

## RESOLUTION 2016-137

Extending the Moratorium on Processing Oil and Gas Development Applications first Enacted by Resolution 2016-65.

### Recitals

A. On November 15, 2016, the Boulder County Board of County Commissioners ("Board") extended the temporary moratorium on processing oil and gas development applications first enacted May 19, 2016, by Resolution 2016-65, on an emergency basis through January 31, 2017.

B. The moratorium was extended to allow staff to research and incorporate numerous additional matters into the proposed amended oil and gas permitting regulations presented to the Board on November 15, 2016. Because the temporary moratorium was scheduled to expire November 18, 2016, the Board imposed an emergency extension to allow time for staff and the public to comment on the need for and length of a moratorium extension.

C. At a duly noticed public meeting on December 13, 2016, the Board considered a presentation from staff and written comments from the public.

D. Staff recommended that the moratorium be extended to allow for the research and drafting necessary to complete amendments to the draft regulations requested by the Board and to allow for concurrent planning and efforts to prepare staff to process oil and gas development applications when the moratorium terminates. Staff recommended the moratorium be extended to and through May 1, 2017.

E. Staff proposed to present a revised draft of the regulations at a public hearing on March 14, 2017. This timeframe allows for finalization and adoption of the proposed regulations alongside implementation planning before the termination of the moratorium on May 1, 2017.

**NOW, THEREFORE,** the Board resolves:

1. The temporary moratorium first enacted by Resolution 2016-65 is extended to and through May 1, 2017.

2. The extension of the moratorium is reasonable and necessary to protect the public health, safety, and welfare of the County and prevent irreparable harm. The purpose of the moratorium extension is to allow time to finalize and adopt amendments to the current County land use and environmental regulations governing oil and gas development in unincorporated areas.

3. Staff will present a revised set of amendments to the regulations at a public hearing March 14, 2017, at 2:00 p.m. and will concurrently prepare for implementation of the new regulations when adopted and at the termination of the moratorium.

A motion to this effect was made at the December 13, 2016 public meeting by Commissioner Gardner, seconded by Commissioner Domenico, and passed by a 3-0 vote of the Board.

ADOPTED on this 15 day of December 2016.

BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY:



*Elise Jones*

Elise Jones, Chair

*Cindy Domenico*

Cindy Domenico, Vice Chair

*Deb Gardner*

Deb Gardner, Commissioner

ATTEST:

*Neena J. Lacey*

Clerk to the Board

## Exhibit A

### **Categories of Exemption from the Moratorium, Process for Requesting an Exemption, and Process for Evaluating Exemption Requests**

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1. **Types of Work Exempted.** The Temporary Moratorium does not apply to the following:
  - a. Any complete application for oil or gas exploration, development, or production currently being processed by the Land Use Department, which may continue to be processed and reviewed as provided in the Land Use Code.
  - b. Any application for oil or gas exploration, development, or production already approved by the Land Use Department prior to the effective date of this Resolution where such approval is validly maintained thereafter.
  - c. Development that possesses either a statutory or common law vested right.
  - d. Minor modifications to existing permits.
  - e. Plugging and abandonment of existing facilities, with the exception that associated rerouting of flowlines, gathering lines, or other pipelines will be subject to section 4-514.E of the Land Use Code, unless the Director waives one or more of the requirements of that section as inapplicable in light of the nature and extent of the proposed work.
  - f. Work on existing oil and gas facilities which the Land Use Director in his sole discretion deems necessary to either (i) repair facilities impacted by acts of God such as, without limitation, the flooding and severe weather events of September 2013, (ii) reconfigure or relocate facilities in a manner that better protects public health, safety, and welfare and the environment, or (iii) perform routine maintenance and repairs. In determining whether work is "routine maintenance or repairs," the Director may consider whether the work will require other county permits, such as floodplain development permits. For purposes of this Section, "oil and gas facilities" means the site and associated equipment used for the production, transportation, treatment, and/or storage of oil and gas and waste products; or an individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas, including associated equipment required for such production; or gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes; or any other oil and gas operation which may cause significant degradation. In no case may the Land Use Director approve repairs, reconfiguration, or relocation under this subsection where the work would involve drilling a new well or hydraulic fracturing.

2. **Request for Exemption.** If an oil and gas operator believes certain activity is not subject to the temporary moratorium given the exceptions listed in Section 5 as amended by this Resolution, the operator must submit a request for exemption in writing to the Land Use Director. Unless waived by the Land Use Director for good cause shown, the request must include at a minimum:

- a. a site plan showing the existing and planned location of the facilities;
- b. a description of the desired work;
- c. the reason(s) why the work is not subject to the moratorium including any benefit to public health, safety, and welfare and the environment;
- d. the time and dates when the work would occur;
- e. the duration of the work;
- f. any mitigating measures to reduce impacts to neighbors and other affected parties;
- g. a list of all parties that will receive notice from the operator prior to commencement of work;
- h. documentation that the operator can obtain and maintain all other required local, state, or federal permits, including without limitation county Floodplain Development Permits and any permits required by COGCC, CDPHE, and the U.S. Army Corps of Engineers.

3. **Process for Evaluating Exemption Request.** Work eligible for an administrative exemption from the moratorium may only proceed upon written approval of the Land Use Director.

- a. In evaluating a request for an exemption, the Director will use the Standard DPR Approval Standards in section 12-703 of the Boulder County Land Use Code as well as the pipeline regulations in 4-514.E as a guide. Where two or more of the standards in 12-703 or 4-514.E conflict when applied to the proposed work, the Director shall analyze the applicability and importance of each of the conflicting standards under the specific facts of the application and make a reasonable attempt to balance the conflicting standards in reaching a decision.
- b. In considering an exemption request, the Director shall notify adjacent property owners. The Director shall not issue the approval for seven days following such notification and shall consider any comments received by the public. To the extent necessary, the Director may refer requests for administrative exemptions from the moratorium to other agencies. In his sole discretion, the Director may waive this notice requirement for good cause shown (for example, necessary and routine maintenance and repairs not likely to affect adjacent property owners).
- c. Where appropriate given the nature and extent of the proposed work, the Director may impose reasonable conditions of approval to mitigate impacts, using sections 12-703, 12-800, and 4-514.E, as a guide.