



Potential Oil & Gas LDC Updates

City Council Study Session April 2019

Summary

- This presentation is intended to present staff recommended updates to the LDC based on
 1. SB-19-181
 2. discussions with operators (including broad concepts and BMPs)
 3. community feedback

And to review the process for amending the LDC



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Senate Bill 19-181

- The legislation moved speedily through the House and Senate
 - On 3/13, passed the Senate
 - On 3/30, passed the House (with amendments)
 - Amended version expected to be approved by the Senate the week of April 1
 - Anticipate being signed by the Governor and effective when signed
- SB-19-181 made significant changes to state law addressing the Oil & Gas industry, the authority of local government, and the role of the COGCC



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Senate Bill 19-181

- Major highlights of the bill
 - Expressly **modifies state pre-emption** by explicitly authorizing local government regulation that is more stringent than state standards
 - i.e. State standards become minimum requirements
 - Expressly **authorizing local regulation of well pad locations** through land use regulations including the siting of oil and gas locations and facilities
 - Reforms the COGCC mission to focus on regulating for the protection of public health, safety, and welfare including the environment and wildlife resource (gone is the direction to “foster”)
 - Expressly **authorizes local governments to impose fees** for cost of monitoring & penalties for violations of local land use regulations
 - Requires Operators to obtain a **local permit prior** to receiving a state permit
 - **Revises forced pooling** requirements to require consent from greater than 45% of mineral rights holders



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Senate Bill 19-181

- Local government **authority expressly expanded** to include the regulation of the surface use of oil and gas operations in a reasonable manner:
 - Location and siting of O&G facilities and locations
 - Impacts on government facilities and services
 - Water quality and source, noise, vibration, odor, light dust, emergency preparedness, security, traffic, transportation impacts
 - Financial securities, indemnification and insurance
 - All other nuisance-type effects of O&G development
 - Inspect all O&G facilities
 - Impose fees for both the direct and indirect costs of monitoring and inspections programs to address impacts and enforce local regs
 - Receive technical assistance from the COGCC



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Current Code Overview

- Current process is an administrative review with appeals going directly to state court
- 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
- Regional Operator Agreement may be executed to establish broad operations standards



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Impacts on Commerce City

- Will allow most BMPs (negotiated with Extraction and other operators) to be made law in the municipal 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



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Potential LDC Changes

BMPs

- Codify the BMPs as standards in the LDC or as mandatory provisions in an extraction agreement
- Replace current sections that are less stringent than negotiated BMPs

Zoning and other regs

- Classify Oil & Gas Operations as an industrial use
- Disallow well pads from certain zone districts, e.g. residential, commercial
- Enhance land use regs to fully account for impacts
 - E.g. setbacks



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Potential LDC Changes

Enforcement

- Add fines and other enforcement tools related to operational and BMP infractions
- Restate inspection authority

Process

- Require pre-application meetings
- Require pre-application community or neighborhood meetings



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Next Steps

- Draft new or amended code sections
- Meet with stakeholders and Oil and Gas focus group to receive input
- Schedule study sessions with Planning Commission and City Council
- Schedule public hearings with Planning Commission and City Council
- Coordinate with COGCC
- Consider interim measures pending revisions



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Questions and Discussion




City Council Study Session April 2019

BMP's – Exceeding COGCC Regs



COMMERCE CITY BMPs vs. STATE REGULATIONS

The following examples highlight topic areas where the city was able to make significant progress in negotiating BMPs that go above and beyond state regulations to protect resident health, safety and quality of life.




TOPIC	PROPOSED BMP	COGCC REQUIREMENT
 AIR QUALITY	ELECTRIC POWERED DRILL RIG, COMPRESSORS, AND LIFT EQUIPMENT REQUIRED	NOT REQUIRED
	\$20,000 ANNUAL PAYMENT FOR AIR QUALITY MONITORING	ANNUAL MONITORING NOT REQUIRED
	GLYCOL AND DESSICANT DEHYDRATORS ARE PROHIBITED	ALLOWED
	INCREASED INSPECTION FREQUENCY	AS FEW AS 1 INSPECTION / YEAR BASED ON PRODUCTION
	OIL PIPELINE - NO STORAGE TANKS	NOT REQUIRED
 WATER QUALITY	LEAK DETECTION AND REPAIR PROGRAM - ENHANCED TECHNOLOGY AND MONITORING TIMELINES	NO TIMELINE REQUIREMENTS
	PROHIBITION OF 15 FRACKING CHEMICALS KNOWN TO BE DANGEROUS	NO BAN ON SPECIFIC HYDRAULIC FRACTURING CHEMICALS
	INJECTION WELLS PROHIBITED	NOT PROHIBITED
	NO DRILLING WITHIN FLOODWAYS	ALLOWED
	WASTEWATER REQUIRED TO BE PIPED FROM WELLPADS	TRUCKING OF WASTEWATER ALLOWED
 SAFETY	FLOWLINES REQUIRED TO BE REMOVED	REMOVAL OF FLOWLINES NOT REQUIRED
	SITE SECURITY PLAN FOR EACH WELL PAD	NOT REQUIRED
	OPERATOR ASSISTANCE WITH EMERGENCY RESPONSE TRAINING	NOT REQUIRED

BMP's – Exceeding COGCC Regs



COMMERCE CITY BMPs vs. STATE REGULATIONS

The following examples highlight topic areas where the city was able to make significant progress in negotiating BMPs that go above and beyond state regulations to protect resident health, safety and quality of life.

TOPIC	PROPOSED BMP	COGCC REQUIREMENT
 NOISE MITIGATION	NOISE MITIGATION PLAN REQUIRED IF WITHIN 1/4 MILE OF A HOME CONTINUOUS NOISE MONITORING IF WITHIN 1/4 MILE OF A HOME QUIET FLEET TECHNOLOGY REQUIRED IF WITHIN 1/4 MILE OF A HOME NOISE MAY NOT EXCEED 55db or 4db OVER BASELINE LEVEL	NOT REQUIRED IN THIS CIRCUMSTANCE NOT REQUIRED NOT REQUIRED MAXIMUM 80DB(A) ADJACENT TO RESIDENTIAL
 VISUAL MITIGATION	PIPELINES - NO STORAGE TANKS NO PUMPJACKS ALLOWED STAGED LANDSCAPING REQUIREMENT	NOT REQUIRED ALLOWED NO LANDSCAPE REQUIREMENT
 COMMUNITY OUTREACH	NOTIFY ADJACENT NEIGHBORS OF DRILLING, INCIDENTS, AND ACCIDENTS BI-ANNUAL UPDATE TO CITY COUNCIL OPERATOR WILL MAINTAIN A 24/7 COMPLAINT RESPONSE HOTLINE	NOT REQUIRED NOT REQUIRED NOT REQUIRED