



# Oil & Gas LDC Updates

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Ordinance 2235

# 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
- September 9<sup>th</sup>: Study Session 1 – City Council
- October 14<sup>th</sup>: Study Session 2 – City Council

# 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



# 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



# Proposed Regulations

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# Changes to Article III

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- Approval Criteria
  - Significant re-working of the approval criteria for public hearing & admin Oil & Gas Permit
  - Highly similar to CUP Approval Criteria Language
  - Specific language on reducing impacts on health, safety, general welfare & the environment
- Lapse & Forfeiture
  - Three year window to drill all wells approved within a permit. If all wells aren't drilled within three years, applicant must re-apply for oil and gas permit
- Transferability
  - Oil and Gas permits do not “run with the land” and any changes in tenancy, ownership, or management require the issuance of a new permit.





# Initial Assessment Process (Art III)

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- Requirement established for mandatory initial assessment process
- Alternative site analysis required as part of process
  - Operator submits a minimum of 3 locations for review
  - Staff reviews for distance with the following criteria:
    - Platted or existing residential
    - Schools
    - Parks
    - Recreation facilities
    - Streams
    - Facilities defined as a High Occupancy Building unit by the COGCC
    - Assisted living facilities
    - Reservoirs
    - Areas unsuitable for development
  - Staff informs applicant which sites are eligible, then applicant is eligible to apply **only** for those sites
  - If a proposed location is at least 2,000' from the stated criteria, a full analysis would not be required.
- City currently has an alternative location analysis requirement, but the approval criteria are minimal

# Review Process (Art III)

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- Proposed two tiered approach
  - If site is determined to be exempt from the alternative site analysis requirement during the initial assessment process (at least 2,000' from stated criteria), Oil and Gas permit would be processed administratively
  - If not, site would be reviewed by planning commission and city council
- All Oil and Gas Permits currently administrative review
  - Unless PUD zoning requires a CUP (Reunion)
  - If the PUD doesn't contemplate Oil and Gas facilities as an allowed use, a rezoning is required



# Changes to Art V

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- Application Requirements
  - Significant modifications to the permit submittal requirements, and plans that operators will need to prepare.
  - Generally similar to ROA requirements
- Third Party Technical Review
  - Operators required to cover costs associated with third party review of Oil and Gas land use applications
- Floodplain
  - Prohibition within 100 year floodplain
- Site Development Standards
  - Additional visual mitigation, fencing, landscaping, lighting, and sign standards

# Changes to Art V (cont'd)

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- Environmental Standards
  - Minor changes to wildlife mitigation plan requirements, waste management plan, sanitary regulations, and storm water management requirements.
- Noise Standards
  - Maximum dB level of 55dB, or 4dB over baseline sound conditions
- Traffic Mitigation Requirements
  - Requirement for a traffic study
- Prohibition
  - Added prohibition of gas storage wells
  - In addition to previously prohibited practices
    - Disposal pits, commercial disposal facilities, centralized exploration and production waste facilities, subsurface disposal facilities, and injection wells
- Inspections
  - Operator required to reimburse for all inspection costs
  - Added authority to inspect facilities at any time without prior notice

# Air Quality Monitoring (Art V)

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- Air Quality Monitoring Requirements
  - Baseline sampling of all well sites
  - Sampling during drilling and completions phase
  - Continuous monitoring for the life of the well
  - Real time data reporting requirement
  - All costs borne by applicant
  - Applicant must select from approved vendor list (BMP's)
- No such requirements under current code



# Setbacks (Art V)

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- Minimum setback of 1,000' from the following:
  - Existing residential, platted residential, or property currently entitled for residential use
  - High Occupancy Building Units (Schools, assisted living facilities, rec centers, etc)
  - Public Parks or Public Recreation facilities, not including trails or open space
  - Sports fields, amphitheaters, etc
  - Senior Living or assisted living facilities
- Minimum 500' setback from the following:
  - Public water supply wells
  - Reservoirs

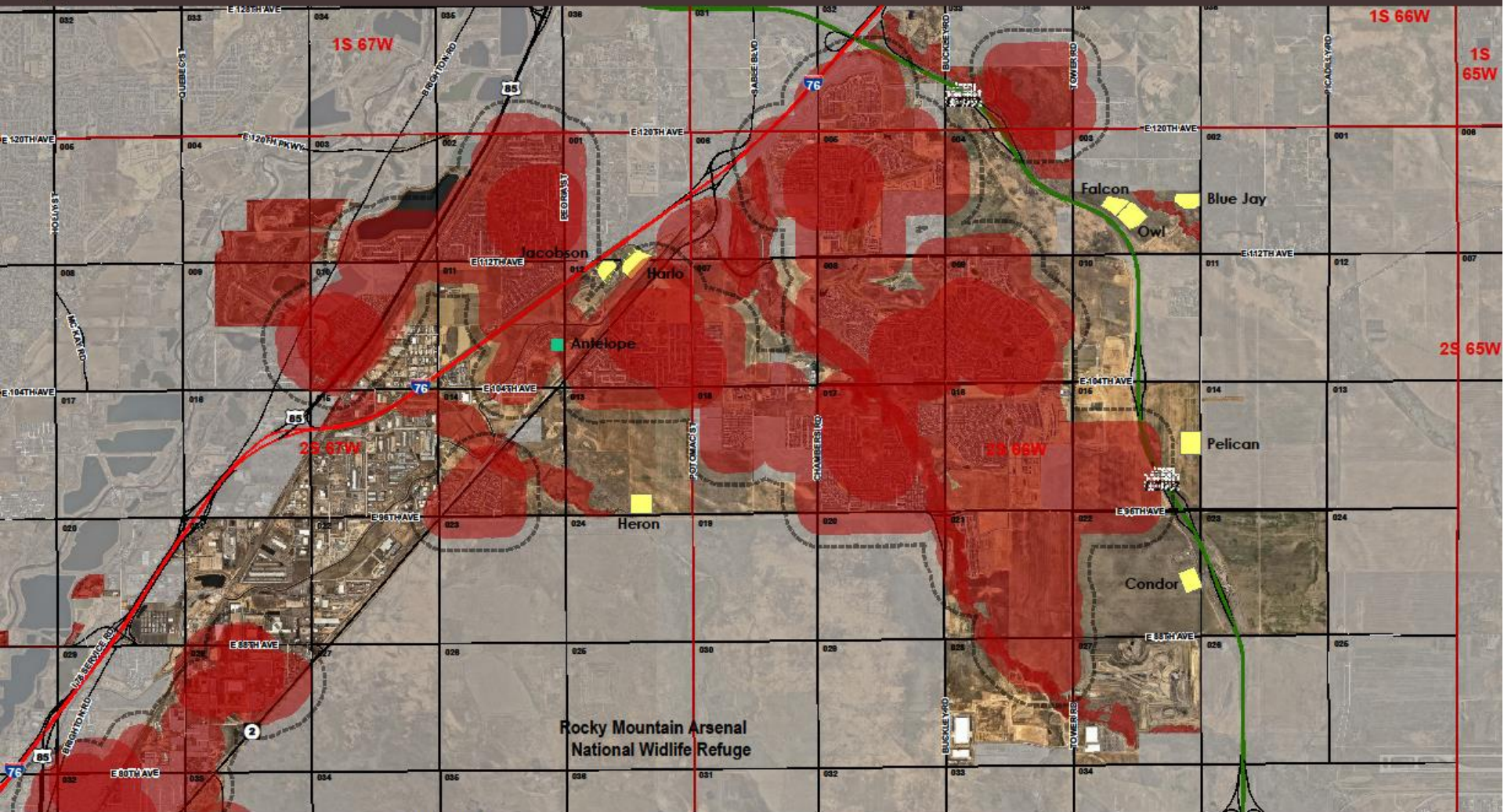


# Setback Map – Northern Range



Setback Analysis

Northern Range



**Legend**

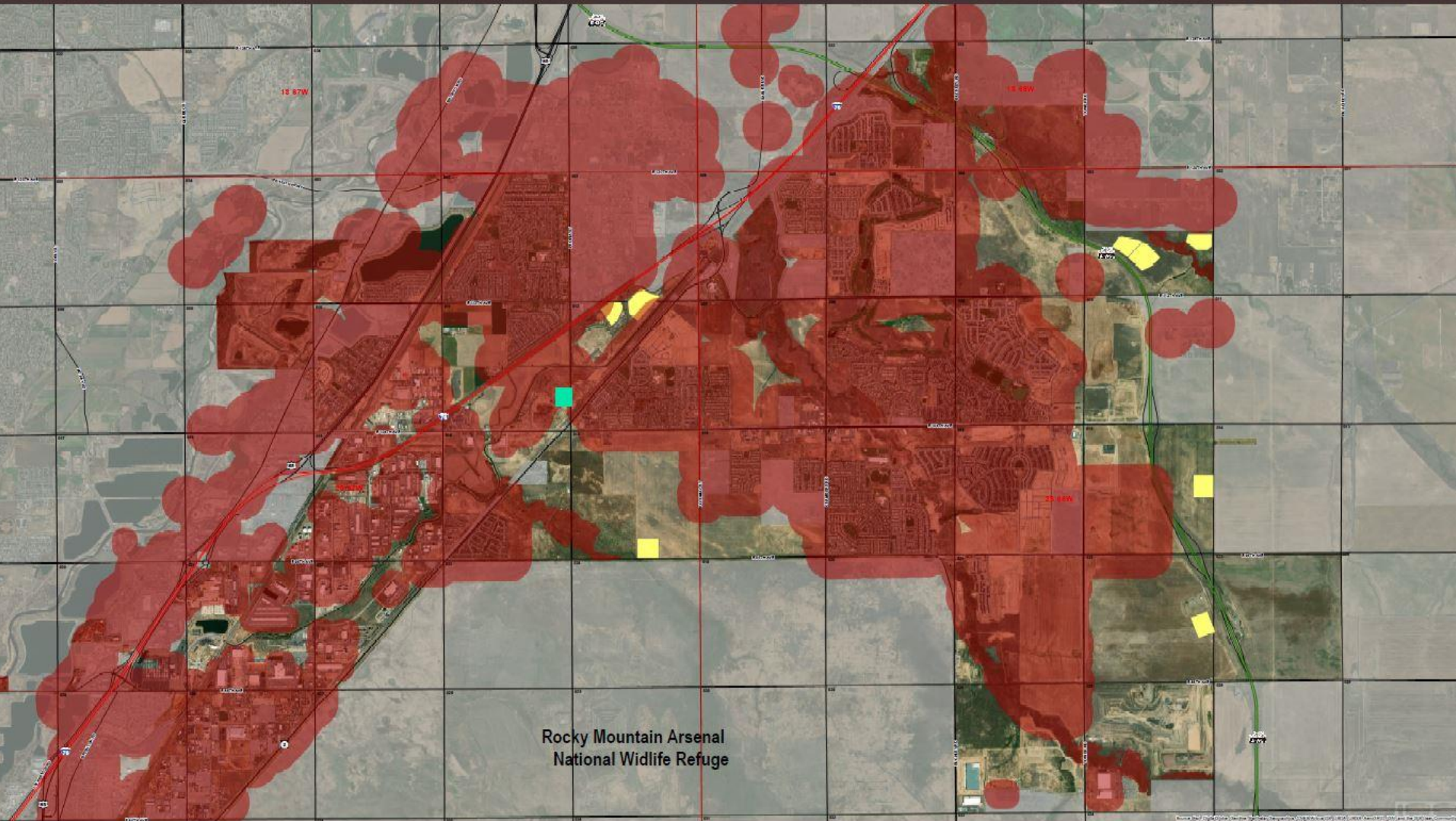
- Proposed Pad - Extraction
- Proposed Pad - Petro Operating
- 1,000' setback from platted & existing residential
- 1,500' setback from high occupancy building units
- Existing floodplain boundaries
- 1,500' setback from platted & existing residential

# City Setbacks + COGCC Setbacks



Setback Analysis - Northern Range

Based on Proposed Criteria



Rocky Mountain Arsenal  
National Wildlife Refuge



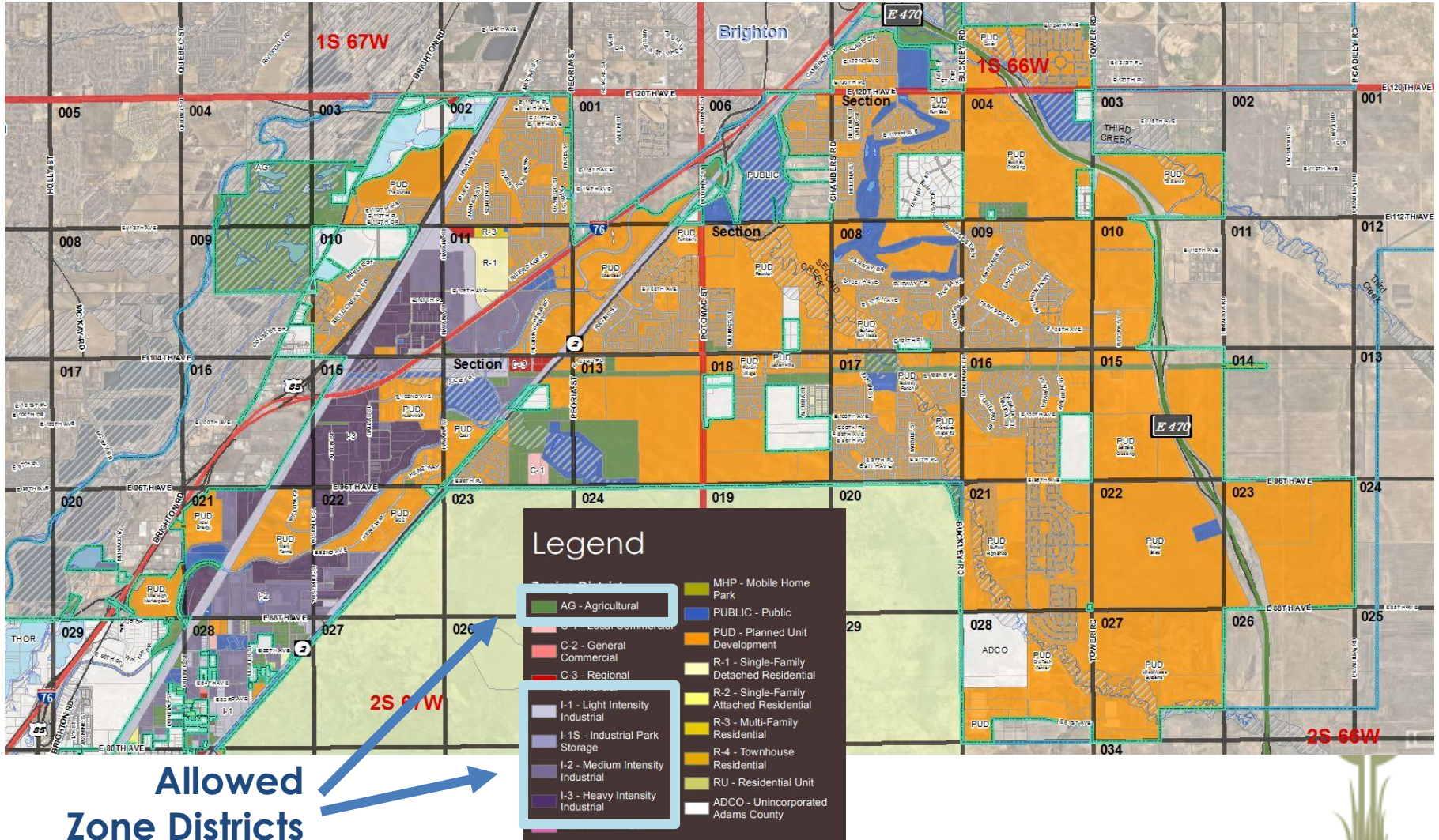
# Land Use Table Amendments

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- 21-5200, Table V-1
  - Proposed to allow I-1, I-1S, I-2, I-3, and AG (over 10 acres in size)
  - PUD's that specifically allow it as a contemplated use remain unchanged
  - Prohibited in all Commercial, Residential, and Public Zone districts
  - Currently allowed in all districts except Public, subject to alternative site location analysis



# Zoning Map – Northern Range



# Additions to Article VI

- Reverse setback
  - Minimum setback from existing well sited to newly platted residential lots.
  - Based on well count (most feasible method)
  - 50' setback from plugged & abandoned wells

Well Count	Setback
1-10	300'
11-24	400'
25 or more	500'

- Platting requirements
  - Specifies requirements for final plats
  - Denote the location of flowlines, easements, surface use agreements, location of plugged and abandoned well

# Article XI (Definitions)

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- Definitions section has been expanded to include a variety of new and specific definitions which apply to terms used when referring to Oil and Gas Operations
- Update of some existing terms
- Remove terms that no longer are specifically defined or have a reference in the code



# Fines (CCRMC)

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- Additional fines for Oil and Gas Operations added to 3-2304 of the Commerce City Revised Municipal Code
  - Minimum \$500 fine for a first time violation
  - Second time: \$1,000
  - Third time: \$2,000
  - Four or more: \$2,650



# Best Management Practices

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- Best Management Practices adopted by code
  - Any changes would need to go through code amendment process
  - City Council final approval authority
- Air Quality Requirements
  - 25 specific BMP's, including requirement for electric powered permanent equipment, prohibition on glycol and dessicant dehydrators, low odor drilling muds, and a leak detection and repair program, among other protections.
- Water Quality Requirements
  - Specific prohibition on certain chemicals during the hydraulic fracturing stage, requirement for closed loop pitless systems, containment berm standards, and requirement for a water quality monitoring plan.
- Safety Standards
  - Pipelines required where feasible, Braden head monitoring requirement, flowline regulations, plugged and decommissioned well testing, and flowback best management practices.
- Reclamation
  - Requirement for an interim and final reclamation plan.

# Best Management Practices (cont'd)

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- Noise Mitigation
  - Additional measures regarding noise issues that will supplement the LDC standards
- Visual Mitigation
  - Use of low profile tanks, facility painting standards, berm requirements
- Landscaping
  - Specifications on irrigation, preservation of existing significant trees
- Lighting
  - Standards specified to ensure no off-site spillage, and reduce impacts
- Community Outreach
  - Maintain a list of residents within ¼ mile, bi-annual update requirement to the city, requirement for a dedicated operator phone line, risk management assessment, incident and accident reporting, safety sign standards, emergency response plan
- Insurance Requirements
  - Stated insurance policy minimums, and specified insurance types operator is required to hold.

# PC Recommendation

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- On Wednesday, October 30<sup>th</sup>, Planning Commission voted 5-0 to recommend **approval** to City Council.







# Discussion

Ordinance 2235