

**WELD COUNTY  
CODE ORDINANCE 2022-01**

**IN THE MATTER OF REPEALING AND REENACTING, WITH AMENDMENTS, CHAPTER 21 AREAS AND ACTIVITIES OF STATE INTEREST, AND CHAPTER 23 ZONING OF THE WELD COUNTY CODE**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WELD, STATE OF COLORADO:**

**WHEREAS**, the Board of County Commissioners of the County of Weld, State of Colorado, pursuant to Colorado statute and the Weld County Home Rule Charter, is vested with the authority of administering the affairs of Weld County, Colorado, and

**WHEREAS**, the Board of County Commissioners, on December 28, 2000, adopted Weld County Code Ordinance 2000-1, enacting a comprehensive Code for the County of Weld, including the codification of all previously adopted ordinances of a general and permanent nature enacted on or before said date of adoption, and

**WHEREAS**, the Weld County Code is in need of revision and clarification with regard to procedures, terms, and requirements therein.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of the County of Weld, State of Colorado, that certain existing Chapters of the Weld County Code be, and hereby are, repealed and re-enacted, with amendments, and the various Chapters are revised to read as follows.

**CHAPTER 21**

**AREAS AND ACTIVITIES OF STATE INTEREST**

**ADD ARTICLE VI – Regulations for Location Assessment for Pipelines – Petroleum Products in the Unincorporated Area of Weld County**

**Division 1 – General and introductory provisions**

The regulations in this Article VI are not adopted pursuant to the authority set forth in the Colorado Areas and Activities of State Interest Act ("AASIA"), Sec. 24-65.1-101, et seq., C.R.S. Rather, they are adopted pursuant to Weld County's land use authority granted in the Colorado Local Government Land Use Enabling Act, Sec. 29-20-101, et seq., C.R.S.; the County Planning and Building Code statutes set forth in Title 30, Article 28, C.R.S.; the powers and authorities conferred upon home rule counties set forth in Title 30, Article 35, C.R.S., including authority to adopt the Weld County Home Rule Charter to ensure self-determination and to promote the health, safety, security and general welfare of the people of Weld County. These regulations are placed in this Article VI because of their subject matter commonality and association with the regulations found in Article V of this Chapter 21.

## **Sec. 21-6-10. Definitions.**

The following terms specific to the designation of site selection and construction of Pipelines – Petroleum Products shall be construed to have the meanings set forth as follows:

*Applicant:* means the person or entity who applies for a LAP Permit. The Applicant may be referred to herein as the “LAP Permittee” or “Operator”.

*Application:* means the LAP Permit application filed by the Applicant pursuant to Sec. 21-6-120 of this Code and may also be referred to herein as the “Location Assessment for Pipeline Permit Application, or LAP Permit Application”.

*Authority Having Jurisdiction:* means any other entity which may have jurisdiction over a certain area or may own or operate certain features affected by the Application. Certain examples may include the State of Colorado, municipalities, metro districts, or ditch companies. Authority Having Jurisdiction may also be referred to herein as “AHJ.”

*Best Management Practices (BMPs):* means practices that are designed to prevent or reduce impacts caused by Pipelines or Pipeline construction to air, water, soil, or biological resources, and to Minimize Adverse Impacts to public health, safety and welfare, including the environmental and Wildlife Resources.

*Board of County Commissioners:* may also be referred to herein as “BOCC” or “Board”.

*CDPHE:* means the Colorado Department of Public Health and Environment.

*Construction Phase:* means all those activities related to the LAP Permit prior to the Pipeline being put in service, including but not limited to clearing and grubbing, trenching, stringing of pipe, laying of pipe, welding, backfilling, and reclamation pursuant to Sec. 21-6-345. Construction Phase does not include activities such as surveying, staking, etc.

*CPW:* means Colorado Parks and Wildlife.

*Crop Land:* means lands which are cultivated, mechanically or manually harvested, or irrigated for vegetative agricultural production, excluding range land.

*Floodplain:* when used in this Article VI, shall have the same meaning as the definition included in Sec. 23-1-90.

*High Priority Habitat:* means the high priority wildlife habitat areas in Weld County identified in Rule 1203 of the Colorado Oil and Gas Conservation Commission Rules.

*LAP Permit:* means a Location Assessment for Pipeline Permit issued pursuant to this Article VI, and may also be referred to herein as “LAP”.

*Local Government:* means a county (in this Article VI other than Weld County), home rule or statutory city, town, territorial charter city or county, or any special district established pursuant to

the Special District Act, Sec. 32-1-101 to 32-11-807 (2013) C.R.S, which is located within three (3) miles from either side of the permanent easement for the Pipeline.

*Minimize Adverse Impacts:* means, wherever reasonably practicable, and taking into consideration cost effectiveness, technical feasibility and the Development Standards set forth in Division 3 of this Article VI, to avoid adverse impacts to public health, safety, environment and Wildlife Resources, including cumulative impacts where practicable. Operators shall minimize the extent and severity of those impacts that cannot be avoided considering such minimization is reasonably practicable, takes into consideration cost effectiveness, and is technically feasible.

*Non-Crop Land:* means all lands which are not defined as Crop Land, including range land.

*OGED:* means the Oil and Gas Energy Department.

*OGED Director:* means the Director of the Oil and Gas Energy Department, or their designee.

*Operation and Maintenance Phase:* means the activities associated with the daily operations, routine upkeep, normal repairs, parts replacements, and other activities required to preserve a Pipeline so that it continues to function safely, as intended, and to allow it to reach its expected life.

*Operator:* means any Person who exercises the right to control the conduct of Pipelines – Petroleum Products. An Operator may be an Applicant for a LAP Permit. The Operator may be referred to herein as the “Applicant.”

*Operator Registration:* means the process by which a Person, company or other entity has submitted an Operator Registration to the OGED Director. Operator Registration shall be completed on a form provided by OGED and shall be kept on record so long as the Person, company or other entity has operational Pipelines in Weld County.

*Overlay Zoning Districts:* when used in this Article VI, shall have the same meaning as the definition included in Sec. 23-1-90.

*Add Person:* means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind.

*Pipeline – Petroleum Products:* for this Article VI, any pipeline and appurtenant facilities (whether underground or above ground) capable of transporting natural gas, which is twelve (12) inches in diameter or larger, or oil, including other petroleum derivatives, which is thirteen (13) inches in diameter or larger, as measured from the outside of the pipeline, regardless of hoop stress. Pipeline – Petroleum Products may also be referred to in this Article VI as “Pipeline”.

*Pipeline Route:* means the permanent easement within which the Pipeline is located, may also be referred to herein as “Permanent Easement” or “Route”.

*Reclamation*: means the process of returning or restoring the surface of disturbed land as nearly as practicable to its condition prior to the commencement of Pipeline construction activity, or to landowner specifications. Reclamation standards are detailed further in Sec. 21-6-345 of this Article VI.

*Reference Area*: means an area either (1) on a portion of the site that will not be disturbed by the Pipeline, if that is the desired final Reclamation; or (2) another location that is undisturbed by Oil and Gas Operations and proximate and similar to a proposed Oil and Gas Location in terms of vegetative potential and management, owned by a person who agrees to allow periodic access to it by the OGED Director and the Operator for the purpose of providing baseline information for Reclamation standards, and intended to reflect the desired final Reclamation.

*Release*: means any unauthorized discharge of Pipeline products to the environment over time.

*Spill*: means any unauthorized sudden discharge of Pipeline products to the environment.

*Sundry Form*: means a multipurpose form supplied by the OGED used by the Operator to request approval of proposed amendments or provide notice of various operations on any LAP Permit. It may also be referred to herein as "Sundry" or "Amendment".

*Surface Owner*: means any person currently owning all or part of the surface of land upon which Pipelines are located, as shown by the tax records of the county in which the tract of land is situated, or any person with such rights under a recorded contract to purchase.

*Weed*: means any undesirable plant.

*Wildlife Resources*: means fish, wildlife, and their aquatic and terrestrial habitats.

#### **Sec. 21-6-20. Applicability and general rules.**

- A. A Location Assessment for Pipeline (LAP) requires additional consideration to ensure the Pipeline is developed in a manner that complies with various Development Standards set forth in Division 3 of this Article VI. The LAP Permit is designed to protect and promote the health, safety, and welfare of Weld County's citizens, environment, and wildlife.
- B. A LAP Permit is required for the location or construction of Pipelines in all zone districts. Any expansion, relocation or enlargement of a Pipeline shall be treated as a new Use and shall require a new Application under the provisions of this Article.
- C. No Pipeline shall be constructed in any zone district until a LAP Permit has been granted by the OGED Director or the BOCC.
- D. No LAP Permit shall be required for ordinary repairs and maintenance of Pipelines previously constructed under Use by Right, Use by Special Review or pursuant to these regulations, so long as such repairs and maintenance are performed within the easements or right-of-way associated with the Pipeline and do not have the effect of expanding or enlarging the Pipeline.

- E. LAP Permits do not include pipelines used for the sole purpose of transporting Produced Water or Oil and Gas Support and Service uses as defined in Sec. 23-1-90.
- F. Any Person filing an Application for a LAP Permit shall comply with the procedures and regulations as set forth in this Article.
- G. Applications for a LAP shall be completed as set forth in Sec. 21-6-220, below. The completed Application and associated fees shall be submitted to the OGED Director.
- H. The review, consideration and issuance of a LAP Permit is an administrative process and is exempt from the definition of Development set forth in the agreements contained in Chapter 19 of the Weld County Code.
- I. Beginning October 1, 2018, all easements obtained for a Pipeline shall be located outside the existing and future road right-of-way as depicted on the Weld County Functional Classification Map, except at approved right-of-way crossings. A Pipeline permitted after February 1, 2019, which is erroneously located within an easement obtained on or after October 1, 2018, and within an existing and/or future right-of-way, shall be moved at the expense of the Operator and/or LAP Permittee upon receipt of notice by Weld County of its intent to improve or construct a roadway within the right-of-way.

**Sec. 21-6-30. Relationship of LAP regulations to other county, state, and federal requirements.**

- A. Nothing in these LAP Regulations shall be construed as exempting an Applicant for a LAP Permit from any other requirements and/or permits of this County including but not limited to Right-of-Way Use Permits, MS4 Permits or Access Permits.

**Sec. 21-6-40. Operator registration.**

Prior to construction or operation of Pipelines, an Operator shall submit a one-time Operator Registration form to the OGED Director, on the form provided by the OGED.

**Division 2 – LAP Permit Program for Pipelines subject to the regulations in Article VI**

**Sec. 21-6-200. Prohibition on the location, construction, expansion or operation of Pipelines without a LAP Permit.**

- A. No person may locate, construct, expand or operate a Pipeline without first obtaining a LAP Permit pursuant to these LAP regulations.
- B. The County may not issue a building permit or Right-of-Way use permit for a Pipeline without the Applicant first having obtained a LAP Permit pursuant to these LAP regulations.
- C. Operator Registration. All persons or entities desiring to locate, construct, expand or operate a Pipeline shall have a valid Operator Registration Form on file with OGED.

**Sec. 21-6-210. Procedural requirements.**

The notice, Application, and administrative issuance of LAP Permits shall comply with the provisions set forth in this Article VI.

**Sec. 21-6-215. Pre-application notice.**

- A. Pre-application notice letter. A minimum of seven (7) days prior to delivery of the LAP Application, the Applicant shall deliver a pre-application notice letter to the OGED Director. This letter shall include the following:
1. A general description of the Pipeline, including the product(s) or substance(s) being transported, the source and terminus or end point, the total length of route, the type of pipe including width, and any supporting equipment involved.
  2. The anticipated date operations will commence (calendar quarter and year).
  3. A statement that the Applicant will consider reasonable mitigation measures to Minimize Adverse Impacts of the proposed Pipeline.
  4. The following shall be attached to the letter:
    - a. Pipeline Route Map. The purpose of the Pipeline Route map is to demonstrate the Route and the location of any above ground appurtenances. This shall be a scaled drawing with aerial imagery of the Route to include: all property lines and parcel numbers, as well as the name and address of the Surface Owner(s) of any parcel(s) upon which the proposed Route is located.

Upon submittal of the notice, at the request of either the OGED Director or the Applicant, a pre-application meeting may be scheduled. The seven (7) day notice period may be waived, at the discretion of the OGED Director.

**Sec. 21-6-220. Application requirements for a LAP Permit.**

A LAP Application shall be submitted to the OGED Director for processing and determination of whether the Application is complete and in compliance with the requirements of this Section. The following supporting documents shall be submitted as a part of a LAP Application:

- A. A Location Assessment for Pipeline Application shall be submitted to the OGED Director by electronic mail.
1. Application. A LAP Application on the current form supplied by OGED, shall be fully completed and executed by the Applicant. If an authorized legal agent signs the Application on behalf of the Applicant, evidence of power of attorney or other authorization must be provided.

2. **Summary Requirements.** The Applicant shall provide a summary statement of the project, to include, the following:
  - a. A general description of the Pipeline, including the product(s) or substance(s) being transported, the source and terminus or end point, the total length of route, the type of pipe including width, and any supporting equipment involved.
  - b. A description of the Pipeline Route and reason for its selection.
  - c. Procedures to be employed to Minimize Adverse Impacts of the proposed Pipeline Route.
  - d. An outline of the planned Construction Phase, including the startup and commissioning schedule, to include the number of stages and timing of each. The County acknowledges that this outline is subject to change, due to factors including, but not limited to, contractor availability, weather, ability to close right-of-way tracts, and the timing of third-party facility completion.
  - e. Information on any public meeting conducted, to include the location, date, time, attendance, and method of advertising. Such meetings are not required but are recommended by the OGED to encourage communication between an Applicant and the community.
  - f. A description of the hazards, if any, such as fire, explosion, or other dangers to the health, safety, and welfare of the Operator's employees and the public.
  - g. A decommissioning plan to address whether or not the Pipeline will be removed from the ground and if not, how the Pipeline will be properly cleaned, capped, and maintained.
  - h. A description of any haul route(s) utilized during the Construction Phase, identifying the roads and bridges involved, expected traffic volumes, and the weight of the loads.
  - i. Any other information determined to be necessary by the OGED Director to ensure the protection of the health, safety, and welfare of the residents of the County.
3. **Evidence of Compliance.** The Operator of the Pipeline shall provide Best Management Practices (BMPs) illustrating how the health, safety, and welfare of Weld County's citizens, environment, and wildlife will be protected. The Operator shall demonstrate compliance with the LAP Development Standards as defined in Division 3 of this Article VI. The Operator shall provide a narrative within the Application, addressing each of the following items:
  - a. A statement how the design and Route of the proposed Pipeline Minimizes Adverse Impacts on the surrounding area. All reasonable efforts have been made to avoid irrigated cropland.

- b. A statement how Pipeline will not have an undue adverse effect on existing and future development of the surrounding Land Uses.
- c. A statement how the disturbed area shall be maintained during the Construction Phase by the Applicant in such a manner to control soil erosion, dust, and the growth of Weeds.
- d. A statement how the Applicant has agreed to implement any reasonable measures deemed necessary by the County to ensure the health, safety and welfare of its residents, and to Minimize Adverse Impacts from the proposed Pipeline.
- e. A statement how all reasonable alternatives to the proposal have been adequately assessed, and the proposed action is consistent with the best interests of the people of the County and represents a balanced use of resources in the affected area.
- f. A statement how the construction of the Pipeline will not unreasonably interfere with any significant wildlife habitat and will not unreasonably affect any endangered wildlife species, unique natural resource, known historic landmark or archaeological site within the affected area.
- g. A statement how the Pipeline or the construction thereof, will cause no adverse impact to the public rights-of-way and/or surrounding properties due to stormwater runoff.
- h. A statement that provides evidence of compliance with the requirements for a stormwater construction permit from CDPHE.
- i. A statement how the Applicant will mitigate conflicts with any mutual irrigation ditch and/or structures used to transport water within the easement or right-of-way of the Pipeline or crossed by the proposed Pipeline.
- j. A statement how the Applicant will mitigate conflicts with any utility company which may be impacted by the Pipeline.

**B. Attachments. The following shall be attached to the Application:**

- 1. **Property Owner Notification Spreadsheet.** The property owner notification spreadsheet shall be a list of owners to be noticed of the LAP Application submittal. The source of such list shall be the records of the Weld County Assessor. The Applicant shall certify that such list was assembled within thirty (30) days of the Application submission date, via the Affidavit of Interest Owners Surface Estate form. The spreadsheet shall be submitted electronically in a Microsoft Excel format utilizing the template supplied by OGED Director. The spreadsheet shall include the following information:



- a. The name and mailing address of all Surface Owners and surrounding property owners whose parcel(s) are within one-hundred fifty (150) feet from either side of the permanent Pipeline easement. The spreadsheet shall identify those owners who are directly impacted by the Pipeline Route and indicate the existing Land Use of those properties.
  - b. The associated parcel number(s) and legal description.
  - c. If applicable, reception number of recorded easement(s).
2. Evidence of Easements. Easements or rights-of-way for the Pipeline Route or a letter signed by the Surface Owner acknowledging that the Applicant is currently in good faith negotiations may be provided. This includes owners of surface properties, irrigation ditch companies and/or affected irrigation ditch easement owners of record at the point crossed by the Pipeline. If easements or rights-of-way for the Pipeline Route are not secured at the time of Application submittal, a statement that the Applicant is currently in good faith negotiations with parties, identified above, shall be provided.
3. Draft Maps. The draft maps shall be in electronic form.
    - a. Vicinity Map. The purpose of the vicinity map is to display the proposed Route within the County and its relationship to municipalities, major water features, irrigation ditches, major transportation features, and any Overlay Zoning Districts or Special Flood Hazard Areas identified by the maps officially adopted by Weld County pursuant to Articles V and XI of Chapter 23 of this Code. The vicinity map shall be at a suitable scale of 1" = 2,000' minimum or as otherwise approved by the OGED.
    - b. Detailed Map. The purpose of the detailed map is to illustrate the recorded or planned easements for the Pipeline Route, any above ground appurtenances and uses, including, but not limited to, valve sites, laydown yards, parking and staging areas, and both temporary and permanent access points. The detailed map shall be a topographic map showing contours at intervals no greater than ten (10) feet. The Route shall be displayed on a 1:200 scale map. The map shall identify the following features: property lines, roads, existing and future public right-of-way, existing utility easements, irrigation ditches, and any significant man-made features.
    - c. Upon approval of a LAP Permit final maps shall be submitted pursuant to Sec. 21-6-240.

C. Additional Weld County issued permits and agreements.

The following permits and agreements may be required either for the issuance of a LAP Permit, or after approval of a LAP Permit:

1. An Emergency Action Plan (EAP) is required for a LAP Permit. The Applicant shall complete an EAP on the template provided by the Office of Emergency Management (OEM). OEM will consult with the local fire district on behalf of the Applicant.

2. An access permit(s) is required for a LAP Permit. The Applicant shall complete an Access Permit application provided by the Department of Public Works, pursuant to the requirements of Chapter 8 of this Code, for new access points and/or submit evidence of an existing Access Permit(s), permitted in the Applicant's name. If the access point is under the jurisdiction of the Colorado Department of Transportation or a Local Government other than Weld County, proof of access granted by such Local Government or Authority having Jurisdiction is required prior to construction.
3. A Road Maintenance Construction Agreement (RMCA) may be required for a LAP Permit. Following submittal of a LAP Application, the RMCA shall be prepared by the Department of Public Works and sent to the Applicant for execution prior to the LAP Approval. If applicable, the Applicant shall execute an RMCA as provided by the Department of Public Works pursuant to the requirements of Chapter 2 of this Code.
4. If the Pipeline is located within a Special Flood Hazard Area identified by maps officially adopted by Weld County, a Flood Hazard Development Permit (FHDP) is required for a LAP Permit. The FHDP is issued by the Department of Planning Services pursuant to Article XI of Chapter 23 of this Code.
5. If applicable, Building Permit(s), issued by the Department of Planning Services, shall be obtained pursuant to Chapter 23 and Chapter 29 of this Code.
6. If applicable, Right-of-Way (ROW) Use Permit(s), issued by the Department of Public Works pursuant to Article XIII of Chapter 8 of this Code, are required for any work occurring within County ROW. No work within County ROW shall occur without such ROW Permits being issued.
7. If applicable, a Special Transport permit shall be obtained. No vehicles associated with the LAP may exceed legal per axle weight limits and/or legal size limits as set forth in Article XV of Chapter 8 of this Code, unless Special Transport permits have been applied for and granted by Department of Public Works.

Additional information may be required by the OGED Director, resulting from consultation with referral agencies and/or the public.

**Sec. 21-6-230. OGED review of Application and issuance of LAP Permit.**

The OGED Director shall review the LAP Application to determine if it follows sound Land Use planning, is complete, and in compliance with the Development Standards set forth in Division 3 of this Article VI. Such review shall occur within seven (7) business days of the filing of the Application. Upon completeness determination, the OGED Director shall:

- A. Process, refer and notice the Application no more than ten (10) days after determining the Application is complete.

1. Refer the Application to the following agencies, if applicable, for review and comment. The agencies named shall respond within twenty-eight (28) days from the mailing of the Application by the County. The failure of any agency to respond within twenty-eight (28) days shall be deemed to be a favorable response to OGED. The reviews and comments solicited by the County are intended to provide the County with information about the proposed Pipeline. The reviews and comments submitted by a referral agency are recommendations to the OGED Director and, as applicable, the BOCC:
    - a. The LGD, planning commission or governing body of any Local Government(s) whose boundaries are within three (3) miles of the Pipeline.
    - b. The Department of Public Health and Environment.
    - c. The Department of Public Works.
    - d. The Office of Emergency Management.
    - e. The Department of Planning Services.
    - f. Colorado Parks and Wildlife.
    - g. The Colorado Department of Transportation.
    - h. The appropriate fire district(s).
    - i. Any irrigation ditch company with irrigation structures of record that cross, are within, or adjacent to, the Pipeline easements.
    - j. Any utility company with easements of record which cross or are within the Pipeline easements.
    - k. To any other agencies or individuals to whom the OGED Director deems a referral necessary.
  2. Send notice of a LAP Application to Surface Owners and surrounding property owners within one hundred fifty (150) feet from either side of the proposed Permanent Easement for the Pipeline. Such notification shall be sent by First-Class Mail by OGED. Such notice is not required by state statute and is provided for informational purposes only to Surface Owners and surrounding property owners. Inadvertent errors by the Applicant in supplying such list, or the OGED in sending such notice, shall not create a jurisdictional defect in the review/hearing process even if such error results in the failure of a Surface Owners or surrounding property owner receiving such notification.
- B. Prepare OGED staff report confirming that all requirements have been satisfied and the LAP Permit Application is in conformance with the Weld County Code in effect at the time of filing of the Application. The report shall include all comments received from agencies to which the Application was referred.

C. Make a determination of the Application within sixty (60) days of a complete Application.

1. If OGED Director determines that the Application provides sufficient evidence that the Development Standards set forth in Division 3 of this Article VI are met, a LAP Permit shall be conditionally approved, pending recording of the final map. See Sec. 21-6-240.
2. If the OGED Director determines the Application does not provide sufficient evidence that such standards will be met, they will provide the Applicant written notice identifying which Development Standards lack sufficient evidence in the Application. If the Applicant fails to remedy each identified deficiency within fourteen (14) days of receipt of such written notice by supplementing the Application with additional evidence that is sufficient, as determined by the OGED Director, the OGED Director shall forward the Application to the BOCC for its review and consideration in a formal hearing before the Board. If the Application is sent to the BOCC for its review and consideration, Weld County shall:
  - a. Prepare legal notice for the hearing to be published in the newspaper designated by the BOCC for publication of notices. The date of publication shall be at least ten (10) days prior to the date of hearing.
  - b. Send notice of the hearing to Surface Owners and surrounding property owners within one hundred fifty (150) feet from either side of the proposed Permanent Easement of the Pipeline. Such notification shall be delivered via First-Class Mail by the OGED.
  - c. Send notice of the hearing to the referral agencies which were sent notice per Sec. 21-6-230.A.1.

**Sec. 21-6-240. Final Mapping requirements for Pipelines.**

Final Maps. Upon obtaining and recording all easements, easement agreements, memoranda of easements, or options for easements for the Pipeline, the Applicant shall submit the final maps to the OGED Director in electronic form for review and comment prior to printing for recording.

- A. Vicinity Map. The purpose of the final vicinity map is to display the approved Route within the County and its relationship to municipalities, major water features, irrigation ditches, major transportation features, and any Overlay Zoning Districts or Special Flood Hazard Areas identified by the maps officially adopted by Weld County pursuant to Articles V and XI of Chapter 23 of this Code. The vicinity map shall be at a suitable scale of 1" = 2,000' minimum or as otherwise approved by the OGED.
- B. Detailed Map. The purpose of the final detailed map is to illustrate the recorded easements for the Pipeline Route, any above ground appurtenances and uses, including, but not limited to, valve sites, laydown yards, parking and staging areas, and both temporary and permanent access points. The detailed map shall be a topographic map showing contours at intervals no greater than ten (10) feet. The Route shall be displayed on a 1:200 scale map. The map shall identify the following features: property lines, roads, existing and future public right-of-way, existing utility easements, irrigation ditches, and any significant man-made features.

C. Recordable Final Maps. Upon approval of the electronic copy, the Applicant shall submit final maps. The vicinity map and detailed map shall be printed in black ink and sized to twenty-four (24) inches in height by thirty-six (36) inches in width. These maps shall include the following:

1. Legend, title, scale, and north arrow.
2. For each property the Pipeline Route crosses, the map shall include parcel number, property owner name, legal description (QTR/SEC/TNW/RNG), reception number of the easement/right-of-way and reception number of property deed(s).
3. The names of record of the surface owner of adjacent property.
4. Conditions of approval or Development Standards as provided by the OGED in the administrative approval or the Resolution from the BOCC.
5. A statement from the Operator that Pipelines permitted through this process shall meet the requirements set forth in the Right-of-Way Use Permit, by the Department of Public Works.
6. Certification block templates for signature and notary provided by OGED.

The final map shall be recorded in the office of the County Clerk and Recorder by the OGED. The Applicant shall be responsible for paying the recording fee. The final map shall be recorded, and any additional requirements met within one hundred twenty (120) days from the date of the administrative conditional approval or the BOCC Resolution. If the final map has not been recorded within one hundred twenty (120) days from the date of administrative approval or BOCC Resolution, or within a date specified by the BOCC, the Board may require the Applicant to appear before them and present evidence substantiating that the LAP has not been abandoned and that the Applicant possesses the willingness and ability to record the final map. The BOCC may extend the date for recording the map. If the Board determines that conditions supporting the original approval of the LAP cannot be met, the Board may, after a public hearing, revoke the LAP Permit.

**Sec. 21-6-250. Compliance with LAP Permit conditions of approval and Development Standards.**

An Applicant for a LAP and/or Operator of the Pipeline shall comply with the conditions of approval and Development Standards detailed in the LAP Permit and Division 3 of this Article VI. Noncompliance with the conditions of approval and Development Standards may be reason for revocation of the LAP Permit. Enforcement shall be conducted by the OGED Director in the following manner:

- A. Upon receiving a complaint from any member of the public or the filing of an inspection report by an OGED inspector, alleging a violation of Development Standards stated in the LAP Permit and/or in Division 3 of this Article VI, the OGED Director shall notify the Operator of the complaint or adverse inspection report and require Operator investigation and response within 24 hours. Within the OGED Director's required timeframe, the Operator shall correct the violation and inform the OGED Director of such correction. If the Operator is unable to

achieve the required correction within the stated timeframe, the Operator shall inform the OGED Director of the circumstances and the anticipated date of correction, and the OGED Director may modify the stated timeframe.

- B. If the OGED Director has probable cause to believe the violation persists, he or she shall notify the Operator in writing of the violation, present a demand for correction and provide a date upon which the violation must be corrected. The Operator shall correct the violation within the stated timeframe and notify the OGED Director in writing of such correction.
- C. If the OGED Director does not receive a written response from the Operator within the stated timeframe saying the violation has been corrected, or if upon OGED inspection there is probable cause to believe the violation persists, the OGED Director shall set a suspension or revocation hearing before the BOCC pursuant to the provisions of Sec. 21-6-270, below.

**Sec. 21-6-255. Required notification.**

**A. Notifications to the OGED Director.**

- 1. Prior to construction notification. The Operator shall provide written notice to the OGED Director via the Sundry Form at least two (2) weeks prior to beginning the Construction Phase of the Pipeline. This written notice satisfies the notification requirements of the Department of Public Works, the Department of Planning Services, and the Office of Emergency Management.
- 2. Post construction notification. The Operator shall provide written notice to the OGED Director via the Sundry Form within two (2) weeks of construction activities for a Pipeline being completed and the Pipeline Route reclaimed as per Sec. 21-6-345. This written notice satisfies the notification requirements of the Department of Public Works, the Department of Planning Services, and the Office of Emergency Management.

**B. Notification to the Surface Owners**

With respect to the notices listed in this Section, it shall be the responsibility of the notified Surface Owner to give notice of the proposed operation to the tenant farmer, lessee, or other party that may own or have an interest in any crops or surface improvements that could be affected by such operations.

- 1. Prior to construction notification. The Applicant is required to provide written notice to the Surface Owner not less than thirty (30) days in advance of commencing the Construction Phase. This written notice shall provide the following:
  - a. The name and contact information for the Applicant or its agent;
  - b. A scaled map showing the Pipeline Route;
  - c. The date operations with heavy equipment are expected to commence; and

- d. The contact information for OGED.

This notice shall be delivered by hand; certified mail, return-receipt requested; or by other delivery service with receipt confirmation. Electronic mail may be used if the Surface Owner has approved such use in writing.

Any of the notices required in this Sec. 21-6-255.B. may be waived in writing by the Surface Owners provided that a waiver by a Surface Owner shall not prevent the Surface Owner or any successor-in-interest to the Surface Owner from rescinding that waiver if such rescission is in accordance with applicable law.

**Sec. 21-6-260. Amendments, termination, or failure to commence use.**

- A. Any amendments to a LAP Permit which modify or expand the Pipeline from what was originally permitted by Weld County shall be filed with the OGED via a Sundry Form.
  - 1. Substantial changes from the approved LAP may require the approval of a new LAP Application by the Weld County OGED Director. OGED is responsible for determining whether a substantial change exists, in which case a new LAP Application and processing fee will be required. Examples of substantial changes may include but are not limited to, the following: enlarging the size of the prior approved Pipeline, or an expansion of or a change to the Pipeline Route.
- B. The Construction Phase authorized by an approved LAP Permit shall be completed within three (3) years from date of recording the final maps in the office of the County Clerk and Recorder. If not completed, up to an additional three (3) years may be granted by the OGED Director, for good cause shown, via a Sundry Form, but the Pipeline shall then be subject to any new rules amended into this Article VI since the approval of the original LAP Permit.
- C. Upon termination of the use allowed pursuant to the LAP Permit, the Applicant and/or Operator of the Pipeline shall follow and comply with the requirements of the decommissioning plan submitted with the Application and provide written notification to the OGED Director, via a Sundry Form.

**Sec. 21-6-270. Suspension and revocation procedures.**

- A. If following the notice and timeframes called for in Sec. 21-6-250 above, the OGED Director determines that one (1) or more of the Development Standards set forth in Division 3 of this Article VI has not been met, the OGED Director shall notify the Operator of the Pipeline of the failure to comply with the terms of the LAP Permit and/or Development Standards set forth in this Article VI. The notice will inform the Operator that a hearing has been scheduled before the BOCC to determine if the LAP Permit shall be suspended or revoked. Such notice will be given to the Operator at least ten (10) days prior to the hearing. The Operator shall have the right to participate and present information at the hearing.
- B. The BOCC shall hold a public hearing to determine if one (1) or more of the LAP conditions of approval within the final recorded LAP Permit, or Development Standards as set forth in

Division 3 of this Article VI have not been met. Upon such a finding, the Board may revoke the LAP Permit and seek any appropriate legal remedies to cease the use of the Pipeline. In lieu of suspension or revocation, the BOCC may order the Operator to submit a compliance plan and set a timeframe for return to present evidence of compliance.

**Sec. 21-6-280. Site inspection by OGED.**

OGED staff may inspect, at any time, the Pipeline subject to the regulations set forth in this Article VI to determine if the Pipeline is in compliance with the requirements of the LAP Permit.

**Sec. 21-6-290. Transferability of LAP.**

Once issued, LAP Permits are transferable to a new Operator. The new Operator is subject to all terms and conditions of the LAP and shall be considered the responsible party. Within sixty (60) days of transfer, the new Operator shall notify the OGED Director in writing of the name, business address, and other contact information of the new Operator.

**Division 3 - LAP Development Standards**

The following standards (referred to herein as "Development Standards") apply to all Pipelines within the Weld Mineral Resource (Oil and Gas) area having received approval of a LAP (or amendment thereto as required by Sec. 21-6-260).

**Sec 21-6-300. Weed control.**

All disturbed areas shall be kept free of Weeds through the duration of the Construction Phase. Weed control measures shall be conducted in consultation with the Surface Owner and Weld County Weed Management Specialist. The OGED Director may require the submittal of, and compliance with, a weed control plan as part of LAP approval to provide impact mitigation, or pursuant to any enforcement action against an Operator. It is the responsibility of the Operator to monitor reclaimed lands for Weed infestations.

**Sec. 21-6-305. Site security.**

The Pipeline shall be designed and operated in a manner that is protective of public health, safety, and welfare during all phases of operation by reasonably preventing public access and unauthorized vehicular traffic. Appropriate measures shall be implemented during the Construction Phase to prevent access to the Pipeline by unauthorized persons, wildlife or domestic animals.

**Sec. 21-6-310. Integrity management and leak detection.**

Integrity management and leak detection shall be conducted in compliance with all County, state, and federal regulations.



The Applicant shall provide a yearly certification to OGED stating they are compliant with any and all State and/or Federally mandated integrity testing plans. These plans shall be provided to OGED upon written request. When provided, these plans shall be for County review only and will not be published for public review.

The Applicant shall provide OGED copies of pre-commissioning pressure tests.

For Pipelines which are not State and/or Federally regulated, the Applicant shall provide OGED annual patrol reports.

Operators shall take precautions to Minimize Adverse Impacts.

Operators shall maintain an EAP with OEM for each LAP with BMP's to adequately protect any and all critical receptors.

Operators shall notify OEM of any Spills and Releases, as required by the terms of the approved EAP.

**Sec 21-6-315. Safety requirements.**

Operators shall comply with all County, state and federal safety rules and regulations.

All Pipelines must be installed at an appropriate depth and have cover sufficient to protect from damage. In no case shall a Pipeline have less than 30" of cover. On cropland, all Pipelines must have a minimum cover of four (4) feet.

**Sec. 21-6-320. Floodplain and Overlay Zoning District requirements.**

An Operator shall comply with Article V and Article XI of Chapter 23 of this Code if the proposed Route is located within any Overlay Zoning District or a Special Flood Hazard Area identified by maps officially adopted by the County.

**Sec. 21-6-325. Stormwater management.**

If applicable, as part of the Application for a LAP, an Operator shall provide proof of a valid stormwater discharge permit issued by CDPHE. Additional requirements for Municipal Separate Storm Sewer System (MS4) areas may be applicable pursuant to Chapter 8, Article IX of this Code.

**Sec. 21-6-330. Protection of Wildlife Resources.**

The OGED Director, utilizing the referral from CPW, shall determine whether conditions of approval are necessary to Minimize Adverse Impacts from the proposed Pipeline in the identified High Priority Habitat.

- A. In selecting conditions of approval, the OGED Director shall consider the following factors, among other considerations:

1. The BMPs for the area in which the Pipeline is situated;
  2. Anticipated direct and indirect effects of the Pipeline on Wildlife Resources;
  3. The extent to which legally accessible, technologically feasible, and economically practicable alternative routes exist for the proposed Pipeline;
  4. The extent to which the proposed Pipeline operations will use technology and practices which are protective of the environment and Wildlife Resources;
  5. The extent to which the proposed Pipeline minimizes surface disturbance and habitat fragmentation;
  6. The extent to which the proposed Pipeline is within land used for residential, industrial, commercial, agricultural, or other purposes, and the existing disturbance associated with such use.
- B. Subject to exception by the OGED Director for site specific reasons and BMPs, within High Priority Habitat and Restricted Surface Occupancy Areas, Operators shall comply with the following operating requirements:
1. During Pipeline construction for trenches that are left open for more than five (5) days and are greater than five (5) feet in width, install wildlife crossovers and escape ramps where the trench crosses well-defined game trails and at a minimum of one-quarter (¼) mile intervals where the trench parallels well-defined game trails.
  2. Inform and educate employees and contractors on wildlife conservation practices, including no harassment or feeding of wildlife.
  3. To the extent practicable, share and consolidate new corridors for Pipeline rights-of-way and roads to minimize surface disturbance.
  4. Engineer new Pipelines to reduce field fitting and reduce excessive right-of-way widths and Reclamation.
  5. Use boring instead of trenching across perennial streams considered critical fish habitat.
  6. Use wildlife appropriate seed mixes wherever allowed by Surface Owners and regulatory agencies.
  7. Mow or brush hog vegetation where appropriate, leaving root structure intact, instead of scraping the surface, where allowed by the Surface Owner during Construction Phase.
  8. Limit access to oil and gas access roads where approved by Surface Owners, surface managing agencies, or Local Government, as appropriate.
  9. Use wildlife-appropriate fencing where acceptable to the Surface Owner.

10. Establish new staging areas outside of riparian zones and Floodplains.

11. Use minimum practical construction widths for new easements or rights-of-way where the Pipeline crosses riparian areas, streams, and critical habitats.

**Sec. 21-6-340. Site preparation and stabilization.**

A. Soil removal and segregation. As to all excavation operations undertaken, the Operator shall separate and store the topsoil horizon, to a maximum depth of twelve (12) inches, and mark or document stockpile locations to facilitate subsequent Reclamation. When separating the soil horizons, the Operator shall segregate the horizon based upon noted changes in physical characteristics such as organic content, color, texture, density, or consistency.

1. If a private easement agreement with a Surface Owner details specific soil removal and segregation, the easement agreement shall govern, and this Sec. 21-6-340.A. shall not apply.

B. Horizons too rocky or too thin. When the soil horizons are too rocky or too thin for the Operator to practicably segregate, then the topsoil shall be segregated to the extent practicable and stored.

C. Protection of soils. All stockpiled soils shall be protected from degradation due to contamination, compaction and, to the extent practicable, from wind and water erosion. BMPs to prevent weed establishment shall be implemented.

D. Operator must make reasonable efforts to install Pipelines parallel to crop irrigation rows on flood irrigated land.

E. Stabilization must be performed for any trenches greater than five (5) feet in depth. Trench protection shall be in accordance with OSHA standards.

**Sec. 21-6-345. Reclamation.**

A. Surface restoration. The surface of the land shall be restored as nearly as practicable to its condition at the commencement of construction operations, including topsoil restoration and protection.

B. Compaction alleviation. All areas compacted by construction operations shall be reclaimed to surface owner specifications to alleviate compaction.

C. Revegetation of Crop Lands. All segregated soil horizons removed from Crop Lands shall be replaced to their original relative positions and contour and shall be tilled adequately to re-establish a proper seedbed. The area shall be treated if necessary and practicable to prevent invasion of Weeds, and to minimize erosion.

D. Revegetation of Non-Crop Lands. All segregated soil horizons removed from Non-Crop Lands shall be replaced to their original relative positions and contour as near as practicable to

achieve erosion control and long-term stability and shall be tilled adequately to establish a proper seedbed. The disturbed area then shall be reseeded in the first favorable season following construction operations. Reseeding with species consistent with the adjacent plant community and in coordination with the Surface Owner is encouraged. Reclamation of the temporary and permanent easement shall be considered complete when all ground surface disturbing activities have been completed, and all disturbed areas have been stabilized in such a way as to minimize erosion to the extent practicable, and a uniform vegetative cover has been established that reflects pre-disturbance or Reference Area forbs, shrubs, and grasses with total percent plant cover of at least eighty percent (80%) of pre-disturbance levels, excluding Weeds. Re-seeding alone is insufficient. The Operator is responsible for ensuring successful revegetation of soils disturbed by project related activities, except as agreed to with the Surface Owner.

- E. Temporary Access Permits. If a temporary access permit is associated with a LAP Permit, the temporary access will be reclaimed in accordance with Chapter 8, Article XIV of this Code.

**Sec. 21-6-350. Fees.**

Failure to comply with any items contained in the approved LAP Permit, the conditions of approval, or the Development Standards contained herein shall be subject to a financial fee, assessed daily from the date of notification by the OGED Director, pursuant to Appendix 5-D of the Weld County Code. The OGED Director shall also utilize Appendix 5-D when assessing fees due to enforcement actions.

## **CHAPTER 23**

### **ZONING**

#### **ARTICLE I – GENERAL PROVISIONS**

**Amend Sec. 23-1-90. Definitions.**

The following specific words and phrases, when appearing in this Chapter in uppercase letters, shall have the meanings stated in this Section:

*Delete BUILDING UNIT.*

*Delete FLOWLINES.*

*Delete Wellhead Line.*

*Delete Production Piping.*

*Delete Production Line.*

*Delete Dump Line.*

*Delete Manifold Piping.*

*Delete Process Piping.*

*Delete Off-Location Flowline.*

*Delete Peripheral Piping.*

*Delete Produced Water Flowline.*

*Delete OPERATOR.*

*Delete PIPELINE – NATURAL GAS.*

*Delete PIPELINE – PETROLEUM PRODUCTS OTHER THAN NATURAL GAS.*

*Delete RESIDENTIAL BUILDING UNIT.*

## **ARTICLE II – PROCEDURES AND PERMITS**

### **Division 11 - Repealed**

**BE IT FURTHER ORDAINED** by the Board that the Clerk to the Board be, and hereby is, directed to arrange for Municode to supplement the Weld County Code with the amendments contained herein, to coincide with chapters, articles, divisions, sections, and subsections as they currently exist within said Code; and to resolve any inconsistencies regarding capitalization, grammar, and numbering or placement of chapters, articles, divisions, sections, and subsections in said Code.

**BE IT FURTHER ORDAINED** by the Board, if any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held or decided to be unconstitutional, such decision shall not affect the validity of the remaining portions hereof. The Board of County Commissioners hereby declares that it would have enacted this Ordinance in each and every section, subsection, paragraph, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases might be declared to be unconstitutional or invalid.

The above and foregoing Ordinance Number 2022-01 was, on motion duly made and seconded, adopted by the following vote on the 31st day of January, A.D., 2022.

BOARD OF COUNTY COMMISSIONERS  
WELD COUNTY, COLORADO

ATTEST:

Weld County Clerk to the Board

BY: \_\_\_\_\_  
Deputy Clerk to the Board

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

Date of signature: \_\_\_\_\_

\_\_\_\_\_  
Scott K. James, Chair

\_\_\_\_\_  
Mike Freeman, Pro-Tem

\_\_\_\_\_  
Perry L. Buck

\_\_\_\_\_  
EXCUSED  
Steve Moreno

\_\_\_\_\_  
Lori Saine

First Reading: December 20, 2021  
Publication: December 26, 2021, in the Greeley Tribune

Second Reading: January 10, 2022  
Publication: January 16, 2022, in the Greeley Tribune

Final Reading: January 31, 2022  
Publication: February 6, 2022, in the Greeley Tribune

Effective: February 11, 2022