

DRAFT SUBJECT TO FURTHER REVIEW AND REVISION

SECTION 2.5.3 INDUSTRIAL DISTRICT (I)

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(B) Land Use Standards.

1. Prohibited Uses.

The following uses are specifically prohibited in the Industrial District:

- a. Feedlots.
- b. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 29, Petroleum Refining and Related Industries, as identified in the Standard Industrial Classification Manual (OMB 1987). This prohibition shall not be interpreted to include oil and gas operation, facilities, or pipelines as defined in this Code and addressed in Division 5.17.
- c. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 331, Steel Works, Blast Furnaces, and Rolling and Finishing Mills, as identified in the Standard Industrial Classification Manual (OMB 1987).
- d. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 33, Primary Metal Industries, as identified in the Standard Industrial Classification Manual (OMB 1987).
- e. All electrical generation facilities falling within Standard Industrial Classification (SIC) Major Group No. 4911, as identified in the Standard Industrial Classification Manual (OMB 1987).
- f. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 4925, Mixed, Manufactured, or Liquefied Petroleum Gas Products and/or Distribution, as identified in the Standard Industrial Classification Manual (OMB 1987). This prohibition shall not be interpreted to include oil and gas operation, facilities, or pipelines as defined in this Code and addressed in Division 5.17.
- g. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 2011, Meat Packing Plants, as identified in the Standard Industrial Classification Manual (OMB 1987).
- h. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 2015, Poultry Slaughtering and Processing, as identified in the Standard Industrial Classification Manual (OMB 1987).
- i. All establishments falling within Standard Industrial Classification (SIC) Major Group No. 2077, Animal and Marine Fats and Oils, as identified in the Standard Industrial Classification Manual (OMB 1987).

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Article 4 Use Standards: Oil and Gas Changes

Changes to the use table in Article 4 will need to be made by CDNS staff. The changes are as follows:

1. Add "oil and gas facilities" to the Industrial zone district as an allowed use.
2. Add "oil and gas pipelines" to all zone districts as an allowed use.

DIVISION 5.17 OIL AND GAS FACILITIES, OPERATIONS, AND PIPELINES

5.17.1 PURPOSE AND APPLICABILITY

(A) **Purpose.** This Division is intended to protect the public health, safety, and welfare, and the environment and wildlife resources by regulating oil and gas development to anticipate, avoid, minimize and mitigate adverse impacts to existing, planned, and future land uses.

(B) **Applicability.** This Division applies to all oil and gas facilities, oil and gas operations, and oil and gas pipelines within City boundaries over which the City has regulatory authority pursuant to law, except for oil and gas facilities, oil and gas operations, and oil and gas pipelines subject to a valid operator agreement between the City and the operator effective prior to [Insert Effective Date] in which case the operator agreement shall govern the applicable oil and gas facilities, oil and operations, and oil and gas pipelines. All persons must obtain approval from the City in accordance with the standards in this Division and all applicable Land Development Code requirements prior to constructing and operating any new oil and gas facility or oil and gas pipeline or enlarging or expanding any oil and gas facility or oil and gas pipeline lawfully existing prior to [Insert Effective Date].

Any terms used in this Division that are not defined within the Land Development Code shall be defined by the COGCC as set forth in the Code of Colorado Regulations. The terms applicant and operator are used interchangeably at times in this Division.

Where, in any specific case, the requirements of any other provision within the Land Development Code or Code of the City of Fort Collins or any applicable federal or state laws or regulations of any state or federal agency are in conflict with this Division, the more restrictive or stringent requirement shall be imposed.

5.17.2 EXISTING OIL AND GAS FACILITIES AND PIPELINES

Application to Existing Oil and Gas Facilities and Pipelines. Oil and gas facilities and oil and gas pipelines that were lawfully established prior to [Insert Effective Date], referred herein as lawful nonconforming oil and gas facilities and pipelines, are considered nonconforming uses that may continue to operate pursuant to either a valid operator agreement governing such oil and gas facilities or oil and gas pipelines between the City and the operator in effect prior to [Insert Effective Date], or absent such an operator agreement, pursuant to Land Development Code Division 6.16 as modified in this Section. The following provisions apply to lawful nonconforming oil and gas facilities and pipelines not subject to an operator agreement:

(A) Section 6.16.3 regarding abandonment of use.

(B) Section 6.16.4 regarding reconstruction does not apply to lawful nonconforming oil and gas facilities and pipelines and reconstruction of such an oil and gas facility or facility taken by governmental acquisition or damaged by fire or other accidental cause or natural catastrophe is not allowed.

(C) Section 6.16.5 regarding enlargement of buildings and expansion of facilities, equipment or structures does not apply to lawful nonconforming oil and gas facilities, operations, and pipelines, and enlargement and expansion of any such facility, operation, or pipeline requires such facility, operation, or pipeline to be brought into conformance with the Land Development Code.

(1) Enlargement or expansion includes, but is not limited to, any permanent physical change to a lawful nonconforming oil and gas facility or pipeline not required by law that increases operating capacity, harmful air emissions, traffic, noise, risk of spills, or will adversely impact public health, safety, welfare, the environment or wildlife resources. Use of a drilling rig or hydraulic fracturing equipment to deepen or recomplete an existing well into a new geologic formation is considered expansion.

(2) Maintenance activities, the replacement of existing equipment with substantially similar equipment in like and kind, installation of emission control equipment, and the addition of equipment to fulfill mandated regulatory requirements are not considered enlargement or expansion.

5.17.3 OIL AND GAS PROJECT DEVELOPMENT PLAN REVIEW PROCEDURES

In order for a new oil and gas facility to be constructed and operated, or a lawful nonconforming oil and gas facility to be enlarged or expanded, the applicant must receive approval of a project development plan, final plan, and building permit pursuant to the Land Development Code. In order for enlargement or expansion of a lawful nonconforming oil and gas facility to occur, unless an operator agreement as described in above Section 5.17.2 provides otherwise, such facility must be brought into conformance with the Land Development Code and receive approval of a project development plan, final plan, and building permit pursuant to the Land Development Code prior to enlargement or expansion and continued operation. Requirements for oil and gas pipelines are addressed separately below in Section 5.17.5. The Project Development Plan Review Procedures set forth in Section 6.6.2 are modified as follows:

(A) Step 1 (Conceptual Review): Mandatory. In addition to the Concept Plan Submittal requirements pursuant to Section 6.3.1(A)(3), the applicant for a new oil and gas facility shall provide an alternative location analysis and preliminary site analysis as described below. Prior to the required neighborhood meeting referenced in (B) below, the City will review all proposed locations for the oil and gas facility to determine which locations, if any, meet Land Development Code requirements and will prepare a report summarizing its findings with respect to the proposed locations. If the City requests a site visit of any of the locations under consideration, the operator is responsible for securing permission or coordinating with the landowner(s) to conduct the site visit. Prior to selecting the location for the proposed oil and gas facility, the operator shall consult with the City regarding the proposed locations and the City's report regarding such locations.

(a) Alternative Location Analysis. The alternative location analysis must include, at a minimum, the following information:

- (I) A map depicting the following elements within three (3) miles of the proposed surface location. (This requirement is limited to one (1) mile for a proposed single vertical or directional well):
 - (i) All mineral rights held or controlled by the applicant; and
 - (ii) The location of all features listed in the "Preliminary Site Analysis."
- (II) Unless waived by the Director, the analysis shall evaluate a minimum of three potential locations that can reasonably access the mineral resources within the proposed drilling and spacing unit(s), including the following information for each site:
 - (i) General narrative description of each location;
 - (ii) Any location restrictions that the site does not satisfy;
 - (iii) Any existing surface use agreements or other documentation regarding legal property rights;
 - (iv) Off-site impacts that may be associated with each site;
 - (v) Proposed truck traffic routes and access roads for each location; and
 - (vi) Any information pertinent to the applicable review criteria that will assist the Director in evaluating the locations.

(b) Preliminary Site Analysis. The Preliminary Site Analysis shall include maps with the following information:

- (I) All drilling and spacing units proposed by the applicant within one (1) mile of the City's boundaries; and
 - (II) All features defined below that are wholly or partially within one (1) mile of the proposed oil and gas facility:
 - (i) Any existing or future building approved as occupiable space, as defined in the City's Building Code;
 - (ii) City parks or City property intended to be used for City parks;
 - (iii) City maintained trails and trailheads or City property intended to be used for City trails and trailheads;
 - (iv) Outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor assembly;
 - (v) City natural areas;
 - (vi) Existing and approved oil and gas facilities and pipelines;
 - (vii) Areas within the FEMA 100-Year Floodplain boundary;
 - (viii) The centerline of all USGS perennial and intermittent streams and the map will indicate which surface water features are downgradient;
 - (ix) Active reservoirs and public and private water supply wells of public record;
 - (x) Natural habitats and features as defined in Land Development Code Section 5.6.1 within one (1) mile of the proposed oil and gas facility;
 - (xi) High priority habitat as defined by the COGCC; and
 - (xii) Disproportionately impacted communities, as defined by the COGCC.
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(B) Step 2 (Neighborhood Meeting): Mandatory. After a proposed location has been selected for the oil and gas facility, a neighborhood meeting must be held. Written notice of the neighborhood meeting must be mailed to the owners of record of all real property within one (1) mile (exclusive of public rights-of-way, public facilities, parks or public open space) of the property line of the parcel of land upon which the development is planned.

(C) Step 3 (Development Application Submittal): All items or documents required for project development plans as described in the development application submittal master list for oil and gas facilities shall be submitted. The Director may waive or modify the foregoing submittal requirements if, given the facts and circumstances of the specific application, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary for the full and complete review of the application.

The complete project development plan application must be submitted and accepted by the City as complete prior to the applicant submitting any required Form 2 or 2A to the COGCC. Should the applicant submit any required Form 2 or 2A to the COGCC prior to submitting its complete project development plan application to the City, the applicant must withdraw the Form 2 or 2A and refrain from resubmitting until a complete project development plan application has been submitted and accepted by the City as complete.

5.17.4 OIL AND GAS FACILITY DEVELOPMENT STANDARDS

The following requirements apply to oil and gas facilities in addition to other applicable Land Development Code requirements.

(A) Location Restrictions for New Oil and Gas Facilities or Enlarged or Expanded Existing Oil and Gas Facilities.

(1) Allowed Zone Districts. Oil and gas facilities may only be located on property located within:

(a) The Industrial (I) zone district;

(b) A zone district to which oil and gas facility is added as an allowed use for a particular parcel pursuant to Division 6.9, Addition of Permitted Uses; or

(c) A Planned Unit Development (PUD) overlay in which oil and gas facilities are an allowed use.

A development application for an oil and gas facility may not be submitted until oil and gas facility is an allowed use for the proposed location.

(2) Setbacks. Setbacks for new oil and gas facilities and enlarged or expanded existing oil and gas facilities cannot be modified pursuant to Division 6.8, Modification of Standards. Setbacks are measured as the shortest distance from the edge of the working pad surface to the following:

(a) No working pad surface shall be located within two thousand (2,000) feet from the following:

- (I) The nearest wall of any existing or platted building approved or to be approved as occupiable space as defined under the City's Building Code;
- (II) The property boundary line of any property containing a City park or City property intended to be used for a City park;
- (III) The easement or parcel boundary of City maintained recreation trails and trailheads or City property intended to be used for City maintained trails and trailheads;
- (IV) The edge of outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor assembly; or
- (V) The property boundary line of any property containing a City natural area.

(b) No working pad surface shall be located within one thousand (1,000) feet from the following:

- (I) Public water supply surface intakes or public water supply wells;
- (II) Ditches that transport water used by, or to augment, a public water supply system; or
- (III) Conservation easements.

(3) Buffer zones surrounding natural habitats and features. Oil and gas facilities shall protect natural habitats and features specified in Section 5.6.1 through buffer zones. Buffer zones set forth in the *Buffer Zone Table for Fort Collins Natural Habitats and Features* in Section 5.6.1(E) are measured from the shortest distance from the working pad surface to the top of bank, and are modified as follows:

- (a) All features under the Stream Corridors category: 1,000 feet
- (b) Wetlands greater than 1/3 acre: 1,000 feet
- (c) Lakes or reservoirs: 1,000 feet
- (d) Naturalized storm drainage channels/detention ponds: 1,000 feet
- (e) Naturalized irrigation ponds: 1,000 feet
- (f) Buffer zones for natural habitats and features not listed above will conform to the buffer distances specified in Section 5.6.1 or 1,000 feet, whichever is greater.

(B) Prohibited Oil and Gas Facilities. The following facilities are prohibited within the City:

- (1) Injection wells for disposal of oil and gas exploration and production wastes;
 - (2) Gas storage wells;
 - (3) Disposal pits;
 - (4) Commercial disposal facilities;
 - (5) Centralized exploration and production waste management facilities;
 - (6) Subsurface disposal facilities; and
 - (7) Glycol dehydrators and desiccant gas processing dehydrators.
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(C) Landscaping. Land Development Code Section 5.10.1 applies in addition to the following requirements:

- (1) The requirements of Section 5.10.1, Landscaping and Tree Protection, apply within designated setbacks as defined in Section 5.17.4(A)(2) above to meet the Landscaping and Tree Protection general standard set forth in Land Development Code Section 5.10.1(C).
- (2) No landscaping will be placed within a twenty-five (25) foot buffer around any tank or other structure containing flammable or combustible materials.

(D) Environmental Protection. Land Development Code Section 5.6.1, Natural Habitats and Features, applies in addition to the requirement for an Ecological Characterization Study if the development site contains or is within two thousand (2,000) feet of a natural habitat or feature.

(E) Artificial Lift. Artificial lift may not be accomplished through the use of traditional pump jacks and an alternative artificial lift system must be used that is both less visible and has fewer auditory impacts than a traditional pump jack. Alternatives such as gas lift, linear rod pumps, or hydraulic pumping unit must be used instead of traditional pumpjacks and are to be as low profile as practicable with a maximum height of thirty (30) feet.

(F) Fencing Plan. The requirements in this Subsection (F) apply to oil and gas facilities in substitution of the requirements set forth in Land Development Code Section 4.3.5(C), Fences and Walls. A fencing plan must be submitted as part of the application for a project development plan and such plan must demonstrate how the oil and gas facility will comply with the following requirements:

- (1) All pumps, wellheads and production facilities must be fenced to prevent unauthorized access and fencing must:
 - (a) Completely surround such facilities;
 - (b) Be no less than six (6) feet in height;
 - (c) Be noncombustible and allow for adequate ventilation;
 - (d) May not consist of solid masonry walls; and
 - (e) Must be visually compatible with surrounding land uses.
- (2) Each fence enclosure must be equipped with at least one gate. Each gate must meet the following requirements:
 - (a) Gates shall be provided with a combination catch and locking attachment device for a padlock and shall be kept locked except when being used to access the oil and gas location; and
 - (b) Gates must provide adequate access for emergency responders and the operator must provide Poudre Fire Authority with a "Knox Padlock" or "Knox Box with a key" to allow emergency access to the oil and gas location.

5.17.5 OIL AND GAS PIPELINES

Oil and Gas Pipelines. To the maximum extent feasible, oil and gas pipelines must be utilized for the transport of oil, gas, and produced water within and from any oil and gas location except that temporary tanks may be utilized during drilling, flowback, workover,

completion, hydraulic fracturing and maintenance operations. All oil and gas pipelines needed to transport oil, gas, and produced water within and from any oil and gas location must be constructed prior to the production phase of such oil and gas facility.

Any newly constructed oil and gas pipelines, or the enlargement or expansion of lawful nonconforming oil and gas pipelines, consisting of flowlines, gathering lines, or transmission lines, or any combination thereof, used to transport oil or gas, or both, are an allowed use in all zone districts. Flowlines are subject to review as part of the project development plan for any oil and gas facility to which the flowlines are associated or through a minor amendment if additional flowlines are added subsequent to project development plan approval. Gathering lines and transmission lines are subject to basic development review. Oil and gas pipelines must meet the following requirements in order to be approved:

- (A) Oil and gas pipelines shall be sited a minimum of 50 feet away from residential and non-residential buildings. This distance shall be measured from the nearest edge of the oil and gas pipeline. Increased setbacks of up to 150 feet may be required for public safety on a case-by-case basis in consideration of the size, pressure, and type of oil and gas pipeline being proposed.
- (B) Oil and gas pipelines 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) To the maximum extent feasible, oil and gas pipelines shall be aligned with established roads in order to minimize surface impacts and reduce habitat fragmentation and disturbance.
- (D) To the maximum extent feasible, operators shall share existing oil and gas pipeline easements and consolidate new corridors for oil and gas pipeline easements to minimize surface impacts.
- (E) The legal description of the location of all new oil and gas pipelines must be recorded on the respective property with the Larimer County Clerk and Recorder within thirty (30) days of completion of construction.
- (F) Coordinates of all oil and gas pipelines shall be provided 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.

5.17.6 Plugging and Abandonment of Wells and Pipelines and Decommissioning of Oil and Gas Facilities

- (A) The plugging and abandonment of a well, abandonment of an oil and gas pipeline, and the decommissioning of any oil and gas facility are subject to basic development review. City review and approval of an application to plug and abandon a well, abandon an oil and gas pipeline or decommission and oil and gas facility is intended to be in addition to any required COGCC review and approval. The following documents and information shall be provided as part of the basic development review application:
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- (1) Coordinates of the well proposed to be plugged and abandoned or pipeline to be abandoned.
 - (2) A removal plan for flowlines and wastewater pipelines associated with any well proposed to be plugged and abandoned to the extent such lines will not serve a well that has not been plugged and abandoned.
 - (3) A sampling and monitoring plan associated with any well proposed to be plugged and abandoned. Site investigation, sampling, and monitoring shall be conducted to demonstrate that the well has been properly abandoned and that soil, air and water quality have not been 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 (3) is required prior to sampling occurring and such plan shall include, but is not limited to, the following:
 - (a) Site survey, historical research, and/or physical locating techniques to determine exact location and extent of oil and gas operations and facilities.
 - (b) Documentation of plugging activities, abandonment and any subsequent inspections.
 - (c) Soil sampling, including soil gas testing.
 - (d) Groundwater sampling.
 - (e) Installation of permanent groundwater wells for future site investigations.
 - (f) A minimum of five (5) years of annual soil gas and groundwater monitoring at the well location.
 - (g) Upon completion of the site investigation and sampling, not including the ongoing monitoring, the consultant must provide a written report verifying that the soil and groundwater samples meet applicable Environmental Protection Agency 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. Otherwise, the decision maker may require that the following actions be completed by a qualified professional before development may occur, including but not limited to:
 - (I) Remediation of environmental contamination to background levels.
 - (II) Well repair or re-plugging of a previously abandoned well.
 - (4) A final reclamation plan for the associated oil and gas location. The final reclamation plan must demonstrate how the following reclamation requirements will be satisfied:
 - (a) All oil and gas related improvements and equipment must be removed from the oil and gas location, including flowlines, gathering lines, and oil and gas pipelines of any kind unless such improvements or equipment are needed to serve a well that has not been plugged and abandoned.
 - (b) Upon written request, the Director may approve in writing the abandonment in place of any oil and gas pipeline. The Director may approve abandonment in place only if removal would cause greater adverse impacts to public health,
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safety, welfare, or the environment than allowing the oil and gas pipeline to remain. If an oil and gas pipeline is abandoned in place, a tracer will be placed in any nonmetal line. Any oil and gas pipeline approved to be abandoned in place must comply with all COGCC rules and the location of the abandoned oil and gas pipeline must be recorded with the Larimer County Clerk and Recorder on the corresponding property.

(c) The oil and gas location must be reclaimed and revegetated to the satisfaction of the City and in consultation with the landowner, the oil and gas location and all access roads associated with the oil and gas location proposed to be reclaimed within three (3) years after seeding, or as directed by the landowner in a surface use agreement.

(B) Prior to commencing plugging and abandonment of a well, the applicant must provide the City with evidence of COGCC approval of the request to plug and abandon.

(C) After plugging and abandonment is completed, the operator must:

(1) Provide the City with evidence of COGCC approval of the completed plugging and abandonment.

(2) Provide evidence that the location of the plugged and abandoned well has been recorded with the Larimer County Clerk and Recorder on the corresponding property.

(3) Permanently mark by a brass plaque set in concrete, similar to a permanent bench mark, to monument the plugged and abandoned well's existence and location. Such plaque shall contain the information required by the COGCC to properly identify the well.

(D) **Reclamation.** Within six (6) months after plugging and abandoning a well, abandoning an oil and gas pipeline, or decommissioning an oil and gas facility, reclamation of the associated oil and gas location must be completed pursuant to the approved final reclamation plan unless the Director grants additional time to complete reclamation in consideration of the complexity of the reclamation and conditions that may delay reclamation such as the season and weather. The operator must notify the City upon commencement of reclamation and upon completion.

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6.3.3 STEP 3: DEVELOPMENT APPLICATION SUBMITTAL

- (A) **Development Application Forms.** All development applications shall be in a form established by the Director and made available to the public.
- (B) **Consolidated Development Applications and Review.** Development applications combining an overall development plan and a project development plan for permitted uses for the same development proposal may be consolidated for submittal and review, in the discretion of the Director, depending upon the complexity of the proposal. For these consolidated applications, the applicant shall follow the project development plan development review procedures. Such consolidated applications shall be reviewed, considered and decided by the highest level decision maker that would have decided the development proposal under Section 6.3.7 had it been submitted, processed and considered as separate development applications. Decision makers, from highest level to lowest level, are the Planning and Zoning Commission and the Director, respectively.

(C) Development Application Contents.

- (1) **Development Application Submittal Requirements Comprehensive List.** A Comprehensive list of development application submittal requirements shall be established by the Director. The Comprehensive list shall, at a minimum, include a list of all information, data, explanations, analysis, testing, reports, tables, graphics, maps, documents, forms or other items reasonably necessary, desirable or convenient to (1) determine whether or not the applicant, developer and/or owner have the requisite power, authority, clear title, good standing, qualifications and ability to submit and carry out the development and/or activities requested in the development application; and (2) determine whether or not the development activities and development application address and satisfy each and every applicable development standard, district standard or other requirement or provisions of this Land Development Code.
- (2) **Submittal Requirement.** Each development application shall be submitted to the Director and shall include the items on the Comprehensive list that are identified as submittal requirements for that development application. The Director may waive items on the Comprehensive list that are not applicable due to the particular conditions and circumstances of that development proposal. **At the time of application submittal, all applicants must agree in writing to pay the costs for third-party consultants the City retains to adequately review the application as described in Land Development Code Section 6.3.3(D)(3).**
- (3) **Execution of Plats/Deeds; Signature Requirements.** All final plats and/or deeds (for conveyances of real property either off the site described on the plat or at a time or in a manner separate from the plat), submitted to the City shall:
- (a) be signed by all current owners of any recorded fee interest in the surface of the land described on the plat (or in the deed), whether full or defeasible and whether solely or partially owned;

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- (a) be signed by all current owners of any equitable interest arising out of a contract to purchase any fee interest in the surface of the land described on the plat (or in the deed), whether full or defeasible and whether solely or partially owned;
- (b) be signed by all current record owners of any non-freehold interest arising from any recorded lease of the surface of the land described on the plat (or in the deed) if such lease has a remaining term of six (6) years following approval of the final development plan by the decision maker or if such lease contains any right of extension which, if exercised by the tenant, would create a remaining term of six (6) years following approval of the final development plan by the decision maker;
- (c) be signed by all current owners of any recorded mortgage, deed of trust or other lien, financial encumbrance upon or security interest in the lands described on the plat (or deed) which, if foreclosed would take, injure, diminish or weaken the city's interest in any land, easement or right-of-way which is dedicated to the city or to the public on the plat (or in the deed);
- (d) be signed by all current owners of any easement or right-of-way in the lands described on the plat (or in the deed) whether on, above or below the surface, which includes rights which will take, injure, diminish or weaken the city's interest in any land, easement or right-of-way which is dedicated to the city or to the public on the plat (or in the deed);
- (e) be signed by the applicant's attorney licensed to practice law in the State of Colorado certifying to the City that all signatures as required pursuant to subparagraphs (a) through (e) above have lawfully and with full authority been placed upon the plat (or in the deed). Said certification may be limited by the attorney so certifying to only those ownership interests that are of record or, if not of record, are either actually known to the certifying attorney to exist, or in the exercise of reasonable diligence, should have been known to the certifying attorney to exist. For purposes of such certification, the terms "record," "recorded" and "of record" shall mean as shown by documents recorded in the real estate records in the Clerk and Recorder's Office of Larimer County, Colorado prior to the date of certification;
- (f) contain a maintenance guarantee, a repair guarantee and a certificate of dedication signed by the developer and the owner (as described in subparagraph (a) above), which provide a two-year maintenance guarantee and five-year repair guarantee covering all errors or omissions in the design and/or construction. The specific provisions of the maintenance guarantee, repair guarantee and certificate of dedication shall be established by the City Engineer; and

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- (g) contain the legal notarization of all signatures as required pursuant to subparagraphs (a) through (e) above to be placed upon the plat (or deed).

The Director may waive or modify the requirements of subparagraphs (b) through (e), and the requirements of subparagraph (g) above upon a clear and convincing showing by the applicant that such waiver or modification will not result in any detriment to the public good, including without limitation, detriment to the interest of the public in the real property conveyed to it on the plat (or in the deed); and will not result in any harm to the health, safety or general welfare of the City and its citizens.

(D) Development Review Fees and Costs for Specialized Consultants.

- (1) **Recovery of Costs.** Development review fees are hereby established for the purpose of recovering the costs incurred by the City in processing, reviewing and recording applications pertaining to development applications or activity within the municipal boundaries of the City, and issuing permits related thereto. The development review fees imposed pursuant to this Section shall be paid at the time of submittal of any development application, or at the time of issuance of the permit, as determined by the City Manager and established in the development review fee schedule.
- (2) **Development Review Fee Schedule.** The amount of the City's various development review fees shall be established by the City Manager, and shall be based on the actual expenses incurred by or on behalf of the City. The schedule of fees shall be reviewed annually and shall be adjusted, if necessary, by the City Manager on the basis of actual expenses incurred by the City to reflect the effects of inflation and other changes in costs. At the discretion of the City Manager, the schedule may be referred to the City Council for adoption by resolution or ordinance.
- (3) **Specialized Consultants.** In the Director's discretion, the City may retain the services of third-party consultants with specialized knowledge that the City requires to adequately evaluate an application, the costs of which must be paid by the applicant with such payment agreed to in writing at the time of application submittal. Prior to retaining any consultant, the Director must inform the applicant of the intent to retain such consultant and the estimated costs. The applicant must pay to the City the estimated costs prior to the City retaining the consultant. Within sixty (60) days of completion of the consultant's work, the applicant must pay to the City the actual cost of the consultant's services in excess of the estimate or the City must refund any portion of the estimate in excess of the actual cost.

6.3.4 STEP 4: REVIEW OF APPLICATIONS

- (A) **Determination of Sufficiency.** After receipt of the development application, the Director shall determine whether the application is complete and ready for review. Some development applications may involve complex technical issues that require review and input that is outside the expertise of City staff. If such a situation arises, the Director may procure the services of third-party consultants to review and consult with the City regarding the relevant subject matter and require the applicant to pay the costs for such third-party consultants as described in Section 6.6.3(D)(3). Upon review by the Director and any necessary third-party consultants, the Director will determine whether the application is complete. The determination of sufficiency shall not be based upon the perceived merits of the development proposal.
- (B) **Processing of Incomplete Applications.** Except as provided below, if a submittal is found to be insufficient, all review of the submittal will be held in abeyance until the Director receives the necessary material to determine that the submittal is sufficient. The development application shall not be reviewed on its merits by the decision maker until it is determined sufficient by the Director. Notwithstanding the foregoing, if an application has been determined to be incomplete because the information provided to the Director shows that a portion of the property to be developed under the application is not yet under the ownership and control of the applicant or developer, the Director may nonetheless authorize the review of such application and the presentation of the same to the decision maker, as long as:
- (1) the applicant, at the time of application, has ownership of, or the legal right to use and control, the majority of the property to be developed under the application;
 - (2) the Director determines that it would not be detrimental to the public interest to accept the application for review and consideration by the decision maker; and the applicant and developer enter into an agreement satisfactory in form and substance to the City Manager, upon consultation with the City Attorney, which provides that:
 - (a) until such time as the applicant has acquired full ownership and control of all property to be developed under the application, neither the applicant nor the developer will record, or cause to be recorded, in the office of the Larimer County Clerk and Recorder any document related to the City's review and approval of the application; and
 - (b) the applicant will indemnify and hold harmless the City and its officers, agents and assigns from any and all claims that may be asserted against them by any third party, claiming injury or loss of any kind whatsoever that are in any way related to, or arise from, the City's processing of the application.

The denial of an incomplete application that has been allowed to proceed to the decision maker under the provisions of this Section shall not cause a post denial re-submittal delay under the provisions of Section 6.3.11(E)(9) for property that was not owned by the applicant or within the applicant's legal right to use and control at the time of denial of the application.

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6.3.6 STEP 6: NOTICE

- (A) **Mailed Notice.** The Director shall mail written notice to the owners of record of all real property within eight hundred (800) feet (exclusive of public rights-of-way, public facilities, parks or public open space) of the property lines of the parcel of land for which the development is planned. Owners of record shall be ascertained according to the records of the Larimer County Assessor's Office, unless more current information is made available in writing to the Director prior to the mailing of the notices. If the development project is of a type described in the Supplemental Notice Requirements of Subsection 6.3.6(D), then the area of notification shall conform to the notice requirements of that Section. In addition, the Director may further expand the notification area. Formally designated representatives of bona fide neighborhood groups and organizations and homeowners' associations within the area of notification shall also receive written notice. Such written notices shall be mailed at least fourteen (14) days prior to the public hearing/meeting date or in case of a Basic Development Review the Director's decision. The Director shall provide the applicant with a map delineating the required area of notification, which area may be extended by the Director to the nearest streets or other distinctive physical features which would create a practical and rational boundary for the area of notification. The applicant shall pay postage and handling costs as established in the development review schedule.
- (B) **Posted Notice.** The real property proposed to be developed shall also be posted with a sign, giving notice to the general public of the proposed development. For parcels of land exceeding ten (10) acres in size, two (2) signs shall be posted. The size of the sign(s) required to be posted shall be as established in the Supplemental Notice Requirements of subsection 6.3.6(D). Such signs shall be provided by the Director and shall be posted on the subject property in a manner and at a location or locations reasonably calculated by the Director to afford the best notice to the public, which posting shall occur within fourteen (14) days following submittal of a development application to the Director.
- (C) **Published Notice.** Notice of the time, date and place of the public hearing/ meeting on the development application and the subject matter of the hearing shall be published in a newspaper of general circulation within the City at least seven (7) days prior to such hearing/meeting.
- (D) **Supplemental Notice Requirements.** The following table indicates the required notice radius for a mailed notice and posted sign size for development applications.

<i>Development Project</i>	<i>Minimum Notice Radius</i>	<i>Sign Size</i>
All developments except those described below.	800 feet	12 square feet
Minor Subdivisions containing no more than one (1) new lot.	Abutting Properties	12 square feet

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Developments including only an Accessory Dwelling Unit or one (1) additional dwelling unit.	Abutting Properties	12 square feet
Developments proposing more than fifty (50) and less than one hundred (100) single-family or two-family lots or dwelling units.	800 feet	12 square feet
Developments proposing more than twenty-five (25) and less than one hundred (100) multi-family dwelling units.	800 feet	12 square feet
Nonresidential developments containing more than twenty-five thousand (25,000) and less than fifty thousand (50,000) square feet of floor area.	800 feet	12 square feet
Developments proposing one hundred (100) or more single-family or two-family lots or dwelling units.	1,000 feet	12 square feet
Developments proposing one hundred (100) or more multi-family dwelling units.	1,000 feet	12 square feet
Nonresidential developments containing fifty thousand (50,000) or more square feet of floor area.	1,000 feet	12 square feet
Nonresidential developments which propose land uses or activities which, in the judgment of the Director, create community or regional impacts.	1,000 feet; plus, with respect to neighborhood meetings, publication of a notice not less than seven (7) days prior to the meeting in a newspaper of general circulation in the City.	12 square feet
Off-site construction staging	500 feet	12 square feet
Zonings and rezonings of forty (40) acres or less.	800 feet	12 square feet
Zonings and rezonings of more than forty (40) acres.	1,000 feet	12 square feet
Oil and gas operations	For oil and gas development subject to Project Development Plan review: one (1) mile; plus, with	12 square feet

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	<p>respect to neighborhood meetings, publication of a notice not less than seven (7) days prior to the meeting in a newspaper of general circulation in the City.</p> <p>For oil and gas development subject to Basic Development Review:</p> <p>For the construction or enlargement or expansion of oil and gas pipelines, notice to be mailed to the owners of record of all real property within one (1) mile (exclusive of property rights-of-way, public facilities, parks or public open space) of the oil and gas pipeline.</p> <p>For the plugging and abandonment of wells and pipelines and decommissioning of oil and gas facilities, notice to be mailed to the owners of record of all real property within two-</p>	
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	thousand (2,000) feet (exclusive of property rights-of-way, public facilities, parks or public open space of the oil and gas facility or pipeline.	
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- (E) The following shall not affect the validity of any hearing, meeting or determination by the decision maker:
- (1) The fact that written notice was not mailed as required under the provision of this Section.
 - (2) The fact that written notice, mailed as required under the provision of this Section, was not actually received by one (1) or more of the intended recipients.
 - (3) The fact that signage, posted in compliance with the provision of this Section, was subsequently damaged, stolen or removed either by natural causes or by persons other than the person responsible for posting such signage or their agents.

6.4.1 PURPOSE AND APPLICABILITY

The purpose of the basic development review (“BDR”) is to establish an internal administrative process for approval of a site specific development plan where the decision maker is the Director. There is no public hearing and the basic development review process shall be deemed final upon issuance of a decision by the Director. The basic development review shall be the review process for:

- (A) Those uses listed as such in each of the Article Four use table.
- (B) Existing Limited Permitted Uses (Division 6.17).
- (C) Expansions and Enlargements of Existing Buildings (Sections 6.22 and 6.23.1).
- (D) Building Permit Applications (Division 6.13).
- (E) Minor Subdivisions (Section 6.4.2).
- (F) Oil and gas pipelines (Division 5.17).
- (G) Plugging and Abandonment and Decommissioning of Wells and Pipelines (Division 5.17) provided such Plugging and Abandonment and Decommissioning is not part of a development application subject to a development review process other than BDR.

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6.26.3 INSPECTION

The City Manager is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this Land Development Code. a 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 such violation or comply with the order.

With regards to inspections of oil and gas facilities, the operator of any oil and gas facility or oil and gas pipeline that has been inspected shall pay to the City the costs for such inspection within sixty (60) days of receiving an invoice for the cost of the inspection. Inspections of oil and gas facilities and oil and gas pipelines may be conducted by City staff or non-City inspectors authorized by the City to conduct such inspections.

ARTICLE 7 RULES OF MEASUREMENT AND DEFINITIONS

7.2.2 DEFINITIONS.

The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section:

...

COGCC shall mean the Colorado Oil and Gas Conservation Commission.

...

Flowback shall mean the process of allowing fluids and entrained solids to flow from a well following stimulation, either in preparation for a subsequent phase of treatment or in preparation for cleanup and placing the Well into production. The term Flowback also means the Fluids and entrained solids that emerge from a Well during the Flowback process.

Flowline shall mean a segment of pipe transferring oil, gas, or condensate between a wellhead and processing equipment to the load point or point of delivery to a U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration or Colorado Public Utilities Commission regulated gathering line or a segment of pipe transferring produced water between a wellhead and the point of disposal discharge or loading. This definition of flowline does not include gathering line.

...

Gathering line shall mean an oil or gas, or both, gathering pipeline or system as defined by the Colorado Oil and Gas Conservation Commission.

...

~~*High occupancy building unit* shall mean any building type listed in the Colorado Oil and Gas Conservation Commission definition of a High Occupancy Building Unit set forth in the Code of Colorado Regulations.~~

High occupancy building unit shall mean:

- a. Any public or private school, nursing facility as defined in § 25.5-4-103(14), C.R.S., hospital, life care institution as defined in § 12-13-101, C.R.S., or correctional facility as defined in § 17-1-102(1.7), C.R.S., provided the facility or institution regularly serves 50 or more persons;
- b. An operating Child Care Center as defined in § 26-6-102(5), C.R.S.; or
- c. A multiunit dwelling with four or more units

...

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 natural gas. This term shall include equipment or improvements associated with active, inactive, temporarily abandoned, and plugged and abandoned wells.~~ equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, treatment, or processing of crude oil, condensate, exploration, development, and production waste, or gas.

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Oil and gas location shall mean: (1) the area where the operator of an oil and gas facility has disturbed the land surface in order to locate an oil and gas facility or conduct oil and gas operations, or both; or (2) the area where the operator of an oil and gas facility intends to disturb the land surface in order to locate an oil and gas facility or conduct oil and gas operations, or both, and such facility or operations have received all required permits prior to submission of a residential development plan for the construction of dwellings or high occupancy building within one thousand feet of the permitted oil and gas facility or operations, even if disturbance of the land surface to locate the oil and gas facility or conduct operations has yet to occur on the site. the 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 operation shall mean exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, 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 flow lines and gathering systems; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation or reclamation activities associated with such operations. 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 pipeline shall mean a flowline, crude oil transfer line, or gathering line as such terms are defined by the Colorado Oil and Gas Conservation Commission.

Operator as used in Division 5.17 shall mean any person who exercises the right to control the conduct of oil and gas operations.

...

Plugging and abandonment shall mean the cementing of a well, the removal of its associated production facilities, the abandonment of its flowline(s), and the remediation and reclamation of the wellsite.

...

Reclamation shall mean the process of returning or restoring the surface of disturbed land to its condition prior to development.

...

School facility shall mean any discrete facility or area, whether indoor or outdoor, associated with a public or private 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. The definition includes future school facility as defined by the Colorado Oil and Gas Conservation Commission.

...

Working pad surface shall mean the portion of an oil and gas location that has an improved surface upon which oil and gas operations take place.

...