



## Legislation Text

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**File #:** Pres 19-436, **Version:** 1

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### Study Session of Oil and Gas LDC Updates

#### **Summary and Background Information:**

In 2012, Commerce City adopted its current set of Oil and Gas regulations, which require any potential operators to obtain an Oil and Gas Permit, and execute an Extraction Agreement. Since the adoption of these rules, the landscape of oil and gas regulation at the state level has increased significantly. Since 2012, the Colorado Oil and Gas Conservation Commission (COGCC) has conducted a number of rulemaking procedures, which have modified requirements such as school setbacks, flowline regulations, spill reporting, and many other items. Most significantly, on April 16<sup>th</sup>, 2019, Governor Polis signed Senate Bill 19-181 into law, which expressly gave local governments more authority to regulate the surface impacts of resource extraction. The bill expressly modifies state pre-emption by authorizing local government regulation that is more stringent than state standards. This now allows local governments to regulate the following items:

- 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 regulations
- Receive technical assistance from the COGCC

Staff has been negotiating a Regional Operator Agreement with Extraction Oil and Gas since last year, and through this process, a number of these protections have been incorporated into the current draft agreement. Staff additionally has received direction to update city regulations, and intends to achieve the following goals through such a code update:

- Utilize SB-181 authority to regulate location and siting of facilities
- Incorporate other powers granted to local governments through SB-181
- Define approval criteria for alternative location analysis
- Evaluate current process and approval process
- Incorporate feedback received during the Oil and Gas Focus Group
- Evaluate additional feedback provided from the public, industry, and regulatory agencies
- Evaluate financial assurances and fees
- Codification of Best Management Practices (BMP's)
- Incorporate meaningful health, safety, and general welfare protections

Additionally, Adams County has a set of draft regulations which will be heard by the Board of County

Commissioners on September 3<sup>rd</sup>, 2019, prior to the expiration of a moratorium set to expire on September 20<sup>th</sup>. These draft regulations include a number of provisions authorized by SB-181, including an increased setback from existing and platted residences, limitation on what zone districts facilities are allowed in, establishing an alternative site location analysis, noise provisions, air quality monitoring requirements, among other items. The study session will cover how these regulations may impact Commerce City.

A significant amount of staff resources to this point have been dedicated to negotiation of the Regional Operator agreement, organization of the Focus Group meetings, and ongoing management of Oil and Gas in general. Now that the Regional Operator Agreement negotiations are coming to a close, and the focus group has conducted its final meeting, staff has the capacity to shift towards a major revision of the Oil and Gas Updates.

The purpose of the September 9 study session is to update council on the goals that staff is attending to achieve through the code update, and gain input on the following items:

- How quickly should these regulations be adopted?
- How should the city's regulations compare to the proposed regulations in Adams County?
- Are there additional groups or organizations that should be engaged through this process?

As part of the LDC update process, the following meetings would be conducted:

- Stakeholder meetings with regulatory groups, industry group, and potentially others
- At least two public meetings
- One study session with Planning Commission
- An additional study session with City Council
- Adoption hearings with Planning Commission and City Council

**Staff Responsible (Department Head):** Roger Tinklenberg, Interim Community Development Director

**Staff Member Presenting:** Domenic Martinelli, City Planner, Local Government Designee (LGD)

**Financial Impact:** N/A

**Funding Source:** N/A

**Staff REcommendation:** N/A: Study session is for feedback only - no vote is needed

**Suggested Motion:** Because this is a study session, no vote from Council is needed at this time.