

**TOWN OF ERIE  
BOARD OF TRUSTEES  
Tuesday, December 14, 2021**

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**SUBJECT: PUBLIC HEARING: Ordinance**

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

**PURPOSE:** Unified Development Code amendment to redefine setbacks for development of future platted lots near oil and gas facilities and to require notice of the presence of nearby oil and gas facilities to future land purchasers.

**CODE REVIEW:** Erie Municipal Code, Title 10

**DEPARTMENT:** Planning and Development

**PRESENTER:** David Frank, Energy & Environmental Program Specialist

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**STAFF RECOMMENDATION:**

Staff recommends that the Board of Trustees approve the ordinance to protect the public health, safety, and welfare of the Town.

**PLANNING COMMISSION RECOMMENDATION:**

On November 17, 2021, the Planning Commission, in a 5 to 2 vote, recommended the Board of Trustees adopt with amendments an Ordinance repealing and reenacting Section 10-6-14 of the Erie Municipal Code, regarding development and design standards relating to oil and gas facilities. The amendments included changing the point of measurement for setbacks from "Oil and Gas Locations" to "Working Pad Surface" both as defined by the COGCC and "occupied structures" to "structures requiring a certificate of occupancy" for clarity. Dissenting Commissioners Luthi and Chair Zuniga had concerns that the ordinance would stifle potential future growth and development in Erie as well as impacting the Town's ability to annex future lands into the Town. The applicability of the ordinance, the setback distances proposed, and the revisions to the previous draft were also discussed. Public testimony was provided by eight residents and members of the development community in support of the proposed ordinance along with testimony from two residents and their representative developer in opposition.

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

Staff has prepared an Ordinance amending Section 10-6-14 of the Unified Development Code that currently establishes setbacks from various existing Oil and Gas facilities. The Ordinance was prepared by our Oil and Gas Legal Counsel in association with staff review and suggestions. The ordinance provides setbacks from existing oil and gas facilities that are the result of previous study session discussions, Planning Commission meetings, and several public listening sessions where comments from both residents and the development community were received. The goal of the revised ordinance is to increase the current setbacks for future platted lots while minimizing negative impacts to potential future

development and to require developers to provide declaration of oil and gas facilities or plugged and abandoned wells within 2,000 feet to future land purchasers. A summary of the existing UDC requirements and the changes proposed by the ordinance are as follows:

Provision	Current UDC requirements	Proposed UDC requirements
Applicability of setbacks	New plats containing residential lots and non-residential buildings, community parks, neighborhood parks and pocket parks	New plats containing residential lots, structures that requires a certificate of occupancy, parks, sports fields, and playgrounds
Point of measurement	Oil and gas wells and associated above ground production facilities	Working Pad Surface, meaning "the portion of an Oil and Gas Location that has an improved surface upon which Oil and Gas Operations take place"; that is to say the area within which an operator has or could at a future date place oil and gas facilities
Setbacks from planned, yet to be completed oil and gas facilities	350 ft	2,000 ft
Setbacks from existing, active oil and gas facilities	350 ft	500 ft
Setbacks from plugged and abandoned wells	25 ft	150 feet, to be reduced pending the amount and quality of information provided by the developer to ensure health and public safety to a setback not smaller than 50'x100'
Setbacks from flowlines, gathering lines, and pipelines	No residential lots within (minimum 30 ft) easements	No residential lots within (minimum 30 ft) easements, no occupied buildings within 50 ft of the centerline
Notice to prospective buyers	nil	Notice of existing oil and gas facilities, oil and gas locations, plugged and abandoned wells within 2000 feet of a lot must be provided not less than 30 days before closing
Removal and remediation of abandoned pipelines	nil	Requires a plan for removal of all abandoned flowlines and gathering lines known and discovered during construction

**APPROVAL CRITERIA:**

The following are the approval criteria of Section 7.21.C.9, Amendments to the Text of the Code that are to be considered when reviewing the proposed UDC Amendment.

1. The proposed amendment will promote the public health, safety, and general welfare;
2. The proposed amendment is generally consistent with the Town's Comprehensive Master Plan and the stated purposes of this UDC; and
3. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

As the Town experiences rapid growth and development that includes residential, commercial, office, schools and other land uses that will result in occupied structures near where many existing and abandoned oil and gas wells and production facilities exist, the revision to Section 10-6-14 of the Erie Municipal Codes increases the current setbacks for future platted lots from these facilities and requires declaration of locations of oil and gas facilities or plugged and abandoned wells to future land purchasers to protect the public health, safety, and welfare of the Town, and as such, the proposed text amendment meets each of the three criteria.

**PUBLIC NOTICE:**

Notice of this Public Hearing has been provided as follows:  
Published in the Daily Times Call on October 6, 2021

**PUBLIC COMMENT:**

Written public comments are attached to the Agenda Item.