



WORK SESSION AGENDA ITEM SUMMARY

City Council

STAFF

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SUBJECT FOR DISCUSSION

Overview of Draft Oil and Gas Regulations.

EXECUTIVE SUMMARY

The purpose of this work session is to provide: 1) an adoption schedule for zoning and setback restrictions for new or modified oil and gas facilities in the Land Use Code; 2) updates regarding recent developments in regional oil and gas regulations and compliance issues for existing oil and gas facilities; and (3) recommendations for refinements to reverse setback regulations for new land development near existing oil and gas facilities.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. For operational standards at existing Oil & Gas facilities: Do Councilmembers have any feedback on current efforts that leverage State and County regulations and resources?
2. For development near existing Oil & Gas facilities: Do Councilmembers have any feedback on proposed refinements to the Land Use Code regarding reverse setbacks?

BACKGROUND / DISCUSSION

In April 2018, the State of Colorado adopted SB-181, which effectively changed the way oil and gas development is regulated in Colorado. This both required comprehensive updates to State regulations and allowed greater local government authority to adopt more stringent regulations. Since 2018, the Colorado Oil and Gas Conservation Commission (COGCC) and many local jurisdictions, including Larimer County, subsequently adopted comprehensive regulations along with resources for regulatory compliance programs.

To respond to this changing regulatory landscape, Council direction, and community feedback, staff has worked to develop a comprehensive set of regulations for oil and gas development for both new and existing facilities. At the same time, several regulatory changes have occurred at the State and County levels that have created opportunities to more efficiently and effectively meet the community's and Council's expectations within the new regulatory framework, and without additional operational regulations

at the City level. Summaries and recommendations here are separated into three parts as related to: 1) new oil and gas facilities; 2) existing oil and gas facilities; and 3) new development near existing wells.

1. Land Use Restrictions for New Wells

Accessing oil and gas mineral resources from surface operations within the City is already limited and will become increasingly so as the City continues to grow. Per previous Council feedback, staff has drafted Land Use Code (LUC) updates that include siting restrictions for new development applications, including expansion of existing facilities.

Proposed siting restrictions for new development applications include:

- 2,000-foot setbacks from occupiable buildings, parks, trails or natural areas
- Development restricted to Industrial Zone Districts

As summarized previously in [March 22, 2022 Work Session materials](#), these updates effectively would not leave space within existing City limits and current zoning allocations for future surface use related to oil and gas development. A draft of proposed code language will be made available in November 2022, and consideration of adoption of land use restrictions for new wells is currently scheduled for December 6, 2022.

2. Operations at Existing Wells

While new Land Use Code will effectively eliminate impacts from new wells, there remains public concern about existing operations in an oil field in northeast of Fort Collins which partially extends into City limits. Relatively speaking, the scale of operations in Fort Collins is smaller than many other local jurisdictions, as the field has only 10 active wells within City limits.

Following adoption of SB-181, per Council direction, staff initially began developing comprehensive local regulations related to potential impacts to human health and the environment. Concurrently, with rulemaking engagement from the City, COGCC regulations began rapidly evolving, and Larimer County adopted oil and gas regulations for the first time. Key elements of new regulations adopted since 2021 are listed in Attachment 1. Most recently, regional and local efforts related to current operations have included:

- **Potential closure of low or non-producing wells.** In April 2022, new COGCC Financial Assurance rules became effective, in part allowing local jurisdictions to request that low or non-producing wells be ordered plugged and abandoned (reclaimed). These are important considerations for wells within the Fort Collins field, as some of the wells have not been operational or have been low producing for a long period of time, and in some cases more than 20 years. Staff are currently working with Larimer County to prepare a joint application to the COGCC to plug and abandon several wells in and near City limits that are in close proximity to homes.
- **State action on compliance issues.** In August 2022, the Colorado Department of Public Health and Environment (CDPHE) ordered operations at a facility in the Fort Collins Field about 5 miles north of City limits (the “Kraus” facility), cease and desist operations due to ongoing compliance violations. Additionally, in August 2022, the CDPHE issued a compliance advisory for a facility that directly abuts Fort Collins City limits and may consider further compliance action. This site has been subject to violations of record keeping requirements, leak detections and gas flaring, and was the site of a fire in May 2022.
- **Collaboration with Larimer County for inspection and compliance resources.** In April 2022, Council and Larimer Commissioners met jointly and provided direction to establish agreements to share air quality monitoring and compliance resources. Related to this, Council heard a Resolution for an Intergovernmental Agreement (IGA) with Larimer County on October 18, 2022 to commit funds towards

the purchase of an Optical Gas Imaging (OGI) camera, which would then be owned, operated and maintained by Larimer County Department of Public Health. This arrangement effectively adds new local resources to support odor response leak detections at facilities in and near Fort Collins City limits, without adding ongoing costs for the City.

- **Alternative Approaches (e.g., Acquisition of Mineral Interests).** Following feedback during the March 2022 Work Session, staff did preliminary research regarding potential options to lease or otherwise control mineral rights in for the Fort Collins Field, with the goal of eliminating existing operations within City limits. Staff determined that the acquisition of mineral rights and oil and gas leases would be complex and involve substantial time and resources to identify the owners of the mineral rights and leases, determine the value of rights and leases, and negotiate and complete the acquisitions. Further exploration remains an option if current efforts do not effectively reduce or eliminate surface impacts from oil and gas operations in the City.

Given the pending adoption of new LUC that will limit new oil and gas facilities, the small scale of existing operations, new State regulations, and collaboration with Larimer County to support compliance, staff does not recommend consideration of additional local regulations and enforcement resources for existing facilities at this time.

3. Reverse Setbacks – New Development Near Existing Wells

The COGCC regulates permitting and setbacks for new wells near existing buildings but does not regulate the reverse situation: permitting and setbacks for new development near existing oil and gas facilities. Since 2013 and most recently updated in 2018, the LUC requires a buffer of at least 500-feet between existing oil and gas operations and new residential development and 1000-feet for High-Occupancy Buildings like playgrounds, parks, recreational fields, or community gathering space. The Code also offers a 150-foot alternative compliance buffer for Plugged and Abandoned wells that requires site investigation details, sampling, and monitoring to demonstrate that the well has been properly abandoned and that soil, air and water quality have not been adversely impacted by oil and gas operations or facilities or other sources of contamination.

In November 2021, the COGCC adopted a revised 2,000-foot setback from any oil and gas location to residential buildings, school facilities, and childcare centers. The following minor updates are proposed to align the new COGCC rulemakings and existing definitions:

- Update reverse setback requirements to 2,000-foot setback rule for the following COGCC well status type:
 - Producing (PR); wells where produced oil and/or gas is collected from underground reservoirs
 - Injecting (IJ); wells used for the exclusive purpose of injecting fluids for enhanced oil recovery
 - Shut-In (SI); wells that are not currently producing, but remain capable of production or injection
- Update reverse setback requirements to 150-foot setback for the following COGCC Well status types, which represent wells that are no longer operational and will not be in the future:
 - Plugged and Abandoned (PA);
 - Dry and Abandoned (DA);
 - Abandoned Location (AL)
- Continue to require a site investigation for all abandoned wells entitled to a 150-foot setback, assuring the well has been accurately located, and there are no soil or soil gas contamination issues
- Remove an exclusion for setbacks from roads.

Soil-Gas and Groundwater Monitoring for 150-foot Buffer Zones

The current requirements of the LUC provide a 150-foot alternative compliance buffer distance for Plugged and Abandoned wells, only. In addition to submitting an alternative compliance buffer plan, development must submit a plan for five-years of monitoring at the well location. This LUC requirement remains important for inactive and abandoned wells rather than active wells because the Operator of an active well is already required to provide ongoing monitoring during the lifecycle of the well per COGCC Rules. Given the unknown integrity of previously plugged wells (both dry and formerly producing) drilled prior to 1951, and the evolving standards from the scientific literature; Staff recommend the LUC continue to require ongoing monitoring for inactive wells (PA and DA wells) for 5 years after development Construction Permit has been issued.

Impact

Most developable land near existing oil and gas wells has been built out and updated reverse setback regulations would not have an impact except in one undeveloped areas near two “Shut-In” wells. Attachment 2 includes a map showing reverse setbacks in place when the “County Club Reserve” area was approved (350-feet), current setbacks (500-feet), and the proposed revised reverse setbacks (2000-feet). Note that the future status of these wells is currently unknown, and the City and County are exploring options to “Plug and Abandon” these active wells with the COGCC.

NEXT STEPS

Ongoing work in oil and gas is expected to include:

1. Consideration of adoption of land use restrictions for new or modified oil and gas facilities, which is currently scheduled for December 6, 2022.
2. As related to operation of existing oil and gas facilities:
 - Purchase of new OGI camera to support leak detections at existing facilities, per Intergovernmental Agreement (IGA) with Larimer County.
 - Submittal of a joint City/County application to the COGCC to consider plugging and abandonment of low and non-producing wells in the Fort Collins Field, expected to be submitted in Q4 of 2022. Staff will report back to Council regarding outcomes of COGCC decisions when available.
3. For reverse setbacks, if supported by Council, development of code updates could be brought to Council for consideration in Q1 of 2023.

ATTACHMENTS

1. List of Regulations
2. Map of Reverse Setbacks
3. Presentation