

**Town of Erie
Ordinance No. ____-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 for Oil and
Gas Wells and Production Facilities**

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

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 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 Section 10-6-14 of the Erie Municipal Code is hereby repealed in its entirety and reenacted as follows: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 for oil and gas wells and production facilities.

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

1. *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.

2. *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.

3. *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.

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; or any subdivision for which a preliminary plat application was deemed complete prior to the effective date of the ordinance codified in this Section.

C. *Measurement.* Except as otherwise expressly provided herein, all distances in this Section shall be measured from the perimeter of the lot, tract, easement, oil and gas location, oil and gas facility, right-of-way, flowline or gathering line, or plugged and abandoned well.

D. *Reciprocal setbacks.*

1. *Oil and gas locations.*

a. Where a Form 2 or Form 2A has been approved by the COGCC for an oil and gas location, but no oil and gas facility has been constructed, no external boundary of a new lot or tract to be used for a public or private park shall be located less than two thousand (2,000) feet from an existing oil and gas location.

b. No new lot or tract to be used for a public or private park shall be located less than five hundred (500) feet from an existing oil and gas location.

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

2. *Flowlines and gathering lines.* 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.

3. Plugged and abandoned wells.

a. No new lot of less than one (1) acre in size, or a tract to be used for a public or private park, 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 Engineer finds, based on information submitted by the applicant at the applicant's sole cost, that:

i. The plugged and abandoned well has been physically and visibly located through excavation of materials that may be covering it;

ii. A third party, approved by the Town Engineer, has confirmed that there is no hydrocarbon contamination or expansive soils 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 the expansive soil removed, and

iii. A professional engineer licensed in Colorado has reviewed the records on file with the COGCC and certifies 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.

E. Abandoned flowlines and gathering lines. Every final plat application shall include a plan for removal of all abandoned flowlines 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.

F. Required plat information.

1. Each preliminary plat and final 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 and gathering 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 preliminary plat and final 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 preliminary plat and final 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 preliminary plat and final plat shall dedicate easements for flowlines or gathering 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 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.

G. 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.

H. 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.

I. 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 by a professional engineer licensed in Colorado.

2. If the report shows that the plugged and abandoned well was inadequately 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 ____ day of _____, 2021.

Jennifer Carroll, Mayor

Attest:

Heidi Leatherwood, Town Clerk