

**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.

Land Use	A	RR	R-1	R-2	R-3		C	MU	L1		OS
OIL AND GAS FACILITIES											
Natural Gas Wells or Production	C								C		C
Oil/Petroleum Wells or Production	C								C		C
Oil and Gas Pipelines	C	C	C	C	C		C	C	C		C

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.

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 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 drilling or production 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 and BMPs 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 permit subject to these regulations.

- (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 surface location permit allowing Drilling or Operations on the Well Site that is the subject of the Town's permit, the term of the Oil and Gas Permit shall automatically be extended to 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 Town Administrator may grant a one-time extension for a period of up to one year 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.

- (7) The oil and gas permit and/or change of operations permit required by this Section is in addition to any permit which may be required by any other provision of this Code or by any other governmental agency.

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 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 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 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. 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.
- b. 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.
- c. All transportation routes which access the state highway system shall be required to obtain necessary Colorado Department of Transportation (CDOT) access permits.

(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 Well Site.
- 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 to the Town Administrator or designee. 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 applicable 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 or 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.

- (2) 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.

(h) *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 applicant 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 the applicant 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 following non-residential zoning districts without obtaining a Waiver: Agricultural (A), Industrial (IN), and Light Industrial (LI).

- (b) 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.
- (c) 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.
- (d) Violation of any federal, state or local laws or regulations shall be a violation of this Section.
- (e) 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.
- (f) 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.
- (g) 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, 2020, 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 shown in strike-through below withal 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.~~

FLOWLINES MEANS, AS IT RELATES TO OIL AND GAS OPERATIONS, THOSE SEGMENTS OF PIPE FROM THE WELLHEAD DOWNSTREAM THROUGH THE PRODUCTION FACILITIES ENDING AT: IN THE CASE OF GAS LINES, THE GAS METERING EQUIPMENT; OR IN THE CASE OF OIL LINES THE OIL LOADING POINT OR LACT UNIT; OR IN THE CASE OF WATER LINES, THE WATER LOADING POINT, THE POINT OF DISCHARGE TO A PIT, THE INJECTION WELLHEAD, OR THE PERMITTED SURFACE WATER DISCHARGE POINT.

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 EXTRACTING 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 4 in favor, 3 against and 0 abstaining, AND ORDERED PUBLISHED by title only following public hearing, this 4th day of February 2020.

TOWN OF LOCHBUIE, COLORADO



Jacob Lotgren, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of February 4, 2020 and ordered published by title only one time by *The Brighton Blade* newspaper on February 12, 2020.

[SEAL]



Linda Blackston, Town Clerk

