

# DRAFT OIL AND GAS ORDINANCE

FIRST READING:

SECOND READING:

ORDINANCE NO. \_\_\_\_\_

## AN ORDINANCE AMENDING RELEVANT SECTIONS OF TITLE 18 OF THE LOVELAND UNIFIED DEVELOPMENT CODE FOR THE REGULATION OF OIL AND GAS DEVELOPMENT WITHIN THE CITY LIMITS.

**WHEREAS**, on March 19, 2013, the Loveland City Council adopted #5753 – an ordinance that added oil and gas regulations to the Loveland Unified Development Code.

**WHEREAS**, the Council stated that Loveland’s regulations could not “operationally conflict” with the Colorado Energy and Carbon Management Commission (f/k/a Colorado Oil and Gas Conservation Commission) but wished to exercise of the City's general police power and its home rule authority to regulate oil and gas operations and facilities within the City to the full extent permitted by law; and

**WHEREAS**, on April 16, 2019, Governor Polis signed into law S.B.19-181, also known as "Protect Public Welfare Oil and Gas Operations," which prioritizes the protection of public safety, health, welfare, and the environment in regulation of the oil and gas industry by modifying the Oil and Gas Conservation Act, C.R.S. § 34-60-101, et seq., the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, et seq., and other relevant statutes, which bill granted additional authority to local governments to regulate oil and gas development and now explicitly allows local governments to adopt regulations that are stricter than state rules. The law clarified that local governments have land use authority to minimize adverse impacts to public safety, health, welfare, and the environment and to regulate land use and surface impacts, including the ability to: regulate the siting of oil and gas locations; regulate noise, odor and vibration from oil and gas facilities; inspect oil and gas facilities; impose fines for leaks, spills, and emissions; and impose fees on operators or owners to cover the reasonably foreseeable, direct and indirect costs of permitting and regulating, monitoring and inspection programs, and enforcing local governmental requirements;

**WHEREAS**, the City Council wishes to utilize its enhanced regulatory authority to allow for oil and gas activity in appropriate locations while protecting the public health, safety, and welfare of the residents of the City;

**WHEREAS**, S.B.19-181 also required Energy and Carbon Management Commission (“ECMC”) rulemaking to increase protections for public health, safety, welfare and the environment. Among other changes, the rulemaking increased oil and gas setbacks from schools and public water supplies and included the requirement for an alternative location analysis when an oil and gas location is proposed within a municipality or within ½ mile of a public water supply. The new ECMC rules took effect on January 15, 2021;

**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, the regulated industry, and other stakeholders;

**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; and

**WHEREAS**, the City Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101, et seq.; C.R.S. § 31-23-301, et seq., (municipal zoning powers); C.R.S. § 24-65.1-101, et seq. (Areas and Activities of State Interest), C.R.S. § 31-15-103 (municipal police powers); C.R.S. § 31-15-401(municipal police powers); and C.R.S. § 31-15-501 (municipal power to regulate businesses); and C.R.S. § 34-60-106 (oil and gas operators must receive local government approval for drilling permit); and C.R.S. § 34-60-131 (local government power to exceed state oil and gas regulations).

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

**Section 1.** **Amend Division 18.02.03 of the Loveland Unified Development Code.** Section 18.02.03.07 of the Loveland Unified Development Code is hereby amended by (a) permitting “Oil and Gas Operations” as a conditional use within Industrial (I) and Developing Resources (DR) zones, Oil and Gas Transmission Pipelines as a conditional use within every zoning district, and Oil and Gas Pipelines as an adaptable use within every zoning district. Oil and gas development may also be allowed within a Planned Unit Development (PUD) if it is listed as a specified use within a PUD development plan.

**18.02.03.07 Industrial, Processing, Recycling, Storage, and Disposal Land Use by Zone**

Table 18.02.03.07														
Industrial, Processing, Storage, and Disposal Land Use by Zone														
Land Use	Zones										Parks and Resource			Standards
	Residential					Mixed-Use					Industrial	P	DR	
	ER	R1/R1e	R2	R3e	R3	DT	B	MAC	E	I	P	DR		
<b>Key: “R” = Allowed Use; “L” = Limited Use; “A” = Adaptable Use; “C” = Conditional Use</b>														
Composting Facility	-	-	-	-	-	-	-	-	-	-	C	-	-	§ 18.02.04.08
Disposal	-	-	-	-	-	-	-	-	-	-	C	-	-	§ 18.02.04.08
Heavy Industry	-	-	-	-	-	-	-	-	-	-	C	-	-	§ 18.02.04.08

Heavy Logistics Center	-	-	-	-	-	-	-	-	-	C	C	-	-	§ 18.02.04.08
Light Industry	-	-	-	-	-	-	L	L	L	R	-	-	-	§ 18.02.04.08
Oil and Gas Operations	-	-	-	-	-	-	-	-	-	C	-	C	-	§ 18.10
Oil and Gas Pipelines	A	A	A	A	A	A	A	A	A	A	A	A	A	§ 18.10
Oil and Gas Transmission Pipelines	C	C	C	C	C	C	C	C	C	C	C	C	C	§ 18.10
Recycling Collection Center (Attended)	-	-	-	-	-	-	A	L	L	L	-	-	-	§ 18.02.04.08
Resource Extraction (minerals)	C	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	-	C	C	C	C	C	C	C	§ 18.02.04.08
Salvage Yard	-	-	-	-	-	-	-	-	-	C	-	-	-	§ 18.02.04.08
Self-Storage	-	-	-	-	-	-	L	L	L	L	-	-	-	§ 18.02.04.08
Storage Yard	-	-	-	-	-	-	-	-	-	L	-	-	-	§ 18.02.04.08
Waste Transfer Station	-	-	-	-	-	-	-	-	-	C	-	-	-	§ 18.02.04.08
Workshop <sup>2</sup>	-	-	-	-	-	L <sup>3</sup>	L	L	L	R	L	-	-	§ 18.02.04.08

**TABLE NOTES:**

- 1 This column contains a cross-reference to the standards that apply to the use in zones in which the use is listed as Limited (“L”), Adaptable (“A”), or Conditional (“C”).
- 2 This use is allowed in the neighborhood activity center of a complete neighborhood.
- 3 Type of review may vary based on scale of new construction. See Sec. 18.02.04.02, [Scale Thresholds in DT and Residential Zones](#).

**Section 2. Strike and restate 18.10.01 – 18.10.04 of the Loveland Unified Development Code.** Chapter 18.10.01 – 18.10.04 “Oil and Gas Development” of the Loveland Unified Development Code is hereby stricken and restated as follows.

**Chapter 18.10 Oil, Gas, and Mineral Development**

**Contents:**

- **Division 18.10.01 Authority, Purpose, and Applicability**
- **Division 18.10.02 General Standards for Oil and Gas Operations**
- **Division 18.10.03 Oil and Gas Overlay Zone**
- **Division 18.10.04 Hard Minerals**

**Division 18.10.01 Authority, Purpose, and Applicability**

**18.10.01.01 Authority**

This Chapter is enacted pursuant to the City’s police powers and land use authority under Chapter XX of the Colorado Constitution, C.R.S. § 31- 1- 101, et seq., the Oil and Gas Conservation Act, the COGCC regulations, and under all other applicable laws, rules and regulations.

### **18.10.01.02 Purpose**

The purpose of this Chapter is to protect public health, safety, welfare and the environment by permitting oil and gas development only where appropriate and in a manner that avoids and minimizes existing and future land use conflicts and adverse impacts to public health, safety, and welfare and the environment.

### **18.10.01.03 Applicability**

- A. **Generally.** 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 re-issuance of a drilling permit or any other permit under the ECMC regulations that the Director of Development Services determines would result in a substantial modification of the oil and gas operations or facilities. 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 standards set out in this Chapter.
  
- B. **Standards Document.** The Oil and Gas Standards Document ("Standards Document") is hereby adopted by reference. The Standards Document will be on file with the Director of Development Services. The Director of Development Services may administratively update the Standards Document to reflect changes in technologies or state rules. The City Council may by resolution update the Standards Document as necessary to reflect major changes in required industry standards and practices.
  
- C. **Existing Oil and Gas Operations.** Except as noted, this Chapter does not apply to “existing oil and gas operations” which are those surface oil and gas operations for which a drilling permit was issued under the ECMC regulations prior to the effective date of this chapter, and under which permit the oil and gas operations were commenced before the effective date. “Existing oil and gas operations” also includes any surface oil and gas operations occurring on real property annexed into the City on or after the effective date of this chapter, provided those operations are occurring as of the effective date of the Annexation pursuant to a drilling permit issued under the ECMC regulations.
  
- D. **Other Applicable UDC Provisions.** In addition to the standards of this Chapter, all existing and permitted oil and gas operations conducted within the City shall comply with the following provisions of this UDC:
  - 1. [Division 18.05.02, Access and Circulation](#)
  - 2. [Division 18.07.04, Utilities](#)
  - 3. [Chapter 18.09, Environmental Quality](#) (except as specifically modified in this Chapter)
  - 4. [Division 18.04.08, Signs](#)
  - 5. [Division 18.09.03, Floodplain Regulations](#)
  - 6. [Chapter 18.15, Adequate Community Facilities](#) ("ACF")

7. [Division 18.16.04, Capital Expansion Fees](#)

- E. **Other Applicable Unified Development Code Provisions.** In addition to the provisions of this UDC, all existing and permitted oil and gas operations conducted within the City shall comply with all applicable provisions and registration or permitting requirements of the following chapters of the Loveland Municipal Code as they may be amended in the future:
1. [3.16](#), Sales and Use Tax;
  2. [7.16](#), Solid Waste Collection and Recycling (to the maximum extent feasible);
  3. [7.36](#), Fire Protection;
  4. [10.04](#), Traffic Regulations;
  5. [10.20](#), Parking;
  6. [12.16](#), Use of City Rights-of-Way;
  7. [12.25](#), Street Maintenance Fee;
  8. [12.28](#), Prohibited Uses of Streets and Other Public Places;
  9. [13.04](#), Water Service;
  10. [13.06](#), Cross Connection Control;
  11. [13.18](#), Stormwater Management;
  12. [13.20](#), Stormwater Quality;
  13. [15.08](#), Building Code;
  14. [15.12](#), Property Maintenance Code;
  15. [15.14](#), Floodplain Building Code;
  16. [15.16](#), Mechanical Code;
  17. [15.24](#), Electrical Code;
  18. [15.28](#), Fire Code;
  19. [15.56.030](#) (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);
  20. [16.08](#), Nuisances - Unsanitary Conditions;
  21. [16.12](#), Accumulations of Waste Materials;
  22. [16.16](#), Graffiti;
  23. [16.28](#), Weed Control;
  24. [19.06](#), Irrigation; and
  25. All other applicable Code sections adopted after the date of adoption of this section.
- F. **Federal and State Regulations.** The operator shall comply with all applicable federal and state regulations including, without limitation, the OGC act and the ECMC regulations. Where, in any specific case, the requirements of any other Title within the UDC or the regulations of any state or federal agency are in conflict with this Chapter, the more restrictive requirements shall be imposed.

**Division 18.10.02 Oil and Gas Provisions**

**18.10.02.01 Location Restrictions**

- A. Oil and Gas Locations shall only be located within the following non-residential zoning districts without obtaining a variance under Section 18.17.15.07: Industrial (I), Developing

Resource (DR), and Planned Unit Developments (PUD) - where oil and gas development is a specified use.

- B. Oil and Gas Locations shall be at least two thousand (2,000) feet from the property line of any existing or platted school facilities, future school facilities, state licensed day care centers, hospitals, medical clinics, group homes, nursing homes, or senior living or assisted living facilities unless a variance is obtained.
- C. Oil and Gas Locations shall be at least one thousand (1,000) feet from the following:
  - 1. The property line of any existing dwelling units or platted residential lots less than 2.5 acres in size;
  - 2. The nearest edge of any existing dwelling units on lots greater than 2.5 acres in size;
  - 3. The nearest edge of any commercial building requiring a certificate of occupancy;
  - 4. Public parks or neighborhood parks, not including trails or City-designated natural area;
  - 5. Public water supply surface intakes or public water supply wells; and
  - 6. Existing reservoirs and approved future reservoirs.
- D. Oil and Gas Locations may not be located between one thousand (1,000) feet and two thousand (2,000) feet of any existing or platted residence, unless one or more of the following conditions are satisfied:
  - 1. All existing residential owners or tenants of any of the affected properties within 2,000' of the relevant point of measurement explicitly agree with informed consent to the proposed Oil and Gas Location; or
  - 2. Any wells, tanks, separation equipment, or compressors proposed on the oil and gas location will be located more than 2,000' from the relevant point of measurement; or
  - 3. The City decision-making body finds, as part of its review of an application pursuant to section 18.17.05.07, that the proposed oil and gas location and conditions of approval will provide substantially equivalent protections for public health, safety, welfare, the environment, and wildlife resources. The City decision-making body will consider, without limitation:
    - a. The extent to which the oil and gas location design and any planned practices, preferred control technologies, and conditions of approval avoid, minimize, and mitigate adverse impacts, considering:
      - i. Geology, technology, and topography;
      - ii. The location of receptors and proximity to those receptors; and
      - iii. The anticipated size, duration, and intensity of all phases of the proposed oil and gas operations at the proposed oil and gas location.
    - b. The Operator's alternative location analysis conducted pursuant to section 18.17.05.06;

- c. The results of the Director of Development Services suitability analysis pursuant to section 18.17.05.06.
  - d. Related oil and gas location siting and infrastructure proposed;
  - e. How oil and gas facilities associated with the proposed oil and gas location are designed to avoid, minimize, and mitigate impacts on the affected properties; and
  - f. The operator's actual and planned engagement with nearby residents, property owners, and businesses to consult with them about the planned oil and gas operations.
- E. Working pad surfaces proposed within City limits shall be at least five hundred (500) feet from the following:
- 1. Rivers and streams; and
  - 2. Ditches that transport water used by, or to augment, a public water supply system.
- F. The working pad surface shall be located outside of a Federal Emergency Management Agency (FEMA) designated 100-year floodplain.

#### **18.10.02.02 Oil and Gas Standards**

Provisions listed in the Standards Document are required permit conditions to reduce or eliminate impacts to public health, safety, welfare or the environment. Depending on site specific conditions, exceptions to the requirements in the Standards Document may be permitted. The Standards Document addresses: Air quality protection, water quality protection, safety, visual and noise mitigation, community outreach, reclamation, transportation, and wildlife protection. When noted, the minimum health and safety standards in the Standards Document apply to existing oil and gas operations as well as new permits.

#### **18.10.02.03 Oil and Gas Access Roads**

- A. **Generally.** All private roads used to access the tank battery or the wellhead shall meet or exceed the standards of this Section.
- B. **Construction Standards.** The operator shall install a roadway at least 20 feet wide with a minimum unobstructed overhead clearance of 14 feet. The access road shall have a prepared subgrade and an aggregate base course surface a minimum of six (6) inches thick compacted to a minimum density of 95 percent 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.
- C. **Grades.** Grades shall be established to provide drainage from the roadway surface and shall be constructed to allow for cross-drainage to waterway (*i.e.*, roadside swales, gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of culvert pipes shall be subject to approval by the City Engineer.

- D. All access roads shall be maintained so as to provide a passable roadway free of ruts and dust at all times.
- E. All access roads must be improved as a hard surface (concrete or asphalt) for the first 100 feet from the public road, unless public road is not already a hard surface, in which case, operator shall meet the current standards of the public road.
- F. A mud and debris tracking pad shall be located at the end of the access road before entering onto a public road.
- G. The access drive entrance shall include returns with a thirty foot (30') foot radius.
- H. If an access road intersects with a pedestrian trail or walk, the operator shall pave the access road as a hard surface (concrete or asphalt) a distance of 100 feet either side of the trail or walk, unless the trail or walk is not already a hard surface, in which case, operator shall meet the current standards of the trail or walk. If necessary, operator shall replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production sites.
- I. Temporary access roads associated with the operations will be reclaimed and reseeded to the original state within 60 days after discontinued use of the temporary access roads. An exception to temporary access road construction standards and specifications may be made upon agreement of the parties where circumstances warrant a departure given future development needs.

#### **18.10.02.04 Pipelines**

Any newly constructed or substantially modified pipelines shall meet the following requirements:

- A. Flowlines, gathering lines, and transmission lines shall be sited at a minimum of 50 feet away from residential buildings. This distance shall be measured from the nearest edge of the pipeline. Increased setbacks shall be evaluated and required on a case-by-case basis, with the determining locational factor being the size, pressure, and type of pipeline being proposed.
- B. Flowlines, gathering lines and transmission lines that pass within 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.
- C. Pursuant to ECOM Rules, existing and permitted oil and gas operations must conduct leak detection inspections and pressure testing and monitoring in order to identify flowline leaks or integrity issues. Leaks, spills, or integrity issues will be reported to the City as soon as practicable but no later than 24 hours after discovery. Spills that have contaminated surface



water within 15 miles upstream of a Public Water System must notify the City and the Public Water System immediately upon discovery.

- D. To the maximum extent feasible, pipelines shall be aligned with established roads in order to minimize surface impacts and reduce habitat fragmentation and disturbance.
- E. 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.
- F. Coordinates of all flow lines, gathering lines, and transmission lines shall be provided to the Development Services Department in a format suitable for input into the City's GIS system depicting the locations and type of above and below ground facilities.
- G. 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, except that open cuts may be used across irrigation ditches if the affected ditch company approves the technique.

#### **18.10.02.05 Emergency Response**

- A. **Generally.** 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.
- B. **Emergency Response Plan.**
  - 1. Each operator with an existing or proposed oil and gas operation in the City is required to provide to the City its Emergency Response 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. Such plan shall be approved by Loveland's Emergency Manager and the Loveland Fire Rescue Authority.
  - 2. The Emergency Response Plan shall be filed with the City and the Loveland Fire Rescue Authority and updated on an annual basis. If no updates to the Plan are made, operator shall provide notice of "No Change" in its annual registration submitted to the City.
  - 3. The Emergency Response Plan shall contain, at a minimum, all of the following information:
    - a. Name, address and phone number, including 24-hour numbers for at least two (2) persons responsible for field operations at the subject oil and gas facility or location, as well as the contact information for any subcontractor of operator engaged for well-control emergencies on the subject oil and gas facility or location;
    - b. A process by which the operator notifies neighboring residents and businesses within one-half (½) mile (2,640') of the subject oil and gas facility or location to

- inform them about the on-site operations and emergencies, and to provide sufficient contact information for surrounding neighbors to communicate with operator;
- c. Detailed information addressing each category of emergency that has a reasonable potential to occur at the subject oil and gas facility or location severe enough to present an immediate danger to public health, safety, or welfare, including without limitation: explosions; fires; gas; oil or water pipeline leaks or ruptures; hydrogen sulfide or other toxic gas emissions; hazardous material accidents or spills; and natural disasters. Examples of the most likely and worst-case scenarios should be provided, including information on the potential response scenarios;
  - d. An Emergency Evacuation Plan for the working pad surface of the subject oil and gas facility or location and a plan to evacuate any person(s) residing and/or working within up to one-half (½) mile (2,640') of the same;
  - e. 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 ECMC or the ECMC's director shall be immediately reported to the Loveland Fire Rescue Authority emergency dispatch at 911 and to the Director and Public Works Department Stormwater Division promptly thereafter.
  - f. The operator shall have current Safety Data Sheets (SDS) for all chemicals used or stored on an oil and gas location. The SDS sheets shall be provided immediately upon request to City officials, a public safety officer, or a health professional.
  - g. Detailed information identifying emergency access, and health care facilities anticipated to be used, in connection with emergencies at the subject oil and gas facility or location;
  - h. An oil and gas facility or location-specific plan for any oil and gas facility or location that involves drilling or penetrating through known zones of hydrogen sulfide gas;
  - i. A statement, and detailed information, indicating that operator has adequate personnel, supplies, and training on hand to implement the Emergency Response Plan immediately at all times during construction and operations at the subject oil and gas facility or location; and
  - j. Emergency shutdown protocols and procedures to promptly notify the City of any shutdowns that would have an impact to any area beyond the confines of the working pad surface of the subject oil and gas facility or location.
- C. **As-Built Facilities Map.** Within 60 days of the start of production, operator will provide an as-built facilities map in a format suitable for input into the City's GIS system depicting the locations and type of above and below ground facilities, including sizes and depths below grade of all oil and gas flow lines and associated equipment, isolation valves, surface operations and their functions, as well as transportation routes to and from exploration and development sites, for response and management purposes. The information concerning flowlines and isolation valves shall be marked and treated as confidential by the Loveland Fire Rescue Authority and shall only be disclosed in the event of an emergency or to emergency responders or for the training of emergency responders or as otherwise required by law.

- D. **Emergency Response Costs.** The operator shall reimburse any applicable governmental agency or emergency responders for all expenses incurred in connection to any emergency related to an oil and gas facility or location.
- E. **Will-Serve Letter.** The operator will receive a will-serve letter from the Loveland Fire Rescue Authority stating that the operator has agreed to provide adequate emergency response equipment, any necessary training, or fee-in-lieu satisfactory to the district, to adequately respond to potential events that may result from operations.
- F. **Resource Mobilization/Cache Plan.** Operator will organize, produce, and maintain a Resource Mobilization/Cache Plan, to ensure that emergency responders associated with a subject oil and gas location have available the equipment necessary (including adequate firefighting foam) to respond to any emergency identified in the Emergency Response Plan ("Resources Mobilization/Cache Plan"), which shall provide that the equipment be stationed in locations as to be readily available for any emergency occurring at any oil and gas facility or location covered by the subject Emergency Response Plan.

**18.10.02.06 Prohibited Facilities**

The following facilities are prohibited within the City:

- A. Gas storage wells;
- B. Injection wells for disposal of oil and gas exploration and production wastes;
- C. Drilling pits, waste storage pits, and disposal pits;
- D. Centralized exploration and production waste management facilities;
- E. Glycol dehydrators or desiccant gas processing dehydrators.

**Division 18.10.03 Oil and Gas Buffers**

**18.10.03.01 Purpose of Division**

The purpose of this Division is to allow land uses in the vicinity of oil and gas locations that are compatible with the industrial nature of oil and gas operations and disallow those land uses that are incompatible in order to protect public health, safety, and welfare.

**18.10.03.02 Buffers from Oil and Gas Facilities**

- A. Minimum buffers for permitted working pad surfaces:
  - 1. No new residential, commercial, or mixed uses, school facilities, hospitals, medical clinics, senior living or assisted living facilities, or state licensed daycares may be constructed within the following minimum setbacks:

<b>Oil and Gas Working Pad Surface</b>	<b>Buffer</b>
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Oil and gas production facility without wells	200'
1 - 2 wells	200'
3 - 9 wells	350'
10 or more wells	500'

2. Measurements shall be taken from the closest edge of the “working pad surface.”
  3. The setback from a flowline or gathering line shall be a minimum of 50 feet. Increased setbacks shall be evaluated on a case-by-case basis, with the determining locational factor being the size, pressure, and type of pipeline being proposed.
- B. Pre-Production Phase Occupancy Restrictions: For permitted or existing oil and gas locations where all permitted wells have not entered production, no new residential, or mixed-use building units shall be permitted to be occupied within 1,000 feet of such oil and gas location. This includes, but is not limited to, school facilities, hospitals, medical clinics, senior living or assisted living facilities, or state licensed daycares. This section does not apply to industrial, commercial, agricultural, or open space uses. Measurements shall be taken from the edge of the oil and gas location.
- C. Early Production Phase Occupancy Restrictions: No new residential or mixed-use buildings shall be allowed to be occupied within 1,000 feet of permitted or existing working pad surfaces for three years after the final well permitted for the location has been put into production. This includes, but is not limited to, school facilities, hospitals, medical clinics, senior living or assisted living facilities, or state licensed daycares. This section does not apply to industrial, agricultural, commercial, or open space uses. Measurements shall be taken from the edge of the working pad surface. This three-year prohibition may be limited to one year under the following conditions:
1. Surface owner has requested a waiver of this requirement after one full year of production;
  2. Surface owner has provided any residents or new lot owners with a copy of the waiver request as well as the noticing requirements in “Plat Requirements” in 18.10.03.03 below; and
  3. After reviewing the safety, accident, and compliance records of the oil and gas operations, Director has approved the requested waiver.
- D. Post-Production Phase: For oil and gas wells that have been abandoned, no building may be placed within 200 feet of the well-bore. There shall be access for ingress and egress to the buffer of a width of not less than 26 feet. An applicant may be granted an “alternative compliance buffer” as described below.
1. Alternative compliance buffer reduction from plugged and abandoned wells. Upon applicant request, the Director may approve a reduced buffer distance from a plugged

and abandoned well in lieu of the minimum 200-foot buffer distance provided that the approved reduced buffer is not less than 50 feet in width and 100 feet in length. The plugged and abandoned well shall be located in the center of the buffer. There shall be access for ingress and egress to the buffer of a width of not less than 26 feet.

2. An alternative compliance buffer reduction plan shall be prepared and submitted in accordance with the submittal requirements established by the Director. At a minimum, the plan must:
  - a. Clearly identify and discuss the proposed buffer reduction and the ways in which the plan eliminates or minimizes the potential adverse effects to the level achieved by the 200-foot buffer.
  - b. Include information regarding environmental testing and monitoring for the site. Engineering review, site investigation, sampling, and/or monitoring shall be conducted to demonstrate that the well has been properly abandoned and that soil, air and water quality have not been, and will not be, adversely impacted by oil and gas operations or facilities or other sources of contamination. Such sampling and monitoring shall be conducted by a qualified environmental engineering or consulting firm with experience in oil and gas investigations. Director approval that the sampling and monitoring plan contains the information required pursuant to this subsection is required prior to sampling occurring.
  - c. Include a site survey, historical research, and/or physical locating techniques to determine exact location and extent of oil and gas operations and facilities.
  - d. The plugged and abandoned well shall be permanently marked by a brass plaque and recorded with County Clerk and Recorder as described below.
  - e. Include documentation of plugging activities, abandonment and any subsequent inspections.
  - f. Include the results of soil sampling, including soil gas testing.
  - g. Include the results of groundwater sampling.
  - h. Include a written report verifying that the soil and groundwater samples meet applicable EPA and State residential regulations and that a reduced buffer would not pose a greater health or safety risk for future residents or users of the site.
3. Review Criteria. To approve an alternative compliance buffer reduction plan, the Director must first find that the proposed alternative plan eliminates or minimizes the adverse effects referenced in the purpose of this Section equally well or better than would a plan which complies with the separation and spacing standards of this Section.
4. The Director may require conditions of approval which may specify an appropriate buffer distance or require that the following actions be completed by a qualified professional before development may occur, including but not limited to:
  - a. Remediation of environmental contamination to background levels.
  - b. Re-plugging of a previously abandoned well.

#### **18.10.03.03 Easements, Plats and Development Plans.**

- A. New Oil and Gas Locations. Prior to the issuance of an oil and gas permit, an operator must obtain easements that will prevent the prohibited land uses within the buffers listed in **18.10.03.02a.1** above until the location has been properly plugged and abandoned. The easements must be recorded prior to receiving an Oil and Gas Permit Order pursuant to Section 18.17.05.07.
- B. Plat Requirements for Existing Oil and Gas Locations. Every final plat and site-specific development plan which falls within a buffer described in this section shall submit a location diagram of the location of the well or production site and depict the buffer and the restriction on the final plat or site-specific development plan. The following information shall be denoted on all preliminary and final plats:
1. The reception number, date, and recording location of all relevant surface use agreements;
  2. The location of all oil and gas production facilities, access roads, and any associated easements;
  3. The location of any flowlines and gathering lines that are still in service; and
  4. A plat designation surrounding such flowlines and gathering lines, and a note expressly prohibiting any habitable building or structure within the designated setback from those facilities.
  5. No final plat shall be submitted to the City for approval if such plat includes any lot, upon which a dwelling unit or public or private school could be built, within 1,000 feet from an existing or proposed oil or gas well unless the subdivider records against title to such lots the following notice, in at least 14-point font: "As required by Section **18.10.03.03** of the City of Loveland Unified Development Code, notice is hereby given that [insert description of lot] contains, or in the future could contain, a dwelling unit or public or private school within 1,000 feet of a producing or proposed oil or gas well. For more information contact the City of Loveland Development Services Department or the Energy and Carbon Management Commission." Such written notice may only be amended or terminated by the owner of such lot to correct typographical errors or to reflect the plugging and abandonment of wells. When any lot subject to the above written notice is first sold after plat approval to a purchaser intending to occupy the dwelling unit, the seller must provide the above written notice, in at least 14-point font, to the purchaser.
- C. Plugged and Abandoned Wells.
1. Prior to submittal of a final plat or site-specific development plan, each plugged and abandoned well shall be located and surveyed. The plugged and abandoned well shall be permanently marked by a brass plaque set in concrete similar to a permanent benchmark to monument its existence and location. Such plaque shall contain all information required on a dry hole marker by the Energy and Carbon Management Commission. The exact location will be recorded at the county clerk and recorder.

2. On every final plat or site-specific development plan which contains a plugged and abandoned well, there shall be dedicated a well maintenance and workover setback depicted on the plat, the dimensions of which shall provide a 200-foot buffer unless Director has granted an alternative compliance buffer of not less than 50 feet in width and 100 feet in length. No structures shall be located within this setback. The plugged and abandoned well shall be located in the center of the setback. There shall be public access for ingress and egress to the setback of a width of not less than 26 feet.
- D. Vacation of Existing Easements. No easement may be vacated for a previous or existing well, flowline, or gathering line, unless documentation is provided to the City demonstrating such well, flowline, or gathering line has been vacated in compliance with all applicable Colorado Energy and Carbon Management Commission regulations.

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**Section 3. Strike Table Note 2 in Table 18.14.02.02A.**

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**Section 4. Strike and restate 18.17.05 of the Loveland Unified Development Code.** Division 18.17.05 of the Loveland Unified Development Code is hereby stricken and replaced with the following:

**Chapter 18.17 Specific Review Procedures and Approval Standards**

**Division 18.17.05 Oil and Gas Permits**

**18.17.05.01 Oil and Gas Permit Required.**

**A. New Oil and Gas Facilities.**

1. It shall be unlawful for any person to drill a new well, construct a new facility or install new accessory equipment or structure within the corporate limits of the City, unless an oil and gas permit has been obtained pursuant to this Chapter. A separate oil and gas permit, in the form of a conditional use permit, shall be required for each well or production site that has not been previously permitted under this Chapter.
2. It shall be unlawful for any person to operate a well, facility or accessory equipment or structure within the corporate limits of the City, except in compliance with the terms and conditions of the oil and gas permit.
3. If more than one well or production site is proposed at the same time, the applicant may submit one application for multiple wells and facilities; however, a separate fee shall be required for each well production site included in the application. The City will issue a multiple oil and gas operations permit that notes the name and location of each well or production site.
4. Any such permit issued pursuant to this Chapter shall encompass within its authorization the right for the operator, his or her agent, employee, subcontractor or independent contractor or any other persons to perform that work necessary in the drilling, completion or maintenance operations.

5. For the purpose of this Chapter, the installation of tanks, heaters, separators and other accessory equipment shall be construed as extensions to oil and gas wells and shall accordingly be subject to the same applications, review, permit, regulations, and standards. The application for these accessories when intended to be installed at the same time as the oil or gas well may be merged with an application for an oil or gas permit and shall not require an additional permit fee.

**B. Legacy Oil and Gas Facilities.** By enactment of this Chapter, the City hereby approves any well, equipment or facility drilled or constructed prior to the enactment of this section or that occurred prior to annexation of additional acreage within the City.

**C. Modification of Existing Oil and Gas Facilities.**

Any proposed change made to an oil and gas facility or operations shall be reviewed by the Development Services Department and is subject to one of the following.

1. *New Permit for Substantial Modifications.* A change to a legacy oil gas facility or operations deemed by the Director of Development Services to be a “substantial modification” is required to obtain a new oil and gas permit in the form of a conditional use permit. As used within this section, a “substantial modification” means addition, removal, replacement, or modification of equipment or other changes to a well site, production site, or operations that increases the site’s footprint, harmful emissions, traffic, noise, or odor, or could negatively impact public health, safety, welfare, or the environment or wildlife. This includes, without limitation, redrilling, sidetracking, twinning, or recompleting a well, or change of use to an injection well, carbon sequestration well, or geothermal well. Maintenance activities, installation of emission control equipment, and the addition of equipment necessary to fulfill mandated regulatory requirements are not substantial modifications. Prior to any person making such changes to facilities or operations, that person shall apply for and receive an oil and gas permit from the City in accordance with the standards set out in this Chapter.
2. *Change of Operations Permit.* Modifications to a legacy oil and gas facility that are not deemed “substantial modifications” must receive a change of operations permit. Such change of operations application will be administratively reviewed and granted so long as the location comes into substantial compliance with all regulations required to protect public health, safety, welfare and the environment.
3. *Amendment of Permit.* Each permit is limited to the facilities as shown in the approved permit plans. To the extent the applicant desires, after initial completion of a well, to substantially change operations or to place additional equipment on a tank battery or wellhead location, which was not shown in the approved plan, the applicant must, except in a situation where additional temporary equipment is necessary for a period of 14 days or less, submit a revised site and operating plan to the City depicting any changes from the approved oil and gas permit. If the staff concludes that the proposed change will not cause additional adverse impacts to public health, safety or welfare or the environment, the amendment can be approved administratively. Upon receipt of the amended site plan and operating plan, the City shall issue a revised oil and gas permit as provided in this Chapter. In the event the staff concludes the proposed change would cause an additional adverse impact to public health, safety, welfare or the environment,



the proposed amendment will trigger new notice and require a new conditional use permitting process.

4. *Plugging and Abandonment Permit.* The plugging and abandoning of a well or pipeline requires a Plugging and Abandonment Permit. The Permit will be issued administratively and will not require a public hearing.

E. **Seismic Operations.** Seismic survey operations within the City limits are permitted through right of way permit or other permits as deemed necessary by the Director. The seismic survey operations must comply with requirements in the Standards Document.

F. **Oil and Gas Pipeline Permit.**

1. Pipelines shall meet the requirements in Section **18.10.02.04** as well as site specific conditions deemed necessary to protect public health, safety, welfare and the environment.
2. Pipelines related to oil and gas development (that carry gas, oil, or produced water) that are off a working pad surface are allowed in all zoning districts through a Conditional Use Permit.
3. Pipelines that enter City property or public right-of-way in the City must also obtain a public right-of-way permit from the City Engineer.

#### **18.17.05.02 Required Operator Submittals**

A. **Generally.** Applications shall be submitted on a form approved by the Director.

B. **Fees and Financial Assurances.** Every applicant shall provide the following fees and financial assurances:

1. *Application Fee.* Every application shall include a required fee in the amount set by resolution. Other fees, including but not limited to, capital expansion fees and building fees may also be required.
2. *Cost Reimbursement Agreement.* Every applicant shall submit a signed cost reimbursement agreement provided by the City. Costs to be covered include review of the application, review of report or notices submitted to the City during oil and gas operations, and review of any application to transfer or plug and abandon operations. The application fee and required cost reimbursement agreement must be received by the Development Services Department to process the application.
3. *Financial Assurance.* Prior to the commencement of any work, including well pad construction at any permitted oil and gas location, operator will provide the City with a single surety applicable for all wells in the form acceptable by the City in the amount of \$100,000 for a location and \$30,000 per well, or the amount required by the ECOM, whichever is higher, multiplied by the number of approved wells on the associated planned oil and gas location. The per well amount shall be adjusted each year by the increase or decrease in the Consumer Price Index issued by the United States Bureau of Labor Statistics for the Denver – Boulder metropolitan area. The purpose of the surety will be for any costs incurred by the City following a financial setback of the operator as well as for plugging and abandonment.

- a. Financial setback shall be defined as the operator filing for protection under the bankruptcy laws, making an assignment for the benefit of creditors, appointing or suffering appointment of a receiver or trustee over its property, filing a petition under any bankruptcy or insolvency act or having any such petition filed against it which is not dismissed within ninety (90) days of the filing thereof.
  - b. Operator shall notify the City of the existence of a financial setback within five (5) business days of the financial setback.
  - c. The letter of credit shall remain in effect until all wells have been plugged and abandoned without exception.
  - d. Upon the occurrence of a financial setback, the City may call upon the surety effective immediately upon written notice to the operator for the purpose associated with the need to secure oil and gas locations, associated lands and infrastructure or as a demonstrated need to protect the public welfare and safety.
  - e. The operator shall comply with all state regulatory agencies bonding requirements. The financial assurance required by this section may be reduced or waived to the extent state bonding requirements satisfies the requirements of this section.
  - f. The letter of credit shall be released within ten (10) business days of operator's written request following the plugging and abandonment of all wells.
4. *Inspection Fees.* Operator shall reimburse the City for all inspection costs reasonably incurred to inspect the oil and gas location to determine compliance with this Agreement and any permits issued by the City. Such fees shall include actual costs incurred by the City, including employee time, employee supervision, necessary equipment rental, and overhead. Where a well is plugged and abandoned, no City fees will be imposed thereafter.
5. *Road Improvements and Maintenance Agreement.* Operator must sign an agreement to pay for ongoing road repair and maintenance costs attributable to its operations. The City will conduct periodic impact assessments with the operator to determine the extent of any damage accruing to the road caused by the operator's activities. Operator may conduct baseline road condition assessments with a third-party contractor to define existing road conditions. Operator will pay the City for the cost of the actual repairs for the assessed damage or else arrange and pay the cost of such repairs itself with a contractor acceptable to the City.
- C. **Insurance.** Operator shall comply with these insurance standards to: protect human health and safety; prevent damage to property; prevent unacceptable losses to public finances; and prevent unreasonable interference with the public welfare. These standards are established to improve and to prevent degradation to the quality of life and the general welfare in the City. The Director may waive or alter requirements below if operator can demonstrate that required coverage is not commercially available or not relevant to the operations proposed in its oil and gas application.
1. The operator shall maintain or cause to be maintained, with insurers authorized by the state of Colorado and carrying a financial strength rating from A.M. Best of no less than A- VII (or a similar rating from an equivalent recognized ratings agency), at a

minimum, the following types of insurance with limits no less than the amounts indicated:

- a. Commercial General Liability insurance on an occurrence-based form including coverage for bodily injury or property damage for operations and products and completed operations with limits of not less than \$1,000,000 each and every occurrence.
  - b. Automobile Liability insurance with limits of not less than \$1,000,000 each accident covering owned, hired, and non-owned vehicles.
  - c. Workers' Compensation insurance- Statutory Workers' Compensation Coverage for the employee's normal State of employment/hire. Including Employer's Liability insurance - with limits of not less than \$1,000,000 Each Accident, Disease - Each Employee, Disease - Policy Limit.
  - d. Control of Well/Operators Extra Expense insurance - with limits of not less than \$10,000,000 covering the cost of controlling a well that is out of control or experiences a blowout, re-drilling or restoration expenses, seepage and pollution damage resulting from an out of control well or blowout as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment and evacuation of residents.
  - e. Umbrella/Excess Liability - in excess of General Liability, Employer's Liability, and Automobile Liability with limits no less than \$25,000,000 per occurrence;
  - f. Environmental Liability/Pollution Legal Liability insurance for gradual pollution events, providing coverage for bodily injury, property damage or environmental damage with limits of not less than \$5,000,000 per pollution incident. Coverage to include claims arising during transportation and at non-owned waste disposal sites.
2. Operator shall add the City and its elected and appointed officials and employees as Additional Insureds under general liability (including operations and completed operations), auto liability, and umbrella liability.
  3. All policies shall be endorsed such that they cannot be canceled or non-renewed without at least 30 days' advanced written notice to operator and the City, evidenced by return receipt via United States mail, except when such policy is being canceled for nonpayment of premium, in which case ten (10) days advance written notice is required. Language relating to cancellation requirements stating that the insurer's notice obligation is limited to "endeavor to" is not acceptable.
  4. Operator shall, prior to permit issuance, deliver Certificates of Insurance reasonably acceptable to the City confirming all required minimum insurance is in full force and effect.
  5. Deductibles or retentions shall be the responsibility of operator. Deductibles or retentions must be listed on the Certificate of Insurance required herein and are subject to the reasonable approval of the City.
  6. Operator shall require any of its subcontractors to carry the types of coverage and in the minimum amounts in accordance with the requirements set out in Section C.1 a, b, and c. Operator shall be responsible for any damage or loss suffered by the City as a result of non-compliance by operator or any subcontractor with this section.

7. If operator's coverage lapses, is cancelled or otherwise not in force, the City reserves the right to obtain insurance required herein and charge all costs and associated expenses to operator, which shall become due and payable immediately.

**D. Annual Operator Registration.** All operators with existing or permitted oil and gas operations within the City shall be responsible for supplying the following Annual Operator Registration information. Operators applying for oil and gas facilities within the City shall supply this information as part of their application; operators with existing or permitted oil and gas facilities in the City prior to the effective date of this Article will submit the Annual Operator Registration submittal requirements within 90 days after the effective date of this article; operators who have been annexed into the City or have received wells from another operator shall file Annual Operator Registration within 60 days after annexation or assuming responsibility for operating existing oil and gas facilities. Annual Operator Registration must be updated and renewed annually by July 1.

Annual Operator Registration submittal requirements shall include:

1. Updated Emergency Response Plans as required by section **18.10.02.05**;
2. Updated leak detection and repair plan as required by Standards Document;
3. Any updates to required financial assurance and insurance.
4. List of any reportable safety events over the past three (3) years as defined by ECMC Rule 602(g) as may be amended. Operator shall also list any root cause analyses conducted and corrective actions taken in response to the incidents, including internal changes to corporate practices or procedures;
5. List of any spills or releases over the past three (3) years; and
6. List of any notices of alleged violations issued by the ECMC or CDPHE over the past three (3) years.

#### **18.17.05.03 Recordation of Pipeline Locations; Notice of Abandonment**

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 30 days after completion of construction. Notice of abandonment of any flowlines shall be filed with the Director and recorded with the Larimer County Clerk and Recorder within 30 days after abandonment. All flowlines, gathering, and transmission lines must be physically removed unless a surface owner agreement executed by an existing surface owner allows abandonment in place or the Director finds that removal could cause significant damage other infrastructure (such as roads or other utilities) or to the environment.

#### **18.17.05.04 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 UDC. 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 UDC. Such modification will be approved so long as the new operator complies with the following:

- A. The new operator must certify that it will comply with all aspects of the existing oil and gas permit.
- B. The new operator demonstrates adequate insurance and posts financial assurances and provides Operator Submittals required in section **18.17.05.02**.
- C. The new operator has filed an Annual Operator Registration.
- D. The location is in compliance with all applicable local and state regulations and permits.

#### **18.17.05.05 Expiration of Permits**

- A. An oil and gas permit shall expire and be null and void if drilling and completion operations on all of the permitted wells are not completed within two years after the date the permit is issued, unless before the expiration date the applicant requests in writing and the Director approves an extension of such permit not to exceed one year. To approve any such extension, the Director must find that the applicant has an existing and valid permit from ECMC for the subject oil and gas operations, and that the oil and gas permit is in compliance with City standards as of the date of the extension request.
- B. The oil and gas permit shall automatically expire with the abandonment and reclamation of all associated wells.

#### **18.17.05.06 Concept Review**

- A. **Concept Review.** The applicant shall attend a pre-application conference with the City. The purpose of the meeting is to discuss the permit submittal requirements, the review process, and the list of oil and gas standards that are required to reduce or eliminate impacts to public health, safety, welfare or the environment. If not already provided by the Applicant, the City may require an Alternative Location Analysis that must be completed prior to submittal of the permit application.
- B. **Preliminary Site Analysis.** The applicant shall prepare and submit a Preliminary Site Analysis to the City for review at the pre-application conference. The Preliminary Site Analysis shall include the following information:
  - 1. All drilling and spacing units proposed by the applicant within one (1) mile of the City's boundaries;
  - 2. The proposed location for the oil and gas location and all features defined below, completely contained within, or within ¼ mile of all drilling and spacing units proposed by the applicant;
  - 3. Any existing residential, platted residential, or property currently entitled for residential use, not including properties zoned for agricultural use over five (5) acres in size;
  - 4. Properties designated for future residential use in the City's adopted Comprehensive Plan, including mixed use;
  - 5. Any school, nursing facility as defined in § 25.5-4-103(14), C.R.S., hospital, life care institutions as defined in § 12-13-101, C.R.S., or correctional facility as defined in § 17-1-102(1.7), C.R.S.;

6. Any operating Child Care Center as defined in § 26-6-102(1.5), C.R.S. Any public or private recreation facilities;
7. Outdoor assembly areas as defined by the UDC;
8. Public or private parks, including trails;
9. Senior living, assisted living facilities, or group homes;
10. Areas within the FEMA 100-Year Floodplain boundary;
11. The centerline of all USGS perennial and intermittent streams;
12. All public water system facilities including but not limited to treatment plants, raw water reservoirs, intake structures, storage tanks, and pump stations;
13. Wetlands; and
14. Sensitive wildlife areas.

**C. Alternative Location Analysis.** All applicants must submit an alternative location analysis. The alternative location analysis will include, at a minimum, the following information:

1. A map depicting the following elements within three (3) miles of the proposed surface location. (This requirement may be limited to one (1) mile for a proposed single vertical or directional well):
  - a. All mineral rights held or controlled by the applicant;
  - b. All drilling and spacing units proposed by the applicant;
  - c. Residences, school facilities, future school facilities, state-licensed day-care centers, hospitals, medical clinics, or senior living or assisted living facilities;
  - d. All platted residential subdivisions;
  - e. 100-year floodplain;
  - f. Current or planned future identified public drinking water supply areas;
  - g. Designated Outdoor Activity Areas or recreational open spaces;
2. The analysis shall evaluate a minimum of three potential sites that can reasonably access the mineral resources within the proposed drilling and spacing unit(s), including the following information for each site:
  - a. General narrative description of each site;
  - b. Any factors listed in the location criteria that the site does not satisfy;
  - c. Off-site impacts that may be associated with each site;
  - d. Proposed truck traffic routes and access roads for each site; and
  - e. Any information pertinent to the applicable review criteria that will assist the Director of Development Services in evaluating the sites.
3. *Location Suitability Criteria.* The following suitability criteria will be used in the Director of Development Services' consideration of the suitability of the proposed sites:
  - a. The proposed site's conformance with all City regulations;
  - b. The absence of any significant impacts the proposed site may have on adjacent properties;
  - c. Adequate surface acreage and suitable topography for safe and efficient operations;
  - d. The ability to adequately mitigate negative impacts from the proposed site;
  - e. The ability to consolidate facilities with other planned drilling and spacing units;

- f. The ability to reconfigure proposed drilling and spacing unit applications to provide more suitable surface use locations; and
  - g. Any other relevant considerations impacting public health, welfare, safety, and the environment.
4. *Suitability Analysis.* The Director of Development Services will determine suitability of all proposed sites based on the suitability criteria above. The Director of Development Services may also recommend analysis of additional sites if no locations appear to meet the suitability criteria or if there are additional locations that appear to meet the minimum suitability criteria that have been suggested by planning staff.

#### **18.17.05.07 Application Process**

- A. **Step 1: Application Submittal.** After the Concept Review and the submittal of an Alternative Location Analysis, the applicant may submit an oil and gas permit application. The application must meet the submittal requirements of section **18.17.05.02**.
- B. **Step 2: Staff Review for Completeness.** Within a reasonable period of time, not to exceed fourteen (14) days, City staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and resubmit the required number of copies of the amended application to the City. This is not a substantive review of the application submitted.
- C. **Step 3: Referral Agencies Notified.** Upon receipt of a completed application, the City shall forward the application to the appropriate referral agencies. The referral information shall include the time and place of the public hearing (if any), the nature of the hearing, the location of the subject property and the applicant's name. At minimum, the application shall be referred to Larimer County, the Police Department, the ECMC, and the appropriate Fire District. Referral agencies shall be provided thirty (30) days to respond with any comments. After such period, the City may proceed on the Application whether or not the City has received comments from the notified referral agencies.
- D. **Step 4: Staff Review and Comments.** City staff shall review the Application for compliance with this Section and all other applicable state and City regulations and standards. A summary of this review, including referral comments, and proposed conditions of approval, shall be sent to the Applicant.
- E. **Step 5: Applicant Response.** The applicant shall address all of the City staff comments and any referral agency comments, then submit the following to the City:
  - 1. Written correspondence explaining how all of the comments have been addressed; and
  - 2. Revised maps and other documents, as necessary.
- F. **Step 6: Final Staff Review and Staff Report**

1. City staff will complete a final review of the resubmitted materials and then prepare a final staff report explaining how the application is or is not consistent with the review criteria and applicable City ordinances, regulations and standards.
2. *Conditions of approval.* Staff will propose a list of conditions of approval, including requiring the use of Oil and Gas Standards, to reduce or eliminate impacts to public health, safety, welfare, or the environment. In proposing conditions of approval, the staff shall consider the following factors, among other considerations:
  - a. Site-specific factors of the proposed new oil and gas location;
  - b. The extent the conditions are necessary to prevent significant degradation of the health, safety, and welfare of City and area residents;
  - c. The extent to which conditions of approval will promote the use of existing facilities and reduction of new surface disturbance;
  - d. The extent to which legally accessible and technologically feasible alternative sites exist for the proposed new oil and gas location; and
  - e. The extent to which the proposed oil and gas location is within land used for residential, industrial, commercial, agricultural, or other purposes.
3. *Planning Commission Review.* All applications will proceed to the Planning Commission through the conditional use process. The Decision of the Planning Commission is final unless appealed pursuant to Division **18.14.05**.

**G. Step 7: Review by the City Decision-Making Body**

1. At a public hearing, the City decision-making body (whether Planning Commission or City Council) shall review the application for the oil and gas permit for compliance with the Criteria for Review in this Section and, if applicable, the criteria for a variance. The City decision-making body shall consider evidence presented in the application and at the public hearing to determine if the application is in compliance with the Criteria for Review and any recommendations of the Staff, if applicable.
2. *Criteria for Review.* At a public hearing, the City decision-making body shall review the application for the oil and gas permit for compliance with the following criteria and will explain how the application is or is not consistent with the review criteria and applicable City ordinances, regulations and standards.
  - a. All standards for conditional use review pursuant to Section **18.02.04.13** are met.
  - b. The application complies with the location restrictions provided in Section **18.10.02.01** unless a variance is obtained.
  - c. The application substantially complies with the provisions and practices in the Standards Document; and
  - d. The proposed use will not significantly degrade public health, safety and welfare or the environment.
4. *Decision.* The City decision-making body may approve, deny, conditionally approve the application, or it may take the matter under advisement until an announced date



certain, not to exceed thirty (30) days from the date of the hearing, at which time it shall render its decision.

- a. If the hearing before the Planning Commission is an appeal of a decision by the Director of Development Services, the Planning Commission's decision is final pending judicial appeal.
- b. A decision by the Planning Commission may be appealed to the City Council as provided in Division 18.14.05. The City Council's decision is final pending judicial appeal.

#### **18.17.05.08 Oil and Gas Permit Order.**

Prior to commencement of operations for which an oil and gas permit has been approved, an oil and gas permit order shall be obtained from the City. The City shall administratively issue the oil and gas permit order within a reasonable time upon receipt of the following:

- A. A copy of the Planning Commission approving an oil and gas permit;
- B. Proof of compliance with any conditions placed in the approved oil and gas permit;
- C. A copy of the approved site plan;
- D. A copy of any other necessary permits, such as building permits and grading permits, if applicable;
- E. Copies of any necessary county, state or federal permits issued for the operation if not previously submitted;
- F. Copies of all necessary ECMC permits; and
- G. Copies of all necessary Air Pollution Control Division permits.

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**Section 5. Amend 18.17.15.08 and 18.17.15.09 of the Loveland Unified Development Code.** Sections 18.17.15.08 – 18.17.15.09 are deleted in total.

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**Section 6. Amend 18.18.02.03 of the Loveland Unified Development Code.** Section 18.18.02.03 is hereby stricken and restated as follows.

#### **18.18.02.03 Inspection and Order**

- A. **Generally.** The Code Enforcement Officer, Building Official, or other authorized City representative are empowered to cause any building, structure, or tract of land to be inspected and examined in accordance with Chapter 1.08, Loveland Unified Development Code, and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this title.
- B. **Oil and Gas Permits.**
  1. *Generally.* 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 UDC and all other applicable provisions of the Loveland Unified Development Code. The City's inspections shall be limited to the inspection of those matters directly enforceable by the City. In the event an inspection is desired by the City relating to a matter not directly enforceable by the City, the City shall contact the Colorado Energy and Carbon Management Commission to request that it conduct the inspection and take appropriate enforcement action.

2. *Right to Enter.* For the purpose of implementing and enforcing this UDC, 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 a complaint or an emergency that threatens public health, safety, or welfare. By accepting an oil and gas permit under this Chapter, the operator grants its consent to this right to enter.
  3. *Right to Records.* Upon request, operator shall make available to City all records required to be maintained by these regulations or to show compliance with these regulations, and the rules and regulations promulgated by the ECMC and the Colorado Department of Public Health and Environment (CDPHE), including permits, Air Pollutant Emission Notices (APENs) and other documents required to be maintained by the ECMC, CDPHE and these regulations.
- C. **Effect of Order.** After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct or comply with such violation. A duly appointed peace officer, code enforcement officer, building official, or other authorized representative of the City may issue summonses and complaints into municipal court for any violation of the provisions of this UDC.
- D. **Limitation of Liability.** This UDC shall not be construed to hold the City responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or by reason of issuing a building permit.

Effective on: 11/20/2018

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**Section 7. Amend 18.18.03.04 of the Loveland Unified Development Code.**  
Section 18.18.03.04 is hereby stricken and restated as follows.

**18.18.03.04 Special Provisions for Oil and Gas Permits**

- A. **Generally.** It shall be unlawful and a misdemeanor offense for any person to do any of the following:
1. Conduct any oil and gas operation within the City without a validly issued oil and gas permit or change of operations permit where one is required pursuant to this Chapter;
  2. Violate any enforceable condition of an approved oil and gas permit; or
  3. Violate any applicable and enforceable provision of this UDC with respect to oil and gas operations.

4. It is unlawful to provide false, misleading, deceptive or inaccurate information and/or documentation in an application for an oil and gas permit or change of operations permit. Except as otherwise provided in this Section, it is unlawful for the applicant to provide information and/or documentation upon which the approval of an oil and gas permit was based, which the applicant, its agents, servants or employees knew or reasonably should have known was materially false, misleading, deceptive or inaccurate.
- B. Civil Actions.** In addition to any other legal remedies provided under this chapter to enforce this UDC with respect to oil and gas operations, 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 UDC, 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 or the UDC. If the City prevails in any such civil action, the operator shall be liable to the City for all of the City's reasonable attorneys' fees, expert witness costs, and all other costs incurred in the enforcement action.
- C. Criminal Penalties.** A violation of any enforceable provision of this UDC with respect to oil and gas operations shall constitute a misdemeanor offense punishable as provided in Section 1.12.010, Loveland Unified Development Code. 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.
- D. Suspension and Revocation of Oil and Gas Permit.**
1. **Generally.** If at any time the Director has reasonable grounds to believe than an operator is in violation of any enforceable provision of this UDC with respect to oil and gas operations, 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.
  2. **Written Notice of Suspension.** The written notice of suspension shall state with specificity the alleged 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 Manager by filing with the City Clerk a written notice of appeal stating with specificity the operator's grounds for appeal.
  3. **Appeal.**
    - a.. Within 30 days of the City Clerk's receipt of that notice, a public hearing shall be held before the City Manager. The hearing shall be conducted as a quasi-judicial proceeding with the operator having the burden of proof, and with the Director
    - b. 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 Manager 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 UDC, the oil and gas permit, and state law to conduct its oil and gas operations.

- c. Within 25 days after the hearing, the City Manager shall adopt its written findings and conclusion supporting its decision. The City Manager's written findings and conclusions shall constitute the City Manager's final decision.

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**Section 8. Amend 18.19.02.02 of the Loveland Unified Development Code.**

Section 18.19.02.02 (Table of Acronyms) is amended to replace "COGCC – Colorado Oil and Gas Conservation Commission" with "ECMC – Energy and Carbon Management Commission."

**Section 9. Amend 18.19.03 of the Loveland Unified Development Code.**

Section 18.19.03 (Definitions) are amended as follows.

**Division 18.19.03 Definitions**

*The following definitions have been added or amended:*

**Completion** means, with respect to 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 ECMC Regulations. Any well not previously defined as an oil or gas well, shall be considered completed 90 days after reaching total depth. If approved by the director of the ECMC, 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.

**Drilling and Spacing Unit** has the same meaning as defined in C.R.S. § 34-60-116(2).

**ECMC Permit** means a permit issued by the Colorado Energy and Carbon Management Commission ("ECMC") to drill, deepen, re-enter or recompleat and conduct any other oil and gas operation as allowed under the ECMC regulations.

**ECMC Rule or ECMC Regulation** means the Oil and Gas Rules and Regulations duly adopted by the ECMC, as amended, including but not limited to 2 CCR 400, et seq.

**Flowlines** means those segments of pipe from the wellhead downstream through the production facilities ending at: in the case of gas lines, the gas metering equipment; or in the case of oil

lines the oil loading point or LACT unit; or in the case of water lines, the water loading point, the point of discharge to a pit, or the permitted surface water discharge point.

**Future School Facility** means a school facility that is not yet constructed, but that the school or school governing body plans to build and use for students and staff within four (4) years of the date of the preapplication conference.

**Minimize Adverse Impacts** means, with respect to oil and gas operations, to avoid, whenever reasonably practicable, adverse impacts to wildlife resources, the environment, or the public health, safety or welfare from said operations, to minimize the extent and severity of those impacts that cannot be avoided, and to mitigate the effects of unavoidable remaining impacts.

**Oil and Gas Facility** means equipment or improvements that are used or installed at an oil and gas location for the exploration, production, withdrawal, treatment or processing of oil or gas

**Oil and Gas Location** means a definable area where an operator has disturbed or intends to disturb the land surface in order to locate an oil and gas facility.

**Oil and Gas Operations (“Operations”)** means exploring for oil and gas, including conducting seismic operations and the drilling of test bores; siting, drilling, deepening, recompleting, reworking, or abandoning a well; producing operations related to any well, including installing flowlines; the generating, transporting, storing, treating, or disposing exploration and production wastes; and any constructing, site preparing, or reclaiming activities associated with such operations.

**Oil and Gas Standards (“Standards Document”)** means the list of requirements 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.

**Operator**, with respect to oil and gas, means a person, whether proprietor, lessee or independent contractor, who has the legal right under a permit issued under this UDC and under a ECMC Permit 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.

**Pipeline, Oil and Gas** means a flowline, crude oil transfer line, or gathering line that transports gas, oil and/or produced water off of an oil and gas location.

**Pipeline, Transmission** is a pipeline that is not an “oil and gas pipeline” but is used to transport crude oil and natural gas from their respective gathering systems to refining, processing, or storage facilities.

**Pit** means 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 that do not release their contents to surrounding soils. The word “pit” 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 ECMC Regulations.

**Public Water Supply Well** means a well or system of wells that provide water via piping or other constructed conveyances for human consumption to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least sixty (60) days each year.

**School Facility** means any discrete facility or area, whether indoor or outdoor, associated with a school, that students use commonly as part of their curriculum or extracurricular activities. A school facility is either adjacent to or owned by the school or school governing body, and the school or school governing body has the legal right to use the school facility at its discretion.

**Well, Oil and Gas** means 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.

**Working Pad Surface** means the portion of an Oil and Gas Location that has an improved surface upon which Oil and Gas Operations take place.

*The following definitions have been deleted:*

**Baseline Oil and Gas Standards** means those review standards and operation requirements set out in Division 18.10.02, General Standards for Oil and Gas Operations.

**Completion Combustion Device** means any ignition device, installed horizontally or vertically, used in exploration and production operations to combust otherwise vented emissions from completions.

**Enhanced Oil and Gas Standards** means those review standards and best management practices set out in Division 2.11.03, Enhanced Standards for Oil and Gas Operations (Administrative Review).

**High Occupancy Building** means any residential or nonresidential building or structure that is designed to be occupied by natural persons and permitted with an occupancy rating for 50 persons or more.

**Oil and Gas Best Management Practices**, means 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.

**Resource Extraction (Oil and Gas)** means exploration for and production of oil and natural gas.

**Well Blowdown** means the maintenance activity designed to remove fluids from mature wells, during which time gas is often vented to the atmosphere.

**Section 10. Severability.** If any Chapter, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

**Section 11. Safety.** This Ordinance is deemed necessary for the protection of the public health, safety and welfare.

**Section 12. Effective Date.** 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).

**INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this \_\_ day of \_\_\_\_\_, 2024.**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk