

ORDINANCE NO. 2164

AN ORDINANCE AMENDING CERTAIN SECTIONS OF TITLE 16 OF THE BROOMFIELD MUNICIPAL CODE RELATING TO REVERSE SETBACKS FOR RESIDENTIAL LAND USES FROM PLUGGED AND ABANDONED OIL AND GAS FACILITIES

WHEREAS, on November 17, 2017, Broomfield citizens adopted Ballot Question 301 which mandates that the City and County of Broomfield require all oil and gas development permitted within the City's boundaries to only occur in a manner that does not adversely impact the health, safety and welfare of Broomfield's residents in their workplaces, homes, schools, and public parks in order to protect the public's health, safety, and welfare and to safeguard the environment and wildlife resources; and

WHEREAS, the initial setback for oil and gas facilities set forth in B.M.C. 16-28-180 was passed in 1993 and amended in 1994 and again in 2019; and

WHEREAS, on July 28, 2021, the City amended the Code to modify the existing reverse setbacks from pre-production oil and gas locations; and

WHEREAS, oil and gas development creates both short-term and long-term impacts on public health and the environment and in order to protect and minimize adverse impacts to public health, safety, and welfare, Council finds it necessary to consider proximity of oil and gas facilities to residential land uses; and

WHEREAS, the City desires to amend reverse setbacks of new residential land uses from plugged and abandoned oil and gas wells.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

**Section 1.** Chapter 16-28-180(C) of the Broomfield Municipal Code is hereby amended to state as follows:

16-28-180 - Oil and gas wells.

(A) With the exception of those oil and gas locations identified in (C), no residential lots in any subdivision shall be platted any closer than ~~200~~**250** feet from an oil and gas facility as defined in section 17-54-020, B.M.C., regardless of whether said oil and gas location is located within or outside of the City and County of Broomfield.

(B) With the exception of those oil and gas locations identified in (C), no public or private school building in any subdivision shall be located any closer than 500 feet from an oil and gas location as defined in section 17-54-020, B.M.C., regardless of whether said oil and gas location is located within or outside of the City and County of Broomfield.

(C) No residential lots in any subdivision shall be platted and no public or private school building in any subdivision shall be located any closer than:

(1) 2000 feet from a permitted oil and gas location prior to the construction phase or an oil and gas location which is in the construction phase, drilling phase or completion phases as those terms are defined in

section 17-54-020, B.M.C., regardless of whether said oil and gas location is located within or outside of the City and County of Broomfield; and/or

- (2) **Except as stated in this subsection (2), 250 feet from a plugged and abandoned well, as defined in section 17-56-030(F), B.M.C regardless of whether said oil and gas well is located within or outside of the City and County of Broomfield. Such setback shall be reduced to 150 feet if, as determined by the City, the well was plugged and abandoned after April 1, 2009 and the following requirements have been met by the applicant / home builder / developer:**

- i. **Subslab, horizontal venting piping with atmospheric venting above the roof line.**
- ii. **Impervious membrane beneath foundation.**
- iii. **Gravel blanket beneath impervious membrane and around horizontal pipes.**
- iv. **Mechanical extraction/ventilation system with explosion proof mechanical systems.**
- v. **Gas detection system and alarm for lowest occupied space.**
- vi. **Utility trench dams.**
- vii. **Control panel for all mechanical systems.**
- viii. **Operating/as built instructions submitted to Broomfield Building Department prior to the issuance of the building permit for review and approval by the building official.**
- ix. **Prior to the system's installation as required by (iv) and (v) the builder shall provide to the building official an independent third party verification by an engineer, including a certification/stamp by a professional engineer with experience in the area of vapor mitigation, that the design is adequate.**
- x. **Builder shall have an approved system design from the City prior to the issuance of a building permit for the systems required by (iv) and (v) .**
- xi. **After the systems required by (iv) and (v) are installed, the builder shall provide to the building official an independent third party certification by an engineer, including a certification/stamp by a professional engineer with experience in the area of vapor mitigation, that the systems were installed and operate in general conformance with the approved design and installation standards. Such certification shall be provided to the City prior to the issuance of a Certificate of Occupancy.**
- xii. **An independent third party review of all reports, logs, and forms of all plugged and abandoned oil and gas wells within the proposed subdivision to determine if such wells were adequately plugged and abandoned under applicable COGCC regulations and do not pose a danger to the proposed residential lot(s). The review will be written and the resulting report shall describe any corrective action necessary based on the review and any required remedial action will be undertaken by the applicant at their expense.**

**Nothing in this subsection shall preclude the City from consulting with the COGCC's technical review board for added expertise to evaluate the report(s), any remedial work plan, and any final assessment of the remedial action completed.**

(D) The setbacks set forth in subsection (C) above shall not apply to:

- (1) Residential units constructed prior to the effective date of the ordinance.
- (2) Residential lots within a plat approved prior to the effective date of the ordinance.
- (3) Residential lots/units planned within a site development plan approved prior to the effective date of the ordinance.
- (4) Residential lots/units planned within a planned unit development plan approved prior to the effective date of the ordinance.
- (5) Property zoned A-1(A) (Adams County Legacy Agricultural).

(E) No final plat shall be submitted to the City for approval if such plat includes any lot, upon which a dwelling unit or public or private school could be built, within 1,320 feet from an existing, permitted or proposed oil or gas location (regardless of whether said oil and gas location is located within or outside of the City and County of Broomfield) unless the subdivider records against title to such lots the following notice, in at least 14-point font: "As required by Section 16-28-180 of the Broomfield Municipal Code, notice is hereby given that [insert description of lot] contains, or in the future could contain, a dwelling unit or public or private school within 1,320 feet of a producing, permitted or proposed oil or gas location. For more information contact the City and County of Broomfield or the Colorado Oil and Gas Conservation Commission." Such written notice may only be amended or terminated by the owner of such lot to correct typographical errors or to reflect the plugging and abandonment of wells. When any lot subject to the above written notice is first sold after plat approval to a purchaser intending to occupy the dwelling unit, the seller must provide the above written notice, in at least 14-point font, to the purchaser.

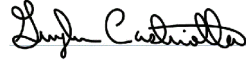
(F) As used in this section, "dwelling unit" has the meaning set forth in section 17-04-100, B.M.C. "Oil or gas location" has the meaning set forth in section 17-54-020, B.M.C. and excludes wells that have been plugged and abandoned in accordance with state regulations. "Proposed oil or gas location" includes those wells for which a Form 2 or Form 2A has been submitted to the Oil and Gas Conservation Commission (COGCC) and has not expired or been withdrawn or denied by the COGCC.

**Section 2.** This ordinance shall be effective seven days after publication following final passage.

INTRODUCED AND APPROVED after first reading on September 28, 2021, and ordered published in full.

INTRODUCED A SECOND TIME and approved on October 26, 2021, and further ordered published.

THE CITY AND COUNTY OF BROOMFIELD,  
COLORADO



\_\_\_\_\_  
Mayor

ATTEST:



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Deputy City Clerk



APPROVED AS TO FORM:



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City and County Attorney

First Publication: October 3, 2021

Second Publication: October 31, 2021