



Mayor
City Hall
300 LaPorte Ave.
PO Box 580
Fort Collins, CO 80522
970.416.2154
970.224.6107 - fax
fcgov.com

December 15, 2022

Air Quality Advisory Board
c/o Cassie Archuleta
PO Box 580
Fort Collins, CO 80522

Dear Chair Artell and Board Members:

On behalf of City Council, thank you for providing us with the December 12, 2022 memorandum regarding "Oil and Gas Code Recommendations" wherein you urged us to consider three categories when adopting regulations:

- (1) Reducing the pace of the regulation adoption process;
- (2) increasing transparency and reducing Director discretion in the regulations' implementation; and
- (3) utilizing the broader range of O&G regulatory measures available to local governments under SB 19-181 and the City's Home Rule status.

Thank you for your continuing involvement in improving the air quality of our community and for the time you took to review the draft regulations.

Best Regards,

A handwritten signature in black ink, appearing to read "Jeni Arndt".

Jeni Arndt
Mayor

/sek

Cc: City Council Members
Kelly DiMartino, City Manager



MEMORANDUM

DATE: December 12, 2022
TO: Mayor and City Councilmembers
FROM: Air Quality Advisory Board; Chair, Karen Artell
RE: **Oil and Gas Code Recommendations**

The Northern Colorado Front Range, including Fort Collins, faces significant and growing air quality, public health, public safety, and livability challenges associated with rapidly increasing Oil and Gas (O&G) development. The Air Quality Advisory Board (AQAB) applauds the City Council's commitment to adopting regulations that seek to prevent, limit, and mitigate O&G development's adverse impacts on air quality and climate change.

In 2019, SB 19-181 gave local governments the power to regulate the surface impacts of oil and gas operations to protect and minimize adverse impacts to public health, safety and welfare and the environment in a manner equal to or more stringent than state level regulations.

Our recommendations fall into three categories: (1) Reducing the pace of the regulation adoption process; (2) increasing transparency and reducing Director discretion in the regulations' implementation; and (3) utilizing the broader range of O&G regulatory measures available to local governments under SB 19-181 and the City's Home Rule status.

Please note that these AQAB recommendations were written prior to receiving updated draft oil and gas V.2 regulations the afternoon of Dec. 12. The AQAB will review the updates and comment further as needed.

1. The AQAB requests a slower process for developing and approving oil and gas regulations to allow for careful consideration and public input. This includes:

- Allowing more time for review of the draft regulations and how they fit into the new land development code; we recommend adoption of a moratorium to allow additional time.
- Holding a public forum with City staff for community discussion and collaboration regarding the draft regulations.
- Extending the review time between the first reading and second reading of any new regulations, as actual code language with revisions is not expected to be available until after the first reading. See note above regarding V. 2 availability.

2. The AQAB recommends the following to increase transparency:

- A firm 2,000 foot setback should be required from residential/occupied buildings for new oil and gas facilities; no waivers, variances, modifications or off-ramps should be allowed.
- Setbacks should be measured from property boundaries, rather than the nearest wall, for any existing or platted building approved or to be approved as occupiable space (as defined under City Building code 5.17.4 (A)(2)(i)).
- Oil and gas facilities should only be allowed in industrial zoned areas, with no exceptions.
- Applicants proposing oil and gas facilities and/or pipelines should not be allowed:

- to add permitted uses not listed or permitted in the current development code or zoning map.
- to seek a text amendment to the land development code, or to use any other means such as a standards modification, development code amendment, or zoning map amendment, to expand allowable uses.
- to seek variances or other requests designed to expand allowable uses.
- Remove pipeline locations as an allowed use from public lands and residential zone districts, including HMN, LMN, MH, MMN, RL, UE, RF, and RUL.
- Increase pipeline setbacks in all other zone areas to a minimum 150 feet and include leak detection, secondary containment, or other mitigations with no provision for a City waiver. Gas facilities and all pipelines should be subject to Planning and Zoning Commission Review, a type 2 review, and not a basic development review.
- Add enhanced natural habitat feature to pipeline review.
- Add dwelling tenants to all notification requirements.
- Require neighborhood meetings for oil and gas location/facility development proposals prior to approval of an application.
- Deem all meetings that fail written notification requirements to be a violation of the permitting process.
- Remove the following wording from proposed regulations: “This prohibition shall not be interpreted to include oil and gas operation, facilities, or pipelines as defined in this Code and addressed in Division 5.17” The permitted uses are evident in the OMB definitions.

3. We encourage the City to expand its regulatory aperture to consider the wider range of O&G regulatory options available to it under SB 19-181 and the City’s Home Rule status:

- Establish operator financial assurance requirements sufficient to ensure adequate resources are available to provide for proper maintenance, decommissioning, removal, response, and remediation of O&G operations and facilities.
- Require the operator to provide a cumulative impacts analysis and a natural habitat / natural feature review prior to development plan approval for all O&G facilities and operations (including pipelines).
- Require the applicant operator to provide an up-front showing that the water supply for the proposed O&G operation will be adequate for the project’s needs.
- Establish a schedule of impact fees to fund infrastructure and services necessary to serve oil and gas development, including roads, emergency management, and city planning and enforcement staff time.
- Establish Inspection, enforcement, and penalty provisions for violations of operational requirements.
- Establish industry standard control, control systems, and monitoring requirements to properly monitor and respond to safety alerts for oil and gas operations and pipelines.