Cross Connection Control; and 19.06, Irrigation.

18.77.090 Emergency Response Costs.

The operator shall reimburse the Loveland Fire Rescue Authority for any emergency response costs incurred by the Authority in connection with fire, explosion or hazardous materials at the well or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by mistake of the Authority or in response to solely a medical emergency.

18.77.095 Application and Inspection Fees.

The city council may establish by resolution fees to be collected at the time an application is filed with current planning for the city's reasonable costs in processing applications under this chapter and for fees thereafter imposed for the city's reasonable costs to conduct inspections to ensure compliance with this chapter. Fees established for inspections shall be nondiscriminatory to only cover the city's reasonable costs to inspect and monitor for road damage and for compliance with the city's fire code, building codes and the conditions of any permit issued under this chapter. However, such inspection fees shall not be based on any costs

the city might incur to conduct inspections or monitoring of oil and gas operations with regard to matters that are subject to rule, regulation, order or permit condition administered by the commission.

18.77.100 Capital Expansion Fees.

Oil and gas operations within the city shall be subject to the capital expansion fees established under code chapter 18.38. The city council may adopt and set such fees by resolution. Any such fees adopted, shall be paid by the operator to the city at the time of issuance of an oil and gas permit under this chapter.

18.77.105 Reimbursement for Consultant Costs.

If the city contracts with an outside consultant to review and advise the city concerning any applicant's application or in connection with any applicant's hearing conducted under this chapter, the applicant shall reimburse the city for the city's reasonable costs incurred with that consultant. No permit shall be issued and no suspended permit shall be reinstated until the applicant reimburses the city in full for any such costs.

18.77.110 Adequate Transportation Facilities.

All applications submitted and all permits issued under this chapter shall be subject to all of the applicable adequate community facilities requirements of code chapter 16.41 as they relate solely to the transportation facilities required in code section 16.41.110.

18.77.115 Insurance and Performance Security.

A. *Insurance.* Every operator granted a permit under this chapter shall procure and maintain throughout the duration of the operator's oil and gas operations a policy of comprehensive general liability insurance, or a self-insurance program approved by the Colorado Insurance Commission, insuring the operator and naming the city as an additional insured, against any liability for personal injury, bodily injury or death arising out of the operator's permitted operations, with coverage of at least one million dollars (\$1,000,000) per occurrence. Unless the operator is self-insured, insurance required by this paragraph A. shall be with companies qualified to do business in the State of Colorado and may provide for a deductible as the operator deems reasonable, but in no event greater than ten thousand dollars (\$10,000). The operator shall be responsible for payment of any deductible. No such policy shall be subject to cancellation or reduction in coverage limits or other modification except after thirty (30) days prior written notice to the city. The operator shall identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal the operator changes to "occurrence," the operator shall carry a twelve (12) month tail. The operator shall not do or permit to be done anything that shall invalidate the policies. In addition, the insurance required by this paragraph A. shall cover any and all damages, claims or suits arising out of the actual, alleged or threatened discharge, disbursement, seepage, migration, release or escape of pollutants, and shall not exclude from coverage any liability or expense arising out of or related to any form of pollution, whether intentional or otherwise. Further, the policies required

by this paragraph A. shall be deemed to be for the mutual and joint benefit and protection of the operator and the city and shall provide that although the city is named as additional insured, the city shall nevertheless be entitled to recover under said policies for any loss occasioned to the city or its officers, employees or agents by reason of negligence of the operator or of its officers, employees, agents, subcontractors or business invitees and such policies shall be written as primary policies not contributing to or in excess of any insurance coverage the city may carry. Prior to the issuance of the operator's permit, the operator shall furnish to the city certificates of insurance evidencing the insurance coverage required herein. In addition, the operator shall, upon request by the city and not less than thirty (30) days prior to the expiration of any such insurance coverage, provide the city with a certificate of insurance evidencing either new or continuing coverage in accordance with the requirements of this section.

B. *Performance Security for Road Damage.* Prior to the issuance of a permit to an applicant, the applicant shall provide the city with a twenty-five thousand dollar (\$25,000) performance security for each well that is permitted while the well is in operation in the form of an irrevocable letter of credit or equivalent financial security acceptable to the director to cover the city's costs to repair any damages to the city's public rights-of-way caused by the operator's use of said rights-of-way. In the event this security is insufficient to cover the city's costs to repair any such damages, the operator shall be liable to the city for those additional costs and the city may pursue a civil action against the operator to recover those costs as provided in section 18.77.125.C. Reclamation and other activities and operations which fall under the COG regulations are exempted from this performance security coverage.

18.77.120 Inspections, Right to Enter and Enforcement.

A. *Inspections.* All oil and gas operations and facilities may be inspected by the city's duly appointed inspectors at reasonable times to determine compliance with the applicable provisions of this chapter and all other applicable provisions in this code. However, the city's inspections shall be limited to the inspection of those matters directly enforceable by the city under this chapter 18.77 as provided in paragraph C. of this section. In the event an inspection is desired by the city relating to a matter not directly enforceable by the city under this chapter, the city shall contact the commission to request that it conduct the inspection and take appropriate enforcement action.

B. *Right to Enter.* Notwithstanding any other provision in this code to the contrary, for the purpose of implementing and enforcing the provisions of this chapter and the other applicable provisions of this code, the city's inspectors shall have the right to enter upon the private property of a permitted operator after reasonable notification to the operator's designated agent, in order to provide the operator with the opportunity to be present during such inspection. Such notice shall not be required in the event of an emergency that threatens the public's health or safety. By accepting an oil and gas permit under this chapter, the operator grants its consent to this right to enter.

C. *Enforcement.* The city's enforcement of the provisions of this chapter 18.77 and of the conditions included in permits issued under this chapter shall be limited to those provisions and conditions that are not in operational conflict with state law or COG regulations and that are

enforced by the commission, except when the provision or condition is an enhanced standard imposed and agreed to by the applicant through the administrative review process or agreed to by the applicant in the planning commission review process.

D. *Designated Agent.* The applicant shall include in its application the telephone number and email address of its designated agent and at least one back-up designated agent who can be reached twenty-four (24) hours a day, seven (7) days a week for the purpose of being notified of any proposed city inspection under this section or in case of an emergency. The applicant shall notify the city in writing of any change in the primary or back-up designated agent or their contact information.

18.77.125 Violations, Suspension and Revocation of Permits, Civil Actions and Penalties.

A. *Violations.* It shall be unlawful and a misdemeanor offense under this chapter for any person to do any of the following:

1. Conduct any oil and gas operation within the city without a validly issued permit;
2. Violate any enforceable condition of a permit; or
3. Violate any applicable and enforceable provision of this chapter and code.

B. *Suspension and Revocation.* If at any time the director has reasonable grounds to believe than an operator is in violation of any enforceable provision of this chapter or code, the director may suspend the operator's permit. The director shall give the operator's designated agent written notice of the suspension and, upon receiving such notice, the operator shall immediately cease all operations under the permit, except those reasonably required to protect the public's health and safety. The director's written notice shall state with specificity the operator's violation(s). The suspension shall continue in effect until the director determines that the violation(s) has been satisfactorily corrected. At any time during the suspension, the operator may appeal the director's action to the City Council by filing with the City Clerk a written notice of appeal stating with specificity the operator's grounds for appeal. Within thirty (30) days of the City Clerk's receipt of that notice, a public hearing shall be held before the City Council. The hearing shall be conducted as a quasi-judicial proceeding with the operator having the burden of proof and with the director defending the suspension of the permit. After hearing and receiving evidence and testimony from the operator, from the director and from other city staff and consultants, and after receiving public comment, the City Council may revoke the permit, terminate the suspension of the permit or take such other action as it deems appropriate under the circumstances taking into consideration and balancing the protection of the public's health, safety and welfare and the operator's rights under this chapter and state law to conduct its oil and gas operations. Within twenty five (25) days after the hearing, the Council shall adopt its written findings and conclusion supporting its decision. The Council's written findings and conclusions shall constitute the Council's final decision that may be appealed to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

C. *Civil Actions.* In addition to any other legal remedies provided under this chapter to enforce violations of this chapter, the city may commence a civil action against an operator committing any such violations in any court of competent jurisdiction and request any remedy available under the law or in equity to enforce the provisions of this chapter, to collect any damages suffered by the city as the result of any violation and to recover any fees, reimbursements and other charges owed to the city under this chapter and code. If the city prevails in any such civil action, the operator shall be liable to the city for all of the city’s reasonable attorney’s fees, expert witness costs and all other costs incurred in that action.

D. *Penalties.* A violation of any enforceable provision of this chapter shall constitute a misdemeanor offense punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a term not exceeding one (1) year, or both such fine and imprisonment. A person committing such offense shall be guilty of a separate offense for each and every day, or a portion thereof, during which the offense is committed or continued to be permitted by such person, and shall be punished accordingly.

18.77.130 Conflicting Provisions.

In the event of any conflict between any provision of this chapter and any other provision of this code, the provision of this chapter shall control.

Section 2. That a new Chapter 18.78 is hereby added to the Loveland Municipal Code to read in full as follows:

Chapter 18.78

Building Setbacks from Oil and Gas Facilities

Sections:

- 18.78.010 Purpose**
- 18.78.020 Building Setbacks from Oil and Gas Facilities**
- 18.78.030 Variances.**

18.78.010 Purpose.

The purpose of this chapter is to generally protect the public’s health, safety and welfare and more specifically to establish setbacks for new development from existing or abandoned oil and gas facilities.

18.78.020 Building Setbacks from Oil\and Gas Facilities.

All “buildings,” as defined in code section 18.77.025, except such buildings with an occupancy rating for fifty (50) persons or more, shall be setback a minimum distance of five hundred (500) feet from an existing or abandoned oil and gas facility. All such buildings with an occupancy rating for fifty (50) persons or more and “outdoor assembly areas,” as this term is

defined in code section 18.77.025, shall be set back a minimum of one thousand (1,000) feet from any existing or abandoned “oil and gas well,” as this term is defined in code section 18.77.025. Land included in such setback areas shall be restricted to use only as open space and recreational uses within that open space, such as play fields, parks and playgrounds, shall not be permitted.

18.78.030 Variances.

The owner of any real property subject to the setback requirements of section 18.78.020 may request a variance from those setbacks in accordance with the provisions of section 18.77.075 using the planning review process set out in Chapter 18.77.

Section 3. That Ordinance No. 5685 and Ordinance No. 5735 are hereby repealed.

Section 4. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this ____ day of _____, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**Development Services Department**

500 East Third Street, Suite 310 • Loveland, CO 80537
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To: City Council

From: Greg George, Development Services Director
John Duval, City Attorney

Date: March 19, 2013

Re: Regulations for oil and gas development

I. ATTACHMENTS

1. Slide show

II. EXECUTIVE SUMMARY

On March 5, 2013, City Council adopted an ordinance on first reading establishing regulations for oil and gas development. The ordinance was developed to be consistent with the Statement of Direction adopted by City Council on August 21, 2012 and to address concerns raised by Loveland citizens concerning impacts on public health, safety and welfare and the environment, while recognizing the City's legal authority to regulate oil and gas development.

The ordinance would create a new Chapter 18.77, to establish all review procedures, regulations, and standards applicable to oil and gas development. Oil and gas operators would be required to obtain a permit from the City for all surface oil and gas development within Loveland city limits. The ordinance would also create a new Chapter 18.78 to establish setbacks for new development from existing and abandoned oil and gas facilities.

The ordinance accompanying this report has been revised from the ordinance that received first reading approved on March 5th. The revisions reflect comments received from Council members and those testifying at the March 5th public hearing.

III. ORDINANCE REVISIONS

The following is a description of the significant revisions made to the ordinance since first reading on March 5, 2013. Page references are to the page numbers in the lower right-hand corner of the redlined version of the ordinance.

- A. **Section Sixth “Whereas” (page 1) - City’s recognition of operational:** Clarifies that the regulation of oil and gas development is a mixed statewide and local concern and that the City has the legal authority as a home rule municipality to regulate oil and gas operations so long as any such regulations are not in operational conflict with state law.
- B. **Seventh “Whereas” (page 1) – City’s exercise of legal authority:** Removes unnecessary description of what the State’s interest is in regulating oil and gas development.
- C. **Section 18.77.025.A (page 4) - Defined terms and phrases:** Clarifies what the controlling definition is when there is more than one definition for the same term or phase.
- D. **Section 18.77.025.K (page 5) – Definition of best management practices:** The definition of “best management practices” has been revised to consolidate the current definition of this term with the term “most effective performance technologies and practices” in paragraph BB that is being eliminated.
- E. **Section 18.77.025.Y and Z (page 6) – Definition of “fracking”:** Changes the defined word “fracking” to the term “hydraulic fracturing,” which is the term used by the State’s regulations.
- F. **Section 18.77.025.BB (page 6) – Consolidated definition:** Removes the definition of “most effective performance technology and practices” that has been consolidated into the term “best management practices.”
- G. **Section 18.77.045.C (page 11) – Neighborhood meeting:** Establishes that in order for the COGCC’s neighborhood meeting to be considered duplicative of the City’s required neighborhood meeting, the COGCC’s meeting must be held within the City.
- H. **Section 18.77.045.F (page 11) – Planning Commission grounds for denial:** Clarifies that if a condition on a permit in the Planning Commission review process is expressly required to meet a baseline standard, then refusal by the operator to agree to any such condition can be used by the Planning Commission as the basis to deny the permit.
- I. **Section 18.77.045.G (page 12) – Appeal of Planning Commission Decision:** Clarifies that City Council cannot deny a permit based on the operator’s refusal to agree to a condition, unless the condition is expressly required by Chapter 18.77.
- J. **Section 18.77.050.A (page 12) – Operational conflict:** Clarifies that the operator is not necessarily waiving all rights to pursue a determination of an operational conflict under application of the enhanced standards, but maintains the express requirement that the operator agrees to comply with the baseline standards and enhanced standards, even if the enhanced standards may be interpreted to be in operational conflict with State law.
- K. **Section 18.77.050.F (page 13) - Director’s negotiation with Applicant:** Clarifies that the Director shall negotiate with the operator to add conditions to mitigate site specific impacts. Also, clarifies that under the Administrative Review Process the Director may deny a permit on the basis that the operator refuses to agree to a condition it is expressly required to comply with either a baseline standard or enhanced standard.
- L. **Section 18.77.060.I (page 15): - Chemical disclosure:** Clarifies the requirement that the operator file with the Loveland Fire Rescue Authority the chemical disclosure form

- for hydraulic fracturing fluid that is required by the COGCC to be filed with the State's chemical disclosure registry.
- M. **Section 18.77.060.M (pages 16) – Electric equipment:** Removes the requirement that electric power be used during drilling and well completion and only be required once the well is under production. Further research has revealed that electric equipment used for drilling and hydraulic fracturing is not readily available in the industry and such unavailability would likely create an operational conflict under State law.
 - N. **Section 18.77.060.N.2(a) (page 16) – Emergency response:** Clarifies who the operator must identify for purposes of emergency response. **Section 18.77 120.C (page 31)** requires the operator to designate an agent, and at least one backup, that can be reached 24 hours a day, 7 days a week for purposes of being notified of any inspection by the City in case of an emergency.
 - O. **Section 18.77.060.O.3 (page 17) – Noise mitigation:** Clarifies that these additional noise mitigation measures may be required depending on site specific characteristics.
 - P. **Section 18.77.060.P (page 18) - Fencing:** Clarifies that permanent fencing is not required around the well site until drilling, well completion and interim reclamation operations are completed. Further research indicates that such fencing would not be necessary for security reasons during drilling and completions operations since the operator's personnel are present on the site continuously during this process. Also, the area of the site is much larger during the drilling and completion operations, so any such fencing installed during these operations would be temporary. Gives added discretion to the Director to allow chain link fencing if solid fencing would interfere with access to the site for emergency or operations purposes.
 - Q. **Section 18.77.060.AA (page 20) - Signs:** Exempts the operator from having to obtain a sign permit from the City for signs required by the COGCC or by Chapter 18.77.
 - R. **Section 18.77.060.FF (pages 20-21) – Water supply:** Clarifies requirements for the operator to report to the City its source of water supply for drilling and well completion operations. The requirement for the oil and gas operation sites to be connected to an available domestic water supply, under **Section 18.77 060.NN (page 22)**, have been moved to this subsection and an alternative provided for the operator to purchase and use non-potable water if feasible.
 - S. **Section 18.77.060.KK (page 21) - Floodplains:** Clarifies that oil and gas operations located with the City's floodway or flood fringe zoning districts must be conducted in accordance with COGCC regulations. Also requires the issuance of a building permit for any structures requiring such under the City's Floodplain Building Code.
 - T. **Section 18.77.060.SS (page 23) – Temporary housing:** The prohibition of temporary housing has been move from **Section 18.77.074 (page 27)** and the other oil and gas facilities prohibited under that section; pits, commercial disposal facilities and centralized exploration and production waste management facilities, have been deleted. These facilities were deleted as prohibited uses based on the likelihood that such prohibitions would be preempted by State law.
 - U. **Section 18.77.065 (page 23) – Enhanced Standards:** Clarifies that enhanced standards shall be added as conditions on the permit issued by the COGCC.
 - V. **Section 18.77.065. C (page 24) – Bufferyards:** Clarifies that bufferyards are not required until the drilling, well completion and interim reclamation operations are

- complete. These initial operations occur for a short period of time and generally occupy a much larger area than the oil and gas site once is under production.
- W. **Section 18.77.065.D.9 (page 26) – Air quality monitoring:** Includes a new requirement that the operator submit to the Director an annual report related to monitoring air emissions. This report is designed to provide assurances to the City that the operator is inspecting and monitoring the air quality mitigation devices and equipment required under this enhanced standard to confirm that such devices and equipment are being maintained in accordance with manufacturer specifications.
 - X. **Section 18.77.065.F (page 27) – Sound limitations:** Clarifies that the oil and gas facility must comply with the City’s sound limitations once the facility is under production and not during the drilling and well completion operations. During drilling and completion operations the facility would be required to meet the COGCC’s sound limitations of 70 dB(A) during the day and 65 dB(A) during the night, measured at the nearest building unit.
 - Y. **Section 18.77.115.B (page 30) – Performance security for road damage:** Establishes \$25,000 as the amount of security required to cover the City’s potential costs to repair any damages to City streets caused by the operator’s use thereof and clarifies that if such security is insufficient to cover the cost of such damages, the operator is liable to the City for those additional costs.
 - Z. **Section 18.77.120.A (page 31) – Inspections:** Limits the City’s inspection authority to those matters directly enforceable by the City under Section 18.77.120.C. If the City desires to inspect a matter not directly enforceable by the City, then the City must request the COGCC to conduct the inspection.
 - AA. **Section 18.77.120.C (page 31) – Enforcement:** Establishes that the City’s enforcement authority is limited to those matters directly enforceable by the City provisions and conditions not in operational conflict with State law and enforced by the COGCC, except for those provisions or conditions that are imposed by the City and agreed to by the operator under the enhanced standards process.

IV. BENEFITS OF ENHANCED STANDARDS

The following is a description of the Enhanced Standards required under the Administrative Review Process that would not be required under the Planning Commission Review Process.

A. Setbacks:

1. Sensitive areas as defined by the City are provided a 500 foot setback without having to submit application to have the COGCC recognize Designated Outdoor Activities Areas under their definition.
2. The COGCC’s definition of Designated Outdoor Activities Areas would not include a 500 foot setback for the following, which are include in the Enhanced Standards:
 - a. Boundary of any natural area or wetland as defined in City documents;
 - b. The operating high water line of any surface water body;
 - c. Boundary of the FEMA floodway;

- d. The property line of any property subject to a conservation easement managed by a public or non-profit entity; and
 - e. Any commercial or domestic water well.
- B. COGCC Mitigation Measures:** In addition to the Enhanced standards, all oil and gas facilities within the City will be required to implement the COGCC's new mitigation measures, regardless of how far the facility is from a building unit.
- C. Bufferyards:** Bufferyards consistent with current City requirements for heavy industrial uses would be required.
- D. Air Quality Mitigation:** Devices and equipment required to mitigate air quality impacts;
- 1. All vapors to be routed to a capture and control device with at least 98% destruction efficiency;
 - 2. Leak protection and repair plan required;
 - 3. Require best management practices to minimize or eliminate venting emissions during well maintenance and blowdowns; and
 - 4. Gas produced during normal production shall be captured and not flared.
- E. On-Site Air Quality Monitoring**
- 1. Operator required to submit report related to monitoring on-site devices and equipment to control air emissions; and
 - 2. To ensure that operator is inspecting and monitoring air quality mitigation devices and equipment to ensure compliance with manufacture's specifications.
- F. Pipelines**
- 1. 50 foot setback from residential building;
 - 2. If closer than 150 feet from residential building or surface water body, then leak detection and secondary containment;
 - 3. Aligned with established roads;
 - 4. Share existing pipeline rights-of-way; and
 - 5. Bore under streams, rivers, irrigation ditches, and wetlands.
- G. Sound Limitations:** Required to meet City's sound limitation standards.
- H. Inspection and Enforcement:** The City would have greater inspection and enforcement authority.

REGULATIONS for OIL AND GAS DEVELOPMENT

City Council
PUBLIC HEARING
March 19, 2013

Purpose

- Zoning conflicts with State law
- Lack of development standards

Two Types of Standards/Processes

- Baseline Standards
 - Mandatory
 - Planning Commission review process
 - Protect public health, safety and welfare and the environment, while
 - Being in harmony with State law
 - Avoiding litigation

- Enhanced Standards
 - Voluntary
 - Administrative review process
 - Higher level of mitigation of impacts on public health, safety and welfare and the environment

Planning Commission Review Process

- Neighborhood meeting - standing to appeal
- Planning Commission approval at fully noticed public hearing
- Could be appealed to City Council
- City Council approval at fully noticed public hearing

Administrative Review Process

- Neighborhood meeting
- Review by Development Review Team
- Public comment period
- Shall negotiation with applicant
- Mitigation in addition to Enhanced Standards, only if agreed to by applicant
- Approval by director
- No appeal to Planning Commission or City Council
- Only appeal to Larimer County district court

Commission's New Rules

- Groundwater baseline sampling and monitoring
 - Adopted January 7, 2013
 - Legally effective May 1, 2013
 - Greater Wattenberg Area
- Building setbacks
 - Adopted February 11, 2013
 - Require new mitigation measures within 1,000 feet of Building unit, High Occupancy Building Unit and Designated Outdoor Activity Area
 - Require waiver from all building owners if within Urban Mitigation Area and 500 feet from of a Building Unit

What do the City's Enhanced Standards Provide?

- Greater setbacks
- Greater COGCC standards for urban environments, applied to any City location
- Air quality controls and monitoring
- Buffer yards
- Sound mitigation
- Pipeline location standards
- City inspection and monitoring

Enhanced Standards

- Setbacks:
 - ✓ Sensitive areas as defined by the City are provided a 500 foot setback without having to submit application to have the COGCC recognize Designated Outdoor Activities Areas under their definition.
 - ✓ The COGCC's definition of Designated Outdoor Activities Areas would not include a 500 foot setback for the following, which are include in the Enhanced Standards:
 - Boundary of any natural area or wetland as defined in City documents
 - The operating high water line of any surface water body
 - Boundary of the FEMA floodway
 - The property line of any property subject to a conservation easement managed by a public or non-profit entity
 - Any commercial or domestic water well

- COGCC Mitigation Measures

- ✓ In addition to the Enhanced standards, all oil and gas facilities within the City will be required to implement the COGCC's new mitigation measures, regardless of how far the facility is from a building unit.

- Bufferyards

- ✓ Bufferyards consistent with current City requirements for heavy industrial uses would be required.

- **Air Quality Mitigation**
 - ✓ Devices and equipment required to mitigate air quality impacts
 - All vapors to be routed to a capture and control device with at least 98% destruction efficiency
 - Leak protection and repair plan required
 - Require best management practices to minimize or eliminate venting emissions during well maintenance and blowdowns
 - Gas produced during normal production shall be captured and not flared

- **Sound Limitations**
 - ✓ Required to meet City's standards sound limitations

- **Inspection and Enforcement**
 - ✓ The City would have greater inspection and enforcement authority

- On-Site Air Quality Monitoring
 - ✓ Operator required to submit report related to monitoring on-site devices and equipment to control air emissions
 - ✓ To ensure that operator is inspecting and monitoring air quality mitigation devices and equipment to ensure compliance with manufacture's specifications

- Pipelines
 - ✓ 50 foot setback from residential building
 - ✓ If closer than 150 feet from residential building or surface water body, then leak detection and secondary containment
 - ✓ Aligned with established roads
 - ✓ Share existing pipeline rights-of-way
 - ✓ Bore under streams, rivers, irrigation ditches, and wetlands

Significant Events

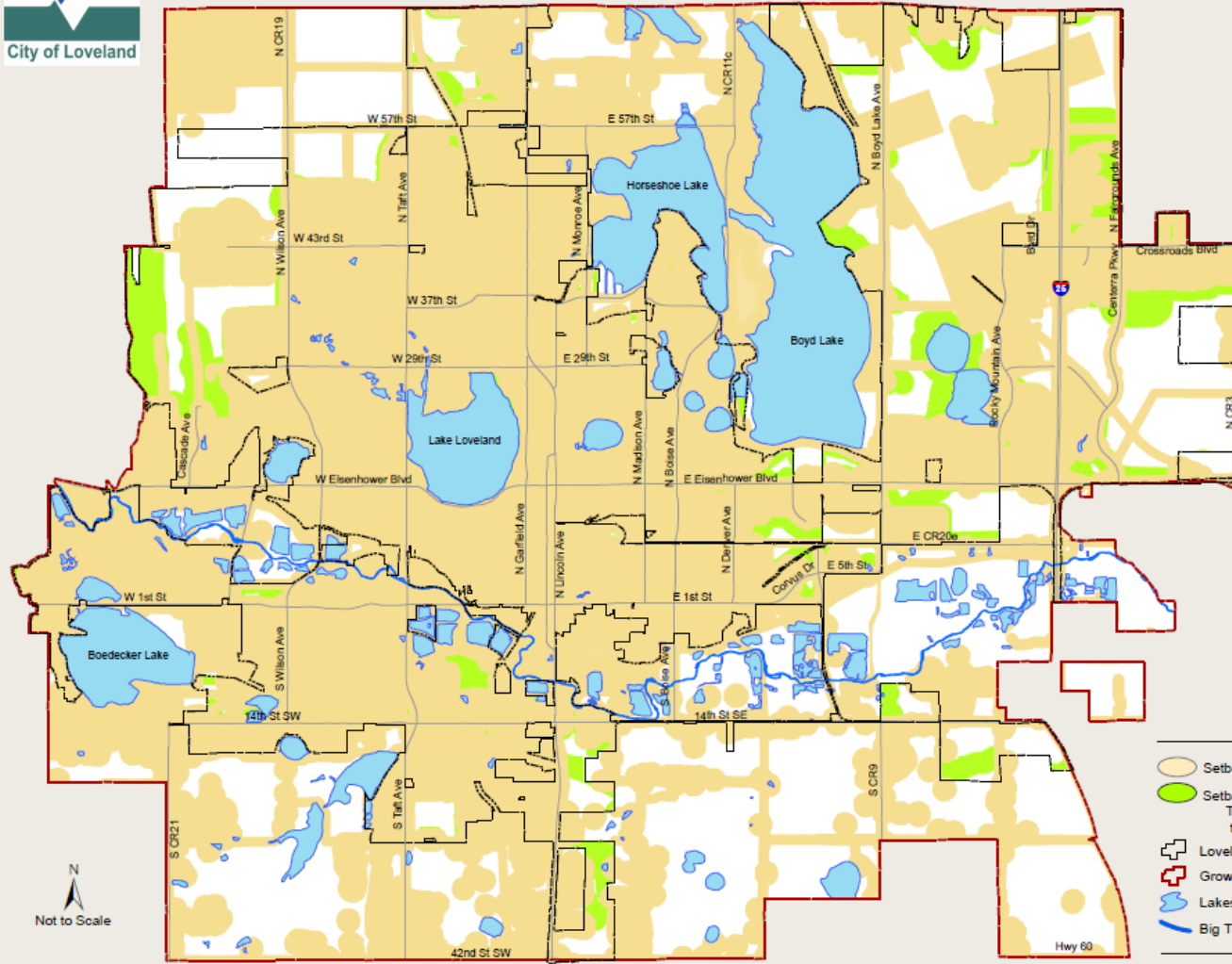
- May 15, 2012 - Moratorium
- June 12, 2012 - City Council/Planning Commission study session
- August 21, 2012 - City Council Statement of Direction
- October 23, 2012 - City Council/Planning Commission public forum
- December 18, 2012 - Extension of moratorium

Key Issues

- Feasibility of Enhanced Regulations
- Additional inspection services
- Setbacks for new development from existing and abandoned oil and gas facilities
 - 500 foot radius = 18 acres
 - 1,000 foot radius = 72 acres
- Creation of “no-build” areas within City limits and Growth Management Area



Setback Areas as defined by New COGC Regulations and Proposed Loveland Enhanced Standards



This map represents general application of the Colorado Oil and Gas Conservation (COGC) newly adopted regulations under Section 603, effective August 1, 2013. In addition, this map shows general application of the proposed City of Loveland Enhanced Standards for setbacks. These setbacks apply to new wellheads or facilities.

This map is based on the best available information/GIS data and is considered a generalized analysis of both the COGC and City regulations and does not account for possible variation of how the setback rules are applied. Actual wellhead/facilities locations will be evaluated on a detailed site-specific analysis. This map is subject to change.

Please note: The new COGC regulations are applied to areas within the Loveland Growth Management Area (GMA). The proposed City Enhanced Standards are applied only within the city limits shown in the black dashed line.

Legend

- Setback Areas as defined by New COGC Regulations
- Setback Areas as defined by Proposed City Enhanced Standards
This map layer only shows where the standards are greater than the COG regulations within City Limits
- Loveland City Limits
- Growth Management Area
- Lakes and Ponds
- Big Thompson River

Date Saved: 2/19/2013
Prepared by City of Loveland, Development Services Department

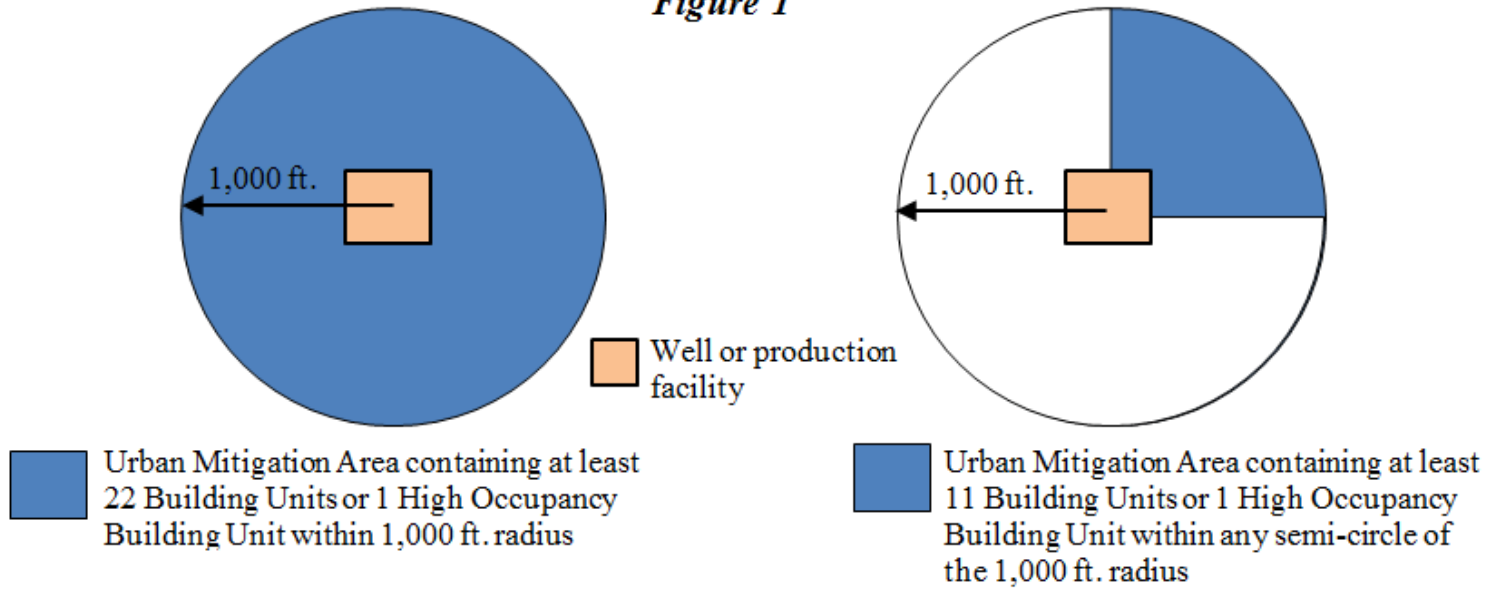
Questions and Discussion

New COGCC Setback Rules

- Definitions
 - Residential Building Unit: Building designed for use a place of residency
 - Building Unit: Residential Building Unit, every 5,000 sq. ft. commercial building and every 15,000 sq. ft. of warehouse building
 - High Occupancy Building Unit: Public school, non-public school, nursing facility, hospital, life care institution, correctional facility (50 or more persons)
 - Urban Mitigation Area: Intent to recognize urban level densities within cities
 - Designated Outdoor Activity Areas:
 - Designated by Commission upon application
 - Playgrounds, permanent sports field, amphitheaters and other similar places of public assembly owned or operated by a local government

Urban Mitigation Area

Figure 1



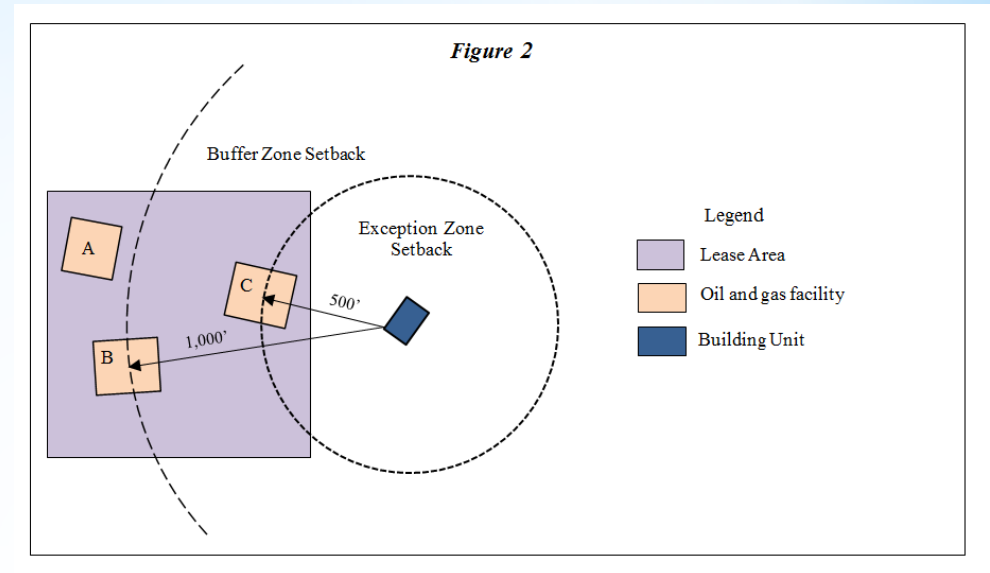
Buffer Zone and Exception Zone

- Mitigation Measures

- Site A: State-wide
- Sites B and C: Commission's new mitigation measures

- Permit Requirements

- Site A: State-wide
- Sites B and C:
 - ✓ If High Occupancy Building Unit, Commission approval following public hearing
 - ✓ If Building Unit, operator must meet with Building Unit owners



Urban Mitigation Area

- Mitigation Measures

- Site A: State-wide
- Sites B and C: Commission's new mitigation rules

- Permit Requirements

- Site A: State-wide
- Site B:
 - ✓ If a High Occupancy Building Unit, Commission approval following public hearing
 - ✓ If a Building Unit, operator must meet with Building Unit owners
- Site C: Operator must obtain waiver from all Building Unit owners and:
 - ✓ If a High Occupancy Building Unit, Commission approval following public hearing
 - ✓ If a Building Unit, operator must meet with Building Unit owners

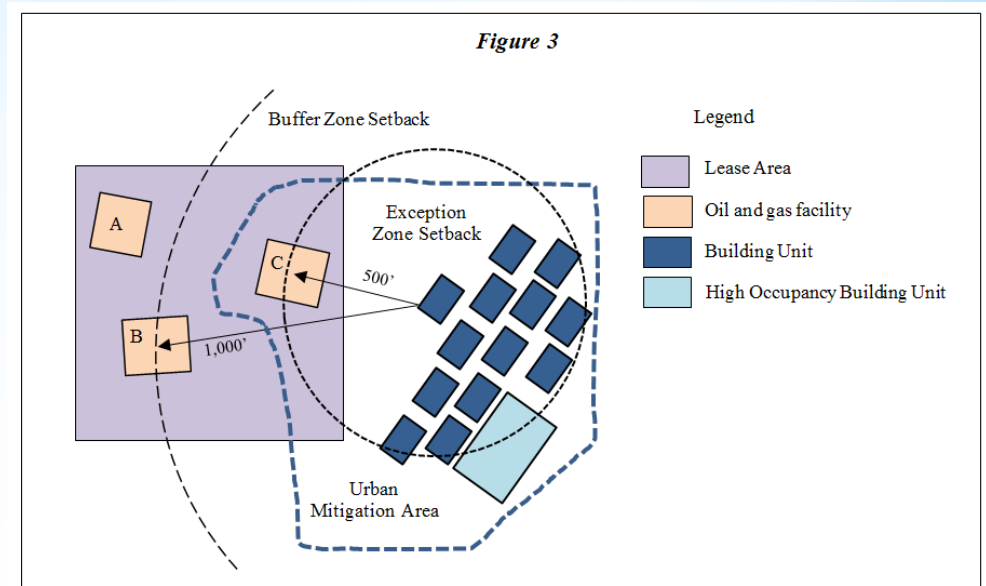


Table 1

Regulations Comparison

Commission Rule	Current City Code Regulation
Noise	
<p>1. During well site development involving pipeline or gas facility installation or maintenance or use of a drilling rig noise levels shall not exceed 70 dB(A) day, 65 dB(A) night, measured at nearest building unit.</p>	<p>1. Measured at property line of adjacent land use:</p> <ul style="list-style-type: none"> • Residential: 55 dB(A) day, 50 dB(A) night • Commercial: 60 dB(A) day, 55 dB(A) night • Industrial: 75 dB(A) day, 70 dB(A) night
<p>2. Measured 350 feet from sound source:</p> <ul style="list-style-type: none"> • Residential: 55 dB(A) day, 50 dB(A) night • Commercial: 60 dB(A) day, 55 dB(A) night • Light Industrial: 70 dB(A) day, 65 dB(A) night • Industrial: 80 dB(A) day, 75 dB(A) night 	

Table 1 (cont.)

Commission Rule	Current City Code Regulation
Noise	
<p>3. All facilities within 400 feet of a Building Unit with engines or motor which are not electrically operated shall be equipped with quiet design mufflers.</p>	
Water Quality	
<p>4. Closed loop drilling system and pit restrictions. 5. Containment berms meeting specific standards. 6. Within an Urban Mitigation Area, no more than 2 crude oil or condensate storage tanks shall be located within a single berm.</p>	None
Air Quality	
Closed loop drilling system	None

Table 1 (cont.)

Commission Rule	Current City Code Regulation
Traffic	
7. If required by local government, a traffic plan shall be coordinated with the local government prior to commencement of move in and rig up.	2. Compliance with Larimer County Urban Area Street Standards.
Multi-Well Pad	
8. Where technologically feasible and economically practicable, wells shall be consolidated to create multi-well pads located as far from building units as possible.	None
Leak Protection	
9. The oil and gas facility operator shall develop a plan to monitor production facilities on a regular schedule to identify fluid leaks.	None

Table 1 (cont.)

Commission Rule	Current City Code Regulation
Blowout Preventer Equipment	
10. Blowout prevention equipment shall be required.	None
Pit Level Indicators	
11. Pit level indicators shall be used.	None
Drill Stem Tests	
12. Closed chamber drill stem tests shall be allowed	None
Well Services Operations	
13. Adequate blowout prevention equipment and backup stabbing valves shall be used on well servicing operations.	None
Security	
14. Well sites shall be adequately fenced to restrict access by unauthorized persons.	None

Table 1 (cont.)

Commission Rule	Current City Code Regulation
Surface Trash	
15. All surface trash, debris, scrap or discarded material shall be removed from the site and disposed of in a legal manner.	Title 7: Accumulation of Waste Material
Tank Specifications	
16. All crude oil and condensate storage tanks shall be designed, constructed and maintained in accordance with National Fire Protection Association (NFPA) Code 30 (2008 version).	None
Emergency Access	
17. All leasehold roads shall be constructed and maintained to accommodate local emergency vehicle access.	4. International Fire Code

Table 1 (cont.)

Commission Rule	Current City Code Regulation
Well Site Clean Up	
18. Within 90 days after a well is plugged and abandon, the well site shall be cleared of all non-essential equipment, trash and debris.	None
Identification of Plugged and Abandon Wells	
19. Operator shall identify the location of the well bore with a permanent monument with the well number and date of plugging imbedded on the monument.	None
Development of Existing Well Pads	
20. Where possible, operators shall provide for the development of multi reservoirs by drilling on existing pads or by multiple completions or commingling in existing wellbores.	None

Table 1 (cont.)

Commission Rule	Current City Code Regulation
Visual	
<p>21. Production facilities, regardless of construction date, that can be seen from any public highway shall be painted a uniform, non-contrasting color tone that matches but is slightly darker than the surrounding landscape.</p>	<p>3. Bufferyards - Type EX. Plant density and width unspecified, allowing City to require bufferyard in excess of Type E as necessary to buffer high intensity uses, such as an industrial batch plant or gravel mine from residential or commercial uses.</p> <p>4. Screening of unsightly areas - Such areas shall be screened from view from public sidewalks, streets, and other public areas. Whenever plants are used for screening, the plants should be coniferous and provide an opaque screen within three years.</p>

Table 1 (cont.)

Commission Rule	Current City Code Regulation
Lighting	
<p>22. To the extent practicable, site lighting shall be directed downward and inward and shielded so as to avoid glare on public roads and building units within 1,000 feet.</p>	<p>5. Comprehensive standards for illumination:</p>
Structure Height	
<p>None - drilling rigs are typically 150 feet in height, or less.</p>	<p>6. In the Industrial zone - East of County Road 9 - 50 feet. Other locations in the Industrial zone - 40 feet</p> <p>7. It is unlawful to construct any tower or other structure which may constitute a hazard to the safe navigation of aircraft at the Fort Collins/Loveland Airport</p>
Vibration	
<p>None</p>	<p>8. Vibration at the level of human perception shall not be permitted beyond the lot lines.</p>

Table 1 (cont.)

Commission Rule	Current City Code Regulation
Floodplain	
None	<p>9. Flood Fringe - Non-residential structures shall be placed on fill so that the lowest portion of the structure is at or above the regulatory flood protection elevation or comply with the floodproofing requirements set forth in the International Building Code.</p> <p>10. Floodway - No use shall limit or restrict the floodway capacity, include fill or storage of material or equipment, increase flood heights during base flood, any well shall be protected from inundation from flood discharge and no new mobile home shall be permitted.</p>
Stormwater	
Best Management Practices	11. Compliance with City of Loveland Storm Criteria Manual

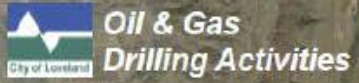
Table 1 (cont.)

Commission Rule	Current City Code Regulation
Odors and Dust	
<p>23. Odor:</p> <p>(i) Compliance with Department of Public Health and Environment Air quality Control and odor Emissions regulations, plus specific regulations on crude oil, condensate, and produced water tanks, glycol dehydrators, pits, and pneumatic devices.</p> <p>(ii) Green completions practices required on wells that are likely to produce naturally flowing hydrocarbon gas in flammable concentrations.</p> <p>24. Fugitive dust: Operator shall employ practices such as speed controls, regular road maintenance, restrictions on construction activity during high-wind conditions, silica dust controls when handling sand, road surfacing, wind breaks and automation of well site to reduce truck traffic.</p>	<p>12. Odor: Title 7: Nuisance Abatement</p>

Table 1 (cont.)

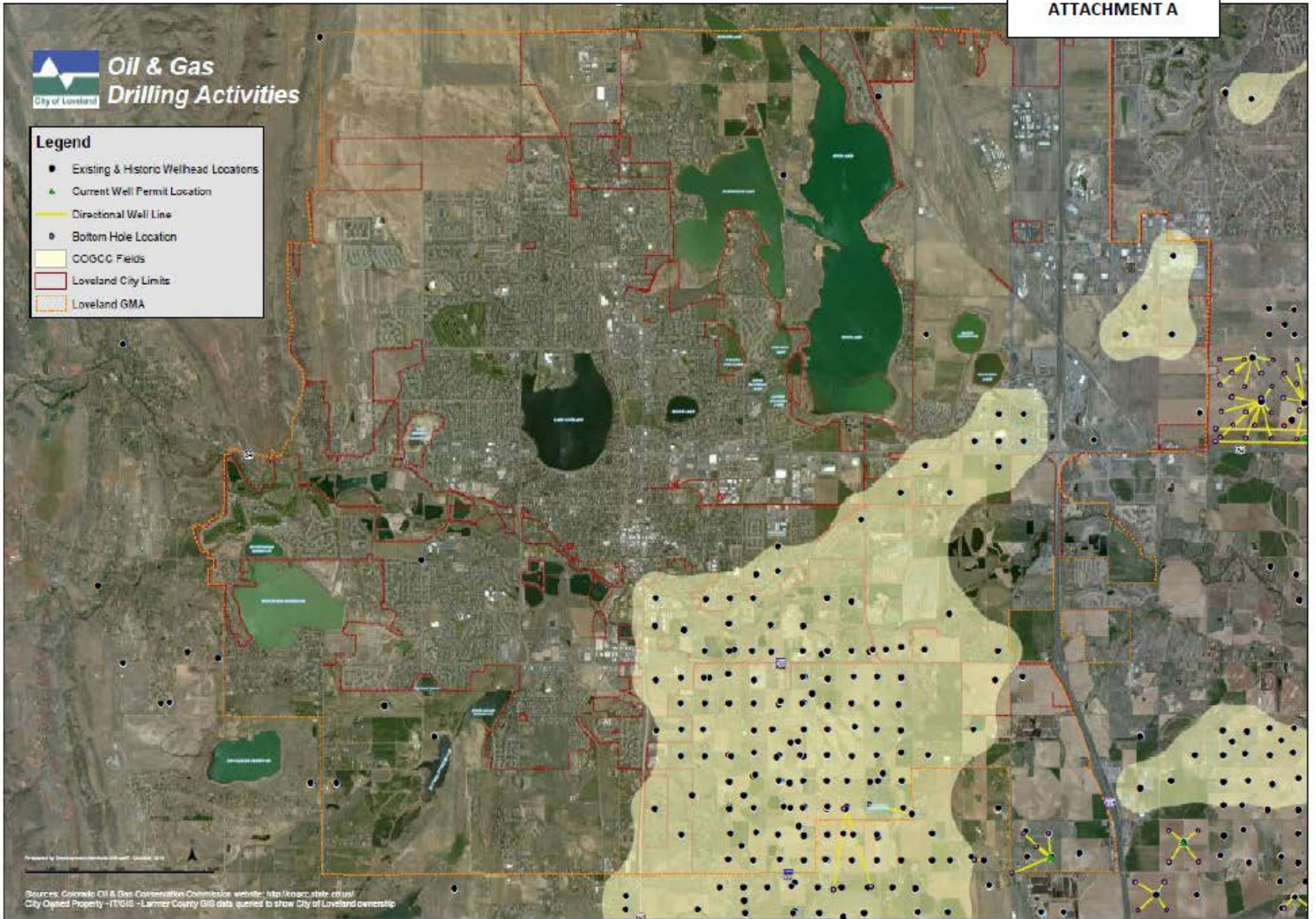
Commission Rule	Current City Code Regulation
Weed Control	
25. All well and surface production facilities shall be kept free of weeds, rubbish, and other waste material.	13. Compliance with Title 7: Weed Control Ordinance

ATTACHMENT A



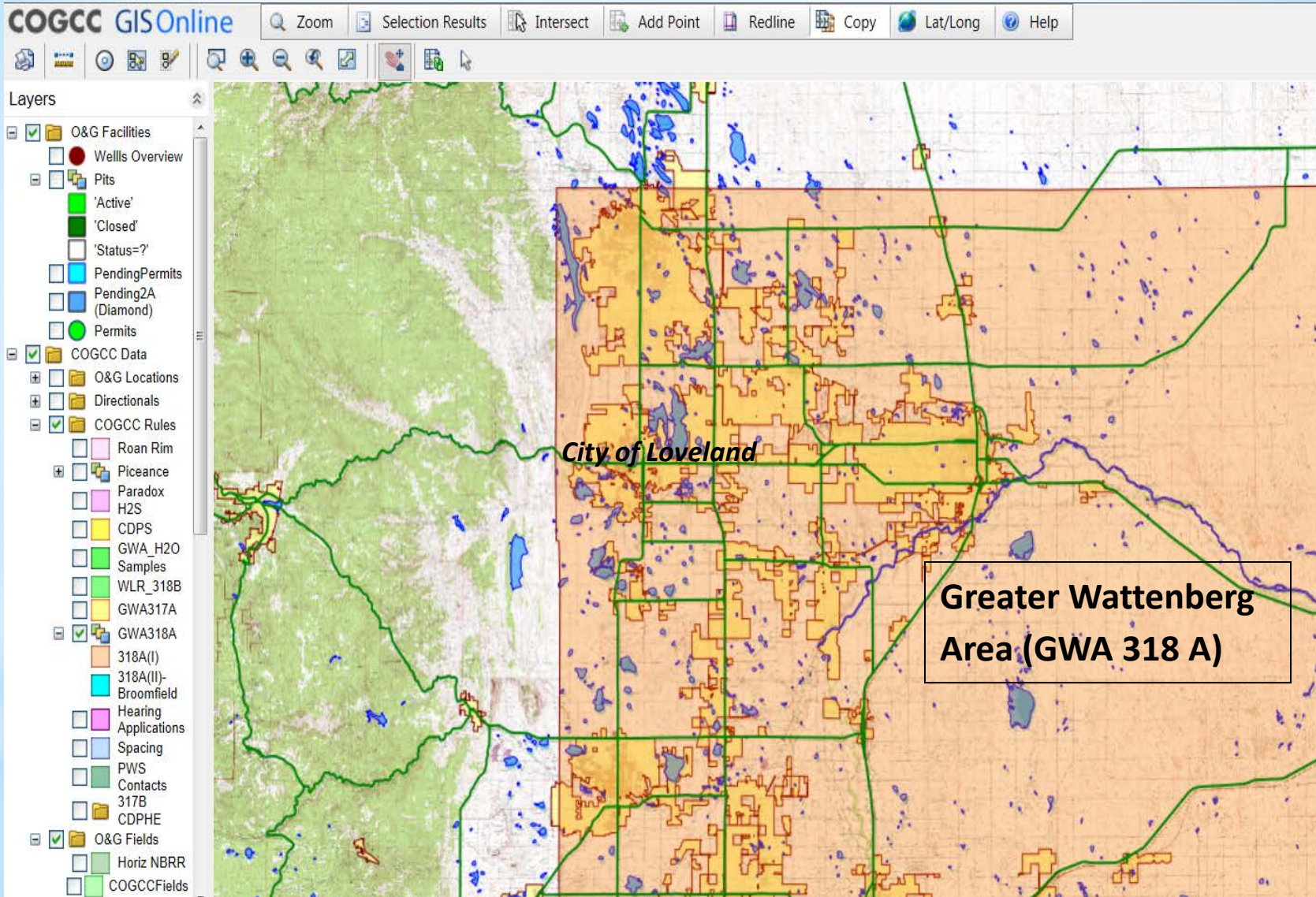
**Oil & Gas
Drilling Activities**
City of Loveland

- Legend**
- Existing & Historic Wellhead Locations
 - ▲ Current Well Permit Location
 - Directional Well Line
 - Bottom Hole Location
 - COGCC Fields
 - Loveland City Limits
 - Loveland GMA



Prepared by Environmental Services Department, Loveland, CO

Sources: Colorado Oil & Gas Conservation Commission website: <http://www.coGCC.com>
City Owned Property - IT/GIS - Larimer County GIS data, queried to show City of Loveland ownership



Section 18.77.080 - Variances from City Regulations

- ▶ **Available through both Planning Commission and Administrative Review Processes**

- ▶ **Grounds:**
 - **City regulation is in operational conflict with State regulation**
 - **No technology commercially available at a reasonable cost to comply with City regulation and grant of variance will not adversely affect the public health, safety or welfare or the environment**
 - **Protection of public health, safety and welfare and of the environment would be enhanced by alternative approach not contemplated by City regulations**
 - **Application of City regulation would result in a regulatory taking of property without the City's payment of the just compensation required under the Colorado Constitution**
 - **Application of regulation impractical or would create an undue or unnecessary hardship because of unique circumstances or physical conditions existing on or near the oil and gas operations site**

Section 18.77.130 – City's Enforcement Alternatives

- ▶ Misdemeanor violation prosecuted in Municipal Court for conducting oil and gas operations without a permit, violation of permit conditions, or violation of any applicable provision of Chapter 18.77 (\$1,000 fine or one year in jail, or both, and each day a violation continues is a separate offense)
- ▶ Administrative suspension or revocation of permit
- ▶ Civil action in Larimer County District Court seeking any and all available remedies under the law or in equity, such as an injunction, damages and recovery of attorneys fees and costs

Water Wells in Loveland's Southeastern Growth Management Area

