


**BROOMFIELD CITY AND COUNTY ATTORNEY**



## Oil & Gas Post SB19-181

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**Broomfield's Perspective**

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### OVERVIEW

- History of oil and gas regulation in Broomfield
- Broomfield's current oil and gas regulations
- How SB19-181 changed local authority
- Amendments to oil and gas regulations that Broomfield may consider
- Working with the COGCC

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### History of Oil and Gas Regulation in Broomfield

- 1993 - Broomfield first adopted oil and gas regulations
  - vertical wells and facilities
- 2011 - 2013 Broomfield approves horizontal drilling developments by a couple of oil and gas operators
- 2013 - Broomfield voters adopt 5 year ban on hydraulic fracturing
- 2016 - Supreme Court determines that Longmont's ban on hydraulic fracturing is pre-empted by state law

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### Regulatory History

- August 2017 - Broomfield adopts oil and gas amendments to its comprehensive plan, which include best management practices
- October 2017 - Broomfield enters into an Operator Agreement with Extraction Oil and Gas that contains the best management practices
- July 2018 - Broomfield adopts amendments to its Code that implement its comprehensive plan and best management practices for oil and gas development

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### Regulatory History

**November 2017 - Broomfield voters approve Charter Amendment**

With regard to oil and gas development near the City's populated areas and within the City's boundaries, such powers shall include but not be limited to plenary authority to regulate all aspects of oil and gas development, including land use and all necessary police powers. As such, Broomfield shall condition oil and gas development permits to require oil and gas development to only occur in a manner that does not adversely impact the health, safety, and welfare of Broomfield's residents in their workplaces, their homes, their schools, and public parks in order to protect the public's health, safety, and welfare and to safeguard the environment and wildlife resources.

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### Broomfield's Current Regulations

- Oil and gas facilities are permitted in all zone districts as a use by special review
- Provide for permitting by use by special review or by approval of an operator agreement (MOU)
  - Now requires City Council approval
  - Eliminates review by the Planning and Zoning Commission

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### Broomfield's Current Regulations

- Alternative siting analysis required
- Well setbacks
  - COGCC setbacks
- Noise -
  - Must minimize to maximum extent possible
  - COGCC noise standards
- Light & dust
- Odor
  - CDPHE standards

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### Broomfield's Current Regulations

- Air quality
  - Emission controls
  - Electric equipment required (grid or renewable source)
  - Leak detection and repair required
- Water supply
- Water quality
- Land disturbance
  - COGCC reclamation requirements

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### Broomfield's Current Regulations

- Emergency preparedness and response
- Cultural and historic resources
- Site access and security
- Transportation, roads and access
- Wetlands protection
- Natural resources
- Floodplains and floodways
- Geologic hazards

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### Broomfield's Current Regulations

- Risk management plan
- Abandoned wells
  - COGCC rules
- Recreational activity
- Scenic attributes and character
- Waste management
  - Waste injection wells prohibited

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### How SB19-181 Changed Local Authority

- Pre-emption issues regarding surface impacts eliminated
- Clarified local authority over
  - Land use
  - Location and siting of oil and gas facilities
  - Impacts to public facilities and services
  - Water quality & source
  - Noise
  - Vibration

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### How SB19-181 Changed Local Authority

- Clarified local authority over
  - Odor
  - Light
  - Dust
  - Air emissions & quality
  - Land disturbance
  - Reclamation

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## How SB19-181 Changed Local Authority

- Clarified local authority over
  - Cultural resources
  - Emergency preparedness
  - Security
  - Traffic and transportation plans
  - Financial securities, indemnification and insurance to comply with local regulations

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## How SB19-181 Changed Local Authority

- Granted local authority to:
  - Inspect facilities
  - Impose fines for leaks, spills and emissions
  - Impose fees to cover direct and indirect costs of permitting, regulation, inspection & monitoring

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## SB19-181 Possible Limitations on Local Authority

- Local governments may regulate the “surface impacts of oil and gas operations in a reasonable manner to protect and minimize adverse impacts to public health safety and welfare and the environment”
- “‘Minimize adverse impacts’ means, to the extent necessary and reasonable, to protect . . . by avoiding adverse impacts . . . and minimizing and mitigating the extent and severity of those impacts that cannot be avoided.”

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## Amendments Broomfield May Consider

- Use land use authority to preclude oil and gas development in some sensitive areas
  - Residential districts
  - Parks
- More stringent air quality regulations
- Additional noise mitigation
- More stringent pipeline requirements (location, leak detection)
- More controls to prevent and mitigate liquid spills and releases

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## Amendments Broomfield May Consider

- More stringent water quality protections
- Additional regulations to minimize land disturbance
- Financial assurance requirements
  - Insurance
  - Bonds for abandoned wells
- Fees to cover costs of permitting, monitoring, inspection and regulation
- Changes to fine structure

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## Working With COGCC

- Broomfield will participate in COGCC rulemaking process
- Work with COGCC/CDPHE staff on inspection and regulatory issues
- Broomfield will monitor the evolution of COGCC into a regulatory agency



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## How the State of Colorado Could Assist Local Governments

- Provide objective and reliable technical assistance
  - Location and site assessment
  - Health effects of oil and gas development
  - Cumulative effects of oil and gas development
- Set standards for evaluating the risk of oil and gas operations

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QUESTIONS, COMMENTS, AND DISCUSSION

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