Members of the public are welcome and encouraged to attend all Town of Lochbuie meetings.

Daniel Armine, Member                      Kristin Esposito, Member
Steve Sanders, Member                      Corissa Cieloha, Member
Carole Ott, Alternate Member

AGENDA

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF AGENDA

5. ACTION ITEMS
   A. Appoint a Chair
   B. Ordinance No. 649 Oil & Gas An Ordinance of the Board of Trustees of the Town of Lochbuie, Colorado, Amending Section 19-2-230, Repealing and Readopting Division 3 of Article VII, Amending Section 19-7-520- Governing Oil and Gas Development Within the Town, Setting the Penalty for Violations Thereof, and Terminating the Moratorium on Acceptance, Processing, and Approval of Land Use Applications and any Other Requests for Approval to Conduct Oil and Gas Exploration, Extraction or Development Within the Town Limits. (Juran)
   C. Ordinance 2020-650, An Ordinance of the Board of Trustees of the Town of Lochbuie, Colorado, Amending Section 1-3-60, Article VII Of Chapter 2 And Several Sections Of Chapter 19 of the Town Code Concerning the Planning Commission in Order to Allow for All Duties and Authorities of the Planning Commission to be Performed and Exercised by the Board of Trustees and Eliminating the Planning Commission Review Step in Certain Land Use Application Reviews. (Juran)

Please understand that Planning Commission members use electronic devices of various kinds to access the materials relevant to the matters before us. Be assured, however, that, by mutual agreement and common practice of this Planning Commission, these devices are not being used for texting, emailing, or other communications during public meetings.
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6. DISCUSSION ITEMS
   A. None

7. STAFF COMMENTS

8. PLANNING COMMISSIONERS COMMENTS

9. ADJOURN
To: Lochbuie Planning Commission  
    Steve Stamey, Town Manager Town of Lochbuie  
    Maureen Juran, Town Attorney  
From: Matthew Sura, Special Counsel  
Date: January 14, 2019  
Re: Oil and Gas Land Use Code revisions

Dear Lochbuie Planning Commission,

Attached, please find proposed edits to the Town of Lochbuie’s oil and gas regulations. The purpose of this memo is to give a brief description of the changes proposed. I expect that this draft may go through additional revisions in the coming weeks before being considered by the Board of Trustees in February.

The 2019 legislative session saw the passage of Senate Bill 19-181 which gives clear authority to local governments over oil and gas development. The bill amended both the Local Government Land Use Control Enabling Act and the Colorado Oil and Gas Conservation Act. A summary of how the legislation affects local governments is attached. As a result of these changes, the Town now has greater authority in (1) the location and siting of oil and gas development, (2) the mitigation of impacts to public health, safety, and welfare, (3) requiring financial protections such as performance securities and insurance requirements, and (4) enforcement of the Town’s oil and gas regulations.

Local government authority is limited by a requirement in the bill that local oil and gas regulations be “reasonable and necessary” to protect public health, safety, welfare and the environment. As the attached list of reviewed publications demonstrates, oil and gas development near homes can pose real health and safety concerns. Adams County has used its authority to limit the zoning districts where oil and gas development may be permitted. Adams County has also increased protections for public health, safety and the environment beyond those found in the COGCC regulations. For example, Adams County increased setbacks from homes from the 500-foot setback required by the COGCC to a 1,000 foot setback. I am proposing similar revisions for the Town of Lochbuie.

PROPOSED REVISIONS

The Town of Lochbuie’s regulations, found in Section 19-7-300 in the Land Development Code, should be strengthened to better protect public health, safety, welfare and the environment. I have proposed a complete rewrite of the current regulations.

The following is a summary of the highlights of the LDC amendments I have proposed:

**Sec. 19-7-315. Oil and Gas Permit Required**
Requires an Oil and Gas Permit for any new “Oil and Gas Facility” or “Well Site” within the Town limits. It also provides that “Legacy” facilities that are already within the Town limits get grandfathered in but will have to meet current standards if they are modified.

Sec. 19-7-320. Oil and Gas Permit Application Submittal Requirements
The submittals and financial assurances required for an oil and gas permit are listed in detail. Even more detail is provided in the BMP Document that I have recommended be passed by resolution - separately from the revisions to the Land Development Code.

Sec. 19-7-325. Oil and Gas Permit Process for New Oil and Gas Operations
The process for issuing an oil and gas permit shall include: (1) a preapplication conference, (2) application submittal, (3) staff review for completeness, (4) review and referral, (5) staff comments (6) applicant response, (7) final staff review and report to the Board, and (8) hearing before the Board. This section would also list the criteria for approval.

Sec. 19-7-330. Oil and Gas Permit Order
Before the Operator can start Operations, they also must submit necessary state approvals.

Sec. 19-7-335. Transfer of Operator or New Operator
Allows the facility to be transferrable to new owners with notice to Town.

Sec. 19-7-340. Inspections
 Allows for inspection by the Town at any time.

Sec. 19-7-355. Access Roads
List new access road specifications.

Sec. 19-7-365. Location Restrictions
Location restrictions include at least 1,000 foot setback from closest platted residential lot. This is 500’ greater than currently required by state law. Well Sites may only be located within the non-residential zoning districts of Agricultural (A), Industrial (IN), and Light Industrial (LI).

Sec. 19-7-370. Violation and Enforcement
I have also proposed revisions to the zoning chart in Section 19-2-230 and the definitions in Section 19-7-520.

I look forward to our discussion on January 7th.

Sincerely,

Matt Sura
COGCC Map – Current oil and gas development near the Town of Lochbuie. Red dots are historic vertical wells, light blue lines are proposed horizontally-drilled wells, green lines - approved wells, purple lines - producing horizontal wells. The State Land Board’s surface property, in the NW/4 of Section 36, is highlighted in pink.
HOW SENATE BILL 19-181 AFFECTS LOCAL GOVERNMENTS

Senate Bill 19-181 amended both the Local Government Land Use Control Enabling Act and the Colorado Oil and Gas Conservation Act. The results are sweeping new authority for local governments to regulate oil and gas development without fear of state preemption.

Local Government Land Use Control Enabling Act

Senate Bill 19-181 makes changes to the Local Government Land Use Control Enabling Act to give local governments express land use authority to site oil and gas facilities as well as to place requirements on those facilities to minimize impacts to public health, safety, and welfare. The enumerated powers granted to local governments include:

- **Location and siting** of oil and gas facilities and locations
- **Mitigation of impacts** on public health, safety and welfare
  - Regulations to protect water quality and source, noise, vibration, odor, light dust, emergency preparedness, security, traffic, transportation impacts and other nuisances
  - Receive technical assistance from the COGCC
- **Financial issues** such as performance securities, indemnification, and insurance
  - Impose fees for both the direct and indirect costs of monitoring and inspections programs to address impacts
- **Power to enforce**
  - Inspect oil and gas facilities and locations
  - Assess penalties to enforce local regulations

--See Colorado Revised Statutes 29-20-104

Colorado Oil and Gas Conservation Act

Senate Bill 19-181 makes substantial changes to the Oil and Gas Conservation Act that benefit local governments as well:

1) Operators are required to attempt to obtain a permit from the local government prior to obtaining a permit from the COGCC. This gives local governments a huge amount of negotiating leverage with Operators over siting decisions. CRS 34-60-106.
2) Local governments may request assistance from a “COGCC technical review board” to determine if their rules or decisions are “impracticable” and if the local government decision would prevent development of the minerals. CRS 29-20-104; CRS 34-60-104.5
3) The bill specifically states that a local government’s regulations may be more protective or stricter that the state’s requirements. This ends state preemption of local government’s oil and gas land use regulations. CRS 34-60-131.
RESOURCES
Publications Reviewed

All of the listed studies are available in electronic form or hardcopy by request.

HEALTH AND SAFETY STUDIES


Discussed complicating factor of oil and gas emissions in addressing ozone formation in Colorado front range. NCFR O3 trends are primarily determined by local/regional emissions and production. The lack of the higher percentile O3 response to the NOx decline indicates that O3 in the region has not been sensitive to these NOx reductions thus far.


The study found that between 2006 and 2015, a total of 116 fires and explosions were self-reported by the industry in Colorado (0.03% of active wells). The study concludes that the total number of fires and explosions may be underreported due to Colorado’s relaxed incident reporting rules.


Based on literature review, concludes that 1500 foot setback is necessary to address air pollution, odor, and noise impacts


At the most-exposed (downwind) locations at 500 ft from the well pads, the highest estimated 1-hour exposures exceeded guideline levels for a small number of chemicals, including benzene during development and production activities, and toluene and ethyltoluenes during development activities... One-hour exposures decreased rapidly with distance from the hypothetical facilities, but some remained above guideline levels out to 2,000 ft.


Mothers who lived in the highest exposure quartile (124 wells within 20 km) were 1.4 times more likely to give birth to low-birth-weight children and smaller than gestational age children; compared to lower quartile (8 wells within 20 km). (Inverse Density Weighting (IDW) methodology) methodology

We found evidence for negative health effects of in utero exposure to fracking sites within 3 km of a mother’s residence, with the largest health impacts seen for in utero exposure within 1 km of fracking sites. Strongest Evidence of negative health effects, including greater incidence of low-birth weight and significant declines in average birth weight.


Finding that 65% of ozone formation on Colorado’s Northern Front Range’s worst ozone days is due to pollutants transported from oil and gas producing areas, while only 9% is due to transport from the Denver urban corridor.


Performing source signature analysis Finding that 55% of ozone-forming VOCs measured in the Colorado Northern Front Range were attributable to the oil and gas sector.


Reviewed setback distances in Texas, Pennsylvania, West Virginia, Ohio, and Maryland, and they found the setbacks were not determined from peer-reviewed data analysis but were based on compromise between government agencies, the regulated community, environmental and citizen groups, and landowners. In the evacuation data we collected, the average evacuation zone was 0.8 mi (range of 660–13,200 ft) and the average number of homes/families displaced was 149 (range of 3–500 per event). Concluded that catastrophic events, thermal modeling, vapor cloud modeling, and air pollution data indicate that 1500 feet “do[es] not appear sufficient to protect public health and safety.”


At the most-exposed (downwind) locations at 500 ft from the well pads, the highest estimated 1-hour exposures exceeded guideline levels for a small number of chemicals, including benzene during development and production activities, and toluene and ethyltoluenes during development activities... One-hour exposures decreased rapidly with distance from the hypothetical facilities, but some remained above guideline levels out to 2,000 ft.

Higher risk of neural tube defects for babies born in closer proximity to natural gas wells. (Inverse Distance Weight method). Supports the results of 2014 McKenzie Study.


Expert consensus (Delphi study) that 1/4 mile is insufficient, but no consensus on setbacks between 1/4 and 2 miles. The results suggest that if setbacks are used the distances should be greater than ¼ of a mile from human activity, and that additional setbacks should be used for settings where vulnerable groups are found, including schools, daycare centers, and hospitals. The lack of consensus on setback distances between 1/4 and 2 miles reflects the limited health and exposure studies and need to better define exposures and track health. For this Delphi panel, selection criteria included: researchers whose work has been published in peer-reviewed journals and/or presented at national scientific meetings; scientists employed in regulatory agencies; and leaders in public policy and environmental advocacy who have been published in the grey literature.


Community-based monitoring near unconventional oil and gas operations demonstrates elevations in concentrations of hazardous air pollutants under a range of circumstances. Of special concern are high concentrations of benzene, hydrogen sulfide, and formaldehyde, as well as chemical mixtures linked to operations with observed impacts to resident quality of life.


Finding that oil land gas emissions contribute to approximately 50% of regional VOCs and 20% of regional ozone formation in the Colorado Front Range


Hazard Index: sub-chronic non-cancer of 5; chronic hazard index of 1; cumulative cancer risk = 10/1 million. All at or above EPA thresholds


Positive association between gas wells within 10 miles of maternal residence (Inverse Distance Weight approach), and prevalence of congenital heart defects and neural tube defects in infants

For populations living within 500 feet of an oil and gas facility there are higher rates of neurological, hematological, and developmental health effects from acute inhalation exposures to benzene and alkanes. At 500 feet, there is an elevated lifetime cancer risk 8.3 times above EPA upper threshold of 1 in 10,000. We also estimated cumulative lifetime excess cancer risks for populations living within 610 m (2,000 feet) of an O&G facility exceed USEPA’s upper threshold. Our results indicate that State regulatory setback distances of 500 feet may not protect nearby residents from health effects resulting from air pollutants emitted from these facilities.


Significantly higher rates of congenital heart defects in infants born to women who live in areas with more than 403 wells in a 10-mile radius (IDW methodology). In rural areas, odds of a birth with an AAVD, CTD, or TVD were 2.6–4.6 times more likely than controls in the high exposure group compared to the low exposure group.


Found hazard index of greater than 1 for combined VOCs and less than 1 for VOCs individually; Lifetime excess cancer risk from Benzene was above EPA hazard index of 1/10,000 people.


Wind trajectories show that volatile organic compounds emitted by oil and gas play a "crucial role" in causing the highest ozone levels in Colorado.


Measuring oil and gas emissions in Colorado’s Northern Front Range and concluding that due to oil and gas sector emissions, state emissions inventory may be too low by a factor of two.

Finding that oil and gas emissions of benzene and other pollutants was seven times higher than estimated in the Colorado state emissions inventory


Statistically significant increase in reporting of dermal and respiratory symptoms


Elevated asthma exacerbation (hospitalizations, severity of attacks) due to proximity


Lower birth weight and higher incidence of small for gestational age among babies born to women in areas with greater well density (IDW - inverse dist. weighted method)


Performing source signature analysis and determining that a high percentage of ozone-forming VOCs at an atmospheric measurement station in the Colorado Northern Front Range originated from the oil and gas sector


The mean benzene levels in Platteville and Erie are above the EPA’s cancer risk threshold of 1 in 100,000 and therefore of a high enough concentration for the potential of detrimental health effects if chronic exposure at these levels should occur. An initial look at comparisons with data sets from previous years reveal that ambient levels for oil and gas-related non methane hydrocarbons in Erie, as well as further downwind in Boulder, have not decreased, but appear to have been increasing, despite tightening of emissions standards for the oil and gas industries in 2008. Even though the volume of emissions per well may be decreasing, the rapid and continuing increase in the number of wells may potentially negate any real improvements to the air quality situation.


Higher risk of pre-term birth
WATER QUALITY STUDIES


TOWN OF LOCHBUIE  
COUNTIES OF WELD AND ADAMS, COLORADO  

ORDINANCE NO. 2020-649  

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, COLORADO, AMENDING SECTION 19-2-230, REPEALING AND READOPTING DIVISION 3 OF ARTICLE VII, AMENDING SECTION 19-7-520 GOVERNING OIL AND GAS DEVELOPMENT WITHIN THE TOWN, SETTING THE PENALTY FOR VIOLATIONS THEREOF, AND TERMINATING THE MORATORIUM ON ACCEPTANCE, PROCESSING, AND APPROVAL OF LAND USE APPLICATIONS AND ANY OTHER REQUESTS FOR APPROVAL TO CONDUCT OIL AND GAS EXPLORATION, EXTRACTION OR DEVELOPMENT WITHIN THE TOWN LIMITS.

WHEREAS, the Town of Lochbuie is a statutory municipality, governed by its elected Mayor and Board of Trustees; and

WHEREAS, Sections 19-2-230 and 19-7-520 and the entirety of Division 3 of Article VII of Chapter 19 of the Lochbuie Land Development Code set forth the Town provisions that govern oil and gas development within the Town; and

WHEREAS, Senate Bill 2019-181 amended both the statewide Local Government Land Use Control Enabling Act and the Colorado Oil and Gas Conservation Act and provided additional and new authority for local governments to regulate oil and gas development within their respective jurisdictions; and

WHEREAS, the Town Board of Trustees desires to (a) amend Section 19-2-230 of the Lochbuie Land Development Code (Chapter 19 of the Municipal Code), (b) repeal and readopt Division 3 of Article VII of Chapter 19 of the Lochbuie Land Development Code, and (c) amend the definitions section set forth in Division 5 of Article VII of Chapter 19, all to put into effect amended regulations upon oil and gas exploration and development within the Town and to set the penalty for violations thereof.

WHEREAS, by Ordinance Nos. 2019-645 and 2020-648, the Town board previously adopted a 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, which moratorium is set to expire on March 31, 2020 (“Moratorium”); and

WHEREAS, the Town Board of Trustees desires to terminate the Moratorium upon the effective date of this Ordinance.
NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, WELD AND ADAMS COUNTIES, COLORADO, AS FOLLOWS:

Section 1. Amend Section 19-2-230 of the Lochbuie Land Development Code. Section 19-2-230 of the Lochbuie Land Development Code is hereby amended by (a) deleting the lines under Industrial Uses for “Natural Gas or Oil Production Support Facilities” and for “Natural Gas Production”, (b) by amending to add a use category entitled “Oil and Gas Facilities” and amending to add the three lines under such new category as shown below, with all other lines of the table unaffected.

Sec. 19-2-230. Schedule of principal uses.

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Section 2. Repeal and Readoption of Division 3 of Article VII of Chapter 19 of the Lochbuie Land Development Code. Division 3 of Article VII of Chapter 19 of the Lochbuie Land Development Code is hereby repealed and readopted to read as follows in its entirety.

Division 3 - Oil and Gas Operations

Sec. 19-7-305. Purpose and intent.

(a) This Division is enacted to provide for the safety, and preserve the health, safety and welfare of the present and future residents of the Town.

(b) This Division is enacted pursuant to the home rule authority, land use authority, and the police powers of the Town and to protect public health, safety, welfare, and the environment.

Sec. 19-7-310. Scope and applicability.

(a) Subject to the provisions of this Division, no Oil and Gas Well Site shall be initiated in any manner within the Town prior to issuance of an Oil and Gas Permit.
(b) Nothing in these regulations shall be construed to diminish the applicability of the other development-related codes of the Town, including requirements for building permits and grading permits. These regulations are supplemental to the zoning regulations contained in the Land Development Code.

(c) The Board of Trustees shall adopt by separate resolution the Oil and Gas Best Management Practices ("BMP"). The BMP Document will be posted on the Town’s website. The Board of Trustees may by resolution update the Oil and Gas BMP Document as necessary to reflect changes in technology, state regulation, and industry practices.

(d) Where, in any specific case, the requirements of any other Division within the Land Development Code or the regulations of any state or federal agency are in conflict with this Division, the more restrictive requirements shall be imposed.

Sec. 19-7-315. Oil and Gas Permit Required

(a) New Oil and Gas Facilities

(1) It shall be unlawful for any person to drill a new well, construct a new facility or install new accessory equipment or structure within the corporate limits of the Town, unless an oil and gas permit has been obtained pursuant to this Division. A separate oil and gas permit shall be required for each Well or Production Site that has not been previously permitted under this Division except as outlined in Section 19-7-315(b) and (c) below.

(2) It shall be unlawful for any person to operate a well, facility or accessory equipment or structure within the corporate limits of the Town, except in compliance with the terms and conditions of the oil and gas permit.

(3) If more than one Well or Production Site is proposed at the same time, the applicant may submit one application for multiple wells and facilities; however, a separate fee shall be required for each well pad site included in the application. The Town will issue a multiple oil and gas operations permit that notes the name and location of each Well or Production Site.

(4) Any such permit issued pursuant to this Division shall encompass within its authorization the right for the Operator, his or her agent, employee, subcontractor or independent contractor or any other persons to perform that work necessary in the drilling, completion or maintenance operations.
(5) For the purpose of this Division, the installation of tanks, heaters, separators and other accessory equipment shall be construed as extensions to oil and gas wells and shall accordingly be subject to the same applications, review, permit, regulations, and standards. The application for these accessories when intended to be installed at the same time as the oil or gas well may be merged with an application for an oil or gas permit and shall not require an additional permit fee.

(b) *Legacy Oil and Gas Facilities*

By enactment of this Division, the Town hereby approves any well, equipment or facility drilled or constructed prior to the enactment of this section or that occurred prior to annexation of additional acreage within the Town.

(c) *Modification to Existing Oil and Gas Facilities*

Any proposed change made to an Oil and Gas Facility must be reviewed by the Building Department and must receive permission through one of the following.

1. *Change of Operations Permit.* Modifications to a Legacy Oil and Gas Facility must receive a change of operations permit. Such change of operations application will be administratively reviewed and granted so long as the location comes into substantial compliance with all regulations required to protect public health, safety, welfare and the environment.

2. *Amendment of an Oil and Gas Permit.* The oil and gas permit is limited to the facilities as shown in the approved Permit plans. To the extent the applicant desires, after initial completion of a well, to place additional equipment on a tank battery or wellhead location, which was not shown in the approved plan, the applicant must, except in a situation where additional temporary equipment is necessary for a period of 14 days or less, submit a revised site and Operating Plan to the Town depicting any changes from the approved oil and gas permit. If the staff concludes that the proposed change will not cause additional adverse impacts to public health, safety or welfare or the environment, the Amendment of the Oil and Gas Permit can be accomplished administratively. Upon receipt of the amended site plan and Operating Plan, the Town shall issue a revised oil and gas permit as provided in this Division. In the event the staff concludes the proposed change would cause an additional adverse impact to public health, safety, welfare or the environment, the proposed amendment will trigger new notice and require a new oil and gas permitting process.
(3) **Plugging and Abandonment Permit.** The plugging and abandoning of a Well Site or pipeline requires a Plugging and Abandonment Permit. The Permit will be issued administratively and will not require a public hearing.

(d) **Terms and Conditions of the Oil and Gas Permit**

(1) The term of the Oil and Gas Permit shall be for two (2) years except as otherwise stated herein. Upon issuance of a COGCC permit allowing Drilling or Operations on the Wellsite that is the subject of the Town’s permit, the term of the Oil and Gas Permit shall automatically become coterminous with the COGCC issued permit (including individual well permits) unless the Oil and Gas Permit has otherwise expired, lapsed, revoked, forfeited, abandoned, or otherwise terminated.

(2) Upon issuance of an Oil and Gas Permit, and notwithstanding any other provision in this Code, the total number of wells approved in the Oil and Gas Permit must be drilled and completed within three (3) years of permit approval. Failure to do so shall constitute the forfeiture of the authorization and right to drill any undrilled wells. Authority to drill forfeited wells can only be obtained by amending the existing Oil and Gas Permit or issuance of a new Oil and Gas Permit.

(3) If requested by the applicant, the Manager may extend the duration of permit by up to six (6) months if:
   a. The permit has not yet expired;
   b. The permit recipient has proceeded with due diligence and in good faith; and
   c. Conditions have not changed so substantially as to warrant a new application.

(4) The oil and gas permit shall automatically expire with the abandonment and reclamation of the associated well.

(5) The granting of an oil and gas permit shall not relieve the Operator or owner of a Well, Production Site, pipeline or gathering line from otherwise complying with all applicable regulatory requirements of the Town, the State, or the United States.

(6) Within 30 days after the well is completed and equipped, the applicant shall provide to the Town as-built drawings showing all facilities, pipelines, flow lines and gathering lines which the applicant has placed on the land subject to this permit. These as-built drawings shall be the same as submitted to the COGCC.
Sec. 19-7-320. Oil and Gas Permit Application Submittal Requirements

(a) Initial Application Form and Authorization

Every application for an oil and gas permit issued pursuant to this Division shall be in writing on a form supplied by the Town, signed by the Operator, or some person duly authorized to sign on his or her behalf, and filed with the Building Department. If no form is available, Operator may file in its own format the following information that shall be submitted:

(1) The Operator's name and address and, if the Operator is a corporation, the state of incorporation and, if the Operator is a partnership, the names and addresses of the general partners;

(2) The name, address, telephone number, fax number and e-mail address of the individual designated by the Operator to receive notices;

(3) The aliquot legal description of the property to be used for the oil/gas operation and the assessor's parcel number for the property. Property recorded by plat shall also be identified by subdivision name and block and lot numbers;

(4) The well name(s);

(5) The mineral lessee's name(s) and address;

(6) The name and address of the representative with supervisory authority over the oil and gas operation site activities and a 24-hour emergency phone number;

(7) The name and address of the surface owner or owners; and

(8) The name, address and telephone number of the person or firm designated by the Operator to file the oil and gas permit application and prepare the site plan and related exhibits.

(b) Fees and Financial Assurances

Every applicant shall provide the following fees and financial assurances:

(1) Application Fee. Every application shall include a required fee in the amount of $10,000.
(2) *Cost Reimbursement Agreement.* Every applicant shall submit a signed cost reimbursement agreement provided by the Town, but such reimbursement agreement shall only apply to the use by the Town for outside consultants to review the application, if necessary. The application fee and required cost reimbursement agreement must be received by the Building Department in order to process the application.

(3) *Insurance.* Prior to commencement of any work, the Operator will provide liability and insurance under the conditions, and in the amounts, necessary to protect against the risks and liabilities associated with the proposed activity.

(4) *Financial Assurance.* Prior to the commencement of any work, including well pad construction at any permitted Well Site, Operator will provide the Town with a single surety applicable for all Well Sites in the form of a letter of credit or bond in the amount of three million dollars ($3,000,000.00) to insure the immediate availability of finances for any costs incurred by the Town following a Financial Setback of the Operator.

a. Financial Setback shall be defined as the Operator filing for protection under the bankruptcy laws, making an assignment for the benefit of creditors, appointing or suffering appointment of a receiver or trustee over its property, filing a petition under any bankruptcy or insolvency act or having any such petition filed against it which is not discharged within ninety (90) days of the filing thereof.

b. Operator shall notify the Town of the existence of a Financial Setback within five (5) business days of the Financial Setback.

c. The letter of credit or bond shall remain in effect until all drilling operations at all New Wells have been completed, and all Well Sites for which work has commenced are in the production phase, without exception.

d. Upon the occurrence of a Financial Setback, the Town may call upon the surety effective immediately upon written notice to the Operator for the purpose associated with the need to secure Well Sites, associated Well Site lands and infrastructure or as a demonstrated need to protect the public welfare and safety.
e. This financial assurance provision in a form accepted by the Town is not a substitute for any bonding required by the state regulatory agencies for plugging and abandoning wells.

f. The Operator shall comply with all state regulatory agencies bonding requirements.

g. The bond or letter of credit shall be released within ten (10) business days of Operator’s written request following completion of the last Well Site and the wells have been turned to production.

(5) Inspection Fees. Operator shall reimburse the Town for all inspection costs reasonably incurred to inspect the Well Sites to determine compliance with this Agreement and any permits issued by the Town. Such fees shall include actual costs incurred by the Town, including employee time, employee supervision, necessary equipment rental, and overhead. Where a well is plugged and abandoned, no fees will be imposed thereafter.

(6) Road Improvements and Maintenance Agreement. Operator must sign an agreement to pay for ongoing road repair and maintenance costs attributable to its operations. The Town will conduct periodic impact assessments with the Operator to determine the extent of any damage accruing to the road caused by the Operator’s activities. Operator may conduct baseline road condition assessments with a third-party contractor to define existing road conditions. Operator will pay the Town for the cost of the actual repairs for the assessed damage or else arrange and pay the cost of such repairs itself with a contractor acceptable to the Town.

(c) Substantive Application

Upon having submitted the materials and fee required, an application for an oil and gas permit pursuant to this Section shall be filed with the Building Department and shall include the following information:

(1) Site Plan. The site plan shall be submitted on one or more plats or maps, at a scale not less than one inch to 50 feet, showing the following information:

a. A site plan of the proposed operation showing the location of all improvements and equipment, including the location of the proposed wells and other facilities, and including but not limited to pumps, motors, electrical power lines, tanks, flowlines, gathering lines, compressors, separators and storage sheds. All existing tank batteries and transmission
and gathering lines within 1,000 feet of the Well Site shall also be shown.

b. The location of layout, including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.

c. The location and description of all existing improvements and structures within 1,000 feet of the well, as well as proof that the new Well or Production Site meets all applicable COGCC and Town setback requirements.

d. Existing utility easements and other rights-of-way of record, if any, within a radius of 1,000 feet of the proposed well.

e. The location of existing irrigation or drainage ditches within 1,000 feet of the Well Site or Production Site, if any.

f. The applicant's drainage and erosion control plans for the Well Site or Production Site, if applicable. The applicant may submit the plan required by COGCC to meet this requirement.

g. Location of access roads in accordance with the provisions of Section 19-7-355.

h. The location of existing oil and gas wells as reflected in COGCC records within a 1,000-foot radius of the proposed location for the well and existing lease boundaries.

i. The names of abutting subdivisions or the names of owners of abutting, unplatted property within 500 feet of the proposed of the Well Site or Production Site.

j. The date the site plan was prepared and any revision numbers to the site plan, when applicable.

k. The location of existing wildlife and nature areas within 1,000 feet of the Well Site or Production Site, if any.

l. The location of the Well Site or Production Site in relation to existing lease boundaries.

m. A true north arrow.

(2) Traffic Control Plan
In compliance with the description in the Oil and Gas BMP Document, the Operator shall prepare a plan showing public and private roads that traverse and/or provide access to the proposed operation and a plan showing the estimated number of vehicle trips per day for each type of vehicle, proposed transportation routes to and from the site, and measures to mitigate adverse impacts to traffic patterns and safety caused by the proposed operation.

a. The map showing all proposed transportation routes for access to and from the Well Site shall include those routes used for construction equipment and well drilling, completion and reworking equipment from the Well/Production Site to the corporate limits of the Town.

b. All transportation routes which access the state highway system shall be required to obtain necessary Colorado Department of Transportation (CDOT) access permits. A vendor selected by Operator from a list of vendors that is pre-approved by the Town shall prepare a Traffic Impact Study which shall clearly identify and distinguish impacts to Town roads and bridges related to Facility construction, operations and ongoing new traffic generation. Traffic impact studies shall be prepared in accordance with Town standards and requirements or other guidelines found in the Applicable Code. The study shall include a traffic mitigation plan addressing transportation impacts that will typically include, but not be limited to, a plan for traffic control, the receipt of all necessary permits, ongoing roadway maintenance and improving or reconstructing Town roads, including providing financial assurance.

(3) Written Narrative

The Applicant shall refer to the Oil and Gas BMP Document for additional details on the following submittals and plans:

a. A title block or heading containing the Operator's and surface owner's names and addresses, the well name and the legal description of the Well/Production Site location.

b. Copies of the approved or submitted COGCC forms 1A, and 2 or 2A or 10, as applicable. If the applicant has not received approval from COGCC, the Town shall process the application conditioned on proof of an approved COGCC permit.
c. An Operating Plan.

d. A copy of the Surface Use Agreement or acknowledgement, including reception number, that a Surface Use Agreement has been recorded with the applicable County Clerk and Recorder's Office.

e. A list of all permits or approvals obtained or yet to be obtained from local, state or federal agencies, including any exceptions or variances that are required.

f. Emergency Response Plan. Operator shall prepare an Emergency Response Plan that is mutually acceptable to the Operator and the appropriate fire protection district and the Police Department that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities. The applicant must provide a commitment to serve ("will serve") letter from the authority having jurisdiction for providing emergency services (fire protection and emergency medical services) for that facility.

g. A plan for weed control at the Wellsite.

h. A sanitary facilities plan that complies with COGCC regulations.

i. Verification of ownership of the mineral interest.

j. Nuisance Prevention Plan. Operator shall prepare a plan to manage noise, light and odor to prevent nuisance. Noise and odors shall be kept at or below the levels that would constitute a nuisance. The plan must include a baseline noise study as well as noise modeling of equipment proposed for the site for drilling and completions.

k. Electrification Plan. Operator shall identify all sources of electricity that will be brought to or used at the Well Site during all phases, including drilling, completion and production.

l. Air Quality Mitigation Plan. Operator shall prepare an Air Quality Mitigation Plan which includes baseline air quality testing and a modeling assessment of air quality impacts of a related project per the BMP Document and a plan and schedule to maintain air quality, including a plan to minimize VOC emissions in compliance with the BMPs.
m. Waste Management Plan. Operator shall prepare a Waste Management Plan that identifies the projected waste from the site and plans for disposal of such waste.

n. Hazardous Materials Management Plan. Operator shall prepare a Hazardous Materials Management Plan that identifies all hazardous materials that will be brought on site, how they will be transported and used, and measures to prevent any release of those materials.

o. Water Quality Monitoring Plan. Operator shall prepare a plan that describes the steps it will take to provide water quality monitoring to demonstrate no water quality degradation of surface or ground water.

p. Spill Prevention, Control, and Countermeasure Plan. Operator shall prepare a plan which describes spill prevention and mitigation practices.

q. Stormwater Pollution Prevention and Erosion Control Plan. Operator shall prepare a plan to minimize impacts to surface waters from erosion, sediment, and other sources of non-point pollution. The stormwater control plan required by COGCC Rule 1002(f) may be provided to establish compliance with this provision.

r. Interim Reclamation Plan. Operator shall prepare a plan, including a written description of the species, character and density of existing vegetation on the Well Site, a summary of the potential impacts to vegetation as a result of the proposed oil and gas operations, and proposed replanting and mitigation to address these impacts. The plan shall include any COGCC required interim reclamation procedures and shall include the means by which vegetation will be watered and maintained.

s. Dust Mitigation Plan. Operator shall prepare a plan to control dust in an effort to minimize visible dust emissions from roadways or from completion operations.

t. Wetlands Protection Plan. Operator shall prepare a plan, if applicable, demonstrating the oil and gas operations shall, to the maximum extent practicable, avoid causing degradation to wetlands within the Town.

u. Floodplains and Floodways. Oil and Gas Facilities are prohibited in the floodway. A Floodplain Permit is required if any Operations are within the floodplain.
v. Visual Mitigation Plan. Operator shall prepare a plan that will consider fencing materials, berming, and use of existing vegetation and natural contours to the maximum extent practicable. The visual mitigation plan shall require photographic simulations.

w. Landscaping Plan. Operator shall prepare a plan that shall be coordinated with the Town and the surface owner and, depending on access to water, may be staged to accommodate surface development. Landscaping plans should use drought tolerant species that are native and less desirable to wildlife and suitable for the climate and soil conditions of the area. An irrigation plan may be required where buffering is accomplished with vegetation.

x. Site Security Plan. Operator shall prepare a plan for each Well Site. Each plan for a Well Site shall be reviewed by Operator on a yearly basis and will be updated, as necessary. The Town may request a review and update of the plan, at its sole discretion.

y. Request for Waiver of Location Requirements in Section 19-7-365.

Sec. 19-7-325. Oil and Gas Permit Process for New Oil and Gas Operations

All oil and gas operations are Conditional Uses and will go through the conditional use permitting process as described in Section 19-2-210 to receive an Oil and Gas Permit. Where terms of this Section conflict with other standards in the Land Development Code, the provisions of this Section shall apply.

(a) Step 1: Pre-Application Conference

The applicant shall attend a pre-application conference with a representative from the Town. The purpose of the meeting is to discuss the oil and gas permit submittal requirements and review process. Town staff will review the list of Best Management Practices that may be required to reduce or eliminate impacts to public health, safety, welfare or the environment. The staff also has discretion to require an Alternative Location Analysis that must be completed prior to submittal of an application for an oil and gas permit.

(1) The applicant shall prepare and submit a Preliminary Site Analysis to the Town for review at the pre-application conference. The Preliminary Site Analysis shall include the following information:

a. All drilling and spacing units proposed by the applicant within 1,500 feet of the Town’s municipal boundaries;
b. The proposed site for the oil and gas location and all features defined below, completely contained within, or within ¼ mile of all drilling and spacing units proposed by the applicant;

c. Any existing residential, platted residential, or property currently entitled for residential use, not including properties zoned Agricultural over 5 acres in size;

d. Properties designated for future residential in the Town’s adopted Comprehensive Plan, including mixed use;

e. Any facility classified as a High Occupancy Building Unit as defined by the COGCC;

f. Any public or private recreation facilities;

g. Outdoor venues, playgrounds, permanent sports fields, amphitheaters, or other similar place of public assembly;

h. Public or private parks, not including trails;

i. Senior living or assisted living facilities;

j. Areas within the FEMA 100-Year Floodplain boundary;

k. The centerline of all USGS perennial and intermittent streams;

l. Reservoirs and public water supply wells;

m. Wetlands; and

n. Sensitive wildlife areas.

(2) If required by staff, the applicant will be required to submit an Alternative Location Analysis. The applicant shall analyze all potential sites that can reasonably access the mineral resources within the proposed drilling and spacing unit. The following information shall be provided for each site:

a. General narrative description of the site;

b. Why the particular site is proposed;

c. A summary of the off-site impacts that may be associated with that particular site; and
d. Proposed truck traffic routes, pipeline routes, and access roads for each site.

(3) Staff will review all proposed locations in order to determine if there is a suitable location that would adequately protect public health, safety, welfare, and the environment. Each proposed location shall be evaluated against the following criteria to determine if it is a suitable location:

a. Whether the location would comply with siting requirements in Section 19-7-365;

b. Whether mineral extraction is technically possible and reasonable from the location;

c. The proposed facility will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future;

d. A proposed site’s conformance with the Town’s adopted Comprehensive Plan, and any other applicable adopted plans;

e. The ability to utilize pipelines and consolidate facilities with other planned drilling and spacing units proposed within the Town’s municipal boundaries; and

f. Landowner’s willingness to accommodate a surface use location. Previous execution of a Surface Use Agreement between any landowner and Operator shall not automatically deem a proposed site as the preferred alternative; and

g. Impact on nearby environmental resources such as water bodies.

(4) If a suitable location is identified, staff will recommend the Operator proceed with an oil and gas permit application. If a suitable location is not identified or is unavailable, staff will recommend that the Operator evaluate other locations or may recommend denial if an oil and gas permit application is submitted.

(b) **Step 2: Application Submittal**

After the pre-application conference and the submittal of an Alternative Location Analysis (if necessary) the applicant may submit an oil and gas
permit application. The application must meet the submittal requirements of Section 19-7-320 (c).

(c) **Step 3: Staff Review for Completeness**

Within a reasonable period of time, not to exceed 10 business days, Town staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and resubmit the required number of copies of the amended application to the Town. This is not a substantive review of the application submitted.

(d) **Step 4: Referral Agencies Notified**

Upon receipt of a completed application, the Town shall forward the application to the appropriate referral agencies. The referral information shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name. At minimum, the application shall be referred to Adams or Weld County, the Police Department, and the Hudson Fire District. Referral agencies shall be provided 30 days to respond with any comments. After such 30-day period, the Town may proceed on the Application whether to not the Town has received comments from the notified referral agencies.

(e) **Step 5: Staff Review and Comments**

Town staff shall review the Application for compliance with this Section and all other applicable federal, state and Town regulations and standards. A summary of this review, including referral comments, and proposed conditions of approval, shall be sent to the Applicant.

(f) **Step 6: Applicant Response**

The applicant shall address all of the Town staff comments and any referral agency comments, then submit the following to the Town:

1. Written correspondence explaining how all of the comments have been addressed; and
2. Revised maps and other documents, as necessary.

(g) **Step 7: Final Staff Review and Report to Board of Trustees**

1. Town staff will complete a final review of the resubmitted materials and then prepare a report to the Board of Trustees explaining how the application is or is not consistent with the review criteria and applicable Town ordinances, regulations and standards.
Conditions of approval. Staff may propose a list of conditions of approval, including requiring the use of Best Management Practices, to reduce or eliminate impacts to public health, safety, welfare, or the environment. The Oil and Gas Best Management Practices Document (“BMP Document”) will be maintained on the Town's website. In proposing conditions of approval from such Best Management Practices or other sources, the staff shall consider the following factors, among other considerations:

a. Site-specific factors of the proposed new oil and gas location;

b. The extent the Best Management Practices can be used to prevent significant degradation of the health, safety, and welfare of area residents and the Town of Lochbuie;

c. The extent to which conditions of approval will promote the use of existing facilities and reduction of new surface disturbance;

d. The extent to which legally accessible and technologically feasible alternative sites exist for the proposed new oil and gas location; and

e. The extent to which the proposed oil and gas location is within land used for residential, industrial, commercial, agricultural, or other purposes.

Step 8: Public Hearing Schedule and Notification Process

The Town shall:

1. Publish notice of the public hearing for the oil and gas permit in a newspaper of general circulation in the Town at least 15 days before the scheduled hearing date.

2. Posting of notice. Notice of the hearing shall be posted by the Town on each street adjoining the property involved for a period of at least 15 continuous days prior to the date of the hearing. An affidavit of posting signed by a representative of the Town shall constitute prima facie evidence of fulfillment of the required posting. The expense of such posting and affidavit shall be paid by the applicant. The sign shall be professionally made or hand-stenciled with dimensions as shown; enamel or weatherproofed painted letters; white background on sturdy backing; minimum size as shown below; on two (2) posts as shown below; and six (6) feet from the edge of the street pavement.
(3) Mailed notices shall be sent via first class mail to all property owners within 1,000 feet of the subject property, as measured from property boundaries.

(i) **Step 9: Review by Board of Trustees**

(1) A public hearing on the requested oil and gas permit shall be held by the Board of Trustees at a regular or special meeting of the Board of Trustees. Applicants shall provide the following notice of the hearing and present proof of such publication, posting and mailing to the Town Clerk at least seven days before the hearing and at the beginning of the public hearing to be made a part of the record of the hearing. Notice of the public hearing shall be published by posting and by publication one time in a newspaper of general circulation in the Town not less than 15 days before the date of the hearing. Notice shall be given to the property owners abutting the property or within 1,000 feet of the property, and to the Town's service providers, the County, special districts and referral agencies as deemed appropriate by the Town. Said notice shall be given by first-class mail not less than 15 days before the date of the hearing.

(2) The Board of Trustees shall use the Criteria for Review in this Section and, if applicable, the Criteria for a Location Waiver. To arrive at its decision, the Board of Trustees shall consider evidence presented in the application and at the public hearing which establishes compliance consistent with the Criteria below and any recommendations of the Staff, if applicable. Following the conclusion of the public hearing, the Board of Trustees shall, by written resolution, render its decision to approve, deny or conditionally approve the application, or it may take the matter under advisement until an announced date certain, not to exceed 15 days from the date of the hearing, at which time it shall render its decision by written resolution. The written resolution shall be prepared by the Town Attorney and shall set forth the findings of the Board of Trustees.

(3) **Criteria for Review**

At a public hearing, the Board of Trustees shall review the application for the oil and gas permit for compliance with the following criteria:

a. All application requirements of Section 19-7-320 are met.

b. The application complies with the location restrictions provided in Section 19-7-365 unless a waiver is obtained.
c. The application substantially complies with the provisions and practices in the BMP Document.

d. The proposed facility will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future;

e. The proposed use is in conformance with the Town of Lochbuie Comprehensive Plan or other local planning documents; and

f. The proposed use will not significantly degrade the environment or public health, safety and welfare.

(4) Criteria for a Location Waiver

a. A waiver of the location restrictions in subsection Section 19-7-365 may be granted only under the following conditions:

1. The location satisfies the other Criteria for Review in this Section;

2. Extraordinary hardships or practical difficulties result from strict compliance with the zoning restriction; and

3. Protection of public health, safety, and welfare are served to a greater extent by a waiver to strict adherence to the location requirements in Section 19-7-365.

(5) For the purposes of judicial review, the Board of Trustees’ final action or decision on an application shall be deemed to have been made as of the date upon which the Board of Trustees executes the written resolution, which shall constitute the final decision of the Board of Trustees.

Sec. 19-7-330. Oil and Gas Permit Order

Prior to commencement of operations for which an oil and gas permit has been approved, an oil and gas permit order shall be obtained from the Town. The Town shall issue the oil and gas permit order within a reasonable time upon receipt of the following:
(a) A copy of the resolution of the Board of Trustees approving an oil and gas permit;

(b) Proof of compliance with any conditions placed in the resolution of the Board of Trustees approving an oil and gas permit;

(c) A copy of the approved site plan;

(d) A copy of an approved oversize or overweight vehicle or load permit issued by the Town pursuant to subsection Section 19-7-360, if applicable;

(e) Copies of any necessary state or federal permits issued for the operation if not previously submitted; and

(f) Copies of all COGCC permits.

Sec. 19-7-335. Transfer of Operator or New Operator

As required by COGCC, the Operator shall notify the Town, in writing, of any sale, assignment, transfer, conveyance or exchange by said Operator of a well's property and equipment within 10 calendar days after such sale, assignment, transfer, conveyance or exchange. The notice shall provide a map indicating the location of the properties and equipment involved in the transaction. Any change in tenancy, ownership, or management shall require modification to the approved permit. Such modification will be approved so long as the new Operator complies with the following:

(a) The new Operator must certify that it will comply with all aspects of the existing oil and gas permit.

(b) The new Operator demonstrates adequate insurance and posts financial assurances required of the previous Operator.

(c) The location is in compliance with all applicable local and state regulations and permits.

Sec. 19-7-340. Inspections

In recognition of the potential impacts associated with oil and gas facilities, all wells and accessory equipment and structures may be examined by the inspectors of the Town at reasonable times to determine compliance with applicable provisions of the Land Use Code, the International Fire Code, the International Building Code, and all other applicable standards.

(a) The Town reserves the right in its discretion to make spot inspections or to inspect without notice in the event of an issue potentially involving an immediate risk to public health, safety, welfare, the environment, or wildlife, or damage to the property of another.
(b) For the purpose of implementing and enforcing the provisions of this Section, the inspector and other authorized personnel have the right to enter upon private property.

(c) The Town may use the information collected on the inspections to enforce the requirements of this Section.

(d) The Town may also report this information to appropriate state and federal officials, including but not limited to information regarding alleged violations of state and federal rules.

(e) Upon request, Operator shall make available to Town all records required to be maintained by these regulations or to show compliance with these regulations, and the rules and regulations promulgated by the COGCC and the Colorado Department of Public Health and Environment (CDPHE), including permits, Air Pollutant Emission Notices (APENs) and other documents required to be maintained by the COGCC, CDPHE and these regulations.

Sec. 19-7-345. **Building Permits**

In addition to any other requirements of this Section, building permits must be obtained for all aboveground structures to which the applicable Town Building Codes apply.

Sec. 19-7-350. **Use Tax**

All Operators must conform to applicable provisions of this Code relating to taxation, if any.

Sec. 19-7-355. **Access Roads**

All private roads used to provide access to the tank batteries or the Well Site shall be improved and maintained according to the following standards so long as such standards are consistent with the surface owner's requests or the terms of a private Surface Use Agreement with the surface owner, and does not damage adjacent properties. Access roads to facilities and Well Sites shall conform to the following minimum standards:

(a) All access roads must be in conformance with the Town's standards and specifications. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of six inches thick, compacted to a minimum density of 95% of the maximum density as determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 3, aggregate base course as specified for aggregate base course materials in the Colorado Department of Transportation's
Standard Specifications for Road and Bridge Construction, latest edition. A geotechnical report and pavement design will be submitted to the Town for approval.

(b) All access roads shall be graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the Town.

(c) All access roads shall be maintained so as to provide a passable roadway free of ruts and dust at all times.

(d) All access roads must be improved as a hard surface (concrete or asphalt) for the first 100 feet from the public road, unless public road is not already a hard surface, in which case, Operator shall meet the current standards of the public road.

(e) 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, unless the trail or walk is not already a hard surface, in which case, Operator shall meet the current standards of the trail or walk. If necessary, Operator shall replace the trail or walk to address the weight load requirements of the vehicles accessing the Well and Production Sites.

(f) Temporary access roads associated with the Operations will be reclaimed and reseeded to the original state within 60 days after discontinued use of the temporary access roads. An exception to temporary access road construction standards and specifications may be made upon agreement of the Parties where circumstances warrant a departure given future development needs.

Sec. 19-7-360. Oversize or Overweight Vehicle or Load Permit

An oversize or overweight vehicle or load permit shall be required for all oversize or overweight vehicles or loads as defined in Sections 42-4-501 through 42-4-511, C.R.S., which use Town streets. Said permit, if required, shall be obtained from the Town prior to such use. The applicant shall comply with all Town and state regulations regarding weight limitations on streets within the Town, and the applicant shall minimize oversize or overweight vehicle traffic on streets within the Town.

Sec. 19-7-365. Location Restrictions

(a) Well Sites may only be located within the non-residential zoning districts without obtaining a Waiver: Agricultural (A), Industrial (IN), and Light Industrial (LI).
Well Sites proposed within Town limits shall be at least 1,000 feet from the following unless a Waiver is obtained:

1. The property line of any existing or platted residences, schools, Future School Facilities, hospitals, medical clinics, senior living or assisted living facilities, or state licensed daycares; and

2. Public parks or neighborhood parks, not including trails or Town-designated Open Space.

Well Sites proposed within Town limits shall be at least 500 feet from the following:

1. Public Water Supply Wells; and

2. Existing and approved future reservoirs.

Violation of any federal, state or local laws or regulations shall be a violation of this Section.

The well and tank battery shall comply with all applicable federal, state and local laws and regulations when located in a floodway or a 100-year floodplain area.

All equipment at Well Sites located within a 100-year floodplain shall be anchored as necessary to prevent flotation, lateral movement or collapse or shall be surrounded by a berm with a top elevation at least one foot above the level of a 100-year flood.

Any activity or equipment at any Well Site within a 100-year floodplain shall comply with applicable Town Floodplain Regulations and the Federal Emergency Management Act and shall not endanger the eligibility of residents of the Town to obtain federal flood insurance.

Sec. 19-7-370. Violations, Enforcement and Penalties.

(a) Unlawful to Construct or Install Unapproved Oil and Gas Facilities

1. Except as otherwise provided in this Section, it is unlawful to construct, install or cause to be constructed or installed any oil and gas Well or Production Site within the Town unless approval of an oil and gas permit has been granted by the Board of Trustees. The unlawful drilling or redrilling of any well or the production therefrom is a violation of this Section.

2. It is unlawful to fail to obtain an oil and gas permit or change of operations permit where one is required pursuant to this Section.
(3) It is unlawful to provide false, misleading, deceptive or inaccurate information and/or documentation in an application for an oil and gas permit or change of operations permit. Except as otherwise provided in this Section, it is unlawful for the applicant to provide information and/or documentation upon which the approval of an oil and gas permit was based, which the applicant, its agents, servants or employees knew or reasonably should have known was materially false, misleading, deceptive or inaccurate.

(b) **Penalty.** Any person convicted of a violation of any of the acts enumerated in Subsections (1), (2) and (3) above, or who commits any act or omission in violation of any provision of this Section, or of the conditions and requirements of the oil and gas permit, may be punished by a fine in an amount not to exceed two thousand six hundred fifty dollars ($2,650.00), (as such amount is adjusted for inflation beginning January 1, 2014, and on January 1 of each year thereafter based on the annual percentage change in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index) for each day that the violation continues, each such day considered and held to be a separate and distinct offense.

(c) **Civil Action.** In case any Well, Production Site, building or structure is or is proposed to be erected, constructed, reconstructed, maintained, altered or used, or any land is, or is proposed to be, used in violation of any provision of this Section or the conditions and requirements of the oil and gas permit or any change of operations permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, maintenance, alteration or use.

(d) **Recovery of Fees.** Should the Town prevail in any action for legal or equitable relief for a violation of the provisions of this Section, in addition to any other penalties or remedies which may be available, the Town shall be entitled to recover any damages, costs of action, expert witness fees, and reasonable attorneys' fees incurred.

**Section 3. Amend Section 19-7-250.** Section 19-7-250 of the Lochbuie Land Development Code is hereby amended to add the following new defined terms and language as shown in ALL CAPS and to delete certain terms and language as sown in strike-through below with all other defined terms unaffected.

*BEST MANAGEMENT PRACTICES (BMPS) MEANS, THEY RELATE TO OIL AND GAS OPERATIONS, TECHNOLOGIES AND PRACTICES LISTED IN THE TOWN’S ADOPTED BEST MANAGEMENT PRACTICES FOR OIL AND GAS FACILITIES, ALSO KNOWN AS THE BMP DOCUMENT.* BMPS ARE DESIGNED TO PREVENT
OR REDUCE IMPACTS CAUSED BY OIL AND GAS OPERATIONS TO AIR, WATER, SOIL, OR BIOLOGICAL RESOURCES, AND TO MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY AND WELFARE, INCLUDING THE ENVIRONMENT AND WILDLIFE RESOURCES.

Blowout means the uncontrolled discharge of gas, liquid or solids, or a mixture thereof, from a well into the atmosphere.

Blowout preventer means a mechanical, hydraulic, pneumatic or other device, or a combination of such devices, secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith designed and capable of preventing a blowout.

COGCC MEANS THE COLORADO OIL AND GAS CONSERVATION COMMISSION.

Completion of drilling A WELL means that a well is completed, for the purposes of these regulations, when it has been made physically capable of production.

Deleterious substances means any chemical, salt water, oil field brine, waste oil, waste-emulsified oil, basic sediment, mud or injurious substances produced or used in the drilling, development, producing, transportation, refining and processing of oil.

Derrick means any framework, tower or mast, together with all parts of and appurtenances to such structure, including any foundation, pump house or pipe rack, and each and every part thereof, which is or are required, used or useful for the drilling for and the production of oil, gas or other hydrocarbons from the earth, except permanent tanks used for storage purposes.

Directional drilling means the intentional changing of the direction of the well from the vertical.

Drill rig means that equipment used to drill an exploration hole or an oil and gas well; capable of drilling greater than three hundred (300) feet.

Drill site means the premises used during the drilling and subsequent life of a well or wells, which is necessary for the safe operation thereof.

Drilling fluid means the fluid used in the hole during drilling or other operations.

DRILLING AND SPACING UNIT AS DEFINED BY COLORADO REVISED STATUTES §34-60-116(2), MEANS A “COMMON SOURCE OF SUPPLY” OF OIL
AND GAS THAT MAY BE TARGETED BY ONE OR MORE OIL AND GAS WELLS OR AS AMENDED BY COGCC RULE OR STATUTE

Enhanced recovery operation means the introduction of fluid or energy into a common source of supply for the purpose of increasing the recovery of oil therefrom according to a plan which has been approved by the State Oil and Gas Commission.

Exploration means the search for natural accumulations of oil and gas.

Exploration hole means a hole, usually three (3) inches in diameter and several hundred feet deep, used for exploration.


FUTURE SCHOOL FACILITY, AS IT RELATES TO OIL AND GAS OPERATIONS, MEANS A SCHOOL FACILITY THAT IS NOT YET BUILT, BUT THAT THE SCHOOL OR SCHOOL GOVERNING BODY PLANS TO BUILD AND USE FOR STUDENTS AND STAFF WITHIN FOUR YEARS OF THE DATE OF THE PREAPPLICATION CONFERENCE. IN ORDER TO BE CONSIDERED A FUTURE SCHOOL FACILITY, THE TOWN ADMINISTRATOR MUST BE PROVIDED COMPELLING EVIDENCE THAT THE SCHOOL IS PLANNED AND WILL BE BUILT WITHIN FOUR YEARS.

Gas valve means production equipment at the mouth (top) of a gas well.

GATHERING LINE MEANS A PIPELINE AND EQUIPMENT DESCRIBED BELOW 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.

Hydraulic pump means an oil well pump which uses hydraulic movement or hydraulic pressure to extract oil from beneath the surface.
LEGACY OIL AND GAS FACILITY MEANS ANY WELL, EQUIPMENT OR FACILITY DRILLED OR CONSTRUCTED PRIOR TO 2020 OR THAT OCCURRED PRIOR TO ANNEXATION OF ADDITIONAL ACREAGE WITHIN THE TOWN.

Material Safety Data Sheet (MSDS) means a form with data regarding the properties of a particular substance, which is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (i.e. melting point, boiling point, flash point), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

Mouth of well means the surface opening of an oil or gas well.

OIL AND GAS MEANS OIL OR GAS, OR BOTH OIL AND GAS.

OIL AND GAS FACILITY MEANS EQUIPMENT, BUILDINGS, STRUCTURES, OR IMPROVEMENTS ASSOCIATED WITH OR REQUIRED FOR THE OPERATION OF A WELL SITE, PIPELINE, OR COMPRESSOR FACILITY. FACILITIES INCLUDE, BUT ARE NOT LIMITED TO, WELL SITES, PRODUCTION FACILITIES, PRODUCTION SITES, TREATMENT FACILITIES, ACCESS ROADS, WELL PADS, TANK BATTERIES, PITS, AND FLOWLINES.

OIL AND GAS PERMIT MEANS ANY PERMIT ISSUED BY THE TOWN THAT ALLOWS AN OPERATOR TO CONDUCT OIL AND GAS WELL OPERATIONS.

OIL AND GAS PIPELINE MEANS A FLOWLINE, GATHERING LINE, OR TRANSMISSION LINE THAT TRANSPORTS OIL AND GAS OFF OF A WELL SITE.

OIL AND GAS WELL MEANS A HOLE DRILLED INTO THE EARTH FOR THE PURPOSE OF EXPLORING FOR OR EXTRACTION OF OIL, GAS, OR OTHER HYDROCARBON SUBSTANCES.

OIL AND GAS OPERATION(S) OR OPERATION(S) MEANS EXPLORATION FOR OIL AND GAS, INCLUDING THE DRILLING OF TEST BORES; THE SITING; DRILLING; DEEPENING, COMPLETION RECOMPLETION, REWORKING, OR ABANDONMENT OF AN OIL AND GAS WELL; PRODUCTION OPERATIONS RELATED TO ANY SUCH WELL INCLUDING THE INSTALLATION OF FLOWLINES AND GATHERING SYSTEMS; THE GENERATION, TRANSPORTATION, STORAGE AND TREATMENT OF OIL AND GAS; ANY CONSTRUCTION, SITE PREPARATION, OR RECLAMATION ACTIVITIES ASSOCIATED WITH SUCH OPERATIONS; AND ANY OIL AND GAS FACILITY, OIL AND GAS WELL SITE OR LOCATION, PRODUCTION SITE OR OTHER FACILITY, SITE OR LOCATION UPON OR WITHIN WHICH ANY OF THE FOREGOING ARE CONDUCTED, OPERATED, INSTALLED, CONSTRUCTED, GENERATED TREATED OR LOCATED.
Oil sump means any open depression or basin in the ground, whether man-made or natural, which contains oil or a combination of oil and water.

PRODUCTION SITE MEANS, AS IT RELATES TO OIL AND GAS OPERATIONS, THE SURFACE AREA IMMEDIATELY SURROUNDING PROPOSED OR EXISTING PRODUCTION EQUIPMENT, OR OTHER ACCESSORY EQUIPMENT NECESSARY FOR OIL AND GAS PRODUCTION ACTIVITIES, INCLUDING THE FENCED, WALLED, OR ENCLOSED AREA OF THE FACILITY DURING THE PRODUCTION PHASE, EXCLUSIVE OF TRANSMISSION AND GATHERING PIPELINES.

PUBLIC WATER SUPPLY WELL MEANS A WELL OR SYSTEM OF WELLS THAT PROVIDE WATER VIA PIPING OR OTHER CONSTRUCTED CONVEYANCES FOR HUMAN CONSUMPTION TO AT LEAST 15 SERVICE CONNECTIONS OR SERVES AN AVERAGE OF AT LEAST 25 PEOPLE FOR AT LEAST 60 DAYS EACH YEAR.

Retaining pit means earthen excavation used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells.

Submersible pump means an oil well pump located beneath the ground surface.

SURFACE USE AGREEMENT SHALL MEAN AN AGREEMENT OR CONTRACT BETWEEN AN OPERATOR AND THE OWNER OF REAL PROPERTY ADDRESSING PROPERTY INTERESTS OR PROPERTY USE IN RELATION TO A SPECIFIC LOCATION FOR A WELL, MULTI-WELL SITE, PRODUCTION FACILITY, PIPELINE OR ANY OTHER OIL AND GAS FACILITY.

WELL SITE MEANS, AS IT RELATES TO OIL AND GAS OPERATIONS, A DEFINABLE AREA WHERE AN OPERATOR HAS DISTURBED OR INTENDS TO DISTURB THE LAND SURFACE IN ORDER TO LOCATE AN OIL AND GAS WELL FACILITY AND INCLUDES A PRODUCTION SITE.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety and welfare of the public, and that this
Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

**Section 6. Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 7. Effective Date.** This Ordinance shall take effect thirty (30) days after publication, as provided by C.R.S. § 31-16-105 and Sections 1-3-60 and 2-2-110 of the Lochbuie Land Development Code.

ADOPTED by a vote of ___ in favor, __ against and __ abstaining, AND ORDERED PUBLISHED by title only following public hearing, this ___ day of ______________, 2020.

TOWN OF LOCHBUIE, COLORADO

________________________
Jacob Lofgren, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of ________________, 2020, and ordered published by title only one time by *The Brighton Blade* newspaper on ________________, 2020.

[SEAL]

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Linda Blackston, Town Clerk
ORDINANCE NO. 2020-650

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, COLORADO, AMENDING SECTION 1-3-60, ARTICLE VII OF CHAPTER 2 AND SEVERAL SECTIONS OF CHAPTER 19 OF THE TOWN CODE CONCERNING THE PLANNING COMMISSION IN ORDER TO ALLOW FOR ALL DUTIES AND AUTHORITIES OF THE PLANNING COMMISSION TO BE PERFORMED AND EXERCISED BY THE BOARD OF TRUSTEES AND ELIMINATING THE PLANNING COMMISSION REVIEW STEP IN CERTAIN LAND USE APPLICATION REVIEWS AND DECLARING AN EMERGENCY

WHEREAS, the Town of Lochbuie is a statutory municipality, governed by its elected Mayor and Board of Trustees; and

WHEREAS, Sections 31-23-201 et seq., C.R.S., authorizes statutory municipalities to create a planning commission with certain duties and powers, and Section 31-23-227(a), C.R.S., provides that a governing body may by ordinance assume and exercise any power granted to or duty placed upon the municipal planning commission; and

WHEREAS, Article VII of Chapter 2 of the Lochbuie Municipal Code sets forth the Town provisions that govern creation, membership and powers of the Town’s Planning Commission; and

WHEREAS, Section 2-7-30 of the Municipal Code provides that the Town’s Planning Commission shall consist of 5 citizen members and Section 2-7-40 provides that such citizen members shall hold no other municipal office; and

WHEREAS, the Town Board of Trustees, despite advertising therefor, has historically had and currently has difficulty maintaining a full roster of qualified citizen members of the Town’s Planning Commission; and

WHEREAS, the Town Board of Trustees recently appointed members to the Planning Commission who agreed to serve only for the purpose of considering whether elimination of the Planning Commission review as effected by this Ordinance is beneficial to the Town; and

WHEREAS, the Planning Commission considered and recommended to the Board at a public meeting held on January 21, 2020, that it adopt this Ordinance; and

WHEREAS, notice of a public hearing before the Board of Trustees to consider this Ordinance was published at least 15 days before such hearing in a newspaper of general circulation; and
WHEREAS, the Town Board of Trustees desires to amend the Town Code provisions in Section 1-3-60 and Article VII of Chapter 2 of the Lochbuie Municipal Code, such that the Town Board of Trustees, as contemplated by Section 31-23-227(a), C.R.S., shall assume and exercise any power granted to or duty placed upon the municipal planning commission; and

WHEREAS, the Town Board of Trustees desires to amend several sections of Chapter 19 of the Town Code, the Land Development Code, to eliminate the Planning Commission step in land use reviews, and otherwise to assign to the Board of Trustees duties and powers previously assigned to the Planning Commission; and

WHEREAS, the Town Board of Trustees hereby declares that an emergency exists and the immediate effectiveness of this Ordinance is necessary in order for the Town to continue to process land use applications and zoning text amendments necessary to protect public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, WELD AND ADAMS COUNTIES, COLORADO, AS FOLLOWS:

Section 1. Amendment of Subsection (b) of Section 1-3-60. Subsection (b) of Section 1-3-60 of the Town Code shall be amended as follows with additions in ALL CAPS and deletions shown as strike throughs:

(b) All legal notices, notices of regular and special meetings of the Board of Trustees, the Planning Commission and any other board, committee, commission, authority or other advisory, policy-making, rule-making or formally constituted body of the Town, shall be posted at the site annually designated by resolution by the Board of Trustees at its first regular meeting of each year.

Section 2. Repeal and replace Article VII of Chapter 2 of the Lochbuie Municipal Code. Article VII of Chapter 2 of the Lochbuie Municipal Code is repealed in its entirety and replaced with the following:

ARTICLE VII - Planning Commission

Sec. 2-7-10. – Assignment of Planning Commission and Zoning Commission Powers and Duties.

(a) Pursuant to the authority conferred by Section 31-23-227(a), C.R.S., the Town Board of Trustees shall assume and exercise any power granted to or duty placed upon municipal planning commissions by Part 2 of Article 23, Title 31, C.R.S.

(b) Pursuant to 31-23-306, C.R.S., in acting as the planning commission for the Town, the Town Board of Trustees shall also be the appointed zoning commission for the Town.
Section 3. Amendment of Subsection (a) of Section 19-1-180. Subsection (a) of Section 19-1-180 of the Town Code shall be amended as follows with additions in ALL CAPS and deletions shown as strike-throughs:

(a) Text amendments. The Planning Commission or Board of Trustees may initiate text amendments to this Chapter. Private persons may not initiate text amendments. This Section does not affect citizen rights of initiative under the Colorado Constitution.

Section 4. Amendments to Section 19-1-215. Section 19-1-215 of the Town Code shall be amended as follows with additions in ALL CAPS and deletions shown as strike-throughs:

Sec. 19-1-215. - Land use review procedures.

(a) Except as otherwise specified, any property owner may apply for approval of a land use pursuant to this Chapter.

(b) Complete applications must be submitted at the point of initiation of the land use review process. A separate application is required for each phase of a subdivision or planned unit development review process. The application shall include all of the items identified in Appendix One for the type of approval sought. Incomplete applications will not be scheduled for review until a determination of completeness is issued.

(c) The number of copies of the required application information are shown on Appendix One. All maps and reports shall bear suitable evidence of the professional qualifications of the person responsible for the preparation of the map or report. Engineering information must be certified by a professional engineer licensed in the State of Colorado. All required documents containing land survey descriptions and topographic maps must be certified by a professional land surveyor licensed in the State of Colorado.

(d) Except as otherwise set forth in this Chapter for administrative review by the Town Administrator, land use applications are reviewed by both the Planning Commission and the Board of Trustees, as shown on the Review Procedures Chart (Table 1.1), below. The Planning Commission reviews an application and makes a recommendation to the Board of Trustees, unless the Commission is the final review body, all as shown on Table 1.1.

(e) The Planning Commission and Board of Trustees shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the Town staff, and comments from the public.

(f) The Planning Commission shall complete its review and make its recommendation to the Board of Trustees no later than thirty (30) days from the date of the initial Commission meeting or hearing. The Planning Commission may recommend
approval, conditional approval or denial, indicating any particular conditions for approval, and its reasons for a recommendation of denial.

(f) The Board of Trustees shall act upon the application within forty-five (45) days of the date of the Planning Commission action. The Board of Trustees may approve, approve with conditions, or deny an application. Conditions may be imposed on length of permit approval or other aspects of the activity designed to ensure compatibility with the standards of this Chapter and any policies or other adopted standards of the Town.

(g) For those applications for which the Town Administrator has authority to review and render a decision, the Town Administrator shall approve, approve with conditions, or deny the application within thirty (30) days of determination that the application is complete.

(h) The Town Administrator, Planning Commission and the Board of Trustees may conduct, or require the applicant to conduct, such investigations, examinations, tests and site evaluations as they deem necessary to verify any information contained in the application. The applicant shall grant the Town permission to enter upon the land for these purposes. The applicant shall pay the Town for the cost of any such investigations, examinations or evaluations.

(i) For applications for approval of telecommunication facilities, the Town will follow the federally-mandated deadlines for action in Section 19-7-240.

(j) The following chart describes the review process for all land use approvals:

Section 5. Amendment to Table 1.1 of Section 19-1-215. Table 1.1 of Section 19-1-215 of the Town Code is amended by (a) eliminating the sub-column that is headed “PC” under the column headed “Approval”; and (b) eliminating “PC: Planning Commission” in the Legend to such table.

Section 6. Amendment to subsection (a) of Section 19-1-225. Subsection (a) of Section 19-1-225 of the Town Code is hereby amended by eliminating the words “Planning Commission,” in the last sentence thereof.

Section 7. Amendment of Section 19-1-240. Section 19-1-240 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs:

The Board of Trustees, Planning Commission, Board of Adjustment, and Town Administrator shall maintain a record of their proceedings in the form of minutes, resolutions, ordinances, and memoranda of decision, as appropriate. The record shall include comments of the reviewing agencies as well as the recommendation of the Planning Commission for applications finally decided by the Board of Trustees.
Section 8. Amendment to subsection (a)(1) of Section 19-1-245. Subsection (a)(1) of Section 19-1-245 of the Town Code is hereby amended by replacing “Planning Commission” with “Board of Trustees”.

Section 9. Amendment to subsection (d) of Section 19-1-250. Subsection (d) of Section 19-1-250 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs:

Alternative creation of vested property rights. Vested PROPERTY rightS are created only by the final approval step prior to issuance of a building permit. If any applicant desires a different approval step to constitute an approval of a site-specific development plan, the applicant must so request at least thirty (30) days prior to the date said approval by the Board of Trustees or Planning Commission, as applicable, is to be considered. Failure to do so renders the approval by the Board of Trustees or Planning Commission, to not constitute an approval of a "site specific development plan" and no vested property right shall be deemed to have been created by such approval.

Section 10. Amendment to subsection (b) of Section 19-2-165. Subsection (b) of Section 19-2-165 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs:

All park and open space dedication requirements memorialized in the existing approved PUD agreements and plans of development continue to apply to the completion of such existing PUDs (unless amended as permitted below). Such existing requirements, include, but are not limited to, land to be dedicated for public use or the cash payment in lieu of dedication, as well as the requirement that the developer of the planned unit development set aside twenty-five percent (25%) of the gross land area of the subdivision for common open space. Such open space shall not include streets, alleys, bicycle paths, easements or rights-of-way. Such open space shall be subject to Planning Commission and Board of Trustees approval.

Section 11. Amendment to subsections (a)(2), (d), (g) and (g)(1) and (g)(2) of Section 19-2-170. Subsections (a)(2), (d), (g) and (g)(1) and (g)(2) of Section 19-2-170 of the Town Code are hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and with current subsections (g)(3), (g)(4) and (g)(5) being renumbered (g)(2), (g)(3) and (g)(4) and all other subsections of such section unchanged:

Sec. 19-2-170. - Rezoning.

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(a)(2) Requests for rezoning initiated by the Board of Trustees, Planning Commission or Town staff will be prepared as a draft ordinance by the Town Attorney and Town staff and shall be reviewed and considered by the Planning Commission and presented to the Board of Trustees at a public hearing. In this instance, the Town shall be considered to be the applicant.

*****
(d) The Planning Commission and Board of Trustees may consider the following evaluation criteria for the analysis of rezoning applications:

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(g) The Board of Trustees may, upon the request of the Planning Commission, Town staff or on its own motion, initiate a procedure for rezoning a significant area of the Town, consisting of six (6) or more individual ownership parcels. This rezoning is a legislative, not a quasi-judicial act, and may be accomplished by ordinance without notice to individual landowners. The procedure for legislative rezoning shall be as follows:

1. Requests for legislative rezoning initiated by the Board of Trustees, Planning Commission or Town staff will be prepared as a draft ordinance by the Town Attorney and Town staff and shall be reviewed and considered by the Planning Commission and presented to the Board of Trustees in a public hearing. In this instance, the Town shall be considered to be the applicant.

2. After conducting its review on the request, the Planning Commission shall transmit its recommendations to the Board of Trustees.

Section 12. Amendment to subsections (d) and (d)(5) of Section 19-3-225. Subsections (d) and (d)(5) of Section 19-3-225 of the Town Code are hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

(d) The Planning Commission BOARD OF TRUSTEES shall have the authority to require changes in the preliminary submittal which more fully meet the purposes of this Article as set forth in Section 19-3-105. In reviewing preliminary submittals that have been submitted to it, the Planning Commission BOARD OF TRUSTEES shall not only ensure that the intent and requirements of this Article are followed, but it shall also determine the extent to which the goals and policies embodied in the land use plan are met. The preliminary submittal, along with the available comments of the review agencies and all other comments, shall be presented at the public hearing. The burden of proof shall be on the subdivider to show the reasonableness of the plan, the lack of adverse effect and compliance with the following elements of the public health, safety and general welfare:

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(5) The subdivision will not cause air pollution. In making this determination, the Planning Commission BOARD OF TRUSTEES shall consider the elevation of land above sea level, land topography, prevailing winds or the absence thereof, local and regional airsheds, increase in sources or quantity of emission, as well as quality of such, and such other items as are deemed pertinent.
Section 13. Amendment to subsection (b) of Section 19-3-230. Subsection (b) of Section 19-3-230 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

(b) Submittal requirements. Not more than twelve (12) months after approval of a preliminary plat application, the applicant shall file a sufficient number of copies, as determined by the Town Administrator, of the final plat application along with any additional information required by the Planning Commission or the Town Board during the preliminary plat process. The applicant shall submit all required materials specified in Appendix One.

Section 14. Amendment to Section 19-3-255. Section 19-3-255 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

Sec. 19-3-255. - Concurrent review.

The applicant may choose to submit its preliminary and final plat application together, for concurrent review. In that case, all submission materials must accompany the (combined) application, and the Town Administrator, Planning Commission and Board of Trustees shall consider both submittals at combined hearings.

Section 15. Amendment to subsections (c) and (d) of Section 19-4-125. Subsections (c) and (d) of Section 19-4-125 of the Town Code are hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

(c) Where a subdivision abuts or contains an existing or proposed primary street or highway, the Board of Trustees may require, after Planning Commission review, service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.

(d) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Board of Trustees, after Planning Commission review, may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distance shall be determined with due regard for the requirements of approach grades and future grade separations.

Section 16. Amendment to subsection (a) of Section 19-4-145. Subsection (a) of Section 19-4-145 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

(a) Drainage areas shall be left in a natural state unless approved by the Planning Commission BOARD OF TRUSTEES, and no encroachment shall be made on the natural channel. A plan to prevent water pollution shall be submitted and
adhered to wherever any modification of topography is required during construction within one hundred (100) feet of any stream, irrigation ditch or drainage channel

**Section 17. Amendment to subsection (i) of Section 19-4-185.** Subsection (i) of Section 19-4-185 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

(i) Height standards for lighting; nonresidential. Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than twenty-five (25) feet from the ground, unless a greater height, not to exceed the maximum building height in the applicable zone district, is approved by the Planning Commission or Board of Trustees through the site plan review process. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three (3) or four (4) feet high.

**Section 18. Amendment to first sentence of Section 19-7-120.** The first sentence of Section 19-7-120 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

Sec. 19-7-120. - Criteria for park land dedications.

Except as otherwise required by the Planning Commission at the time of preliminary plat approval or by the Board of Trustees on acceptance of the dedication at final plat, all dedications of land under this Division shall meet the following criteria. These criteria should be considered general guidelines to ensure that dedicated land is suitable for park development.

**Section 19. Amendment to subsection (b) of Section 19-7-160.** Subsection (b) of Section 19-7-160 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

(b) If the reviewing body (Town Administrator, Planning Commission, or Board of Trustees, as appropriate) determines that the proposed development makes necessary any such public improvements, a condition shall be inserted in the development approval which shall require the construction of such public improvements by the permittee, and the dedication thereof to the Town. The cost of such improvements shall be borne by the permittee, and the construction thereof shall be at the sole cost, risk and expense of the permittee, subject to the provisions of any applicable Town ordinance, regulation or policy. All such improvements are to be constructed in full compliance with the Town's engineering regulations, design standards and construction specifications as may be adopted from time to time.

**Section 20. Amendments to Section 19-7-520.** Section 19-7-520 of the Town Code is hereby amended by (a) deleting the defined terms (and definitions of) “Planning Commission” and “Town Planning Commission”), and (b) changing the definition “Preapplication conference” as follows with additions in ALL CAPS and deletions shown as strike:
Preapplication conference means a conference at which a sketch map or maps of a proposed subdivision along with supporting material, prepared and submitted in accordance with the requirements of this Chapter, are presented by the subdivider to the Planning Commission, the Town's staff and members of the Board of Trustees who may want to attend, to evaluate feasibility and design characteristics at an early stage in the planning.

Section 22. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 23. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

Section 24. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 25. Emergency; Effective Date. The Board finds that an emergency exists in that the immediate preservation of the public health and safety requires that the regulations adopted herein go into immediate effect. This Ordinance shall take effect immediately upon its adoption as provided by C.R.S. § 31-16-105.

ADOPTED by a vote 3/4th of the members of the Town Board of Trustees, ___ in favor, __ against and __ abstaining, AND ORDERED PUBLISHED by title only following public hearing, this 4th day of February, 2020.

TOWN OF LOCHBUIE, COLORADO

_________________________________
Jacob Lofgren, Mayor
I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of ________________, 2020, and ordered published by title only one time by The Brighton Blade newspaper on _________________, 2020.

[SEAL]

______________________________  Linda Blackston, Town Clerk

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