



# Oil & Gas LDC Updates

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City Council Study Session September 2019

# Study Session Overview

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- Background & overview of events
- Overview & comparison of ADCO regulations to current code
- SB-181 review
- Objectives of LDC Updates
- Proposed timeline
- Council feedback



# Background

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- 2009: Oil and gas regulated in City for first time via LDC
- 2012: Major updates to the LDC Oil and Gas Regulations
- November 2018: Minor LDC updates adopted
- April 8<sup>th</sup>: Study Session with Council on potential code impacts of SB-181
- April 16<sup>th</sup>: SB19-181 signed by Governor Polis
- April 24<sup>th</sup> – June 26<sup>th</sup>: Focus Group Meetings conducted
- June: Oil & Gas Transportation Impact Fee open house & stakeholder meetings
- July: Staff begins Oil and Gas LDC amendment process in response to SB19-181
- August 5<sup>th</sup>: Oil and Gas Impact Fee Adopted
- September 3<sup>rd</sup>: ADCO BOCC holds public hearing on proposed regulations

# Senate Bill 19-181

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- **Local government authority expressly expanded** to include the regulation of the surface use of oil and gas operations in a reasonable manner.
- Major highlights of the bill
  - Expressly modifies state pre-emption
  - Expressly authorizing local regulation of well pad locations
  - Reforms the COGCC mission
  - Expressly authorizes local governments to impose fees
  - Requires Operators to obtain a local permit prior to receiving a state permit
  - Revises forced pooling requirements



# SB-181 Impacts on Commerce City

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- Will allow desired BMPs to be made law in city code rather than only part of a negotiated extraction agreement or regional operating agreement
  - Violations of the Code may be enforced quicker and easier than contract violations
  - Operators who do not voluntarily negotiate will be required to comply
- Allows for the city to further regulate surface locations through police powers: Zoning and impacts
- Gives the city express authority for monitoring and enforcement and the ability to assess fees for violations of local land use regulations



# Objectives of Code Update

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- Utilize SB-181 authority to “zone” Oil and Gas
  - Through applicable zone districts and/or setbacks
  - Reverse setbacks from existing or plugged and abandoned well sites
- Incorporate other powers granted to local governments through SB-181
  - Stricter enforcement provisions
  - Fees for ongoing air quality monitoring & inspections
- Define approval criteria for alternative site location analysis
  - Currently required in code, but specifics are not defined
- Process & approval evaluation
  - Establish effective process for permitting
  - Incentivize preferred site locations and/or high level of BMP’s through expedited process

# Objectives of Code Update

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- Incorporate feedback received during Focus Group meetings into code
- Evaluate additional feedback provided from the public, industry, and other regulatory agencies
- Evaluate financial assurances and fees
- Codification of Best Management Practices (BMP's)
  - Applied as mandatory permit conditions for all sites (updated annually, to allow for changes as technologies increase over time)
- Incorporate meaningful health, safety, and general welfare protections

# Current Code Overview

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- Current process is an administrative review
- Current land use regulations
  - Allowed in all standard zone districts with an Oil & Gas Permit
  - Must meet all use requirements contained within LDC Section 21-5266
  - Regulations focus on surface impacts
- All operators required to sign an extraction agreement as part of each Oil & Gas permit
- Regional Operator Agreement is optional, may be executed to establish broad operations standards



# ADC0 Proposed Regulations

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- 1,000' setback from:
  - Schools
  - Residences (built or platted)
  - Licensed daycares
  - Water bodies
- Allowed in the following zone districts
  - A-2, A-3, commercial, industrial
- Variance process allowed for proposed sites under 1,000' or if not in allowed zone district
- Alternative site analysis established
- Specific noise controls / mitigation
- Establishment of inspection fees, monetary fines, and financial assurances
- Air quality controls, monitoring and reporting
- On-site product and waste storage restrictions



# Regulation Comparison

Topic	COGCC Regulation	Proposed ADCO Regulations	Commerce City ROA / BMP's	Commerce City Current Code
Setbacks	<ul style="list-style-type: none"> <li>• 500' from existing residential</li> <li>• 1,000' from High Occupancy Building Units</li> <li>• Additional protections for sites with 22 residences within 1,000' radius (Large UMA)</li> </ul>	1,000' Setback from <ul style="list-style-type: none"> <li>• Schools</li> <li>• Platted or ex residential</li> <li>• Licensed daycares</li> <li>• Waterbodies</li> </ul>	<ul style="list-style-type: none"> <li>• No specific setback requirement</li> <li>• 1 site (Harlo) within 1,000' of ADCO criteria</li> <li>• Additional BMP's apply for sites within 1,320'</li> </ul>	<ul style="list-style-type: none"> <li>• No specific setback requirement – negotiated through Operator Agreement</li> </ul>
Zoning	N/A	Allowed in zoning districts: <ul style="list-style-type: none"> <li>• A-2</li> <li>• A-3</li> <li>• Commercial</li> <li>• Industrial</li> </ul>	<ul style="list-style-type: none"> <li>• All proposed sites within PUD Zone Districts</li> <li>• Only reunion currently allows (with a CUP)</li> <li>• All other sites will require re-zoning PUD to allow Oil and Gas facilities</li> </ul>	All districts except public, with an oil and gas permit
Variances	Variance process available through COGCC	Variance process allowed through public hearing for sites not meeting criteria	No such waiver	N/A
Alternative Site Analysis	Not currently required – rulemaking pending	Alternative Site Analysis Required	Required through code	Required, but specifics not identified

# Regulation Comparison

Topic	COGCC Regulation	Proposed ADCO Regulations	Commerce City ROA / BMP's	Commerce City Current Code
Noise	<ul style="list-style-type: none"> <li>• Max 80dB(a) adjacent to residential uses</li> <li>• No current requirement for electric rigs</li> </ul>	<ul style="list-style-type: none"> <li>• Noise control mitigation standards, electric rigs, noise mgmt. plan</li> <li>• No maximum decibel limit</li> </ul>	<ul style="list-style-type: none"> <li>• Similar requirements for use of electric drilling rigs</li> <li>• Noise max: 55db or 4db over baseline</li> <li>• Additional requirement of quiet fleet technology</li> </ul>	No such requirements
Inspections	<ul style="list-style-type: none"> <li>• No Inspection Fees</li> <li>• Fee schedule in place</li> <li>• \$100,000 financial assurance per operator for <i>all</i> wells currently</li> </ul>	<ul style="list-style-type: none"> <li>• Inspection fees – duplicating current COGCC fine schedule</li> <li>• Monetary fines</li> <li>• Financial assurances</li> </ul>	<ul style="list-style-type: none"> <li>• \$500/well/yr for inspections</li> <li>• Fine schedule defaults to current NS fine schedule – less than ADCO proposed</li> <li>• More specific financial assurances &amp; policy amounts</li> </ul>	<ul style="list-style-type: none"> <li>• No inspection fees</li> <li>• Current NS fine schedule</li> <li>• Less specific financial insurance, lower policy amounts</li> </ul>
Air Quality	<ul style="list-style-type: none"> <li>• Regulated by air quality control commission</li> </ul>	<ul style="list-style-type: none"> <li>• Significant BMP's related to emission reductions</li> <li>• Requirement for baseline air quality sampling and ongoing continuous monitoring</li> <li>• Operator bears all cost</li> </ul>	<ul style="list-style-type: none"> <li>• Similar emission reduction BMP's and requirements</li> <li>• Operator contributing \$250/well/yr for air quality monitoring</li> </ul>	<ul style="list-style-type: none"> <li>• Not required</li> </ul>
Tanks	Not required	<ul style="list-style-type: none"> <li>• Implementation of tankless production facilities as county determines feasible</li> </ul>	<ul style="list-style-type: none"> <li>• Tankless facility design (pipeline utilization)</li> </ul>	<ul style="list-style-type: none"> <li>• Not required</li> </ul>

# Setback Analysis

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- Even under similar setback requirements as Adams County (1,000'), all proposed sites in Commerce City would be eligible, except for the following:
  - Harlo (Extraction)
  - Antelope (Petro Operating, LLC)
- With an increase to 1,500', the following additional site would be ineligible
  - Jacobson (Extraction)

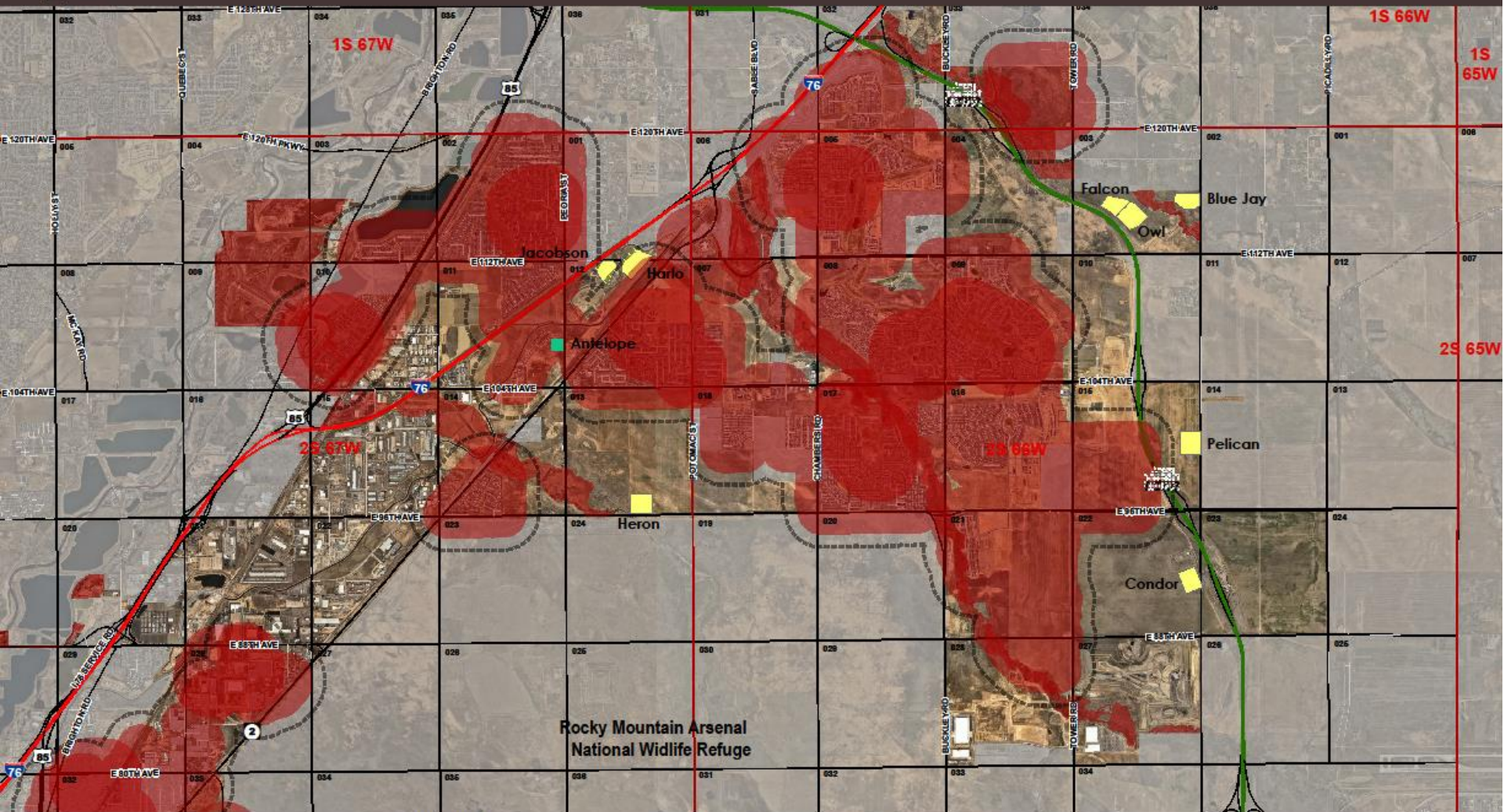


# Setback Map – Northern Range



Setback Analysis

Northern Range



**Legend**

- Proposed Pad - Extraction
- Proposed Pad - Petro Operating
- 1,000' setback from platted & existing residential
- 1,500' setback from high occupancy building units
- Existing floodplain boundaries
- 1,500' setback from platted & existing residential



# Council Feedback

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A large, stylized tree graphic is positioned on the right side of the page. It has a thick vertical trunk and several large, curved branches extending upwards and outwards. The tree is rendered in a dark gray color, matching the background.

# Feedback

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- 1) Regarding adoption of LDC updates, should staff:
  - a) Pursue a more aggressive schedule with final adoption November 18<sup>th</sup> , 2019?
  - a) Less aggressive schedule with target adoption date in Q1 2020
  
- 2) In comparison to Adams County, should our regulations:
  - a) Be more stringent
  - b) Be equal
  - c) Be less stringent

# LDC Updates Timeline – Option 1

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- September 17 – October 4: Hold Public & Stakeholder Meetings
  - Regulatory Groups – COGCC, CDPHE, TCHD, Adams County, Fire Districts, other interested local governments
  - Industry Group – COGA, CPC, Operators
  - General Public Meeting 1 – evening open house (similar to December '18 community meeting & Oil & Gas Impact Fee open house)
  - General Public Meeting 2 – daytime
- October 1: Planning Commission Study Session
- October 14: City Council Study Session
  - Will contain specific details on proposed updates, and summary of stakeholder meetings and PC Study session
- October 23: Draft ordinance posted to website & available for public comment
- October 30: Planning Commission Hearing
- November 4: City Council 1<sup>st</sup> reading (public hearing)
- November 18: City Council 2<sup>nd</sup> reading (fast track)





# LDC Updates Timeline – Option 2

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- September 17 – November 8: Hold Public & Stakeholder Meetings
  - Regulatory Groups – COGCC, CDPHE, TCHD, Adams County, Fire Districts, other interested local govts
  - Industry Group – COGA, CPC, Operators
  - General Public Meeting 1 – evening open house (similar to December '18 community meeting & Oil & Gas Impact Fee open house)
  - General Public Meeting 2 – daytime
  - Potential for additional meetings as necessary
- December 3: Planning Commission Study Session
- January 13: City Council Study Session
  - Will contain specific details on proposed updates, and summary of stakeholder meetings and PC Study session
- January 17: Draft ordinance posted to website & available for public comment
- February 4: Planning Commission Hearing
- March 2: City Council 1<sup>st</sup> reading (public hearing)
- March 16: City Council 2<sup>nd</sup> reading (fast track)



# Feedback

	Pros	Cons
<b>Accelerated LDC Timeline</b>	<ul style="list-style-type: none"><li>• Less likely that permits are submitted before code is updated</li></ul>	<ul style="list-style-type: none"><li>• Less time available for public input on draft regulations</li><li>• Staff availability &amp; resources</li></ul>
<b>Longer LDC Timeline</b>	<ul style="list-style-type: none"><li>• More time available for public input on draft regulations</li><li>• Can incorporate future COGCC rulemakings into regulations</li></ul>	<ul style="list-style-type: none"><li>• City may receive additional permit submittals before code is updated</li></ul>



# Feedback

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- 1) Regarding adoption of LDC updates, should staff:
  - a) Pursue a more aggressive schedule with final adoption November 18<sup>th</sup> 2019?
  - b) Less aggressive schedule with target adoption date in Q1 2020



# ADCO Draft Regulations

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- 1,000' setback from:
  - Schools
  - Residences (built or platted)
- Air quality
  - Requirement for baseline sampling and ongoing continuous monitoring
  - Leak detection and repair (LDAR) program required
  - Significant air quality BMP's (advanced drilling rigs, electric line power,

# Feedback

	Pros	Cons
<b>Regulations exceeding or equal to the county</b>	<ul style="list-style-type: none"><li>• More protective of health, safety &amp; general welfare than current base code</li></ul>	<ul style="list-style-type: none"><li>• Depending on what areas are mirrored, may prohibit drilling in additional parts of the city</li></ul>
<b>Regulations less stringent than the county</b>	<ul style="list-style-type: none"><li>• Perceived as “business friendly”</li></ul>	<ul style="list-style-type: none"><li>• Commerce City may become more enticing for drilling compared to county, due to less stringent regulations</li></ul>



Commerce  
CITY

# Feedback

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- 1) In comparison to Adams County, should our regulations:
  - a) Be more stringent
  - b) Be equal
  - c) Be less stringent

On the following items:

- Air quality
- Setbacks



# Questions and Discussion

City Council Study Session September 2019