

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

ORDINANCE NO. 151, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE LAND DEVELOPMENT **USE** CODE TO REGULATE
OIL AND GAS FACILITIES AND PIPELINES

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"); and

WHEREAS, at the time of the adoption of the Land Use Code, it was the understanding of staff and the City Council that the Land Use Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, several active oil wells are located in the northern part of the City; and

WHEREAS, several active oil wells are located within the City's Growth Management Area in unincorporated Larimer County; and

WHEREAS, there is potential for additional oil gas activity within the City and within the City's Growth Management Area; and

WHEREAS, in 2019, the State of Colorado enacted Senate Bill 19-181 which, among other things, expanded the City's ability to regulate the location and siting of oil and gas facilities and oil and gas locations and the surface impacts of oil and gas operations; and

WHEREAS, the City and the Colorado Oil and Gas Conversation Commission have co-equal, independent authority to regulate the location and siting and surface impact of oil and gas activities; and

WHEREAS, the City's oil and gas regulations regarding the location and siting and surface impacts may be more protective or stricter than state requirements; and

~~WHEREAS, pursuant to Ordinance 114, 2022, adopted on second reading on November 1, 2022, the Land Development Code was adopted to replace the Land Use Code; and~~

~~WHEREAS, the effective date of the Land Development Code set forth in Ordinance 144, 2022, is January 1, 2023; and~~

WHEREAS, the Planning and Zoning Commission at its November 17, 2022, regular meeting recommended on a 6-1 vote that City Council adopt the proposed oil and gas regulations with certain recommended changes; and

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

WHEREAS, the adoption as part of the Land Development Use Code of oil and gas regulations that anticipate, avoid, minimize, and mitigate adverse impacts to existing, planned, and future land uses is necessary to protect the public health, safety, and welfare, and the environment and wildlife resources and is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 2.5.3 Division 4.28 of the Land Development Use Code is hereby amended to read as follows:

SECTION 2.5.3 4.28 - ~~INDUSTRIAL DISTRICT~~ Industrial District (I)

...

~~(B) Land Use Standards.~~

~~(1) Prohibited Uses.~~

~~The following uses are specifically prohibited in the Industrial District:~~

(B) *Permitted Uses.*

...

(3) The following uses are permitted in the I District, subject to review by the Planning and Zoning Board Commission:

...

(c) Industrial Uses:

1. Resource extraction, processes and sales establishments.
2. Junk yards.
3. Airports and airstrips.
4. Dry-cleaning plants.
5. Transport terminals (truck terminals, public works yards, container storage).

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

6. Farm implement and heavy equipment sales.

7. Oil and gas facilities.

8. Oil and gas pipelines.

...

(C) ***Prohibited Uses.*** All uses that are not (1) expressly allowed as permitted uses in this Section or (2) determined to be permitted by the Director or the Planning and Zoning Board pursuant to Section 1.3.4 of this Code shall be prohibited. In addition, the following uses are specifically prohibited in the Industrial District:

...

(2b) 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 facilities or pipelines as defined in this Code and addressed in Division 5.173.12.

...

(6f) 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 facilities or pipelines as defined in this Code and addressed in Division 5.173.12.

...

Section 3. — That Article 4 of the Land Development Code is hereby amended to read as follows:

Article 4: Oil and Gas Changes

That “Oil and Gas Facilities” shall be added to the Table of Primary Uses set forth in Land Development Code Division 4.2 as an Industrial Use in the Industrial District subject to Type 2 review.

That “Oil and Gas Pipelines” shall be added to the Table of Primary Uses set forth in Land Development Code Division 4.2 as an Industrial Use in all zone districts except the

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

following: POL, RC-HMN, LMN, MH, MMN, NCL, NCM, NCB, RL, UE, RF, and RUL. “Oil and Gas Pipelines” are subject to Type 2 review.

Section 43. That a new Division 3.12~~5.17~~ is hereby added to the Land Development Use Code and reads in its entirety as follows:

DIVISION 3.12 - Oil And Gas Facilities And Pipelines

3.12.15.17.1 - 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 siting and reclamation of all oil and gas facilities and oil and gas pipelines within City boundaries over which the City has regulatory authority pursuant to law, except for oil and gas facilities 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 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 Use 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 Use 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.

3.12.2 - 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 Use Code Division 1.56.16 as modified in this

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

Section. The following provisions apply to lawful nonconforming oil and gas facilities and pipelines not subject to an operator agreement:

- (A) Section ~~6.161~~5.3 regarding abandonment of use.
- (B) Section ~~6.161~~5.4 regarding reconstruction does not apply to lawful nonconforming oil and gas facilities and pipelines. Reconstruction of such an oil and gas facility or pipeline or facility or pipeline taken by governmental acquisition or damaged by fire or other accidental cause or natural catastrophe is not allowed.
- (C) Section ~~6.161~~5.5 regarding enlargement of buildings and expansion of facilities, equipment or structures does not apply to lawful nonconforming oil and gas facilities and pipelines. Enlargement and expansion of any such facility or pipeline requires such facility or pipeline to be brought into conformance with the Land Development Use 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.

5.173.12.3 - 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 Use 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 ~~5.173.12.2~~ provides otherwise, such facility must be brought into conformance with the Land Development Use Code and receive approval of a project development plan, final plan, and building permit pursuant to the Land Development Use Code prior to enlargement or expansion and continued operation.

With regards to oil and gas pipelines, flowlines are subject to review as part of the project development plan for any new oil and gas facility to which the flowlines are associated or through a major amendment if additional flowlines are added subsequent to project development plan approval. Crude oil transfer lines, gathering lines and transmission lines

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

are subject to project development plan review and subsequent changes through a major amendment. In order for enlargement or expansion of a lawful nonconforming oil and gas pipeline to occur, unless an operator agreement as described in above Section ~~5.173.12.2~~ provides otherwise, such pipeline must be brought into conformance with the Land Development Use Code and receive approval of a project development plan, final plan, and building and other required permits pursuant to the Land Development Use Code prior to enlargement or expansion and continued operation.

Specific development standards regarding oil and gas facilities are set forth in Section ~~5.173.12.4~~, and specific development standards regarding oil and gas pipelines are set forth in Section ~~5.173.12.5~~. The Project Development Plan Review Procedures set forth in Section ~~6.62.4.2~~ are modified as follows:

(A) **Step 1 (Conceptual Review):** Mandatory. In addition to the Concept Plan Submittal requirements pursuant to Section ~~6.32.2.1(A)(3)~~, the applicant for a new oil and gas facility or oil and gas pipeline shall provide an alternative location analysis and preliminary site analysis as described below. The Director may waive or modify any information required for the alternative location and preliminary site analysis if, given the facts and circumstances of a proposed oil and gas facility or pipeline, a particular requirement would either be irrelevant, immaterial, redundant or otherwise unnecessary to evaluate the proposed project. Prior to the required neighborhood meeting referenced in (B) below, the City will review all proposed locations for the oil and gas facility or oil and gas pipeline to determine which locations, if any, meet Land Development Use 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 or oil and gas pipeline, the operator shall consult with the City regarding the proposed locations and the City's report regarding such locations.

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

(a) For oil and gas facilities:

1. 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):

a. All mineral rights held or controlled by the applicant;
and

b. The location of all features listed in the "Preliminary Site Analysis."

2. The alternative location 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:
 - a. General narrative description of each location;
 - b. Any location restrictions that the site does not satisfy;
 - c. Any existing surface use agreements or other documentation regarding legal property rights;
 - d. Off-site impacts that may be associated with each site;
 - e. Proposed truck traffic routes and access roads for each location; and
 - f. Any information pertinent to the applicable review criteria that will assist the Director in evaluating the locations.
- (b) For oil and gas pipelines, the alternative location analysis shall evaluate a minimum of three potential alignments for the pipeline, including the following information for each alignment:
 1. General narrative description of each alignment;
 2. Any location restrictions that the alignment does not satisfy;
 3. Any existing surface use agreements or other documentation regarding legal property rights;
 4. Off-site impacts that may be associated with each alignment; and
 5. Any information pertinent to the applicable review criteria that will assist the Director in evaluating the locations.
- (2) **Preliminary Site Analysis.** The Preliminary Site Analysis shall include maps with the following information:

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

- (a) Provide an ecological characterization study if the development site contains or is within two thousand (2,000) feet of a natural habitat or feature as defined in Section 5-63.4.1.
- (b) All drilling and spacing units proposed by the applicant within one (1) mile of the City's boundaries; and
- (c) All features defined below that are wholly or partially within one (1) mile of the proposed oil and gas facility:
 - 1. Any existing or future building approved as occupiable space, as defined in the City's Building Code;
 - 2. City parks or City property intended to be used for City parks;
 - 3. City maintained trails and trailheads or City property intended to be used for City trails and trailheads;
 - 4. Outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor assembly;
 - 5. City natural areas;
 - 6. Existing and approved oil and gas facilities and pipelines;
 - 7. Areas within the FEMA 100-Year Floodplain boundary;
 - 8. The centerline of all USGS perennial and intermittent streams and the map will indicate which surface water features are downgradient;
 - 9. Active reservoirs and public and private water supply wells of public record;
 - 10. Natural habitats and features as defined in Land Development Use Code Section 5-63.4.1 within one (1) mile of the proposed oil and gas facility;
 - 11. High priority habitat as defined by the COGCC; and
 - 12. Disproportionately impacted communities, as defined by the COGCC.

(B) **Step 2 (Neighborhood Meeting):** Mandatory. After a proposed location has been selected for the oil and gas facility or oil and gas pipeline, a neighborhood meeting

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

must be held. Written notice of the neighborhood meeting must be mailed to the owners of record and occupants 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 and oil and gas pipelines 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.

5.173.12.4 - Oil and Gas Facility Development Standards

The following requirements apply to oil and gas facilities in addition to other applicable Land Development Use 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 Section ~~Division 6.9~~ 1.3.4, 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 ~~6.2~~ 6.8,

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

Modification of Standards. Setbacks are measured as the shortest distance from the edge of the working pad surface.

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

1. 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;
2. The property boundary line of any property containing a City park or City property intended to be used for a City park;
3. 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;
4. The edge of outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar places of outdoor assembly; or
5. 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:

1. Public water supply surface intakes or public water supply wells;
2. Ditches that transport water used by, or to augment, a public water supply system; or
3. Conservation easements.

(3) Buffer zones surrounding natural habitats and features. Oil and gas facilities shall protect natural habitats and features specified in Section 5-63.4.1 through buffer zones. Buffer zones set forth in the *Buffer Zone Table for Fort Collins Natural Habitats and Features* in Section 5-63.4.1(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

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

- (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 5.63.4.1(E) 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.
- (8) Onsite oil storage greater than thirty (30) feet in height.

(C) **Landscaping.** Land Development Use Code Section 5.103.2.1 applies in addition to the following requirements:

- (1) The requirements of Section 5.103.2.1, Landscaping and Tree Protection, apply within designated setbacks as defined in Section 5.173.12.4(A)(2) above to meet the Landscaping and Tree Protection general standard set forth in Land Development Use Code Section 5.103.2.1(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 Use Code Section 5.63.4.1, 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 Use Code Section 4.3.53.8.11, 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.

5.173.12.5 - 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

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

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.

Oil and gas pipelines must meet the following requirements in order to be approved:

- (A) Oil and gas pipelines shall be located underground except to the extent above ground connections to surface oil and gas facilities are necessary.
- (B) Oil and gas pipelines shall be sited a minimum of fifty (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 one hundred and fifty (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.
- (C) Oil and gas pipelines that pass within one hundred and fifty (150) feet of residential or non-residential building or the high-water mark of any surface water body shall incorporate leak detection, secondary containment, or other mitigation, as appropriate.
- (D) To the maximum extent feasible, oil and gas pipelines shall be aligned with established roads in order to minimize surface impacts and reduce natural habitat fragmentation and disturbance.
- (E) 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.
- (F) 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.
- (G) 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.
- (H) 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.
- (I) Special conditions of approval for all gathering lines and transmission lines:
 - (1) Operator must make available to the city upon request all records submitted to PHMSA or the PUC including those related to inspections, pressure testing, pipeline accidents and other safety events.

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

- (2) Operator shall comply with Fort Collins right-of-way permit and easement processes for all gathering lines installed in Fort Collins owned property or rights-of-way.

5.173.12.6 - 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:

- (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 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 facilities.
 - (b) Documentation of plugging activities, abandonment and any subsequent inspections.
 - (c) Soil sampling, including soil gas testing.
 - (d) Groundwater sampling, if deemed necessary.
 - (e) Installation of permanent groundwater wells for future site investigations, if deemed necessary.

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

- (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 reclaimed site 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, 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.

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

- (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.

Section 54. That Section 6.32.2.3 of the Land Development Use Code is hereby amended to read as follows:

6.32.2.3 - STEP 3: Development Application Submittal

...

(C) **Development Application Contents.**

...

- (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 Use Code Section 6.32.2.3(D)(3).

...

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

...

(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.

Section 6.32.2.4. That Section 6.32.2.4 of the Land Development Use Code is hereby amended to read as follows:

6.32.2.4 - 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 6.32.2.3(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.

...

Section 7.6. That Section 6.32.2.6 of the Land Development Use Code is hereby amended to read as follows:

6.32.2.6 - STEP 6: Notice

...

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

- (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>
...
Oil and gas facilities and oil and gas pipelines	One (1) mile to owners of record and occupants of real property (exclusive of property rights-of-way, public facilities, parks or public open space); 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
Plugging and abandonment of wells and pipelines and decommissioning of oil and gas facilities	One (1) mile to owners of record and occupants of real property (exclusive of property rights-of-way, public facilities, parks or public open space of the oil and gas facility, well, or pipeline.	12 square feet

...

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

Section 87. That Section 6.42.18 of the Land Development Use Code is hereby amended to read as follows:

6.42.18.1 - 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 and shall not be construed to be the same as an Administrative (Type 1) review process for which the Director, or his designee, conducts a public hearing. The Basic Development Review shall be the review process for:

...

- (F) Plugging and Abandonment and Decommissioning of Wells and Pipelines (Division 5.173.12) provided such Plugging and Abandonment and Decommissioning is not part of a development application subject to a development review process other than BDR.

Section 98. That Section 6.262.14.3 of the Land Development Use Code is hereby amended to read as follows:

6.262.14.3 - 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 Use Code. 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.

Section 109. That Section 7.25.1.2 of the Land Development Use Code is hereby amended to read as follows:

ARTICLE 7—TERMS Rules Of Measurement And Definitions

7.25.1.2 DEFINITIONS.

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

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

...

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 a gathering pipeline or system as defined by the Colorado Utilities Commission, Regulation No. 4, 4 C.C.R. 723-4901, Part 4, (4 C.C.R. 723-4901) or a pipeline regulated by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration pursuant to 49 C.F.R. §§ 195.2 or 192.8. 49 C.F.R. §§ 195.2 or 192.8 and 4 C.C.R. 723-4901 in existence as of the date of this regulation and does not include later amendments.

...

~~*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

...

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

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.

Oil and gas location shall mean: the area where an operator has disturbed or intends to disturb the land surface in order to locate an oil and gas facility.

~~(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.~~

Oil and gas pipeline shall mean a flowline, crude oil transfer line, gathering line, as such terms are defined by the Colorado Oil and Gas Conservation Commission, and transmission lines.

Operator as used in Division 5.173.12 shall mean any person who exercises the right to operate and control an oil and gas facility or oil and gas pipeline.

...

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 facilities are placed.

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

...

Section 10. That the table contained in Section 4.16(F)(2) of the Land Use Code is hereby amended to read as follows:

4.16 Downtown District

...

<i>Land Use</i>	<i>Historic Core</i>	<i>Canyon Avenue/Civic/ North Mason</i>	<i>Innovation/ River</i>	<i>River Corridor</i>	<i>Campus North</i>	<i>Entryway Corridor</i>
...
Oil and Gas Pipelines	Type 2	Type 2	Type 2	Type 2	Type 2	Type 2

Section 11. That Section 4.18(B)(3) of the Land Use Code is hereby amended by the addition of a new subsection (d) which reads in its entirety as follows:

Division 4.18 Community Commercial District (C-C)

...

(d) Industrial Uses:

1. Oil and gas pipelines.

Section 12. That Section 4.19(B)(3) of the Land Use Code is hereby amended by the addition of a new subsection (d) which reads in its entirety as follows:

Division 4.19 Community Commercial – North College District

...

(d) Industrial Uses:

1. Oil and gas pipelines.

Section 13. That Section 4.20(B)(3) of the Land Use Code is hereby amended by the addition of a new subsection (d) which reads in its entirety as follows:

Division 4.20 Community Commercial – Poudre River District

...

(d) **Industrial Uses:**

1. Oil and gas pipelines.

Section 14. That the table contained in Section 4.21(B)(2) of the Land Use Code is hereby amended to read as follows:

Division 4.21 General Commercial District

...

<i>Land Use</i>	<i>I-25/SH 392 (CAC)</i>	<i>General Commercial District (C-G)</i>
A. RESIDENTIAL		
...
D. INDUSTRIAL USES		
...
Oil and gas pipelines	Type 2	Type 2
...		

Section 15. That Section 4.22(B)(3)(d) of the Land Use Code is hereby amended by the addition of a new subparagraph 3 which reads in its entirety as follows:

Division 4.22 Service Commercial District

...

(d) **Industrial Uses:**

1. Recycling facilities.
2. Transport terminals (truck terminals, public works yards, container storage).
3. Oil and gas pipelines.

Section 16. That Section 4.23(B)(3) of the Land Use Code is hereby amended by the addition of a new subsection (d) which reads in its entirety as follows:

Division 4.23 Neighborhood Commercial District

...

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

(d) **Industrial Uses:**

1. Oil and gas pipelines.

Section 17. That the table contained in Section 4.24(B)(2) of the Land Use Code is hereby amended to read as follows:

Division 4.24 Limited Commercial District

...

<i>Land Use</i>	<i>Riverside Area</i>	<i>All Other Areas</i>
A. RESIDENTIAL		
...
D. INDUSTRIAL		
...
Oil and gas pipelines	Type 2	Type 2
...

Section 18. That Section 4.26(B)(3) of the Land Use Code is hereby amended by the addition of a new subsection (e) which reads in its entirety as follows:

Division 4.26 Harmony Corridor District

...

(e) **Industrial Uses:**

1. Oil and gas pipelines.

Section 19. That Section 4.27(B)(3)(d) of the Land Use Code is hereby amended as follows:

Division 4.27 Employment District

...

(d) **Industrial Uses:**

1. Dry-cleaning plants.
2. Oil and gas pipelines.

Introduced, considered favorably on first reading and ordered published this 20th day of December, A.D. 2022, and to be presented for final passage on the 4th day of April, A.D. 2023.

DRAFT ORDINANCE SUBJECT TO FURTHER REVIEW AND DISCUSSION

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 4th day of April, A.D. 2023.

Mayor

ATTEST:

City Clerk