

**Town of Erie
Ordinance No. 41-2021**

**An Ordinance of the Board of Trustees of the Town of Erie
Repealing and Reenacting Section 10-6-14 of the Erie Municipal
Code, Regarding Development and Design Standards Relating to
Oil and Gas Facilities and Locations**

Whereas, there are many existing and abandoned oil and gas wells and production facilities in the Town;

Whereas, the Town is experiencing rapid growth and development that includes residential, commercial, office, schools and other land uses that will result in occupied structures;

Whereas, the Board of Trustees has held numerous meetings and workshops to listen to community concerns regarding the location of any new occupied structures from existing oil and gas wells, production facilities and oil and gas locations;

Whereas, the Board of Trustees has determined that new development should be subject to development setbacks from existing and abandoned wells, oil and gas production facilities and oil and gas locations ("reciprocal setbacks") and that certain notice provisions should be imposed; and

Whereas, the Board of Trustees has determined that repealing and replacing the Town's existing development and design standards in Section 10-6-14 of the Erie Municipal Code is a priority and necessary to protect the public health, safety, and welfare of the Town.

Now Therefore be it Ordained by the Board of Trustees of the Town of Erie, Colorado, that:

Section 1. Section 10-6-14 of the Erie Municipal Code is hereby repealed in its entirety and reenacted as follows:

10-6-14 – Development and design standards related to oil and gas facilities and locations.

A. Definitions. For purposes of this Section, the following terms shall have the following meanings; provided that where any term is not defined herein, it shall be as defined by the rules of the Colorado Oil and Gas Conservation Commission (the "COGCC"):

1. *Completion:* As defined in Section 10-12-1 of this Code.

2. *Oil and gas facility:* 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 and production waste, or gas.

3. *Oil and gas location:* A definable area where an operator has disturbed or intends to disturb the land's surface in order to locate an oil and gas facility.

4. *Plugged and abandoned well:* An oil and gas well that has been cemented and the associated production facilities have been removed in accordance with COGCC regulations.

5. *Flowline.* 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 a gathering line.

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

7. *Crude oil transfer line:* A piping system that is not regulated or subject to regulation by the PHMSA pursuant to 49 C.F.R. § 195 Subpart A, and that transfers crude oil, crude oil emulsion or condensate from more than one well site or production facility to a production facility with permanent storage capacity greater than 25,000 barrels of crude oil or condensate, or a PHMSA gathering system.

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

B. *Applicability.* This Section shall apply to every subdivision for which a complete preliminary plat application is filed after the effective date of the ordinance codified in this Section. This Section shall not apply to: any final plat submitted for approval in compliance with a previously-approved preliminary plat; any subdivision for which a preliminary plat application was deemed complete prior to the effective date of the ordinance codified

in this Section; or any previously-approved Planned Development in which the development plan includes its own development standards for oil and gas facilities.

C. Reciprocal setbacks.

1. Oil and gas locations.

a. Where a Form 2 or Form 2A has been submitted to the COGCC for an oil and gas location, but the oil and gas well has not reached completion, no external boundary of a new residential lot, structure that requires a certificate of occupancy, park, sports field, or playground shall be located less than two thousand (2,000) feet from the oil and gas Working Pad Surface.

b. No new residential lot, structure that requires a certificate of occupancy, park, sports field, or playground shall be located less than five hundred (500) feet from an existing oil and gas Working Pad Surface.

c. No street, sidewalk or trail shall be located less than one hundred fifty (150) feet from an existing oil and gas Working Pad Surface.

d. Any structure that is not required to obtain a certificate of occupancy shall be located at least twenty-five (25) feet from an existing oil and gas Working Pad Surface.

2. Flowlines, crude oil transfer lines, and gathering lines.

a. No building that is required to obtain a certificate of occupancy shall be located less than fifty (50) feet from an existing flowline or gathering line, whether known or discovered during construction. Measurements shall be taken from the centerline of the flowline or gathering line to the nearest outside wall of the building.

b. Any structure that is not required to obtain a certificate of occupancy shall be located at least twenty-five (25) feet from an existing flowline, crude oil transfer line, or gathering line.

3. Plugged and abandoned wells.

a. No new residential lot of less than one (1) acre in size, structure that requires a certificate of occupancy, park, sports field,

or playground shall be located less than one hundred and fifty (150) feet from a plugged and abandoned well.

b. No building that is required to obtain a certificate of occupancy shall be located less than one hundred and fifty (150) feet from a plugged and abandoned well.

c. Any structure that is not required to obtain a certificate of occupancy shall be located at least twenty-five (25) feet from a plugged and abandoned well.

d. No overhead or above-ground utility facilities, public or private, shall be installed within fifty (50) feet of a plugged and abandoned well. No underground utility facilities, public or private, shall be located within twenty-five (25) feet of a plugged and abandoned well except upon approval of the Town Engineer, if the Town Engineer finds such location to be safe.

e. No new public right-of-way shall be located within twenty-five (25) feet of a plugged or abandoned well.

f. The reciprocal setbacks required in subsections a. and b. hereof may be reduced, on a case by case basis, if the Town finds, based on information submitted by the applicant at the applicant's sole cost in a plugging and abandonment summary report, which shall include, to the extent available, the following information:

i. The plugged and abandoned well has been located to a certainty not less than five (5) feet horizontally;

ii. A third party, approved by the Town, has confirmed that there is no hydrocarbon contamination within the subject oil and gas location in which the plugged and abandoned well is located, or that such hydrocarbon contamination has been remediated to background levels, and

iii. A report reviewing the records on file with the COGCC and certifying in writing that the well has been plugged in accordance with the COGCC Rules current at the time of the certification, or the well is re-plugged in accordance with the COGCC Rules current at the time of the application;

iv. Provided that, in no case shall a reduction in a reciprocal setback from a plugged and abandoned well result in less than a reciprocal setback in the form of a rectangle measuring fifty

(50) feet by one hundred (100) feet, with the plugged and abandoned well located at the center.

D. Abandoned flowlines, crude oil transfer lines, and gathering lines. Every plat application shall include a plan for removal of all abandoned flowlines, crude oil transfer lines, and gathering lines known and discovered during construction. The plan shall include provisions for the removal and disposal of all fluids contained in such lines, and the remediation of all hydrocarbons or a showing that there is no hydrocarbon contamination.

E. Required plat information.

1. Each plat shall include a vicinity plat that shows the locations, API numbers where applicable, names, and general descriptions of all existing oil and gas facilities, oil and gas locations, plugged and abandoned wells, flowlines, gathering lines, and crude oil transfer lines (whether or not in service), and access roads and associated easements, which are on or within two thousand (2,000) feet of the property.

2. Each plat shall include the recording information for all surface use agreements.

3. Where any lots will be located within two thousand (2,000) feet of an oil and gas facility, an oil and gas location, or a plugged and abandoned well, the plat shall include a plat note stating that each seller of a lot shall disclose to the purchaser, in writing, not less than thirty (30) days before closing, that an oil and gas facility, an oil and gas location, or a plugged and abandoned well is located within two thousand (2,000) feet of the lot.

4. Each plat shall dedicate easements for flowlines, gathering lines, or crude oil transfer lines that are a minimum of thirty (30) feet wide, with at least fifteen (15) feet on either side of the centerline of the flowlines, crude oil transfer lines, or gathering lines.

5. Each final plat shall dedicate an access easement to the owner of each plugged and abandoned well, oil and gas location and oil and gas facility on the property, and to the Town, from the outside perimeter of the property to the perimeter of each plugged and abandoned well, oil and gas location and oil and gas facility on the property. Such easement shall be a minimum of thirty (30) feet in width and shall allow for the passage of equipment to maintain and repair oil and gas operations.

F. Disclosure. Every seller of a lot that is located within two thousand (2,000) feet of an oil and gas facility, an oil and gas location, or a plugged and abandoned well shall disclose to the purchaser, in writing, no less than

thirty (30) days before closing, the locations of all oil and gas facilities, oil and gas locations and plugged and abandoned wells located on or within two thousand (2,000) feet of the lot.

G. Design requirements. To minimize the impact on streets and trails and tracking of debris onto streets and trails, subdivisions shall comply with the following:

1. Subdivisions shall minimize the need for access roads to oil and gas locations that connect to streets with local street classifications.

2. An access plan for each oil and gas location shall be submitted to the Town identifying which local streets are impacted by access needs. The streets identified shall be designed to address the weight load requirements of the vehicles accessing the oil and gas facilities and oil and gas locations.

3. When legally authorized, the access road to each oil and gas location from the point of connection to a street shall be improved, for a minimum distance of two hundred (200) feet, as a hard surface (concrete or asphalt) for the first one hundred (100) feet from the street, and then as a crushed surface (concrete or asphalt) for one hundred (100) feet past the hard surface, in sufficient depth to support the weight load requirements of the vehicles accessing the oil and gas location. The Town may require a gate or other restrictions on the access road (bollards or similar) to minimize unauthorized use of the access road. If an access road intersects with a trail, the access road shall be paved as a hard surface (concrete or asphalt), for one hundred (100) feet on either side of the intersection with the trail, and if necessary, the trail shall be replaced to address the weight load requirements of the vehicles accessing the oil and gas location.

4. Existing oil and gas facilities shall be fenced in conformance with the following:

a. The fencing shall be wrought iron fencing, Ameristar Impasse, Stronghold fencing or equivalent fencing approved by the Town.

b. The fencing color shall be bronze unless the Town approves black fencing, which shall only be approved if fencing or site furnishings in the adjacent developments are consistent with the black color.

5. Properties with existing oil and gas facilities shall provide screening by installing berms with landscaping.

6. Streets shall be platted so that flowlines or gathering lines cross at substantially a right angle to the street.

H. Existing plugged and abandoned wells.

1. With each final plat application, for all previously plugged and abandoned wells on or within five hundred (500) feet of the property being platted, the applicant shall provide a written report, based on the most current information available from the COGCC, stating that the plugging, abandonment, and reclamation was performed in accordance with the COGCC rules in effect at the time of the plugging and abandoning, and that a site inspection of the property was performed within the most recent six (6) months.

2. If the report shows that insufficient documents exist to demonstrate that the plugged and abandoned well was adequately plugged and abandoned, the applicant shall schedule a meeting with the owner of the plugged and abandoned well, the Town and the COGCC to determine how to remedy the deficiency. The Town may deny or further condition the final plat if the deficiency is not satisfactorily remedied.

3. Capped plugged and abandoned wells shall be identified by a concrete and brass monument on the surface of the ground.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 3. Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety and welfare.

Section 4. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

Introduced, read, passed and ordered published this 14th day of December, 2021.

Jennifer Carroll, Mayor

Attest:

Heidi Leatherwood, Town Clerk