TOWN OF LOCHBUIE
COUNTIES OF WELD AND ADAMS

ORDINANCE NO. 2019-645

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
LOCHBUIE IMPOSING A TEMPORARY MORATORIUM ON THE
ACCEPTANCE, PROCESSING, AND APPROVAL OF LAND USE
APPLICATIONS RELATED TO OIL AND GAS EXPLORATION,
EXTRACTION, AND RELATED OPERATIONS AND DECLARING AND
EMERGENCY.

WHEREAS, oil and gas exploration, extraction, and related activities present health and
safety issues that may be addressed, minimized or otherwise regulated by the exercise of police
power through municipal land use authority;

WHEREAS, pursuant to Code § 19-1-140, the Town's land use regulations are written “to
promote health and general welfare” and “with reasonable consideration, among other things, as
to the character of the Town and neighborhoods and other areas of the Town regarding the
suitability for particular uses, and with a view to conserving the value of buildings and encouraging
the most appropriate uses of land throughout the Town.”;

WHEREAS, On April 16, 2019, Governor Polis signed into law S.B.19-181, also known
as "Protect Public Welfare Oil and Gas Operations," which prioritizes the protection of public
safety, health, welfare, and the environment in regulation of the oil and gas industry by modifying
the Oil and Gas Conservation Act, C.R.S. §§ 34-60-101, et seq., the Local Government Land Use
Control Enabling Act, C.R.S. §§ 29-20-101, et seq., and other relevant statutes. The bill granted
additional authority to local governments to regulate oil and gas development, and specifically
clarified that local governments have land use authority to minimize adverse impacts to public
safety, health, welfare, and the environment and to regulate land use and surface impacts, including
the ability to: regulate the siting of oil and gas locations; regulate noise, odor and vibration from
oil and gas facilities; inspect oil and gas facilities; impose fines for leaks, spills, and emissions;
and impose fees on operators or owners to cover the reasonably foreseeable, direct and indirect
costs of permitting and regulating, monitoring and inspection programs, and enforcing local
governmental requirements;

WHEREAS, the Adams County Board of County Commissioners recently enacted a six-
month moratorium for the purposes of utilizing its enhanced regulatory authority by studying and
enacting new regulatory standards and conditions on the oil and gas industry;

WHEREAS, the Board of Trustees also wishes to utilize its enhanced regulatory authority
pertaining to oil and gas activities in order to protect the public health, safety and welfare of the
residents of the Town;

WHEREAS, the acceptance, processing or approval of land use applications, or any other
application or request providing for the establishment or operation of oil and gas facilities prior to
the completion of the study of the new authority poses a current and immediate threat to the public health, safety and welfare, and a temporary moratorium on the issuance of such permits, licenses and entitlements is necessary;

WHEREAS, the Board of Trustees hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; Part 3 of Article 23 of Title 31 (municipal zoning powers); C.R.S. § 31-15-103 (municipal police powers); C.R.S. § 31-15-401 (municipal police powers); and C.R.S. § 31-15-501 (municipal power to regulate businesses); and C.R.S. § 34-60-106 (oil and gas operators must receive local government approval for drilling permit); and C.R.S. § 34-60-131 (local government power to exceed state oil and gas regulations); and

WHEREAS, for the protection of the public health, safety and general welfare, the Board of Trustees desires to adopt this moratorium to maintain the status quo and to provide time for the COGCC to adopt its new regulations, for the Town Manager, Town Attorney and staff to study applicable law and regulations, a permitting procedure, the appropriate zoning and land use regulation for such uses, and to recommend adoption of regulatory standards and conditions to be imposed on such operations.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOCHBUIE, COLORADO, THAT:

Section 1. Temporary Moratorium. The Board of Trustees hereby imposes a temporary moratorium on the acceptance, processing, and approval of any and all land use applications and any other requests for approval to conduct oil and gas exploration, extraction or development within the Town limits (the “Moratorium”).

Section 2. Definition. For purposes of this Ordinance, “oil and gas exploration, extraction, or development” shall mean and include the use of any equipment, facilities, or infrastructure designed or intended to explore, extract, and develop oil and gas resources. This definition does not include transmission pipelines that are necessary for the transportation of oil and gas resources.

Section 3. Term. The Moratorium imposed by this Ordinance shall continue through February 20, 2020, unless sooner repealed. The provisions of this Ordinance are temporary in nature and are intended to be removed in totality or replaced by subsequent legislative enactment. This Ordinance may be extended by action of the Board of Trustees if the Board of Trustees finds that such an extension is necessary for the preparation and implementation of legislative enactments, and that such extension is in the best interest of the public health, safety and welfare.

Section 4. Emergency. The Board of Trustees hereby finds, determines, and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of the public health, safety and welfare, because the Town must have a reasonable opportunity to: (1) study new regulatory authority granted to local governments pursuant to S.B. 19-181; (2) study the regulatory practices of other municipalities concerning oil and gas activities; (3) allow for the development of state regulations that will directly affect how local governments interact with the COGCC; and (4) study the current Code and investigate and propose any appropriate and
necessary revisions to provide comprehensive regulations and permitting schemes concerning oil and gas activities.

Section 5. **Severability.** If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining provisions of this Ordinance will remain valid, it being the intent of the Town of Lochbuie that the provisions of this Ordinance are severable.

Section 6. **Safety.** This Ordinance is deemed necessary for the protection of the public health, safety and welfare.

Section 7. **Effective Date.** Pursuant to C.R.S. § 31-16-104, this Ordinance shall take effect immediately upon adoption.

ADOPTED by a vote of \(\Box 6\) in favor, \(\Box 0\) against and \(\Box 0\) abstaining, AND ORDERED PUBLISHED by title only following public hearing, this 20\(^{th}\) day of August, 2019.

TOWN OF LOCHBUIE, COLORADO

[Signature]
Jacob Loggren, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of August 20\(^{th}\), 2019 and ordered published by title only one time by The Brighton Blade newspaper on **August 28**, 2019.

**ATTEST:**

[Signature]
Linda Blackston, Town Clerk