

TOWN OF ERIE
BOARD OF TRUSTEE AGENDA ITEM
Board Meeting Date: August 25, 2015

SUBJECT: **ORDINANCES**
Consideration of Ordinance 21-2015: An Ordinance Of The Town Of Erie, Colorado, Repealing The June 2015 Title 10, "Unified Development Code," Of The Municipal Code; Adopting By Reference the "August 2015 Title 10 Unified Development Code;" Providing For The Effective Date Of This Ordinance; Setting Forth Details in Relation Thereto; And, Declaring An Emergency Therefore.

PURPOSE: Amendments to Title 10 of the Municipal Code.

CODE: Erie Municipal Code, Title 10

DEPARTMENT: Community Development

PRESENTER: Barbara Green, Board of Trustees Special Counsel

FISCAL INFORMATION:	Cost as Recommended:	n/a
	Balance Available:	n/a
	Budget Line Item Number:	000 . 00 . 000 . 000000 . 000000
	New Appropriation Required:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

STAFF RECOMMENDATION: n/a

PLANNING COMMISSION RECOMMENDATION: On August 19, 2015, the Planning Commission considered the proposed amendments and recommended (5-1) that the proposed Code Amendments be approved by the Board of Trustees by approving Resolution P15-25.

SUMMARY AND BACKGROUND OF SUBJECT MATTER

Per Board of Trustees direction, the Town's Special Counsel is proposing an amendment to Title 10 and has provided the proposed amendment attached to Ordinance 21-2015 as Exhibit A.

Barbara Green of Sullivan Green Seavy will present the proposed Code amendments to the Board of Trustees and be available to answer questions.

STAFF REVIEW AND ANALYSIS

Amendment Approval Criteria:

The application to amend Title 10 of the Municipal Code of the Town of Erie, Colorado may be approved if the Board of Trustees finds that the approval criteria of Chapter 7.21.C.9 have been met:

- a. The proposed amendment will promote the public health, safety, and general welfare;
- b. The proposed amendment is consistent with the Town's Comprehensive Master Plan and the

- stated purposes of the Code; and
- c. The proposed amendment is necessary of desirable because of changing conditions, new planning concepts, or other social or economic conditions.

Public Notice:

The required public notice for the Title 10 Amendment is in compliance with Section 7.2.F of the Code and C.R.S. 31-16-203 (which requires two published notices when a Title of a Code is adopted by reference); with published notice in the Colorado Hometown Weekly on August 5, 2015 and August 12, 2015.

Mailed and posted notice is not required for amendments to Title 10.

Staff Review:

____ Town Attorney
____ Town Clerk
WZ Community Development Director
____ Finance Director
____ Police Chief
____ Public Works Director

Approved by:



A.J. Krieger
Town Administrator

ATTACHMENTS:

- A. Ordinance 21-2015
- B. Planning Commission Resolution P15-25 and draft meeting minutes
- C. Comment Letters

ATTACHMENT A

ORDINANCE NO. 21-2015
Series 2015

AN ORDINANCE OF THE TOWN OF ERIE, COLORADO, REPEALING THE JUNE 2015 TITLE 10 UNIFIED DEVELOPMENT CODE; ADOPTING BY REFERENCE THE AUGUST 2015 TITLE 10 UNIFIED DEVELOPMENT CODE; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; SETTING FORTH DETAILS IN RELATION THERETO; AND, DECLARING AN EMERGENCY THEREFORE.

WHEREAS, It has been determined by the Board of Trustees of the Town of Erie, Colorado, that it is necessary to repeal the June 2015 Title 10 Unified Development Code and to adopt, by reference, the “August 2015 Title 10 Unified Development Code,” published by the Town of Erie in August, 2015, setting forth the zoning regulations, development code and design guidelines of the Town of Erie; and,

WHEREAS, the Colorado state statutes provide that the August 2015 Title 10 Unified Development Code as set forth above may be adopted by reference; and,

WHEREAS, after the introduction of this adopting Ordinance a public hearing was scheduled and held following notice of the public hearing published twice, once as least fifteen (15) days preceding the public hearing and once at least eight (8) days preceding the public hearing, as required by Colorado statute; and,

WHEREAS, three (3) copies of the August 2015 Title 10 Unified Development Code were and are on file in the Town of Erie Clerk’s office; and,

WHEREAS, for reference and review, the specific changes to the June 2015 Title 10 Unified Development Code made by this Ordinance are set forth in “Exhibit A,” attached hereto and incorporated herein by this reference; and,

WHEREAS, all penalty clauses, if any, contained in the August 2015 Title 10 Unified Development Code are set forth in full herein and shall be published along with this adopting Ordinance in full upon adoption; and,

WHEREAS, adoption by the Town of Erie, by reference, of the August 2015 Title 10 Unified Development Code it is deemed to be in the best interest of the residents of the Town of Erie and necessary to the immediate preservation of the public property, health, safety, and welfare of the Town and for the financial well being of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. The June 2015 Title 10 Unified Development Code is hereby repealed in its entirety.

Section 2. The August 2015 Title 10 Unified Development Code, three (3) copies of which are on file in the Town of Erie Clerk's office, is hereby adopted by reference.

Section 3. The August 2015 Title 10 Unified Development Code adopted herein by reference contains the following penalty clauses:

10-10-4: REMEDIES AND PENALTIES:

The community development director shall have the following remedies and powers to enforce this title:

A. Civil Remedies And Enforcement Powers:

1. Deny/Withhold Entitlements: The community development director may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This subsection A1 shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.
2. Revoke Entitlements:
 - a. Any entitlement or other form of authorization required under this title may be revoked when the community development director determines that:
 - (1) There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
 - (2) The entitlement was procured by false representation;
 - (3) The entitlement was issued in error; or
 - (4) There is a violation of any provision of this title.
 - b. Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice. An entitlement shall only be revoked by way of a procedure that is equivalent (in terms of due process) to the proceeding that originally granted the entitlement.
3. Stop Work Orders:
 - a. Whenever any building or structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any state or local building law, or in a manner that endangers life or property, the community development director has the authority to issue a stop work order for the specific part of the work that is in violation or presents the hazard.

- b. With or without revoking permits, the community development director may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this title or a provision of an entitlement or other form of authorization issued under this title.
 - c. The stop work order shall be in writing and posted at the site of the work, and shall specify the provisions of this title or other law allegedly in violation. After any such order has been posted, 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.
 - d. Once conditions for resumption of the work have been met, the community development director shall rescind the stop work order.
4. Civil Penalties: Violation of this title may be punishable through imposition of a civil penalty as set forth in this municipal code.
5. Injunctive Relief: The community development director may seek injunctive relief or other appropriate relief in district court or other court of competent jurisdiction against any person who fails to comply with any provision of this title or any requirement or condition imposed pursuant to this title. In any court proceedings in which the town seeks a preliminary injunction, it shall be presumed that a violation of this title is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject violation of this title.
6. Abatement: The town may abate the violation pursuant to this subsection A6:
- a. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by certified mail, with return receipt required, to the owner of record of the property.
 - b. Unless this notice is appealed, pursuant to section [10-7-22](#) of this title, to the board of adjustment within ten (10) days of the posting of the final warning, the community development director shall proceed to abate the violation.
 - c. The community development director shall keep an account of the cost, including incidental expenses, incurred by the town in the abatement of any violation. The community development director shall forward a bill for collection to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this subsection A.6.c, the term "incidental expenses" shall include, but not be limited to, the actual expenses and costs to the town in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.
 - d. The responsibility for payment of the charges for abatement as set forth in this subsection A6 shall rest solely upon the owners of the property upon which the abatement occurred. Such charges become a lien upon the real property upon which the violation was located. When charges for abatement remain unpaid after thirty (30) days from billing, the community

development director shall record a claim of lien at the district recorder's office. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

B. Criminal Remedies And Enforcement Powers:

1. Misdemeanor: A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this title exists, where notice of violation, including any stop work, enforcement, or compliance order has been properly served, and where such person fails to comply with such notice or stop work, enforcement, or compliance order.
2. Penalty: Persons found guilty of a misdemeanor pursuant to this subsection shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than ten (10) days, or by both such fine or imprisonment, for each violation.

C. Remedies Cumulative: The remedies provided for violations of this title, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

Section 4. All references to Title 10, "Unified Development Code and Design Guidelines," as contained in the Erie Municipal Code and all references to the June 2015 Title 10 Unified Development Code, and earlier versions of the Unified Development Code and Design Guidelines shall now refer to the August 2015 Title 10 Unified Development Code as adopted by reference herein.

Section 5. Severance Clause. 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 of the Town of Erie, Colorado hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part of parts may be declared invalid or unconstitutional.

Section 6. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed. The repeal established herein shall not be construed to revive any ordinance Code provision or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 7. Reason for Emergency. Applications under the Town's current Unified Development Code for oil and gas wells and production facilities are proliferating in the Town, and the current oil and gas regulations as contained in the Town's Unified Development Code are old and inadequate to address current health and land use issues related to oil and gas wells, production facilities and drilling. The need for new regulations to address current health and land

use issues related to oil and gas wells, production facilities and drilling is immediate and pressing.

Section 8. Emergency Declared. For the reasons stated herein, the Board of Trustees for the Town of Erie, Colorado hereby declares an emergency to exist concerning the subject matter of this Ordinance and its immediate effect is necessary in order to preserve and protect the public property, health, safety, and welfare of the Town and for the financial well being of the Town.

Section 9. The within emergency ordinance shall take effect upon final adoption.

INTRODUCED, PASSED, ADOPTED AND APPROVED AS AN EMERGENCY ORDINANCE, AND ORDERED PUBLISHED IN FULL BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE THIS ____ DAY OF _____, 2015.

PUBLISHED IN FULL ON THE ____ DAY OF _____, 2015.

TOWN OF ERIE, COLORADO, a Colorado municipal corporation

By: _____
Tina Harris, Mayor

ATTEST:

By: _____
Nancy Parker, Town Clerk

EXHIBIT A

AMENDMENTS TO JUNE 2015 TITLE 10 UNIFIED DEVELOPMENT CODE

Part I.

New text is underlined; deleted text is shown with ~~strike through~~.

1. Chapter 3, Use Regulations

Section 10.3.2, Use Specific Standards

DELETE **Section 10.3.2 D.3**, Oil and Gas Facilities, and revise the numbering as necessary.

~~3. Oil And Gas Facilities~~

~~a. *Setbacks*~~

~~Wells and any associated oil and gas operation facility or structure (above ground) shall be set back in accordance with State of Colorado Oil & Gas Conservation Commission Regulations, as amended.~~

~~b. *Access Roads*~~

~~Access roads on the site and access points to public streets shall be reviewed by the Public Works Department and shall be built and maintained in accordance with the Town standards.~~

~~All erosion control, access and oversize or overweight vehicle permits must be obtained from the Public Works Department prior to beginning operation. All proposed transportation routes to the site shall also be reviewed and approved by the Public Works Department to minimize traffic hazards and adverse impacts on public streets. Existing streets shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise.~~

Access roads to well and production facilities shall be improved from the point of connection to a street a minimum distance of 200 feet on the access road. The access road shall be improved as a hard surface (concrete or asphalt) for the first 100 feet from the street and then improved as a crushed surface (concrete or asphalt) for 100 feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities. If an access road intersects with a pedestrian trail or walk, the developer shall pave, as a hard surface (concrete or asphalt), the access road 100 feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.

e. Fencing

Oil and gas well facilities (above ground) within the Town of Erie are required to be fenced with wrought iron fencing or *Ameristar Impasse* or *Stronghold* fencing or approved equivalent, as determined by the Community Development Director. The fencing color shall be bronze unless the Community Development Director approves black fencing. Black fencing will only be approved by the Community Development Director if fencing or site furnishings in the adjacent developments have approved black elements.

d. Oil and Gas Operation Facility or Structure Color

Oil and gas operation facilities or structures (above ground) such as tanks shall be painted a color designated by the Community Development Director.

2. Chapter 6, Development and Design Standards

Section 10.6.4, Landscaping, Screening, and Fencing

AMEND **Section 10.6.4.H.5.c.ii** as follows:

H. Fencing and Walls

5. Height Restrictions

c. No fence in any district shall exceed 6 feet in height; except:

ii. Fences in the LI and AP districts ~~and surrounding oil and gas wells and production facilities in any district~~ may be up to 8 feet in height;

AMEND **Section 10.6.4.H.7.a** as follows:

H. Fencing and Walls

7. Restrictions Regarding Certain Materials

a. Fences in the RC, LI, PD and AP zoning districts ~~and surrounding oil and gas wells and production facilities in any district~~ may include up to 4 strands of barbless wire, with the lowest strand at least 6 feet above ground level. The barbless wire may be placed vertically or at a 45 degree angle; provided, that it does not extend across the property line.

3. Chapter 6, Development and Design standards

Section 10.6.14, Oil and Gas Wells and Production Facilities

REVISE **Section 10.6.14, Oil and Gas Wells and Production Facilities**, as follows.

Amend Section title:

Section 10.6.14, Development and Design Standards to Accommodate Oil and Gas Wells and Production Facilities

Amend **Section 10.6.14.A.4:**

A. Existing Oil and Gas Wells and Production Facilities

4. Developments with existing oil and gas wells and associated above ground production facilities shall add fencing to non-fenced wells and facilities or upgrade fencing for wells

and facilities in conformance with the following requirements. ~~to be in compliance with Subsection 3.2.D.3.c of this UDC. All proposed fencing changes shall be approved by the mineral right owner either before Final Plat approval or for sites already platted, before Site Plan approval.~~

a. Oil and gas well facilities (above ground) within the Town of Erie shall be fenced with wrought iron fencing or Ameristar Impasse or Stronghold fencing or approved equivalent, as determined by the Community Development Director.

b. The fencing color shall be bronze unless the Community Development Director approves black fencing. Black fencing will only be approved by the Community Development Director if fencing or site furnishings in the adjacent developments have approved black elements.

c. All proposed fencing changes shall be approved by the mineral right owner before Final Plat approval or for sites already platted, before Site Plan approval.

Delete Section 10.6.14.C:

~~C. Relocation of Oil and Gas Wells, Production Facilities and Pipelines~~

~~1. Relocation of oil and gas wells, production facilities and flow lines associated with development shall be reviewed and approved by the Town through the subdivision process.~~

~~2. Relocation, recordation of vacation of easements and recordation of new easements shall~~

~~be finalized and copies submitted to the Town before a Final Plat is approved.~~

Amend **Section 10.6.14.E.4.b:**

E. Future Oil and Gas Wells and Production Facilities

4. The following setbacks shall be provided to future oil and gas wells and above ground production facilities:

b. Street right-of-ways shall be setback a minimum of 150 feet from future oil and gas wells and above ground facilities.

4. Chapter 7

Review and Approval Procedures

DELETE Section 10.7.13.F

~~13. Special Review Use~~

~~F. Operator Agreement~~

~~The Town may enter into an Operator Agreement with an oil and gas operator governing proposed mining and mineral extraction. IN the event that such an Operator Agreement is approved by the Town Board of Trustees, such mining and mineral extraction is exempt from the requirement for Special Review Use approval under this Section 10.7.13 and from Site Plan Review under Section 10.7.12, unless such Operator Agreement provides otherwise.~~

5. Chapter 11, Definitions

Section 10.11.3 Terms Defined.

AMEND definition of **Mining and Mineral Extraction** as follows:

The extraction of minerals, including oil and gas and solids like coal and other ores, from their natural occurrences on affected land.

AMEND definition of **Oil and Gas Well Gathering Lines** to be the same definition used in the Oil and Gas Regulations.

A pipeline which transports natural gas beyond leasehold gas metering equipment to a

~~compressor facility, processing plant or interstate pipeline connection.~~

A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term “gathering line” includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

DELETE definition of **Operator Agreement**:

~~OPERATOR AGREEMENT~~

~~An agreement between the Town and an oil and gas operator establishing Best Management Practices and/or other terms and conditions for Mining and Mineral Extraction~~

DELETE definition of **Oil and Gas Operator**:

~~OIL AND GAS OPERATOR.~~

~~The individual or firm engage in all or a portion of the extraction of oil and gas.~~

Part II.

New CHAPTER 12: REGULATIONS FOR OIL AND GAS OPERATIONS, to read as follows:

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CHAPTER 12: REGULATIONS FOR OIL AND GAS OPERATIONS

10.12.1 GENERAL PROVISIONS

A. Title and Citation

These Regulations are entitled and may be cited as the "Regulations for Oil and Gas Operations."

B. Purpose

The purpose of these Regulations is to provide a framework for the responsible exploration and production of oil and gas resources in a manner that preserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects public health, safety, welfare and the environment of the Town. These standards are not intended to supersede state laws, regulations or rules pertaining to oil and gas development, but rather are meant to supplement those requirements where appropriate, and to address areas of regulation where none has been established by the state.

C. Authority

This section is adopted pursuant to C.R.S. § 31-15-401, C.R.S. and §§ 29-20-101 et seq.,

D. Oil and Gas Permit Required

Oil and Gas Operations to be located wholly or partially within the municipal boundaries on public or private lands require an Oil and Gas Permit issued pursuant to these Regulations.

1. **Type A Permit.**

Planning Commission review and decision, subject to call-up by Board of Trustees. Public hearing is not required. See Section 10.12.3.D.

2. **Type B Permit.**

Director review, public hearing and recommendation by Planning Commission, public hearing and decision by Board of Trustees. See Section 10.12.3.E.

E. Applicability

1. New or expanded Oil and Gas Operations within the Town are subject these Regulations. These Regulations take the place of the existing special review use process. In the event that the provisions of these Regulations conflict with any

other provisions of the UDC, this section shall supersede as it applies to Oil and Gas Operations.

2. Oil and Gas Permits issued pursuant to these Regulations shall encompass within its authorization the right of the Operator, its agents, employees, subcontractors, independent contractors, or any other person to perform that work reasonably necessary to conduct the activities authorized by the permit, subject to all other applicable Town regulations and requirements.

F. Exemptions from these Regulations

1. **Operator Agreement**

An Operator Agreement approved by the Town Board of Trustees may, by its terms, exempt the proposed Oil and Gas Operation from these Regulations.

2. **Continuation of Existing Operations**

Oil and Gas Operations that are in existence on the effective date of these Regulations or that are located within territory which thereafter is annexed to the Town may continue operating without the issuance of an Oil and Gas Permit under these Regulations.

3. **Recompletion of Existing Wells**

Recompletion of wells in existence as of the effective date of these regulations shall be reviewed in accordance with Section 10.12.3.F.

G. Expansion of Operations Existing at the Time of the Effective Date of These Regulations

Expansion of existing oil and gas operations is subject to these Regulations. "Expansion" includes:

1. Expansion of existing Oil and Gas Operations.
2. Installation of new wells on existing well pad sites.
3. Expansion of the areas of existing well pad sites

H. Severability

If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby and is hereby declared to be necessary for the public health, safety and welfare.

I. Definitions

Closed Loop Drilling Process or System

A closed loop mud drilling system typically consists of steel tanks for mud mixing and storage and the use of solids removal equipment which normally includes some combination of shale shakers, mud cleaners and centrifuges sitting on top of the mud tanks. This equipment separates drill cutting solids from the mud stream coming out of the wellbore while retaining the water or fluid portion to be reused to continue drilling the well bore. The solids are placed in containment, either a shallow lined pit or an above ground container, provided on location. The system differs from conventional drilling where a reserve pit is used to allow gravitational settling of the solids from the mud which can then be reused. A Closed Loop Drilling System does not include use of a Conventional Reserve Drilling Pit.

Degradation

Lowering in grade or desirability; lessening in quality.

Director

Community Development Director or the Director's representative.

Exploration and Production Waste

Those wastes associated with Oil and Gas Operations to locate or remove oil or gas from the ground or to remove impurities from such substances and which are uniquely associated with and intrinsic to oil and gas exploration, development or production activities that are exempt from regulation under the Resource Conservation and Recovery Act (RCRA).

Flare Pit

A pit used exclusively for flaring gas.

Flowlines

Those segments of pipe from the wellhead downstream through the production facilities ending at:

- (a) In the case of gas lines, the gas metering equipment; or
- (b) In the case of oil lines, the oil loading point or LACT unit; or
- (c) In the case of water lines, the water loading point, the point of discharge to a pit, the injection wellhead, or the permitted surface water discharge point.

Gathering Line

A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term "gathering line" includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

Geologic Hazards

Terrain and geological traits that pose a risk of causing damage to property or human life, including subsurface features such as fault lines, aquifers and other geothermic and geologic phenomena.

Hydraulic Fracturing or Hydraulic Fracturing Treatment

All stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and natural gas.

Hydraulic Fracturing Fluid

The fluid, including the applicable base fluid and all hydraulic fracturing additives, used to perform a hydraulic fracturing treatment.

Linear Feature

A road, gathering line, or pipeline that is necessary to cross a water body or connect or access a well or gathering line. A linear feature is not considered necessary simply because it is the most proximate or least expensive method for crossing a water body or connecting or accessing a well or gathering line.

Mitigation

The following actions, in order of preference:

- (a) Avoiding impacts: avoiding an impact by not taking a certain action or parts of an action; or
- (b) Minimizing impacts: limiting the degree or magnitude of the action or its implementation, or by changing its location; or
- (c) Rectifying impacts: repairing, rehabilitating, or restoring the impact area, facility or service; or
- (d) Reducing or eliminating impacts: reducing or eliminating the impact over time by preservation and maintenance operations; and
- (e) Other provisions for addressing impacts: replacing or providing equivalent biological, social, environmental and physical conditions, or a combination thereof.

Oil and Gas Operations

Exploration for oil or gas, including but not limited to conventional oil and gas and coalbed methane gas; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of an oil or gas well; pumping stations; production facilities and operations including the installation of flow lines and gathering lines; accessory equipment; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources, including their impacts on or construction of access roads and easements.

Operator Agreement

An agreement between the Town and an Operator describing how proposed Oil and Gas Operations are to be conducted within the municipal boundaries.

Operation(s)

Oil and Gas Operations.

Operator

The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the Operation.

Permit

Town of Erie Oil and Gas Permit issued pursuant to the provisions of this Chapter 12.

Pipelines

Flowlines and gathering lines for oil and gas wells.

Pit

Any natural or man-made depression in the ground used for oil or gas exploration or production purposes. A pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils.

Pitless

Pitless with respect to drilling means there is no pit regardless of size or function. This includes conventional reserve drilling pits and drilling cutting pits, but does not include flare pits which may be utilized to contain necessary flaring during the drilling, completion, or up-set conditions. An above ground water tight metal or other material container is utilized instead of a sub surface pit to hold drilling cuttings until they are disposed of.

Production Facilities

All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

Regulation(s)

The Town of Erie Oil and Gas Regulations set forth in Chapter 12 of the UDC.

Reference Area

An area either (1) on a portion of the site that will not be disturbed by oil and gas operations, if that is the desired final reclamation; or (2) another location that is undisturbed by oil and gas operations and proximate and similar to a proposed oil and gas location in terms of vegetative potential and management, owned by a person who agrees to allow periodic access to it for the purpose of providing baseline information for reclamation standards, and intended to reflect the desired final reclamation.

Residential Building Unit

Building or structure designed for use as a place of residency by a person, a family, or families. The term includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes.

Significant

Of considerable or substantial consequence.

Significantly Degrade

To lower in grade or desirability to a significant as opposed to trifling degree.

UDC

Town of Erie Uniform Development Code.

VOC Emissions

Volatile organic compounds in oil and gas operations that are released into the atmosphere and/or ground.

Water Body

Any surface waters which are contained in or flow in or through the Town, including: Coal Creek, Boulder Creek, Erie Lake, Erie Reuse Reservoir, Thomas Reservoir, Prince Lake #2, and any irrigation ditches.

Well (Oil and Gas)

An oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

Wildlife Habitat

A natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leas, migration corridors, calving and fawning grounds for big game.

10.12.2 PERMIT APPLICATION PROCESS FOR OIL AND GAS OPERATIONS

A. Permit Application Submittal

The applicant shall submit the Permit application materials to the Director. The Permit application materials are set forth in Section 10.12.2.D.

B. Waiver of Permit Application Material Requirements

The Director may waive any part of the Permit application material requirements when the information would not be relevant to determining whether the proposed Oil and Gas

Operation complies with the approval standards.

C. Permit Application Fee

The applicant is responsible for the costs of reviewing and processing the Permit application. The applicant is responsible for the costs of counsel, consultant and referral agency review of the Permit application including reviews associated with the pre-application conference, completeness determination, and all hearings and meetings on the Permit application.

1. Fee Requirement

The Permit application shall be accompanied by the application fees set forth in Section 2-10-5 of the Municipal Code.

2. Payment of Additional Costs

If there are costs for reviewing and processing the Permit application in addition to the application fees paid pursuant to C.1 above, the additional cost shall be billed to the applicant. Additional costs billed to the applicant must be paid within thirty (30) days of the billing date, and must be paid in full prior to final action by the Town on the Permit application.

D. Permit Application Materials for Oil and Gas Operation

The applicant shall submit the application materials to the Community Development Department. The Director may waive any part of the application material requirements when the information would not be relevant to determining whether the proposed Oil and Gas Operation complies with the applicable standards.

1. Application Form

Completed application form.

2. Summary of Proposed Oil and Gas Operation

Summary of proposed Oil and Gas Operation, including a list of all proposed oil and gas facilities to be installed and estimated timeline.

3. Topographic Map

Topographic map at a scale not to exceed 1"=40' that shows:

- a. Proposed Oil and Gas Operation location. The location of the proposed Oil and Gas Operation including well pads, tanks, roads, pipelines and gathering systems, and related features on a United States Geological Survey quadrangle map or on a recorded plat if the proposed Oil and Gas Operation is within an approved subdivision, with the location highlighted so that it is easy to see.

- b. Topography. Existing and proposed topography at intervals established by the Director as necessary to portray the direction and slope of the area affected by the proposed Oil and Gas Operation.
 - c. Transportation and roads. All public and private roads that traverse and/or provide access to the proposed Oil and Gas Operation.
 - d. Easements. Easements recorded or historically used that provide access to or across, or other use of, the property.
 - e. Municipal and subdivision boundaries. Municipal or subdivision boundaries within one mile of the well pad, tanks, gathering lines, storage areas or any other ancillary feature of the proposed Oil and Gas Operation.
 - f. Other Operations. Location of other Oil and Gas Operations within one mile of the site.
 - g. Shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Building Unit.
4. **Current Aerial Photo**
Current aerial photo that shows the location of the proposed Oil and Gas Operation and the shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Building Unit, displayed at the same scale as the topographic map to facilitate use as an overlay.
5. **Site Preparation Plan**
Site plan for site preparation, mobilization, and demobilization.
6. **Applications and Permits**
Copies of all state applications for the proposed Oil and Gas Operation, and permits, when issued.
7. **Reports/Studies/Plans**
The following reports, studies and plans shall be prepared to adequately portray the physical characteristics of the property.
- a. **Air Quality Impact Assessment and Mitigation Plan**
An assessment of air quality impacts of the proposed Oil and Gas Operation and a plan to maintain air quality, including a plan to minimize VOC emission in compliance with these Regulations.
 - b. **Chemicals and Hydraulic Fracturing Fluids Disposal and Reporting Plan**
A plan for disposal and reporting of chemicals and hydraulic fracturing fluids, that includes:

- i. Material safety data sheets for the chemicals used in the proposed Oil and Gas Operation.
 - ii. Chemical Abstract Service Registry Numbers for every chemical used in the proposed Oil and Gas Operation, if available, other than those protected as Trade Secrets.
 - iii. Hydraulic fracturing.
 - iv. Provision for reporting to the Town the chemicals, other than those protected as a Trade Secret, that will be stored and used during any hydraulic fracturing event along with the maximum quantity that will be present on-site at any one time.
- c. **Cultural Survey**
A cultural, historical, and archeological survey of the proposed Oil and Gas Operations site and other areas and properties impacted by access to the site.
- d. **Dust Suppression Plan**
Dust suppression and control plan.
- e. **Grading/Drainage and Erosion Control Plan**
A plan that identifies existing (dashed lines) and proposed (solid lines) contours, at two-foot intervals, and the methods for controlling erosion during construction and operational phases of the proposed Oil and Gas Operation.
- f. **Emergency Response Plan**
A plan that addresses events such as explosions, fires, gas or water pipeline leaks or ruptures, leaks from well casings and pits, tank leaks or ruptures, hydrogen sulfide or other toxic gas emissions, transportation of hazardous material and vehicle accidents or spills. The plan must include proof of adequate personnel, supplies, and funding to immediately implement the emergency response plan at all times during construction and Operations.
- g. **Geological Report**
A report detailing the geological characteristics of the site, prepared by a registered engineer. The report shall include an assessment of the geologic hazards within one mile of the site and a plan for mitigating impacts from geologic hazards to the proposed Oil and Gas Operation and impacts of the proposed Operation on geologic hazards.
- h. **Public Services and Facilities Impact Assessment**

A description of existing levels, demand for, adequacy of, and the operational costs of public services affected by the proposed Oil and Gas Operation; a description of the increase in demand on those services and a plan for mitigating the impacts to public services and facilities.

i. **Lighting Plan**

A plan for installation of down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that the Operator may still use lighting that is necessary for public and occupational safety.

j. **Operation Plan**

A plan including the method and schedule for drilling, completion, transporting, production and post-operation, and a description of future Oil and Gas Operations.

k. **Reclamation Plan**

A plan for interim reclamation and revegetation of the site and final reclamation of the site. The plan shall include the locations of any proposed Reference Areas to be used as guides for interim and final reclamation.

l. **Spill Prevention Control and Countermeasures Plan**

m. **Traffic Management Plan**

A plan showing the estimated number of vehicle trips per day for each type of vehicle, proposed access routes to and from the site, and measures to mitigate adverse impacts to traffic patterns and safety caused by the proposed operation.

n. **Access Road Plan**

A plan sufficient to demonstrate compliance with the approval standards in Section 10.12.4.

o. **Stormwater Control Plan**

A plan to minimize impacts to surface waters from erosion, sediment, and other sources of nonpoint pollution. The stormwater control plan required by COGCC Rule 1002(f) may be provided to establish compliance with this provision.

p. **Vegetation and Weed Management Plan**

A written description of the species, character and density of existing vegetation on the site, a summary of the potential impacts to vegetation as a result of the proposed Oil and Gas Operation, and proposed mitigation to address these impacts. The plan shall include any COGCC required interim and final reclamation procedures.

q. **Water Quality Impact Assessment and Mitigation Plan**

- i. Identification of all surface and subsurface water bodies. An inventory and location of all water bodies, as well as domestic and commercial water wells within one mile of the proposed Oil and Gas Operation.
- ii. Identification of intake(s) for public drinking water supply.
- iii. Water quality monitoring and mitigation plan. A Water Quality Monitoring Plan that establishes a baseline and a process for monitoring changes to water quality and the aquatic environment to demonstrate the effectiveness of mitigation. The plan shall comply with the Colorado Oil and Gas Association Voluntary Baseline Groundwater Quality Sampling Program, as it may be amended, and be complementary to any monitoring required by the state. The plan shall, at a minimum, include the following elements:
 - (A) Key stream segments, other water bodies, and groundwater to monitor.
 - (B) Locations for and frequency of sampling and monitoring to establish baseline of existing conditions prior to the proposed Oil and Gas Operation including existing water quality, aquatic life and macro-invertebrates, and groundwater data.
 - (C) Key indicators of water quality and stream health, and threshold levels that will be monitored to detect changes in water quality and health of the aquatic environment.
 - (D) Locations for and frequency of sampling and monitoring for key indicators of water quality and stream health, including but not limited to constituents regulated by the Colorado Water Quality Control Commission, and constituents associated with the proposed Oil and Gas Operation.
 - (E) Locations for and frequency of sampling and monitoring to measure effectiveness of water quality mitigation during the life of the proposed Oil and Gas Operation and five years after final reclamation of all disturbed areas is complete.

- (F) Mitigation steps that will be implemented to avoid degradation of water bodies if monitoring of key indicators reveals degradation.
- r. **Water Availability: Physical Availability and Legal Right to Utilize**
An assessment of how much water will be needed for each phase of the proposed Oil and Gas Operation, and the source of water supply both physically and legally, for the life of the proposed Operation.
- s. **Wildlife and Wildlife Habitat Assessment**
An assessment of existing wildlife and wildlife habitat, an evaluation of the impacts of the proposed Oil and Gas Operation on wildlife and wildlife habitat, and proposed mitigation to address these impacts.
- t. **Operational Conflict/Technical Infeasibility/Environmental Protection Waiver Request**
Documentation of the basis for any waiver of approval standards based on operational conflict, technical infeasibility or environmental protection that the applicant may request pursuant to Section 10.12.4.C of these Regulations.
- u. Additional information requested by the Director.

10.12.3 PERMIT PROCESS FOR OIL AND GAS OPERATIONS AND NOTICE OF RECOMPLETION OF EXISTING WELLS

A. Pre-Application Conference and Permit Classification

1. Pre-Application Conference

Prior to submitting an application for an oil and gas permit, an applicant shall meet with the Director to discuss the proposed Oil and Gas Operation. The purpose of the pre-application conference includes, without limitation:

- a. To discuss the location and nature of the proposed Oil and Gas Operations;
- b. To explain the application submittal requirements, the nature of materials that will be responsive to those requirements, and waivers of any materials that would not be necessary in determining whether the application complies with Town requirements;
- c. To discuss state terms and conditions imposed on the proposed Oil and Gas Operation;
- d. To identify site-specific concerns and issues that bear on the proposed Oil and Gas Operation;

- e. To discuss projected impacts and potential mitigation;
- f. To discuss the Town Oil and Gas Operation Standards that must be satisfied for Permit approval;
- g. To discuss whether the application will be classified as a Type A or Type B Permit application; and
- h. To identify potential Operational Conflicts, or waivers of Oil and Gas Operation Standards based on technical infeasibility or environmental protection that the applicant intends to raise.

2. **Pre-Application Materials**

At or before the pre-application conference, the applicant shall provide the Director with information that is sufficient for determining the location and nature of the proposed Oil and Gas Operation, the degree of impacts associated with the Operation, and mitigation proposed to offset such impacts.

B. Classification of Permit Application

Within ten (10) working days after the pre-application conference the Director shall classify the Permit application as a Type A or Type B Permit application.

1. **Oil and Gas Operations Classified as Type A**

An Oil and Gas Operation will be classified as a Type A Permit application if the Operator agrees to conduct the operation in conformance with the following requirements¹.

- a. The Operation will be at least 1000 feet from occupied buildings or occupied buildings permitted for construction.
- b. Wells and production facilities shall be 750 feet or more from Erie platted residential lots or parks, sports fields and playgrounds, or other designated outside activity areas.
- c. The Operation will be at least 500 feet from any surface water body.
- d. The Operation will be at least 500 feet from any domestic or commercial water wells or irrigation wells and the Operation is not located within a floodway district as defined in Section 10.2.7.C.4 of the UDC.
- e. The Operation will utilize closed-loop systems for drilling and completion operations.
- f. The Operator agrees to control noise levels as follows.

¹ These requirements may not be waived.

- i. For db(A) scale noise, Operator will insure that the noise level from Operations subject to the light industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) does not exceed sixty (60) db(A) and that the noise level from Operations subject to the industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) is reduced at least five (5) db(A) below the maximum level permitted by those Regulations. For this purpose, the noise level shall be measured as set forth in COGCC Regulations 802.b and c, except no measurements shall be taken when traffic is passing the sound level meter, and Operator shall be present during all measurements. As set forth in COGCC Regulation 802.b, the noise levels shall be subject to increase for a period not to exceed fifteen (15) minutes in any one (1) hour period and reduction for periodic, impulsive or shrill noises.
 - ii. For db(C) scale noise, Operator shall comply with the requirements of COGCC Regulation 802.
 - g. The Operator agrees to control air quality through the following practices.
 - i. To identify leaks, Operator will perform audio, visual and olfactory inspections on a monthly basis at all of its new and existing wells and related facilities and equipment within Erie's Town Limits. Operator will also inspect each such well with an infra-red camera on a monthly basis. The initial baseline inspections will occur within sixty (60) calendar days after the date of Permit approval. After a well has produced for twelve (12) months, the frequency of such inspections shall decrease from monthly to quarterly. If Operator determines that any repairs are required based on these inspections, Operator will promptly initiate these repairs.
 - ii. Operator will report to the Director on the inspection results and any associated repairs the month after the inspection or repair occurs. This information will be collectively reported on a monthly basis in the same format that Operator uses for reporting to the Air Pollution Control Division under Regulation 7, but that is specific to wells located within the Erie Town Limits. The Town will make this information available upon its website, or may provide a link for such information from Town's website to Operator's website.
 - iii. For each well completion operation with hydraulic fracturing, the Operator will control emissions by the following procedures.

- (A) For the duration of flowback, route the recovered liquids into one or more storage vessels or re-inject the recovered liquids into the well or another well, and route the recovered gas into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an onsite fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.
- (B) If compliance with the prior paragraph is infeasible, the Operator must capture and direct flowback emissions to a completion combustion device equipped with a reliable continuous ignition source over the duration of flowback, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact waterways or nearby structures. Non-flammable gas may be vented temporarily until flammable gas is encountered where capture or combustion is not feasible.

- h. The Operation will recycle and reuse water at the pad sites and otherwise minimize waste water production to the extent that it is determined such recycling, reuse, and waste water minimization is technically and economically feasible.
- i. If water is not being piped to a well pad site, the proposed Operation will utilize Town water rather than trucking water to the site.
- j. The Operation will not utilize Class II underground injection control wells.

2. Oil and Gas Operations Classified as Type B

Operations that are not classified as Type A Permits shall be classified as Type B Permits.

C. Determination of Completeness

1. Application Is Not Complete

If the Director determines that the application is not complete, the Director shall inform the applicant in writing of the deficiencies and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within thirty (30) calendar days after the notice that the application is incomplete, the application shall be considered withdrawn unless the applicant requests more time to ensure that the materials are as complete as possible.

2. **Application Is Complete**
If the Director determines that the application is complete, the Director shall date the application and notify the applicant in writing.
3. **Completeness Is Not a Determination of Compliance**
A determination that an application is complete shall not constitute a determination that it complies with the approval standards of these Regulations.

D. Type A Permit Review and Planning Commission Decision Process

A Type A Permit is subject to review and decision by the Planning Commission. The Planning Commission shall make a decision on the Permit application at a properly noticed public meeting. A public hearing is not required.

1. **Neighborhood Meeting**
The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of the proposed Oil and Gas Operation, how the applicant intends to meet the standards contained in these Regulations, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.
 - a. **Applicability**
The Director may waive the neighborhood meeting requirement if it is determined that the proposed Oil and Gas Operation would not have significant impacts in any of the following areas. The waiver shall be in writing and shall be included as part of the case record.
 - i. Traffic;
 - ii. Natural resources protected under the UDC; and
 - iii. Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.
 - b. **Notice of Neighborhood Meeting**
The applicant shall submit an affidavit to the Town stating that the public notice requirement has been met.
 - c. **Attendance at Neighborhood Meeting**
The applicant or applicant's representative shall attend the neighborhood meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the

neighborhood meeting are preliminary in nature and not determinative of the Town's position on the application.

- d. **Summary of Neighborhood Meeting**
The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

2. **Public Notice of Planning Commission Meeting**

- a. **Written Notice of Planning Commission Meeting to Adjacent Property Owners**

Not less than fifteen (15) calendar days prior to the date of the Planning Commission meeting to consider the Permit application, the Director shall mail written notice of the meeting to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

- i. **Notice**

The applicant is responsible for composing the written notice. The notice shall include:

- (A) Date, time, and place of the meeting;
- (B) Description of the property involved in the application by street address or by legal description and nearest cross street;
- (C) Description of the purpose of the meeting and that interested parties can come to the meeting and speak on the matter.
- (D) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (E) Contact information for the Operator, including phone number and office hours.

- ii. **List of Property Owners**

The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (A) Owners of record of property within 300 feet of the site of the proposed Operation.

- (B) Associated homeowners associations.
- (C) Additional persons or geographic areas that the Director may designate.

iii. **Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

b. **Posted Notice**

The applicant is required to post on the property a notice of the Planning Commission meeting to consider the Permit application. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Prior to the meeting the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

3. **Referral of Application**

The Director may send a copy of the complete application to consultants and any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Oil and Gas Operation. The applicant shall be responsible for the costs of any consultant and referral agency review.

4. **Application Review and Staff Report**

a. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

b. **Distribution of Staff Report**

No less than seven (7) calendar days prior to the date of the Planning Commission meeting, the Director shall submit the staff report to the applicant and to the Planning Commission. A copy of the staff report shall also be available for public review prior to the hearing.

5. **Permit Decision by Planning Commission**

The Planning Commission shall approve, approve with conditions, or deny the Permit application based upon compliance with the approval standards in Section 10.12.4 of these Regulations. The Commission's decision shall include the following:

- a. **Description of Project**
Brief discussion of the proposed Oil and Gas Operation;
 - b. **Issues**
Description of issues raised by the affected property owners, referral agencies and consultants;
 - c. **Conditions Imposed by the State**
Description of terms, conditions and requirements imposed on proposed Oil and Gas Operation by the state;
 - d. **Impacts and Mitigation**
Description of impacts of the proposed Oil and Gas Operation, proposed mitigation, and whether each approval standard has been satisfied; and
 - e. **Conditions of Approval**
Conditions of approval, if any, necessary to ensure compliance with approval standards.
6. **Reconsideration of Planning Commission's Decision by Board of Trustees**
- a. **Call-up by Board of Trustees**
At the next regularly scheduled meeting for which proper notice can be accomplished following the Planning Commission's decision, the Board of Trustees may, at its discretion, decide to reconsider the Commission's decision.
 - b. **Request by Applicant for Reconsideration by Board of Trustees**
Not more than five (5) working days after the Planning Commission's decision, the applicant may submit a written request for reconsideration of the Director's decision by the Board of Trustees.
 - c. **Reconsideration of Director's Decision**
After call-up by the Board or upon receiving the request for reconsideration of the Planning Commission's decision, the Board may reconsider the decision at the next regularly scheduled meeting for which proper notice can be accomplished. A public hearing is not required. The Board shall either uphold the Planning Commission's decision, modify the decision, or reverse the decision based upon the information on record.

E. Type B Permit Review and Decision

- 1. **Neighborhood Meeting**
The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of the proposed Oil and Gas Operation, how the applicant intends to meet

the standards contained in these Regulations, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.

a. **Applicability**

The Director may waive the neighborhood meeting requirement if it is determined that the proposed Oil and Gas Operation would not have significant impacts in any of the following areas. The waiver shall be in writing and shall be included as part of the case record.

- i. Traffic;
- ii. Natural resources protected under the UDC;
- iii. Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.

b. **Notice of Neighborhood Meeting**

The applicant shall submit an affidavit to the Town stating that the public notice requirement has been met.

c. **Attendance at Neighborhood Meeting**

The applicant or applicant's representative shall attend the neighborhood meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Community Development Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting are preliminary in nature and not binding.

d. **Summary of Neighborhood Meeting**

The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

2. **Public Notice of Planning Commission Hearing**

a. **Published Notice**

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall publish a notice of public hearing on the Permit application. The notice shall be published once in a newspaper having general circulation in the area. The notice shall include contact information for the Operator, including phone number and office hours. The applicant shall be responsible for the cost of publication.

b. **Written Notice of Planning Commission Hearing to Adjacent Property Owners**

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

i. **Notice**

The applicant is responsible for composing the written notice of public hearing. The notice shall include:

- (A) Date, time, and place of the hearing;
- (B) Description of the property involved in the application by street address or by legal description and nearest cross street;
- (C) Description of the purpose of the hearing and that interested parties can come to the hearing and speak on the matter.
- (D) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (E) Contact information for the Operator, including phone number and office hours.

ii. **List of Property Owners**

The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (A) Owners of record of property within 300 feet of the site of the proposed Operation.
- (B) Associated homeowners associations.
- (C) Additional persons or geographic areas that the Director may designate.

iii. **Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

- c. **Posted Notice**

The applicant is required to post on the property a notice of the Planning Commission hearing. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the final decision on the Permit application. Prior to the hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

- 3. **Referral of Application**

The Director may send a copy of the complete application to consultants and any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Oil and Gas Operation. The applicant shall be responsible for the costs of any consultant and referral agency review.

- 4. **Application Review and Staff Report**
 - a. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

 - b. **Distribution of Staff Report**

No less than seven (7) calendar days prior to the date of the public hearing, the Director shall submit the staff report to the applicant and to the Planning Commission. A copy of the staff report shall also be available for public review prior to the hearing.

- 5. **Planning Commission's Hearing and Recommendation**

The Planning Commission shall consider the Permit application at a public hearing following proper public notice.

 - a. **Recommend Approval of Permit Application**

If the proposed Oil and Gas Operation satisfies the approval standards, the Planning Commission shall recommend the Permit application be approved.

 - b. **Recommend Denial of Permit Application**

If the proposed Oil and Gas Operation fails to satisfy the approval standards, the Planning Commission may recommend that the Permit application be denied; or

 - c. **Recommend Conditional Approval of Permit Application**

The Planning Commission may recommend approval with conditions determined necessary for compliance with applicable development standards.

6. **Public Hearing and Decision by Board of Trustees**

a. **Public Notice of Board of Trustees Hearing**

i. **Published Notice**

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall publish a notice of public hearing on the Permit application. The notice shall be published once in a newspaper having general circulation in the area. The notice shall include contact information for the Operator, including phone number and office hours. The applicant shall be responsible for the cost of publication.

ii. **Written Notice of Planning Commission Hearing to Adjacent Property Owners**

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

(A) **Notice**

The applicant is responsible for composing the written notice of public hearing. The notice shall include:

- (1) Date, time, and place of the hearing;
- (2) Description of the property involved in the application by street address or by legal description and nearest cross street;
- (3) Description of the purpose of the hearing and that interested parties can come to the hearing and speak on the matter.
- (4) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (5) Contact information for the Operator, including phone number and office hours.

(B) **List of Property Owners**

The list of property owners to be notified shall include the

following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (1) Owners of record of property within 300 feet of the site of the proposed Operation.
- (2) Associated homeowners associations.
- (3) Additional persons or geographic areas that the Director may designate.

(C) **Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

iii. **Posted Notice**

The applicant is required to post on the property a notice of the hearing. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the final decision on the Permit application. Prior to the hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

b. **Application Review and Staff Report**

i. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, Planning Commission recommendation, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

ii. **Distribution of Staff Report**

No less than seven (7) calendar days prior to the date of the public hearing, the Director shall submit the staff report to the applicant and to the Board of Trustees. A copy of the staff report shall also be available for public review prior to the hearing.

c. **Permit Decision by Board of Trustees**

The Board of Trustees shall approve, approve with conditions, or deny the Permit application based upon compliance with the approval standards in Section 10.12.4 of these Regulations. The Board's decision shall include the following:

i. **Description of Project**

Brief discussion of the proposed Oil and Gas Operation;

ii. **Issues**

Description of issues raised by the Planning Commission, affected property owners, referral agencies and consultants;

iii. **Conditions Imposed by the State**

Description of terms, conditions and requirements imposed on proposed Oil and Gas Operation by the state;

iv. **Impacts and Mitigation**

Description of impacts of the proposed Oil and Gas Operation, proposed mitigation, and whether each approval standard has been satisfied; and

v. **Conditions of Approval**

Conditions of approval, if any, necessary to ensure compliance with approval standards.

F. Recompletion of Wells Existing as of the Effective Date of These Regulations

1. **Notice of Recompletion**

Prior to submitting Form 2 to the COGCC for recompletion of any well existing as of the effective date of these Regulations, the Operator shall notify the Local Government Designee ("LGD") of its intent to submit such form.

2. **Neighborhood Meeting**

Prior to submitting the Form 2 for recompletion of any well existing as of the effective date of these Regulations, the Operator shall hold a neighborhood meeting at the Erie Community Center or a similarly convenient location approved by the Operator and the Town. The Operator shall provide 3 x 5 cards for the public to make written comments. The Town shall provide a lockbox for purposes of collecting written comments from meeting attendees. The LGD or his appointee will attend the meeting and collect the lockbox containing any written comments from meeting attendees. The LGD will transmit the written comments to the COGCC with any comments he submits on behalf of the Town regarding the Form 2.

3. **Mailed Notice**

Prior to the neighborhood meeting, the Operator shall mail notice of the anticipated recompletion to those properties located within at least one-half (1/2) mile of the pad site that would be affected by the recompletion. Owners of record shall be ascertained according to the records of the County Assessor's Office, unless more current information is made available in writing to the Town prior to the mailing of the notices. This notice shall include reference to the neighborhood meeting, contact information for the Operator, and the approximate date recompletion will begin. The Operator will provide the Town with an affidavit or certificate of mailing showing that notice was provided to the list of property owners.

4. Posted Notice

Ten (10) days prior to the neighborhood meeting, the Operator shall post a sign at the pad site, giving notice to the general public of the recompletion and contact information for the Operator. The Town will provide the signs for posting. The applicant is responsible for filling out the signs. For parcels of land exceeding ten (10) acres in size, two (2) signs shall be posted. Such signs shall be posted on the subject property in a manner and at a location or locations reasonably calculated by the Town to afford the best notice to the public.

10.12.4 OIL AND GAS OPERATIONS APPROVAL STANDARDS

A. Standards Applicable to Type A Permits

In addition to the standards in Section 10.12.4.B, below, all Type A permits shall be subject to the requirements set forth in Section 10.12.3.B.1.

B. Standards Applicable to Type A and Type B Permits

The following standards are the minimum standards that will apply to all proposed Oil and Gas Operations, and shall be in addition to any applicable state standards.

1. Use of Steel-Rim Berms

The Oil and Gas Operation will use steel rim berms or some other state of the art technology that will contain fluids and other material instead of sand or soil berms.

2. Setbacks

Wells and any associated Oil and Gas Operation facility or structure (above ground) shall be set back in accordance with Colorado Oil and Gas Conservation Commission Regulations, as amended.

3. Minimal Site Disturbance

The Oil and Gas Operation shall be located and constructed in a manner so that there is no unnecessary or excessive site disturbance and that minimizes the amount of cut and fill:

- a. Multi-well drill pads and consolidated facilities will be used to minimize surface disturbance.
- b. Pad dimensions will be the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
- c. Structures and surface equipment will be the minimum size necessary to satisfy present and future operational needs.
- d. The Operation will be located in a manner to minimize impacts on surrounding uses, and achieve compatibility with the natural topography and existing vegetation.

4. Visual Quality

The Oil and Gas Operation will not cause significant degradation to the scenic attributes and rural character of the Town.

- a. Facilities shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match the land rather than the sky. The color should be slightly darker than the surrounding landscape.
- b. The Oil and Gas Operation should be buffered from sensitive visual areas by providing landscaping along the perimeter of the site between the surface equipment and the sensitive visual area.
- c. The Oil and Gas Operation should be constructed in a manner to minimize the removal of and damage to existing trees and vegetation. If the Operation requires clearing trees or vegetation, the edges of the cleared vegetation should be feathered and thinned and the vegetation should be mowed or brushhogged while leaving root structure intact, instead of scraping the surface.
- d. The Oil and Gas Operation shall be sited away from prominent natural features and visual, scenic and environmental resources such as distinctive rock and land forms, rivers and streams, and distinctive vegetative patterns.
- e. To the maximum extent practicable, the Oil and Gas Operation will use low profile tanks or less intrusive equipment.

5. Natural Resource Areas

The Oil and Gas Operation may not be located as to cause significant degradation of natural landmarks, rare plant species, riparian corridors, wildlife habitat or other sensitive areas.

6. Historical and Cultural Resources

The Oil and Gas Operation shall not cause significant degradation to resources of historic, cultural, paleontological, or archeological importance.

7. Public Services and Facilities

The Oil and Gas Operation shall not have a significant adverse effect on the capability of the Town to provide municipal services or the capacity of the service delivery systems.

8. Use of Existing Roads

Unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise, existing roads on or near the site of the Oil and Gas Operation shall be used in order to minimize land disturbance

9. Transportation, Roads, and Access Standards

a. Compliance with Town Standards

All public roads shall be constructed and maintained in compliance with Town standards as necessary to accommodate the traffic and equipment related to Oil and Gas Operations and emergency vehicles.

b. Dust Suppression

Dust associated with on-site activities and traffic on access roads shall be minimized throughout construction, drilling and operational activities such that there are no visible dust emissions from access roads or the site to the extent practical given wind conditions.

c. Access to Public Roads

i. Access points to public roads shall be located, improved and maintained to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

ii. Access roads shall be improved a minimum distance of 200 feet on the access road from the point of connection to a public road. The access road shall be improved as a hard surface (concrete or asphalt) for the first 100 feet from the public road and then improved as a crushed surface (concrete or asphalt) for 100 feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities.

iii. If an access road intersects with a pedestrian trail or walk, the Operator shall pave the access road as a hard surface (concrete or asphalt) a distance of 100 feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load

requirements of the vehicles accessing the well and production facilities.

- iv. Temporary access roads associated with the Oil and Gas Operation shall be reclaimed and revegetated to the original state within sixty (60) days after discontinued use of the temporary access roads.
- d. If the projected use of public roads as a result of the Oil and Gas Operation will result in a need for an increase in roadway maintenance, the Operator shall enter into an agreement with the Town whereby the Operator provides for private maintenance or reimburses the Town for such increased costs and/or provides a bond or other financial assurance in an amount acceptable to the Town to cover the costs of mitigating impacts to public roads.

10. Implementation of Traffic management Plan

The Operator will implement the required Traffic Management Plan.

11. Road Repairs

- a. The Operator will arrange for a qualified outside consultant to perform a road impact study for all public roads that are used to access the Oil and Gas Operation. The consultant will conduct the first part of the study prior to operations and the second part of the study after the Operator completes all drilling and hydraulic fracturing. The Operator and the Town will use these studies to determine the extent of any damage accruing to the road during the study period. The Operator will either promptly pay the Town to repair such damage or arrange for and pay the cost of such repairs itself, whichever the Town prefers.
- b. The Operator shall maintain financial assurance to secure its road repair obligations. The amount of such financial assurance shall equal the Town's annual road maintenance budget as of the date of permit approval multiplied by the percentage yielded by dividing the total number of Town road miles as of the date of permit approval into the number of such road miles that the Operator will use to access the Oil and Gas Operation. The Operator shall select the form of such financial assurance and shall maintain such assurance until it fulfills its obligation to repair road damage pursuant to paragraph a, above.

12. Grading / Drainage and Erosion Control

The Oil and Gas Operation shall be conducted in accordance with the Grading/Drainage and Erosion Control Plan.

13. Water Quality

The Oil and Gas Operation shall not cause significant degradation of water quality of affected water bodies. The Operator will implement the required water quality

monitoring plan. Determination of effects of the Operation on water quality may include, but is not limited to the following considerations:

- a. Applicable narrative and numeric water quality standards.
- b. Changes in point and nonpoint source pollution loads.
- c. Increase in erosion and sediment loads.
- d. Changes in stream channel or shoreline stability.
- e. Changes in stormwater runoff flows.
- f. Changes in quality of ground water.
- g. Certification. The Operator must submit annual reports to the Director certifying compliance with water quality standards, documenting any non-compliance, including its date and duration. A compliance plan is required for all instances of non-compliance.

14. Wells

The Oil and Gas Operation shall not cause water quality or water pressure of any public or private water wells to go below pre-project levels. The Operator must submit annual reports to the Director certifying that the Operation has not caused water quality or pressure of public and private wells to go below pre-project levels, documenting non-compliance, including its date and duration. A compliance plan is required for all instances of non-compliance.

15. Floodplain

Oil and Gas Operations conducted within the Floodplain Overlay District shall comply with Section 10.2.7.C of the UDC.

16. Wetlands and Riparian Areas

The Oil and Gas Operation shall not significantly degrade wetlands and riparian areas.

17. Wildlife

The Oil and Gas Operation shall not cause significant degradation of wildlife or wildlife habitat.

18. Fuel Storage Areas

The Oil and Gas Operation includes measures to contain fuel in fuel storage areas to prevent release to any water body. Inventory management or leak detection plans may be required.

19. Disposal of Hydraulic Fracturing Fluid

The Operator shall demonstrate the ability to and shall dispose of all hydraulic fracturing fluids in accordance with the Hydraulic Fluid Fracturing Disposal Plan.

20. Hazardous Materials

- a. The Oil and Gas Operation includes measures to contain all hazardous materials in storage areas to prevent release to any water body. Inventory management and leak detection systems are required.
- b. Full disclosure, consistent with COGCC requirements, including material safety data sheets of all hazardous materials that will be transported on any public or private roadway within the Town for the Oil and Gas Operation, shall be provided to the Director. This information will be treated as confidential and will be shared with other emergency response personnel only on an as needed basis.

21. Spill and Release Response and Reporting

The Operator has demonstrated the ability to control and contain all spills and releases of exploration and production waste, including produced fluids, immediately upon discovery in compliance with the following requirements:

- a. Impacts resulting from spills and releases shall be investigated and cleaned up as soon as practicable.
- b. For all spills and releases reportable under COGCC Rule 906, within ten (10) days after discovery Operator shall submit to the Director a copy of the spill and release report (COGCC Form 19), including the topographic map showing location of the spill and any information relating to initial mitigation, site investigation, and remediation that accompany the report.
- c. For spills and releases which exceed twenty (20) barrels of exploration and production waste, the spill and release shall be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.
- d. Spills and releases of any size which impact or threaten to impact any waters of the state, residence or occupied structure, livestock, or public byway shall be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.
- e. Spills and releases of any size which impact or threaten to impact any water supply area shall be verbally reported to the Colorado Environmental Spill Reporting Hotline at 1-877-518-5608, to the Local Government Designee, and to the Director immediately after discovery.
- f. Spills, chemical spills and releases shall be reported in accordance with applicable state and federal laws, including the Emergency Planning and

Community Right to Know Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Oil and Pollution Act, and the Clean Water Act, as applicable.

22. Emergency Response

The Oil and Gas Operation shall be conducted in accordance with the Emergency Response Plan.

23. General Operation and Maintenance Requirements

- a. The Oil and Gas Operation shall maximize resource recovery and minimize releases to the atmosphere during flowback and subsequent recovery / operation.
- b. Gas produced during production shall be captured and not flared or vented to the maximum extent practicable.
- c. The Operator shall at all times keep the well sites, roads, rights-of-way, facility locations, and other Oil and Gas Operation areas safe and in good order, free of noxious weeds, litter and debris.
 - i. The Operation shall comply with COGCC rules concerning weed control. The Operator shall be responsible for ongoing weed control at all locations disturbed by the Operation and along access roads during construction and operation, until abandonment and final reclamation is completed.
 - ii. The Operation shall comply with COGCC rules concerning removal of debris.
 - iii. The Operator shall utilize vehicle tracking control practices to control potential sediment discharges from unpaved surfaces. Such practices may include road and pad design and maintenance to minimize rutting and tracking, controlling site access, street sweeping or scraping, tracking pads, and wash racks. Traction chains from heavy equipment shall be removed before entering a public roadway.
- d. The Operator shall dispose of all water, unused equipment, litter, sewage, waste, chemicals and debris off of the site at an approved disposal site.
 - i. All equipment used for drilling, re-drilling and maintenance shall be removed from the well pad site within thirty (30) days after completion of the work, unless otherwise agreed to by the surface owner. Permanent storage of equipment on well pad sites shall not be allowed.

- ii. Materials shall not be buried on-site.
- e. The Operator shall promptly reclaim and reseed all disturbed sites in conformance with COGCC rules.
- f. Routine field maintenance of vehicles or mobile machinery shall not be performed within three hundred (300) feet of any water body.
- g. All mechanized equipment associated with the Operation shall be anchored to minimize transmission of vibrations through the ground.
- h. No burning of trash shall occur in association with the Operation.
- i. Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured where the Operation site is unattended or is accessible to the general public. Open-ended discharge valves shall be placed within the interior of the tank secondary containment.
- j. All permanent equipment with engines or motors that can be electrified shall be electrified from the power grid or from renewable sources. All well pads that are not electrically operated should use quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent; or acoustically insulated housing or covers to enclose the motor or engine.
- k. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest occupied structures.
- l. Oil and gas well facilities (above ground) shall be fenced with wrought iron fencing or Ameristar Impasse or Stronghold fencing or approved equivalent, as determined by the Director. The fencing color shall be bronze unless the Director approves black fencing. Black fencing will only be approved by the Director if fencing or site furnishings in the adjacent developments have approved black elements.
- m. The Operator will install down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that Operator may still use lighting that is necessary for public and occupational safety.
- n. Well Abandonment. The Operator shall comply with any COGCC rules regarding well abandonment. Upon plugging and abandonment of a well, the Operator shall provide the Director with surveyed coordinates of the abandoned well and shall leave onsite a permanent physical marker of the well location.

C. Waiver of Approval Standards

The Town may waive one or more of the Oil and Gas Operation Approval Standards set forth in this Section 10.12.4.B for Operational Conflict, Technical Infeasibility or Environmental Protection.

1. Operational Conflict

An approval standard may be waived by the Board of Trustees if the application of a Town standard to the proposed Oil and Gas Operation would materially impede or destroy the state's interest in the responsible, balanced development, production and utilization of oil and gas consistent with protection of public health, safety and welfare, including protection of the environment and wildlife resources.

a. Request for Waiver

Upon written request by the applicant, the Director shall schedule a public hearing by the Board of Trustees at the next regularly scheduled meeting for which proper notice can be accomplished and for which there is time on the agenda following receipt of the written waiver request.

b. Notice of Public Hearing

- i. The notice of public hearing on the waiver request shall be prepared by the Director and shall include a description of the proposed Oil and Gas Operation, description of the standard(s) sought to be waived, and the date and location of the hearing.
- ii. Not less than fifteen (15) days prior to the hearing, the Director shall publish the notice of public hearing on the waiver request in a newspaper having general circulation in the area. The Operator shall be responsible for the cost of publication.
- iii. Not less than fifteen (15) calendar days prior to the date of the public hearing on the waiver request, the Director shall mail written notice of the public hearing to owners of real property within 300 feet of the subject parcel when the proposed Oil and Gas Operation is located. The applicant shall provide a stamped and addressed envelope for each party to be notified. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

c. Decision by Board of Trustees on Request for Waiver of Standard

The Board of Trustees may waive the standard if the Board determines, based on evidence and testimony at the hearing, that application of the approval standard to the proposed Oil and Gas Operation will result in an operational conflict with a state statute, regulation, or other requirement.

The Board may impose conditions that are necessary to minimize any negative impacts of the waiver.

2. Technical Infeasibility

The Operator may make a written request to the Director for a waiver due to technical infeasibility at any time during the application review process prior to the final decision on the application. The Director may approve the request for waiver based upon the following determinations:

- a. There is no economical technology commercially available to conduct the proposed Oil and Gas Operation in compliance with the standard; and
- b. Conduct of the proposed Oil and Gas Operation if the standard is waived will be protective of public health, safety, welfare and the environment.

3. Environmental Protection

The Operator may make a written request to the Director for a waiver based on environmental protection at any time during the application review process prior to the final decision on the application. The Director may approve the request for waiver if protection of public health, safety welfare and the environment will be enhanced by an alternate approach not contemplated by the standard.

10.12.5 ENFORCEMENT

These Regulations for Oil and Gas Operations shall be enforced pursuant to Section 10.10.1 of the UDC.

ATTACHMENT B

RESOLUTION NO. P15-25

A RESOLUTION RECOMMENDING APPROVAL OF TEXT AMENDMENTS TO TITLE 10 OF THE TOWN OF ERIE MUNICIPAL CODE.

WHEREAS, the Planning Commission of the Town of Erie, Colorado, has received and considered text amendments to the Title 10 of the Town of Erie Municipal Code, on Wednesday, August 19, 2015, on the application of the Community Development Department.

WHEREAS, The Town desires to amend Title 10 of the Town of Erie Municipal Code;
and

WHEREAS, it is deemed to be in the best interest of the Town and for the benefit of the public health, safety and welfare of the residents of the Town of Erie for the Town of Erie to amend Title 10 of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF ERIE, COLORADO, as follows:

Section 1. Findings of Fact

1. The Planning Commission determined that the application meets the Approval Criteria as specified in Title 10 of the Municipal Code, Section 7.21.C.9. Specifically that;
 - a. The proposed amendment will promote the public health, safety, and general welfare;
 - b. The proposed amendment is consistent with the Town's Comprehensive Plan and the stated purposes of Title 10; and
 - c. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions.

Section 2. Conclusions

The application is in substantial compliance with Title 10 of the Municipal Code, Section 7.21 – Amendments to the Text of The Code.

Section 3. Recommendations and Conditions

The Planning Commission recommends approval of the text amendments to Title 10 of the Municipal Code, attached hereto as "Exhibit A."

INTRODUCED, READ, SIGNED AND APPROVED THIS 19th DAY OF AUGUST 2015.

TOWN OF ERIE, PLANNING COMMISSION



J. Eric Bottenhorn, Chair

ATTEST:



Hallie S. Sawyer, Secretary

Exhibit A

AMENDMENTS TO JUNE 2015 TITLE 10 UNIFIED DEVELOPMENT CODE

Part I.

New text is underlined; deleted text is shown with ~~strike-through~~.

1. **Chapter 3, Use Regulations**

Section 10.3.2, Use Specific Standards

~~DELETE Section 10.3.2 D.3, Oil and Gas Facilities, and revise the numbering as necessary.~~

~~3. Oil And Gas Facilities~~

~~a. *Setbacks*~~

~~Wells and any associated oil and gas operation facility or structure (above ground) shall be set back in accordance with State of Colorado Oil & Gas Conservation Commission Regulations, as amended.~~

~~b. *Access Roads*~~

~~Access roads on the site and access points to public streets shall be reviewed by the Public Works Department and shall be built and maintained in accordance with the Town standards.~~

~~All erosion control, access and oversize or overweight vehicle permits must be obtained from the Public Works Department prior to beginning operation. All proposed transportation routes to the site shall also be reviewed and approved by the Public Works Department to minimize traffic hazards and adverse impacts on public streets. Existing streets shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise.~~

~~Access roads to well and production facilities shall be improved from the point of connection to a street a minimum distance of 200 feet on the access road. The access road shall be improved as a hard surface (concrete or asphalt) for the first 100 feet from the street and then improved as a crushed surface (concrete or asphalt) for 100 feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities. If an access road intersects with a pedestrian trail or walk, the developer shall pave, as a hard surface (concrete or asphalt), the access road 100 feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.~~

~~c. *Fencing*~~

~~Oil and gas well facilities (above ground) within the Town of Erie are required to be fenced with wrought iron fencing or *Ameristar Impasse* or *Stronghold* fencing or approved equivalent, as determined by the Community Development Director. The fencing color shall be bronze unless the Community Development Director approves black fencing. Black fencing will only be approved by the Community Development Director if fencing or site furnishings in the adjacent developments have approved black elements.~~

~~d. *Oil and Gas Operation Facility or Structure Color*~~

~~Oil and gas operation facilities or structures (above ground) such as tanks shall be~~

~~Painted a color designated by the Community Development Director.~~

2. Chapter 6, Development and Design Standards

Section 10.6.4, Landscaping, Screening, and Fencing

AMEND **Section 10.6.4.H.5.c.ii** as follows:

H. Fencing and Walls

5. Height Restrictions

c. No fence in any district shall exceed 6 feet in height; except:

~~ii. Fences in the LI and AP districts and surrounding oil and gas wells and production facilities in any district may be up to 8 feet in height;~~

AMEND **Section 10.6.4.H.7.a** as follows:

H. Fencing and Walls

7. Restrictions Regarding Certain Materials

~~a. Fences in the RC, LI, PD and AP zoning districts and surrounding oil and gas wells and production facilities in any district may include up to 4 strands of barbless wire, with the lowest strand at least 6 feet above ground level. The barbless wire may be placed vertically or at a 45 degree angle; provided, that it does not extend across the property line.~~

3. Chapter 6, Development and Design standards

Section 10.6.14, Oil and Gas Wells and Production Facilities

REVISE **Section 10.6.14, Oil and Gas Wells and Production Facilities**, as follows.

Amend Section title:

Section 10.6.14, Development and Design Standards to Accommodate Oil and Gas Wells and Production Facilities

Amend **Section 10.6.14.A.4:**

A. Existing Oil and Gas Wells and Production Facilities

4. Developments with existing oil and gas wells and associated above ground production facilities shall add fencing to non-fenced wells and facilities or upgrade fencing for wells and facilities in conformance with the following requirements. ~~to be in compliance with Subsection 3.2.D.3.c of this UDC. All proposed fencing changes shall be approved by the mineral right owner either before Final Plat approval or for sites already platted, before Site Plan approval.~~

a. Oil and gas well facilities (above ground) within the Town of Erie shall be fenced with wrought iron fencing or Ameristar Impasse or Stronghold fencing or approved equivalent, as determined by the Community Development Director.

b. The fencing color shall be bronze unless the Community Development Director approves black fencing. Black fencing will only be approved by the Community Development Director if fencing or site furnishings in the adjacent developments have approved black elements.

c. All proposed fencing changes shall be approved by the mineral right owner before Final Plat approval or for sites already platted, before Site Plan approval.

Delete Section 10.6.14.C:

~~C. Relocation of Oil and Gas Wells, Production Facilities and Pipelines~~

~~1. Relocation of oil and gas wells, production facilities and flow lines associated with development shall be reviewed and approved by the Town through the subdivision process.~~

~~2. Relocation, recordation of vacation of easements and recordation of new easements shall~~

~~be finalized and copies submitted to the Town before a Final Plat is approved.~~

Amend Section 10.6.14.E.4.b:

E. Future Oil and Gas Wells and Production Facilities

4. The following setbacks shall be provided to future oil and gas wells and above ground production facilities:

b. Street right-of-ways shall be setback a minimum of 150 feet from future oil and gas wells and above ground facilities.

4. **Chapter 7**

Review and Approval Procedures

~~DELETE Section 10.7.13.F~~

~~13. Special Review Use~~

~~F. Operator Agreement~~

~~The Town may enter into an Operator Agreement with an oil and gas operator governing proposed mining and mineral extraction. IN the event that such an Operator Agreement is approved by the Town Board of Trustees, such mining and mineral extraction is exempt from the requirement for Special Review Use approval under this Section 10.7.13 and from Site Plan Review under Section 10.7.12, unless such Operator Agreement provides otherwise.~~

5. **Chapter 11, Definitions**

Section 10.11.3 Terms Defined.

AMEND definition of **Mining and Mineral Extraction** as follows:

The extraction of minerals, including oil and gas and solids like coal and other ores, from their natural occurrences on affected land.

AMEND definition of **Oil and Gas Well Gathering Lines** to be the same definition used in the Oil and Gas Regulations.

~~A pipeline which transports natural gas beyond leasehold gas metering equipment to a compressor facility, processing plant or interstate pipeline connection.~~

A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term "gathering line" includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final

production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

DELETE definition of **Operator Agreement:**

~~OPERATOR AGREEMENT~~

~~An agreement between the Town and an oil and gas operator establishing Best Management Practices and/or other terms and conditions for Mining and Mineral Extraction~~

DELETE definition of **Oil and Gas Operator:**

~~OIL AND GAS OPERATOR~~

~~The individual or firm engage in all or a portion of the extraction of oil and gas.~~

Part II.

New CHAPTER 12: REGULATIONS FOR OIL AND GAS OPERATIONS, to read as follows:

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CHAPTER 12: REGULATIONS FOR OIL AND GAS OPERATIONS

10.12.1 GENERAL PROVISIONS

A. Title and Citation

These Regulations are entitled and may be cited as the "Regulations for Oil and Gas Operations."

B. Purpose

The purpose of these Regulations is to provide a framework for the responsible exploration and production of oil and gas resources in a manner that preserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects public health, safety, welfare and the environment of the Town. These standards are not intended to supersede state laws, regulations or rules pertaining to oil and gas development, but rather are meant to supplement those requirements where appropriate, and to address areas of regulation where none has been established by the state.

C. Authority

This section is adopted pursuant to C.R.S. § 31-15-401, C.R.S. and §§ 29-20-101 et seq.,

D. Oil and Gas Permit Required

Oil and Gas Operations to be located wholly or partially within the municipal boundaries on public or private lands require an Oil and Gas Permit issued pursuant to these Regulations.

1. Type A Permit.

Planning Commission review and decision, subject to call-up by Board of Trustees. Public hearing is not required. See Section 10.12.3.D.

2. Type B Permit.

Director review, public hearing and recommendation by Planning Commission, public hearing and decision by Board of Trustees. See Section 10.12.3.E.

E. Applicability

1. New or expanded Oil and Gas Operations within the Town are subject these Regulations. These Regulations take the place of the existing special

review use process. In the event that the provisions of these Regulations conflict with any other provisions of the UDC, this section shall supersede as it applies to Oil and Gas Operations.

2. Oil and Gas Permits issued pursuant to these Regulations shall encompass within its authorization the right of the Operator, its agents, employees, subcontractors, independent contractors, or any other person to perform that work reasonably necessary to conduct the activities authorized by the permit, subject to all other applicable Town regulations and requirements.

F. Exemptions from these Regulations

1. **Operator Agreement**

An Operator Agreement approved by the Town Board of Trustees may, by its terms, exempt the proposed Oil and Gas Operation from these Regulations.

2. **Continuation of Existing Operations**

Oil and Gas Operations that are in existence on the effective date of these Regulations or that are located within territory which thereafter is annexed to the Town may continue operating without the issuance of an Oil and Gas Permit under these Regulations.

3. **Recompletion of Existing Wells**

Recompletion of wells in existence as of the effective date of these regulations shall be reviewed in accordance with Section 10.12.3.F.

G. Expansion of Operations Existing at the Time of the Effective Date of These Regulations

Expansion of existing oil and gas operations is subject to these Regulations. "Expansion" includes:

1. Expansion of existing Oil and Gas Operations.
2. Installation of new wells on existing well pad sites.
3. Expansion of the areas of existing well pad sites

H. Severability

If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby and is hereby declared to be necessary for the public health, safety and welfare.

I. Definitions

Closed Loop Drilling Process or System

A closed loop mud drilling system typically consists of steel tanks for mud mixing and storage and the use of solids removal equipment which normally includes some combination of shale shakers, mud cleaners and centrifuges sitting on top of the mud tanks. This equipment separates drill cutting solids from the mud stream coming out of the wellbore while retaining the water or fluid portion to be reused to continue drilling the well bore. The solids are placed in containment, either a shallow lined pit or an above ground container, provided on location. The system differs from conventional drilling where a reserve pit is used to allow gravitational settling of the solids from the mud which can then be reused. A Closed Loop Drilling System does not include use of a Conventional Reserve Drilling Pit.

Degradation

Lowering in grade or desirability; lessening in quality.

Director

Community Development Director or the Director's representative.

Exploration and Production Waste

Those wastes associated with Oil and Gas Operations to locate or remove oil or gas from the ground or to remove impurities from such substances and which are uniquely associated with and intrinsic to oil and gas exploration, development or production activities that are exempt from regulation under the Resource Conservation and Recovery Act (RCRA).

Flare Pit

A pit used exclusively for flaring gas.

Flowlines

Those segments of pipe from the wellhead downstream through the production facilities ending at:

- (a) In the case of gas lines, the gas metering equipment; or
- (b) In the case of oil lines, the oil loading point or LACT unit; or
- (c) In the case of water lines, the water loading point, the point of discharge to a pit, the injection wellhead, or the permitted surface water discharge point.

Gathering Line

A pipeline and equipment that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term "gathering line" includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include

dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmission lines, or main lines.

Geologic Hazards

Terrain and geological traits that pose a risk of causing damage to property or human life, including subsurface features such as fault lines, aquifers and other geothermic and geologic phenomena.

Hydraulic Fracturing or Hydraulic Fracturing Treatment

All stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and natural gas.

Hydraulic Fracturing Fluid

The fluid, including the applicable base fluid and all hydraulic fracturing additives, used to perform a hydraulic fracturing treatment.

Linear Feature

A road, gathering line, or pipeline that is necessary to cross a water body or connect or access a well or gathering line. A linear feature is not considered necessary simply because it is the most proximate or least expensive method for crossing a water body or connecting or accessing a well or gathering line.

Mitigation

The following actions, in order of preference:

- (a) Avoiding impacts: avoiding an impact by not taking a certain action or parts of an action; or
- (b) Minimizing impacts: limiting the degree or magnitude of the action or its implementation, or by changing its location; or
- (c) Rectifying impacts: repairing, rehabilitating, or restoring the impact area, facility or service; or
- (d) Reducing or eliminating impacts: reducing or eliminating the impact over time by preservation and maintenance operations; and
- (e) Other provisions for addressing impacts: replacing or providing equivalent biological, social, environmental and physical conditions, or a combination thereof.

Oil and Gas Operations

Exploration for oil or gas, including but not limited to conventional oil and gas and coalbed methane gas; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of an oil or gas well; pumping stations; production facilities and operations including the installation of flow lines and gathering lines; accessory equipment; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources, including their impacts on or construction of access roads and easements.

Operator Agreement

An agreement between the Town and an Operator describing how proposed Oil and Gas Operations are to be conducted within the municipal boundaries.

Operation(s)

Oil and Gas Operations.

Operator

The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the Operation.

Permit

Town of Erie Oil and Gas Permit issued pursuant to the provisions of this Chapter 12.

Pipelines

Flowlines and gathering lines for oil and gas wells.

Pit

Any natural or man-made depression in the ground used for oil or gas exploration or production purposes. A pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils.

Pitless

Pitless with respect to drilling means there is no pit regardless of size or function. This includes conventional reserve drilling pits and drilling cutting pits, but does not include flare pits which may be utilized to contain necessary flaring during the drilling, completion, or up-set conditions. An above ground water tight metal or other material container is utilized instead of a sub surface pit to hold drilling cuttings until they are disposed of.

Production Facilities

All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

Regulation(s)

The Town of Erie Oil and Gas Regulations set forth in Chapter 12 of the UDC.

Reference Area

An area either (1) on a portion of the site that will not be disturbed by oil and gas operations, if that is the desired final reclamation; or (2) another location that is undisturbed by oil and gas operations and proximate and similar to a proposed oil and gas location in terms of vegetative potential and management, owned by a person who agrees to allow periodic access to it for the purpose of providing baseline information for reclamation standards, and intended to reflect the desired final reclamation.

Residential Building Unit

Building or structure designed for use as a place of residency by a person, a family, or families. The term includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes.

Significant

Of considerable or substantial consequence.

Significantly Degrade

To lower in grade or desirability to a significant as opposed to trifling degree.

UDC

Town of Erie Uniform Development Code.

VOC Emissions

Volatile organic compounds in oil and gas operations that are released into the atmosphere and/or ground.

Water Body

Any surface waters which are contained in or flow in or through the Town, including: Coal Creek, Boulder Creek, Erie Lake, Erie Reuse Reservoir, Thomas Reservoir, Prince Lake #2, and any irrigation ditches.

Well (Oil and Gas)

An oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

Wildlife Habitat

A natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leeks, migration corridors, calving and fawning grounds for big game.

10.12.2 PERMIT APPLICATION PROCESS FOR OIL AND GAS OPERATIONS

A. Permit Application Submittal

The applicant shall submit the Permit application materials to the Director. The Permit application materials are set forth in Section 10.12.2.D.

B. Waiver of Permit Application Material Requirements

The Director may waive any part of the Permit application material requirements when the information would not be relevant to determining whether the proposed Oil and Gas Operation complies with the approval standards.

C. Permit Application Fee

The applicant is responsible for the costs of reviewing and processing the Permit application. The applicant is responsible for the costs of counsel, consultant and referral agency review of the Permit application including reviews associated with the pre-application conference, completeness determination, and all hearings and meetings on the Permit application.

1. Fee Requirement

The Permit application shall be accompanied by the application fees set forth in Section 2-10-5 of the Municipal Code.

2. Payment of Additional Costs

If there are costs for reviewing and processing the Permit application in addition to the application fees paid pursuant to C.1 above, the additional cost shall be billed to the applicant. Additional costs billed to the applicant must be paid within thirty (30) days of the billing date, and must be paid in full prior to final action by the Town on the Permit application.

D. Permit Application Materials for Oil and Gas Operation

The applicant shall submit the application materials to the Community Development Department. The Director may waive any part of the application material requirements when the information would not be relevant to determining whether the proposed Oil and Gas Operation complies with the applicable standards.

1. Application Form

Completed application form.

2. Summary of Proposed Oil and Gas Operation

Summary of proposed Oil and Gas Operation, including a list of all proposed oil and gas facilities to be installed and estimated timeline.

3. **Topographic Map**

Topographic map at a scale not to exceed 1"=40' that shows:

- a. Proposed Oil and Gas Operation location. The location of the proposed Oil and Gas Operation including well pads, tanks, roads, pipelines and gathering systems, and related features on a United States Geological Survey quadrangle map or on a recorded plat if the proposed Oil and Gas Operation is within an approved subdivision, with the location highlighted so that it is easy to see.
- b. Topography. Existing and proposed topography at intervals established by the Director as necessary to portray the direction and slope of the area affected by the proposed Oil and Gas Operation.
- c. Transportation and roads. All public and private roads that traverse and/or provide access to the proposed Oil and Gas Operation.
- d. Easements. Easements recorded or historically used that provide access to or across, or other use of, the property.
- e. Municipal and subdivision boundaries. Municipal or subdivision boundaries within one mile of the well pad, tanks, gathering lines, storage areas or any other ancillary feature of the proposed Oil and Gas Operation.
- f. Other Operations. Location of other Oil and Gas Operations within one mile of the site.
- g. Shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Building Unit.

4. **Current Aerial Photo**

Current aerial photo that shows the location of the proposed Oil and Gas Operation and the shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Building Unit, displayed at the same scale as the topographic map to facilitate use as an overlay.

5. **Site Preparation Plan**

Site plan for site preparation, mobilization, and demobilization.

6. **Applications and Permits**
Copies of all state applications for the proposed Oil and Gas Operation, and permits, when issued.
7. **Reports/Studies/Plans**
The following reports, studies and plans shall be prepared to adequately portray the physical characteristics of the property.
 - a. **Air Quality Impact Assessment and Mitigation Plan**
An assessment of air quality impacts of the proposed Oil and Gas Operation and a plan to maintain air quality, including a plan to minimize VOC emission in compliance with these Regulations.
 - b. **Chemicals and Hydraulic Fracturing Fluids Disposal and Reporting Plan**
A plan for disposal and reporting of chemicals and hydraulic fracturing fluids, that includes:
 - i. Material safety data sheets for the chemicals used in the proposed Oil and Gas Operation.
 - ii. Chemical Abstract Service Registry Numbers for every chemical used in the proposed Oil and Gas Operation, if available, other than those protected as Trade Secrets.
 - iii. Hydraulic fracturing.
 - iv. Provision for reporting to the Town the chemicals, other than those protected as a Trade Secret, that will be stored and used during any hydraulic fracturing event along with the maximum quantity that will be present on-site at any one time.
 - c. **Cultural Survey**
A cultural, historical, and archeological survey of the proposed Oil and Gas Operations site and other areas and properties impacted by access to the site.
 - d. **Dust Suppression Plan**
Dust suppression and control plan.
 - e. **Grading/Drainage and Erosion Control Plan**
A plan that identifies existing (dashed lines) and proposed (solid lines) contours, at two-foot intervals, and the methods for controlling erosion during construction and operational phases of the proposed Oil and Gas Operation.

- f. **Emergency Response Plan**
A plan that addresses events such as explosions, fires, gas or water pipeline leaks or ruptures, leaks from well casings and pits, tank leaks or ruptures, hydrogen sulfide or other toxic gas emissions, transportation of hazardous material and vehicle accidents or spills. The plan must include proof of adequate personnel, supplies, and funding to immediately implement the emergency response plan at all times during construction and Operations.
- g. **Geological Report**
A report detailing the geological characteristics of the site, prepared by a registered engineer. The report shall include an assessment of the geologic hazards within one mile of the site and a plan for mitigating impacts from geologic hazards to the proposed Oil and Gas Operation and impacts of the proposed Operation on geologic hazards.
- h. **Public Services and Facilities Impact Assessment**
A description of existing levels, demand for, adequacy of, and the operational costs of public services affected by the proposed Oil and Gas Operation; a description of the increase in demand on those services and a plan for mitigating the impacts to public services and facilities.
- i. **Lighting Plan**
A plan for installation of down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that the Operator may still use lighting that is necessary for public and occupational safety.
- j. **Operation Plan**
A plan including the method and schedule for drilling, completion, transporting, production and post-operation, and a description of future Oil and Gas Operations.
- k. **Reclamation Plan**
A plan for interim reclamation and revegetation of the site and final reclamation of the site. The plan shall include the locations of any proposed Reference Areas to be used as guides for interim and final reclamation.
- l. **Spill Prevention Control and Countermeasures Plan**
- m. **Traffic Management Plan**

A plan showing the estimated number of vehicle trips per day for each type of vehicle, proposed access routes to and from the site, and measures to mitigate adverse impacts to traffic patterns and safety caused by the proposed operation.

- n. **Access Road Plan**
A plan sufficient to demonstrate compliance with the approval standards in Section 10.12.4.
- o. **Stormwater Control Plan**
A plan to minimize impacts to surface waters from erosion, sediment, and other sources of nonpoint pollution. The stormwater control plan required by COGCC Rule 1002(f) may be provided to establish compliance with this provision.
- p. **Vegetation and Weed Management Plan**
A written description of the species, character and density of existing vegetation on the site, a summary of the potential impacts to vegetation as a result of the proposed Oil and Gas Operation, and proposed mitigation to address these impacts. The plan shall include any COGCC required interim and final reclamation procedures.
- q. **Water Quality Impact Assessment and Mitigation Plan**
 - i. Identification of all surface and subsurface water bodies. An inventory and location of all water bodies, as well as domestic and commercial water wells within one mile of the proposed Oil and Gas Operation.
 - ii. Identification of intake(s) for public drinking water supply.
 - iii. Water quality monitoring and mitigation plan. A Water Quality Monitoring Plan that establishes a baseline and a process for monitoring changes to water quality and the aquatic environment to demonstrate the effectiveness of mitigation. The plan shall comply with the Colorado Oil and Gas Association Voluntary Baseline Groundwater Quality Sampling Program, as it may be amended, and be complementary to any monitoring required by the state. The plan shall, at a minimum, include the following elements:
 - (A) Key stream segments, other water bodies, and groundwater to monitor.

- (B) Locations for and frequency of sampling and monitoring to establish baseline of existing conditions prior to the proposed Oil and Gas Operation including existing water quality, aquatic life and macro-invertebrates, and groundwater data.
- (C) Key indicators of water quality and stream health, and threshold levels that will be monitored to detect changes in water quality and health of the aquatic environment.
- (D) Locations for and frequency of sampling and monitoring for key indicators of water quality and stream health, including but not limited to constituents regulated by the Colorado Water Quality Control Commission, and constituents associated with the proposed Oil and Gas Operation.
- (E) Locations for and frequency of sampling and monitoring to measure effectiveness of water quality mitigation during the life of the proposed Oil and Gas Operation and five years after final reclamation of all disturbed areas is complete.
- (F) Mitigation steps that will be implemented to avoid degradation of water bodies if monitoring of key indicators reveals degradation.

r. **Water Availability: Physical Availability and Legal Right to Utilize**

An assessment of how much water will be needed for each phase of the proposed Oil and Gas Operation, and the source of water supply both physically and legally, for the life of the proposed Operation.

s. **Wildlife and Wildlife Habitat Assessment**

An assessment of existing wildlife and wildlife habitat, an evaluation of the impacts of the proposed Oil and Gas Operation on wildlife and wildlife habitat, and proposed mitigation to address these impacts.

t. **Operational Conflict/Technical Infeasibility/Environmental Protection Waiver Request**

Documentation of the basis for any waiver of approval standards based on operational conflict, technical infeasibility or

environmental protection that the applicant may request pursuant to Section 10.12.4.C of these Regulations.

- u. Additional information requested by the Director.

10.12.3 PERMIT PROCESS FOR OIL AND GAS OPERATIONS AND NOTICE OF RECOMPLETION OF EXISTING WELLS

A. Pre-Application Conference and Permit Classification

1. Pre-Application Conference

Prior to submitting an application for an oil and gas permit, an applicant shall meet with the Director to discuss the proposed Oil and Gas Operation. The purpose of the pre-application conference includes, without limitation:

- a. To discuss the location and nature of the proposed Oil and Gas Operations;
- b. To explain the application submittal requirements, the nature of materials that will be responsive to those requirements, and waivers of any materials that would not be necessary in determining whether the application complies with Town requirements;
- c. To discuss state terms and conditions imposed on the proposed Oil and Gas Operation;
- d. To identify site-specific concerns and issues that bear on the proposed Oil and Gas Operation;
- e. To discuss projected impacts and potential mitigation;
- f. To discuss the Town Oil and Gas Operation Standards that must be satisfied for Permit approval;
- g. To discuss whether the application will be classified as a Type A or Type B Permit application; and
- h. To identify potential Operational Conflicts, or waivers of Oil and Gas Operation Standards based on technical infeasibility or environmental protection that the applicant intends to raise.

2. Pre-Application Materials

At or before the pre-application conference, the applicant shall provide the Director with information that is sufficient for determining the location

and nature of the proposed Oil and Gas Operation, the degree of impacts associated with the Operation, and mitigation proposed to offset such impacts.

B. Classification of Permit Application

Within ten (10) working days after the pre-application conference the Director shall classify the Permit application as a Type A or Type B Permit application.

1. Oil and Gas Operations Classified as Type A

An Oil and Gas Operation will be classified as a Type A Permit application if the Operator agrees to conduct the operation in conformance with the following requirements¹.

- a. The Operation will be at least 1000 feet from occupied buildings or occupied buildings permitted for construction.
- b. Wells and production facilities shall be 750 feet or more from Erie platted residential lots or parks, sports fields and playgrounds, or other designated outside activity areas.
- c. The Operation will be at least 500 feet from any surface water body.
- d. The Operation will be at least 500 feet from any domestic or commercial water wells or irrigation wells and the Operation is not located within a floodway district as defined in Section 10.2.7.C.4 of the UDC.
- e. The Operation will utilize closed-loop systems for drilling and completion operations.
- f. The Operator agrees to control noise levels as follows.
 - i. For db(A) scale noise, Operator will insure that the noise level from Operations subject to the light industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) does not exceed sixty (60) db(A) and that the noise level from Operations subject to the industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) is reduced at least five (5) db(A) below the maximum level permitted by those Regulations. For this purpose, the noise level shall be measured as set forth in COGCC Regulations 802.b and c, except no measurements shall be taken when traffic is passing the sound level meter,

¹ These requirements may not be waived.

and Operator shall be present during all measurements. As set forth in COGCC Regulation 802.b, the noise levels shall be subject to increase for a period not to exceed fifteen (15) minutes in any one (1) hour period and reduction for periodic, impulsive or shrill noises.

- ii. For db(C) scale noise, Operator shall comply with the requirements of COGCC Regulation 802.
- g. The Operator agrees to control air quality through the following practices.
- i. To identify leaks, Operator will perform audio, visual and olfactory inspections on a monthly basis at all of its new and existing wells and related facilities and equipment within Erie's Town Limits. Operator will also inspect each such well with an infra-red camera on a monthly basis. The initial baseline inspections will occur within sixty (60) calendar days after the date of Permit approval. After a well has produced for twelve (12) months, the frequency of such inspections shall decrease from monthly to quarterly. If Operator determines that any repairs are required based on these inspections, Operator will promptly initiate these repairs.
 - ii. Operator will report to the Director on the inspection results and any associated repairs the month after the inspection or repair occurs. This information will be collectively reported on a monthly basis in the same format that Operator uses for reporting to the Air Pollution Control Division under Regulation 7, but that is specific to wells located within the Erie Town Limits. The Town will make this information available upon its website, or may provide a link for such information from Town's website to Operator's website.
 - iii. For each well completion operation with hydraulic fracturing, the Operator will control emissions by the following procedures.
 - (A) For the duration of flowback, route the recovered liquids into one or more storage vessels or re-inject the recovered liquids into the well or another well, and route the recovered gas into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an

onsite fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.

(B) If compliance with the prior paragraph is infeasible, the Operator must capture and direct flowback emissions to a completion combustion device equipped with a reliable continuous ignition source over the duration of flowback, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact waterways or nearby structures. Non-flammable gas may be vented temporarily until flammable gas is encountered where capture or combustion is not feasible.

- h. The Operation will recycle and reuse water at the pad sites and otherwise minimize waste water production to the extent that it is determined such recycling, reuse, and waste water minimization is technically and economically feasible.
- i. If water is not being piped to a well pad site, the proposed Operation will utilize Town water rather than trucking water to the site.
- j. The Operation will not utilize Class II underground injection control wells.

- 2. **Oil and Gas Operations Classified as Type B**
Operations that are not classified as Type A Permits shall be classified as Type B Permits.

C. Determination of Completeness

- 1. **Application Is Not Complete**
If the Director determines that the application is not complete, the Director shall inform the applicant in writing of the deficiencies and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within thirty (30) calendar days after the notice that the application is incomplete, the application shall be considered withdrawn unless the applicant requests more time to ensure that the materials are as complete as possible.
- 2. **Application Is Complete**

If the Director determines that the application is complete, the Director shall date the application and notify the applicant in writing.

3. **Completeness Is Not a Determination of Compliance**

A determination that an application is complete shall not constitute a determination that it complies with the approval standards of these Regulations.

D. Type A Permit Review and Planning Commission Decision Process

A Type A Permit is subject to review and decision by the Planning Commission. The Planning Commission shall make a decision on the Permit application at a properly noticed public meeting. A public hearing is not required.

1. **Neighborhood Meeting**

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of the proposed Oil and Gas Operation, how the applicant intends to meet the standards contained in these Regulations, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.

a. **Applicability**

The Director may waive the neighborhood meeting requirement if it is determined that the proposed Oil and Gas Operation would not have significant impacts in any of the following areas. The waiver shall be in writing and shall be included as part of the case record.

i. Traffic;

ii. Natural resources protected under the UDC; and

iii. Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.

b. **Notice of Neighborhood Meeting**

The applicant shall submit an affidavit to the Town stating that the public notice requirement has been met.

c. **Attendance at Neighborhood Meeting**

The applicant or applicant's representative shall attend the neighborhood meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Director may require attendance at

the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting are preliminary in nature and not determinative of the Town's position on the application.

d. **Summary of Neighborhood Meeting**

The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

2. **Public Notice of Planning Commission Meeting**

a. **Written Notice of Planning Commission Meeting to Adjacent Property Owners**

Not less than fifteen (15) calendar days prior to the date of the Planning Commission meeting to consider the Permit application, the Director shall mail written notice of the meeting to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

i. **Notice**

The applicant is responsible for composing the written notice. The notice shall include:

- (A) Date, time, and place of the meeting;
- (B) Description of the property involved in the application by street address or by legal description and nearest cross street;
- (C) Description of the purpose of the meeting and that interested parties can come to the meeting and speak on the matter.
- (D) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (E) Contact information for the Operator, including phone number and office hours.

ii. **List of Property Owners**

The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (A) Owners of record of property within 300 feet of the site of the proposed Operation.
- (B) Associated homeowners associations.
- (C) Additional persons or geographic areas that the Director may designate.

iii. **Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

b. **Posted Notice**

The applicant is required to post on the property a notice of the Planning Commission meeting to consider the Permit application. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Prior to the meeting the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

3. **Referral of Application**

The Director may send a copy of the complete application to consultants and any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Oil and Gas Operation. The applicant shall be responsible for the costs of any consultant and referral agency review.

4. **Application Review and Staff Report**

a. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

b. **Distribution of Staff Report**

No less than seven (7) calendar days prior to the date of the Planning Commission meeting, the Director shall submit the staff

report to the applicant and to the Planning Commission. A copy of the staff report shall also be available for public review prior to the hearing.

5. **Permit Decision by Planning Commission**

The Planning Commission shall approve, approve with conditions, or deny the Permit application based upon compliance with the approval standards in Section 10.12.4 of these Regulations. The Commission's decision shall include the following:

- a. **Description of Project**
Brief discussion of the proposed Oil and Gas Operation;
- b. **Issues**
Description of issues raised by the affected property owners, referral agencies and consultants;
- c. **Conditions Imposed by the State**
Description of terms, conditions and requirements imposed on proposed Oil and Gas Operation by the state;
- d. **Impacts and Mitigation**
Description of impacts of the proposed Oil and Gas Operation, proposed mitigation, and whether each approval standard has been satisfied; and
- e. **Conditions of Approval**
Conditions of approval, if any, necessary to ensure compliance with approval standards.

6. **Reconsideration of Planning Commission's Decision by Board of Trustees**

- a. **Call-up by Board of Trustees**
At the next regularly scheduled meeting for which proper notice can be accomplished following the Planning Commission's decision, the Board of Trustees may, at its discretion, decide to reconsider the Commission's decision.
- b. **Request by Applicant for Reconsideration by Board of Trustees**
Not more than five (5) working days after the Planning Commission's decision, the applicant may submit a written request for reconsideration of the Director's decision by the Board of Trustees.

c. **Reconsideration of Director's Decision**

After call-up by the Board or upon receiving the request for reconsideration of the Planning Commission's decision, the Board may reconsider the decision at the next regularly scheduled meeting for which proper notice can be accomplished. A public hearing is not required. The Board shall either uphold the Planning Commission's decision, modify the decision, or reverse the decision based upon the information on record.

E. **Type B Permit Review and Decision**

1. **Neighborhood Meeting**

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of the proposed Oil and Gas Operation, how the applicant intends to meet the standards contained in these Regulations, and to receive public comment and encourage dialogue at an early time in the review process. No decision regarding the application will be made at the Neighborhood Meeting.

a. **Applicability**

The Director may waive the neighborhood meeting requirement if it is determined that the proposed Oil and Gas Operation would not have significant impacts in any of the following areas. The waiver shall be in writing and shall be included as part of the case record.

i. Traffic;

ii. Natural resources protected under the UDC;

iii. Operational compatibility, such as lighting, hours of operation, odors, noise, litter, or glare.

b. **Notice of Neighborhood Meeting**

The applicant shall submit an affidavit to the Town stating that the public notice requirement has been met.

c. **Attendance at Neighborhood Meeting**

The applicant or applicant's representative shall attend the neighborhood meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town staff is not required. The Community Development Director may require attendance at the meeting, only for the purpose of explaining the application process. Comments made by staff at the neighborhood meeting are preliminary in nature and not binding.

d. **Summary of Neighborhood Meeting**

The applicant shall prepare a written summary of the neighborhood meeting. The written summary shall be provided to Town staff.

2. **Public Notice of Planning Commission Hearing**

a. **Published Notice**

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall publish a notice of public hearing on the Permit application. The notice shall be published once in a newspaper having general circulation in the area. The notice shall include contact information for the Operator, including phone number and office hours. The applicant shall be responsible for the cost of publication.

b. **Written Notice of Planning Commission Hearing to Adjacent Property Owners**

Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to adjacent property owners. The applicant shall provide a stamped and addressed envelope for each party to be notified.

i. **Notice**

The applicant is responsible for composing the written notice of public hearing. The notice shall include:

- (A) Date, time, and place of the hearing;
- (B) Description of the property involved in the application by street address or by legal description and nearest cross street;
- (C) Description of the purpose of the hearing and that interested parties can come to the hearing and speak on the matter.
- (D) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (E) Contact information for the Operator, including phone number and office hours.

ii. **List of Property Owners**

The list of property owners to be notified shall include the

following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (A) Owners of record of property within 300 feet of the site of the proposed Operation.
- (B) Associated homeowners associations.
- (C) Additional persons or geographic areas that the Director may designate.

iii. **Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.

c. **Posted Notice**

The applicant is required to post on the property a notice of the Planning Commission hearing. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the final decision on the Permit application. Prior to the hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

3. **Referral of Application**

The Director may send a copy of the complete application to consultants and any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Oil and Gas Operation. The applicant shall be responsible for the costs of any consultant and referral agency review.

4. **Application Review and Staff Report**

a. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

- b. **Distribution of Staff Report**
No less than seven (7) calendar days prior to the date of the public hearing, the Director shall submit the staff report to the applicant and to the Planning Commission. A copy of the staff report shall also be available for public review prior to the hearing.
5. **Planning Commission's Hearing and Recommendation**
The Planning Commission shall consider the Permit application at a public hearing following proper public notice.
- a. **Recommend Approval of Permit Application**
If the proposed Oil and Gas Operation satisfies the approval standards, the Planning Commission shall recommend the Permit application be approved.
 - b. **Recommend Denial of Permit Application**
If the proposed Oil and Gas Operation fails to satisfy the approval standards, the Planning Commission may recommend that the Permit application be denied; or
 - c. **Recommend Conditional Approval of Permit Application**
The Planning Commission may recommend approval with conditions determined necessary for compliance with applicable development standards.
6. **Public Hearing and Decision by Board of Trustees**
- a. **Public Notice of Board of Trustees Hearing**
 - i. **Published Notice**
Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall publish a notice of public hearing on the Permit application. The notice shall be published once in a newspaper having general circulation in the area. The notice shall include contact information for the Operator, including phone number and office hours. The applicant shall be responsible for the cost of publication.
 - ii. **Written Notice of Planning Commission Hearing to Adjacent Property Owners**
Not less than fifteen (15) calendar days prior to the date of the public hearing, the Director shall mail written notice of the public hearing to adjacent property owners. The applicant shall provide a stamped and addressed envelope

for each party to be notified.

(A) **Notice**

The applicant is responsible for composing the written notice of public hearing. The notice shall include:

- (1) Date, time, and place of the hearing;
- (2) Description of the property involved in the application by street address or by legal description and nearest cross street;
- (3) Description of the purpose of the hearing and that interested parties can come to the hearing and speak on the matter.
- (4) Information on how to obtain additional information on the proposed Oil and Gas Operation and to comment on the proposed Operation.
- (5) Contact information for the Operator, including phone number and office hours.

(B) **List of Property Owners**

The list of property owners to be notified shall include the following persons and shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

- (1) Owners of record of property within 300 feet of the site of the proposed Operation.
- (2) Associated homeowners associations.
- (3) Additional persons or geographic areas that the Director may designate.

(C) **Validity of Notice**

The applicant is responsible for the accuracy of lists of property owners to whom written notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity

of the decision.

iii. **Posted Notice**

The applicant is required to post on the property a notice of the hearing. The Town will provide the signs for posting. The applicant is responsible for filling out the signs, posting the signs, checking on the signs to make sure they remain in place, and to remove the signs within two days after the final decision on the Permit application. Prior to the hearing the applicant shall submit to the Community Development Department a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

b. **Application Review and Staff Report**

i. **Director Review and Staff Report**

The Director shall prepare a report taking into account the application, Planning Commission recommendation, review comments, issues raised by referral agencies and consultants, terms and conditions imposed by state agencies, probability of compliance with the approval standards, and any other available information on the record.

ii. **Distribution of Staff Report**

No less than seven (7) calendar days prior to the date of the public hearing, the Director shall submit the staff report to the applicant and to the Board of Trustees. A copy of the staff report shall also be available for public review prior to the hearing.

c. **Permit Decision by Board of Trustees**

The Board of Trustees shall approve, approve with conditions, or deny the Permit application based upon compliance with the approval standards in Section 10.12.4 of these Regulations. The Board's decision shall include the following:

i. **Description of Project**

Brief discussion of the proposed Oil and Gas Operation;

ii. **Issues**

Description of issues raised by the Planning Commission, affected property owners, referral agencies and consultants;

iii. **Conditions Imposed by the State**

Description of terms, conditions and requirements imposed on proposed Oil and Gas Operation by the state;

iv. **Impacts and Mitigation**

Description of impacts of the proposed Oil and Gas Operation, proposed mitigation, and whether each approval standard has been satisfied; and

v. **Conditions of Approval**

Conditions of approval, if any, necessary to ensure compliance with approval standards.

F. Recompletion of Wells Existing as of the Effective Date of These Regulations

1. Notice of Recompletion

Prior to submitting Form 2 to the COGCC for recompletion of any well existing as of the effective date of these Regulations, the Operator shall notify the Local Government Designee ("LGD") of its intent to submit such form.

2. Neighborhood Meeting

Prior to submitting the Form 2 for recompletion of any well existing as of the effective date of these Regulations, the Operator shall hold a neighborhood meeting at the Erie Community Center or a similarly convenient location approved by the Operator and the Town. The Operator shall provide 3 x 5 cards for the public to make written comments. The Town shall provide a lockbox for purposes of collecting written comments from meeting attendees. The LGD or his appointee will attend the meeting and collect the lockbox containing any written comments from meeting attendees. The LGD will transmit the written comments to the COGCC with any comments he submits on behalf of the Town regarding the Form 2.

3. Mailed Notice

Prior to the neighborhood meeting, the Operator shall mail notice of the anticipated recompletion to those properties located within at least one-half (1/2) mile of the pad site that would be affected by the recompletion. Owners of record shall be ascertained according to the records of the County Assessor's Office, unless more current information is made available in writing to the Town prior to the mailing of the notices. This notice shall include reference to the neighborhood meeting, contact information for the Operator, and the approximate date recompletion will begin. The Operator will provide the Town with an affidavit or certificate of mailing showing that notice was provided to the list of property owners.

4. Posted Notice

Ten (10) days prior to the neighborhood meeting, the Operator shall post a sign at the pad site, giving notice to the general public of the recompletion and contact information for the Operator. The Town will provide the signs for posting. The applicant is responsible for filling out the signs. For parcels of land exceeding ten (10) acres in size, two (2) signs shall be posted. Such signs shall be posted on the subject property in a manner and at a location or locations reasonably calculated by the Town to afford the best notice to the public.

10.12.4 OIL AND GAS OPERATIONS APPROVAL STANDARDS

A. Standards Applicable to Type A Permits

In addition to the standards in Section 10.12.4.B, below, all Type A permits shall be subject to the requirements set forth in Section 10.12.3.B.1.

B. Standards Applicable to Type A and Type B Permits

The following standards are the minimum standards that will apply to all proposed Oil and Gas Operations, and shall be in addition to any applicable state standards.

1. Use of Steel-Rim Berms

The Oil and Gas Operation will use steel rim berms or some other state of the art technology that will contain fluids and other material instead of sand or soil berms.

2. Setbacks

Wells and any associated Oil and Gas Operation facility or structure (above ground) shall be set back in accordance with Colorado Oil and Gas Conservation Commission Regulations, as amended.

3. Minimal Site Disturbance

The Oil and Gas Operation shall be located and constructed in a manner so that there is no unnecessary or excessive site disturbance and that minimizes the amount of cut and fill:

- a. Multi-well drill pads and consolidated facilities will be used to minimize surface disturbance.
- b. Pad dimensions will be the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
- c. Structures and surface equipment will be the minimum size necessary to satisfy present and future operational needs.

- d. The Operation will be located in a manner to minimize impacts on surrounding uses, and achieve compatibility with the natural topography and existing vegetation.

4. Visual Quality

The Oil and Gas Operation will not cause significant degradation to the scenic attributes and rural character of the Town.

- a. Facilities shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match the land rather than the sky. The color should be slightly darker than the surrounding landscape.
- b. The Oil and Gas Operation should be buffered from sensitive visual areas by providing landscaping along the perimeter of the site between the surface equipment and the sensitive visual area.
- c. The Oil and Gas Operation should be constructed in a manner to minimize the removal of and damage to existing trees and vegetation. If the Operation requires clearing trees or vegetation, the edges of the cleared vegetation should be feathered and thinned and the vegetation should be mowed or brushhogged while leaving root structure intact, instead of scraping the surface.
- d. The Oil and Gas Operation shall be sited away from prominent natural features and visual, scenic and environmental resources such as distinctive rock and land forms, rivers and streams, and distinctive vegetative patterns.
- e. To the maximum extent practicable, the Oil and Gas Operation will use low profile tanks or less intrusive equipment.

5. Natural Resource Areas

The Oil and Gas Operation may not be located as to cause significant degradation of natural landmarks, rare plant species, riparian corridors, wildlife habitat or other sensitive areas.

6. Historical and Cultural Resources

The Oil and Gas Operation shall not cause significant degradation to resources of historic, cultural, paleontological, or archeological importance.

7. Public Services and Facilities

The Oil and Gas Operation shall not have a significant adverse effect on the capability of the Town to provide municipal services or the capacity of the service delivery systems.

8. Use of Existing Roads

Unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise, existing roads on or near the site of the Oil and Gas Operation shall be used in order to minimize land disturbance

9. Transportation, Roads, and Access Standards

a. Compliance with Town Standards

All public roads shall be constructed and maintained in compliance with Town standards as necessary to accommodate the traffic and equipment related to Oil and Gas Operations and emergency vehicles.

b. Dust Suppression

Dust associated with on-site activities and traffic on access roads shall be minimized throughout construction, drilling and operational activities such that there are no visible dust emissions from access roads or the site to the extent practical given wind conditions.

c. Access to Public Roads

i. Access points to public roads shall be located, improved and maintained to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.

ii. Access roads shall be improved a minimum distance of 200 feet on the access road from the point of connection to a public road. The access road shall be improved as a hard surface (concrete or asphalt) for the first 100 feet from the public road and then improved as a crushed surface (concrete or asphalt) for 100 feet past the hard surface in the appropriate depth to support the weight load requirements of the vehicles accessing the well and production facilities.

iii. If an access road intersects with a pedestrian trail or walk, the Operator shall pave the access road as a hard surface (concrete or asphalt) a distance of 100 feet either side of the trail or walk and if necessary, replace the trail or walk to address the weight load requirements of the vehicles accessing the well and production facilities.

- iv. Temporary access roads associated with the Oil and Gas Operation shall be reclaimed and revegetated to the original state within sixty (60) days after discontinued use of the temporary access roads.
- d. If the projected use of public roads as a result of the Oil and Gas Operation will result in a need for an increase in roadway maintenance, the Operator shall enter into an agreement with the Town whereby the Operator provides for private maintenance or reimburses the Town for such increased costs and/or provides a bond or other financial assurance in an amount acceptable to the Town to cover the costs of mitigating impacts to public roads.

10. Implementation of Traffic management Plan

The Operator will implement the required Traffic Management Plan.

11. Road Repairs

- a. The Operator will arrange for a qualified outside consultant to perform a road impact study for all public roads that are used to access the Oil and Gas Operation. The consultant will conduct the first part of the study prior to operations and the second part of the study after the Operator completes all drilling and hydraulic fracturing. The Operator and the Town will use these studies to determine the extent of any damage accruing to the road during the study period. The Operator will either promptly pay the Town to repair such damage or arrange for and pay the cost of such repairs itself, whichever the Town prefers.
- b. The Operator shall maintain financial assurance to secure its road repair obligations. The amount of such financial assurance shall equal the Town's annual road maintenance budget as of the date of permit approval multiplied by the percentage yielded by dividing the total number of Town road miles as of the date of permit approval into the number of such road miles that the Operator will use to access the Oil and Gas Operation. The Operator shall select the form of such financial assurance and shall maintain such assurance until it fulfills its obligation to repair road damage pursuant to paragraph a, above.

12. Grading / Drainage and Erosion Control

The Oil and Gas Operation shall be conducted in accordance with the Grading/Drainage and Erosion Control Plan.

13. Water Quality

The Oil and Gas Operation shall not cause significant degradation of water quality of affected water bodies. The Operator will implement the required water quality monitoring plan. Determination of effects of the Operation on water quality may include, but is not limited to the following considerations:

- a. Applicable narrative and numeric water quality standards.
- b. Changes in point and nonpoint source pollution loads.
- c. Increase in erosion and sediment loads.
- d. Changes in stream channel or shoreline stability.
- e. Changes in stormwater runoff flows.
- f. Changes in quality of ground water.
- g. Certification. The Operator must submit annual reports to the Director certifying compliance with water quality standards, documenting any non-compliance, including its date and duration. A compliance plan is required for all instances of non-compliance.

14. Wells

The Oil and Gas Operation shall not cause water quality or water pressure of any public or private water wells to go below pre-project levels. The Operator must submit annual reports to the Director certifying that the Operation has not caused water quality or pressure of public and private wells to go below pre-project levels, documenting non-compliance, including its date and duration. A compliance plan is required for all instances of non-compliance.

15. Floodplain

Oil and Gas Operations conducted within the Floodplain Overlay District shall comply with Section 10.2.7.C of the UDC.

16. Wetlands and Riparian Areas

The Oil and Gas Operation shall not significantly degrade wetlands and riparian areas.

17. Wildlife

The Oil and Gas Operation shall not cause significant degradation of wildlife or wildlife habitat.

18. Fuel Storage Areas

The Oil and Gas Operation includes measures to contain fuel in fuel storage areas to prevent release to any water body. Inventory management or leak detection plans may be required.

19. Disposal of Hydraulic Fracturing Fluid

The Operator shall demonstrate the ability to and shall dispose of all hydraulic fracturing fluids in accordance with the Hydraulic Fluid Fracturing Disposal Plan.

20. Hazardous Materials

a. The Oil and Gas Operation includes measures to contain all hazardous materials in storage areas to prevent release to any water body. Inventory management and leak detection systems are required.

b. Full disclosure, consistent with COGCC requirements, including material safety data sheets of all hazardous materials that will be transported on any public or private roadway within the Town for the Oil and Gas Operation, shall be provided to the Director. This information will be treated as confidential and will be shared with other emergency response personnel only on an as needed basis.

21. Spill and Release Response and Reporting

The Operator has demonstrated the ability to control and contain all spills and releases of exploration and production waste, including produced fluids, immediately upon discovery in compliance with the following requirements:

a. Impacts resulting from spills and releases shall be investigated and cleaned up as soon as practicable.

b. For all spills and releases reportable under COGCC Rule 906, within ten (10) days after discovery Operator shall submit to the Director a copy of the spill and release report (COGCC Form 19), including the topographic map showing location of the spill and any information relating to initial mitigation, site investigation, and remediation that accompany the report.

c. For spills and releases which exceed twenty (20) barrels of exploration and production waste, the spill and release shall be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.

d. Spills and releases of any size which impact or threaten to impact any waters of the state, residence or occupied structure, livestock,

or public byway shall be verbally reported to the Director as soon as practicable, but not more than twenty-four (24) hours after discovery.

- e. Spills and releases of any size which impact or threaten to impact any water supply area shall be verbally reported to the Colorado Environmental Spill Reporting Hotline at 1-877-518-5608, to the Local Government Designee, and to the Director immediately after discovery.
- f. Spills, chemical spills and releases shall be reported in accordance with applicable state and federal laws, including the Emergency Planning and Community Right to Know Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Oil and Pollution Act, and the Clean Water Act, as applicable.

22. Emergency Response

The Oil and Gas Operation shall be conducted in accordance with the Emergency Response Plan.

23. General Operation and Maintenance Requirements

- a. The Oil and Gas Operation shall maximize resource recovery and minimize releases to the atmosphere during flowback and subsequent recovery / operation.
- b. Gas produced during production shall be captured and not flared or vented to the maximum extent practicable.
- c. The Operator shall at all times keep the well sites, roads, rights-of-way, facility locations, and other Oil and Gas Operation areas safe and in good order, free of noxious weeds, litter and debris.
 - i. The Operation shall comply with COGCC rules concerning weed control. The Operator shall be responsible for ongoing weed control at all locations disturbed by the Operation and along access roads during construction and operation, until abandonment and final reclamation is completed.
 - ii. The Operation shall comply with COGCC rules concerning removal of debris.
 - iii. The Operator shall utilize vehicle tracking control practices to control potential sediment discharges from unpaved

surfaces. Such practices may include road and pad design and maintenance to minimize rutting and tracking, controlling site access, street sweeping or scraping, tracking pads, and wash racks. Traction chains from heavy equipment shall be removed before entering a public roadway.

- d. The Operator shall dispose of all water, unused equipment, litter, sewage, waste, chemicals and debris off of the site at an approved disposal site.
 - i. All equipment used for drilling, re-drilling and maintenance shall be removed from the well pad site within thirty (30) days after completion of the work, unless otherwise agreed to by the surface owner. Permanent storage of equipment on well pad sites shall not be allowed.
 - ii. Materials shall not be buried on-site.
- e. The Operator shall promptly reclaim and reseed all disturbed sites in conformance with COGCC rules.
- f. Routine field maintenance of vehicles or mobile machinery shall not be performed within three hundred (300) feet of any water body.
- g. All mechanized equipment associated with the Operation shall be anchored to minimize transmission of vibrations through the ground.
- h. No burning of trash shall occur in association with the Operation.
- i. Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured where the Operation site is unattended or is accessible to the general public. Open-ended discharge valves shall be placed within the interior of the tank secondary containment.
- j. All permanent equipment with engines or motors that can be electrified shall be electrified from the power grid or from renewable sources. All well pads that are not electrically operated should use quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent; or acoustically insulated housing or covers to enclose the motor or engine.

- k. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest occupied structures.
- l. Oil and gas well facilities (above ground) shall be fenced with wrought iron fencing or Ameristar Impasse or Stronghold fencing or approved equivalent, as determined by the Director. The fencing color shall be bronze unless the Director approves black fencing. Black fencing will only be approved by the Director if fencing or site furnishings in the adjacent developments have approved black elements.
- m. The Operator will install down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that Operator may still use lighting that is necessary for public and occupational safety.
- n. Well Abandonment. The Operator shall comply with any COGCC rules regarding well abandonment. Upon plugging and abandonment of a well, the Operator shall provide the Director with surveyed coordinates of the abandoned well and shall leave onsite a permanent physical marker of the well location.

C. Waiver of Approval Standards

The Town may waive one or more of the Oil and Gas Operation Approval Standards set forth in this Section 10.12.4.B for Operational Conflict, Technical Infeasibility or Environmental Protection.

1. Operational Conflict

An approval standard may be waived by the Board of Trustees if the application of a Town standard to the proposed Oil and Gas Operation would materially impede or destroy the state's interest in the responsible, balanced development, production and utilization of oil and gas consistent with protection of public health, safety and welfare, including protection of the environment and wildlife resources.

a. Request for Waiver

Upon written request by the applicant, the Director shall schedule a public hearing by the Board of Trustees at the next regularly scheduled meeting for which proper notice can be accomplished and for which there is time on the agenda following receipt of the written waiver request.

b. Notice of Public Hearing

- i. The notice of public hearing on the waiver request shall be prepared by the Director and shall include a description of the proposed Oil and Gas Operation, description of the standard(s) sought to be waived, and the date and location of the hearing.
- ii. Not less than fifteen (15) days prior to the hearing, the Director shall publish the notice of public hearing on the waiver request in a newspaper having general circulation in the area. The Operator shall be responsible for the cost of publication.
- iii. Not less than fifteen (15) calendar days prior to the date of the public hearing on the waiver request, the Director shall mail written notice of the public hearing to owners of real property within 300 feet of the subject parcel when the proposed Oil and Gas Operation is located. The applicant shall provide a stamped and addressed envelope for each party to be notified. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the County Assessor.

c. **Decision by Board of Trustees on Request for Waiver of**

Standard

The Board of Trustees may waive the standard if the Board determines, based on evidence and testimony at the hearing, that application of the approval standard to the proposed Oil and Gas Operation will result in an operational conflict with a state statute, regulation, or other requirement. The Board may impose conditions that are necessary to minimize any negative impacts of the waiver.

2. **Technical Infeasibility**

The Operator may make a written request to the Director for a waiver due to technical infeasibility at any time during the application review process prior to the final decision on the application. The Director may approve the request for waiver based upon the following determinations:

- a. There is no economical technology commercially available to conduct the proposed Oil and Gas Operation in compliance with the standard; and
- b. Conduct of the proposed Oil and Gas Operation if the standard is waived will be protective of public health, safety, welfare and the environment.

3. Environmental Protection

The Operator may make a written request to the Director for a waiver based on environmental protection at any time during the application review process prior to the final decision on the application. The Director may approve the request for waiver if protection of public health, safety welfare and the environment will be enhanced by an alternate approach not contemplated by the standard.

10.12.5 ENFORCEMENT

These Regulations for Oil and Gas Operations shall be enforced pursuant to Section 10.10.1 of the UDC.

Town of Erie
Planning Commission Regular Meeting
Wednesday, August 19, 2015
6:30 p.m.
Board Room, Erie Town Hall, 645 Holbrook, Erie, Co 80516

I. CALL MEETING TO ORDER & PLEDGE OF ALLEGIANCE

Chairman Bottenhorn called the Regular Meeting of the Erie Planning Commission to order at 6:30 p.m.

II. ROLL CALL

Commissioner Bottenhorn - Present

Commissioner Burgard – Present

Commissioner Campbell - Present

Commissioner Kemp - Present

Commissioner Fraser - Unexcused

Commissioner Gippe - Present

Commissioner Harrison - Present

Staff Present: R. Martin Ostholthoff, Community Development Director; and
Hallie Sawyer, Secretary to the Commission

III. APPROVAL OF THE AGENDA

Commissioner Harrison moved to approve the August 19, 2015, Regular Meeting Agenda as submitted. The motion, seconded by Commissioner Gippe, carried with all voting in favor thereof.

IV. APPROVAL OF MINUTES

a. Minutes from the August 5, 2015, Regular Meeting.

Commissioner Burgard moved to approve the August 5, 2015, Minutes as submitted. The motion, seconded by Commissioner Campbell, carried with all voting in favor thereof.

V. PUBLIC COMMENTS (This agenda item provides the public an opportunity to discuss items other than items that are on the agenda. The Planning Commission is not prepared to decide on matters brought up at this time, but it warranted, will place them on a future agenda.)

Public Comment was given by Kim Mendoza Cooke, 1099 18th Street #1800, Denver, representing Anadarko Petroleum Corporation; Joe Evers, 1700 Lincoln St., #1300, Denver, representing Colorado Oil & Gas Association; and DeAndrea Arndt, 828 Lehigh Circle, Erie, Director of Eire Forward. Comments covered concerns about the proposed UDC Amendment and requests to delay approval of the proposed resolution.

VI. RESOLUTIONS (This agenda item is for all matters that should be decided by resolutions.)

1. Proposed Text Amendments to Title 10 of the Town of Erie Municipal Code

Purpose: Consider Proposed Amendments

Request: Consideration of Resolution P15-25, A Resolution Recommending Approval Of Text Amendments To Title 10 Off The Town Of Erie Municipal Code.

Location: N/A

Applicants: Town of Erie

(Staff Planner: Marty Ostholthoff)

Mr. Ostholthoff presented the application for the proposed Text Amendments to Title 10 of the Town of Erie Municipal Code – the addition of a new chapter dealing with mineral extraction within the municipal boundaries.

Barbara Green, Special Council to the Board of Trustees for Oil & Gas issues, presented the proposed addition of the new chapter to the Unified Development Code.

Commissioner questions covered the delta between the proposed regulations and current state regulations; differences in the regulations; the threshold to identify differences; what percentage of current operations would be covered under the Type A process; what impact will occur; how are noise issues and notification radius requirements changing; what other governments have these regulations; are there any teeth to this proposal; who decides technical feasibility; background of Ms Green; of the three options, what is an operator agreement; how were wells previously approved; definition of recompletion; will Colorado Supreme Court decisions affect these regulations; state versus municipal regulations; potential to impact economic growth; current regulation of recompletion; delicate balance between state/municipal/individual rights; Type B permits compared to current regulations – what is changing; and is Ms. Green involved with special negotiations.

Commissioner comments covered addressing old and ongoing issues from both sides; why the difference in setbacks and notice radius; glad to maintain good relationship with all sides; appreciation for complexity of the process and the attempt to find a balance between the past & future; impacts on operators; appreciation of flexibility of changes; clarification of setbacks for different types of application; note that the commission represents residents not businesses; and recognition of the sensitive issue and concern.

Commissioner Kemp moved approval of Resolution P15-25, A Resolution Recommending Approval of Text Amendments To Title 10 Of The Town Of Erie Municipal Code. The motion, seconded by Commissioner Harrison, carried 5-1 with Commissioner Gippe dissenting.

VII. STAFF REPORTS (This agenda items is reserved for specific items from Staff requiring Commission direction or just relaying important information.)

Mr. Ostholthoff reported the next few meetings will only have one or two short agenda items. Following completion of those items, the Commission will adjourn to Study Sessions to review updates to the Comprehensive Plan. Chairman Bottenhorn and staff are currently working on an outline that will be published as soon as it is completed.

VIII. COMMISSIONER REPORTS AND DISCUSSION ITEMS (This agenda item is for all Planning Commission reports and items of information as well as Commission discussion items, not listed on the agenda)
None.

IX. ADJOURNMENT

There being no further business to come before the Commission, Chairman Bottenhorn adjourned the August 19, 2015, Regular Meeting of the Planning Commission at 7:42 p.m.

Respectfully Submitted,

Town of Erie Planning Commission

By: _____
Hallie S. Sawyer, Secretary

By: _____
J. Eric Bottenhorn, Chair

ATTACHMENT C



**COLORADO
OIL & GAS
ASSOCIATION**

1800 GLENARM PL.

SUITE 1100

DENVER, CO 80202

Phone 303.861.0362

Fax 303.861.0373

WWW.COGA.ORG

August 19, 2015

Town of Erie Planning Commission
Attn: Mr. Ostholthoff, Community Development Director
645 Holbrook St.
Erie, CO 80516

Re: Consideration of Resolution P15-25 at August 19, 2015 Planning Commission Regular Meeting and Request for Continuance of Approval to Future Planning Commission Meeting

Dear Mr. Ostholthoff and Planning Commission Members,

The Colorado Oil and Gas Association (“COGA”) is a nationally recognized, non-partisan trade association. COGA’s mission is to foster and promote the beneficial, efficient, responsible and environmentally sound development, production and use of Colorado’s oil and natural gas resources. COGA emphasizes collaborating with elected officials and stakeholders, while maintain a science-based, pragmatic dialogue regarding the oil and gas industry’s operations and contributions in Colorado.

This letter is in regard to Resolution P15-25 (“Resolution”) and proposed text amendments to Title 10 of the Town of Erie Municipal Code. Despite COGA’s early attempts to facilitate an open and collaborative dialogue regarding Erie’s potential amendments to its Municipal Code regarding oil and gas development, COGA was not aware of the proposed amendments contained in Resolution P15-25 until Monday, August 17, 2015, when COGA staff discovered Resolution P15-25 referenced in the Planning Commission’s meeting agenda for August 19, 2015. Erie’s lack of transparency on this matter is disconcerting, especially following explicit requests for meetings. Stakeholders within the regulated community who would be directly and adversely affected by the Resolution have been afforded zero opportunity to voice concerns about how the arbitrary amendments proposed to the Town of Erie’s Municipal Code could harm their property rights and oil and gas operations. COGA and its diverse membership note with importance that the Colorado Supreme Court has roundly rejected prior attempts by municipalities to restrict or prohibit oil and gas development. *See Cty. Comm’rs of La Plata Cty v. Bowen/Edwards Assoc. Inc.*, 830 P.2d 1045 (Colo. 1992); *See also Voss v. Lundvall Bros., Inc.*, 830 P.2d 1061 (Colo. 1992).

While some of the proposed amendments found in Resolution P15-25 are workable, many are infeasible and clearly superseded by existing state laws, rules, and regulations.

Specifically, and despite the stated intention in 10.12.1(B) to the contrary, many of the standards outlined in the proposed amendments are preempted by Colorado Oil and Gas Conservation Commission (“COGCC”) Rules and Regulations, the Colorado Oil and Gas Conservation Act (“Act”), and Colorado Department of Public Health and Environment (“CDPHE”) Rules and Regulations. Attached hereto, please find a bullet point list of general COGA comments and issues pertaining to the Resolution, which outline, but do not encompass the totality of, COGA’s specific concerns with the proposed amendments and offers suggested edits.

At first glance, Resolution P15-25 appears to outline a use by special review (“USR”) process similar to those currently used by other local governments across the state. However, a deeper reading the Resolution reveals Erie’s attempt to extend its regulatory authority over oil and gas into realms far beyond land use, in areas that are clearly within the jurisdiction of the COGCC, and in some instances the CDPHE. The requirements outlined in the Resolution are burdensome, overly restrictive, and in many instances, seek to duplicate or go beyond existing state laws, rules and regulations.

As a statutory city, Erie possesses only the regulatory authority expressly conferred upon it by the Colorado constitution and statutes. *Board of County Com’rs, La Plata County v. Bowen/Edwards*, 830 P.2d 1045, 1055 (1992). Colorado courts have consistently held that statutory cities may not enact an ordinance that “materially impedes” the state’s dominant interest in oil and gas regulation. E.g., *Bowen/Edwards* 830 P.2d at 1059; *Town of Frederick v. North American Resources*, 60 P.3d 758 (2002).

Additionally, under *Bowen/Edwards* and other Colorado decisions, a statutory entity cannot impose, “technical conditions on the drilling or pumping of wells under circumstances where no such conditions are imposed under the state statutory or regulatory scheme, or ... impose safety regulations or land restoration requirements contrary to those required by state law or regulation.” *Bowen/Edwards*, 830 P.2d at 1060. As *Bowen/Edwards* states, Colorado has a significant interest in the regulation of oil and gas development and production. The COGCC (created by the Act) is vested with the authority to enforce provisions of the Act, and to adopt and enforce regulations pursuant to the Act. C.R.S. §§ 34-60-104, 105. The COGCC has the authority to regulate throughout the state of Colorado: the drilling, producing, and plugging of wells and all other operations for the production of oil or gas; the shooting and chemical treatment of wells; the spacing of wells; the operation of oil and gas wells so as to prevent and mitigate significant adverse environmental impacts. *Id.* § 34-60-106(2).

Pursuant to the Act, the COGCC has adopted comprehensive regulations covering drilling, developing, producing and abandoning wells (300 Series), baseline water quality testing (600 Series), aesthetics and noise control (800 Series), waste management (900 Series), protection of wildlife (1200 Series), among many other areas.¹ Resolution P15-25 seeks to supplant the COGCC Rules listed above.

Because portions of Resolution P15-25 appear to conflict with the Act and COGCC/CDPHE Rules and Regulations, certain portions of the proposed local

¹ COGCC Rules available at: <http://cogcc.state.co.us/reg.html#/rules>

regulations must be amended. Specifically, the proposed Resolution intrudes into technical areas of regulation and materially impedes the state's ability to regulate oil and gas operations by attempting to supersede existing state law, rules and regulations in the areas of hydraulic fracturing, air quality, water quality and management, mandates completion techniques, and dictates when operators shall submit permits, amongst other things.

COGA and its members respectfully request that the Town of Erie Planning Commission delay the introduction, or at a minimum, the approval of Resolution P15-25, in order to allow robust stakeholder input on the potential impacts that would result from the adoption of the Resolution, as the ordinance seemingly "forbids what state statute authorizes." *Webb* at 492. We respectfully request the opportunity to understand the Town's concerns and work toward a collaborative solution together.

Thank you for your attention to this matter. COGA looks forward to strengthening our partnership with the Town of Erie and resolving the concerns outlined in this letter at your earliest convenience. Please contact the undersigned with any questions or comments.

Sincerely,



Anne Carto
Community Outreach Coordinator



Sarah Landry
Chief Operating Officer

cc: A.J. Krieger
Joe Evers
Nancy Parker

COGA Comments Regarding Town of Erie Resolution P15-25

- **10.12.1.B:** Despite the stated intent in this section, many of the standards and regulations proposed in Resolution P15-25 are clearly superseded by existing state laws, rules and regulations. This is especially true in instances where the proposed Erie Regulations attempt to foist municipal control over issues clearly within the jurisdiction of the COGCC, the Act and the CDPHE.
- **10.12.1.D:** Existing state law does not allow municipalities to have jurisdiction over subsurface (downhole) operations associated with oil and gas development. This is plainly under the jurisdiction of the COGCC. As such, “or partially” must be deleted from this section.
- **10.12.2.D.7:** COGA objects to this Section in its entirety. Specifically, subsections (a) and (b), pertaining to air quality and hydraulic fracturing, respectively, are both outside of the purview and jurisdiction of municipalities and regulated by state agencies, as are almost all of the subsections contained in 10.12.3.D.7. As such, Erie lacks the jurisdiction to assert control over these facets of oil and gas development.
- **10.12.3.B:** Setbacks, noise and air quality regulations are established in existing COGCC or CDPHE rules and regulations. Therefore, these aspects of the Resolution are superseded by state law, rules and/or regulations and should be stricken.
- **10.12.3.B.1.j:** This provision would eliminate the ability of all operators to apply for a Type A Permit under the Resolution. Underground injection wells are the only feasible option for disposal of produced water.
- **10.12.3.F:** Municipality cannot dictate when operators submit permits to the COGCC for any operation.
- **10.12.4.B.21:** Spill and Release Response and Reporting – these are things currently required by COGCC rules and regulations and should not be required as a part of a local permit.
- **10.12.4.B.23.j:** Not feasible to require all permanent equipment with engines that can be electrified to be electrified from power grid.



Town of Erie Planning Commission
Attn: Mr. Ostholtzoff – Community Development Director
645 Holbrook St.
P.O. Box 750
Erie, CO 80516

VIA EMAIL

RE: Resolution P15-25

Dear Mr. Ostholtzoff and Planning Commission Members:

As you know, Anadarko Petroleum Corporation (“APC”) has engaged with the Town for some time concerning oil and gas operations within Erie. APC believes that collaboration and communication with the communities where it has operations is of paramount importance when developing an agreed upon set of standards that address both the community concerns as well as aide in the responsible development of energy resources.

APC was unaware of Resolution P15-25 until end of last week, but has had an opportunity to review the Resolution and would like to request further dialog and collaboration with the Town on adopting a 0.resolution and code amendments that are workable for the Town and APC.

A few examples of APC’s comments to the specific code provisions are identified below. APC reserves the right to supplement these comments as well as question the adoption of the process for permitting itself.

- *10.12.2.D.7 – Reports/Studies Plans.* There are a variety of reasons why these reports are unnecessary or problematic for factual, process and legal reasons. APC would like an opportunity to work with the Town to further discuss these plan/report requirements as well as offer resources as to where the Town may obtain the information sought through these reports, especially the following:
 - a. Air Quality Impact Assessment and Mitigation Plan
 - l. Spill Prevention Control and Countermeasures Plan
 - q. Water Quality Impact Assessment and Mitigation Plan

- *10.12.3.B.1.*
This provision would eliminate ALL operators from the Type A option. Underground injection is currently to only feasible option for disposal of produced water in the basin. The town would benefit from operators permitting under the Type A option thus rework of the language referenced in this section would benefit both parties.





- *10.14.4*

- 21. Spill and Release Response and Reporting*

- This is an item specifically required by COGCC this should not be required as part of a local permit. In addition local governments can obtain the reporting information from the State.

Additionally, generally speaking, setbacks could eliminate the ability to develop oil and gas within the Town and APC would object to any such code or permit restriction that would create overly restrictive or burdensome operational practices, or those that conflict with the COGCC jurisdiction.

Finally, many of APC's sentiments are provided for in the Colorado Oil and Gas Association ("COGA") letter provided to the Town today.

Please let us know whether the Town would allow APC to work with staff and other appropriate parties to elaborate further on these and other points relative to the code revisions. APC will also plan to attend the Board of Trustees meeting on August 25, 2015.

We look forward to continuing the dialog as this process continues to evolve and appreciate your consideration and collaboration.

Thank you,

Kim M. Cooke
Municipal Planning Supervisor

cc: A.J. Krieger
Susan Aldridge

