

Boulder County



DC-19-0002: Amendments Related to Article 12 of the Land Use Code

Proposed Land Use Code amendments addressing oil & gas development, seismic testing, and companion changes to the Land Use Code

Board of County Commissioners Public Meeting

December 10, 2020 4PM

RECAP

- **March 6** – 1st Draft released
- **October 20** – 2nd Draft released
- **November 9** – Planning Commission Public Hearing (2nd Draft)
- **November 10** – Planning Commission recommendation of approval
- **November 23** – 3rd Draft released
- **December 1** – BOCC Public Hearing (3rd Draft)
- **December 3** – BOCC questions and direction to staff
- **December 10** – Discuss modifications (4th Draft) and take action (adoption or further direction)

County staff:

- Kim Sanchez, Deputy Director - Planning (Community Planning & Permitting (CP&P)) & Local Governmental Designee
- Jasmine Rodenburg, Senior Planner (CP&P)
- Kate Burke, Senior Assistant County Attorney (County Attorney's Office)



BOULDER COUNTY O&G WEBSITE

<https://boco.org/oilgas>

Use tabs below to search for information by subject area

The screenshot shows a website page with a green navigation bar at the top containing tabs for 'Regulations Update', 'News', 'Public Comment', 'Crestone CDP', '8 North LLC', and 'Oil and Gas Maps'. The main content area has a title 'Boulder County's Oil & Gas Regulations Update – Docket DC-19-0002: Amendments to Article 12 of the Land Use Code'. Below the title is a paragraph about a moratorium on accepting and processing new oil and gas development applications and on seismic testing in unincorporated Boulder County. This is followed by a section for a 'Board of County Commissioners Public Meeting – Thursday, Dec. 10, 2020 at 4 p.m.', which includes a description of the meeting, a link to a virtual public meeting, and a 'Join The Virtual Public Meeting Using Zoom' button. Below this is a section titled 'Draft Regulations and Related Information' with a list of links to various reports and drafts. A yellow arrow points to the second item in the list: '4th draft of the updated oil and gas regulations, Dec. 9, 2020'.

Regulations Update News Public Comment Crestone CDP 8 North LLC Oil and Gas Maps

Boulder County's Oil & Gas Regulations Update – Docket DC-19-0002: Amendments to Article 12 of the Land Use Code

A moratorium on accepting and processing new oil and gas development applications and on seismic testing in unincorporated Boulder County is in place in order to review and update the county's oil and gas regulations in response to the changes made by Senate Bill 19-181. This moratorium is in place through December 31, 2020.

Board of County Commissioners Public Meeting – Thursday, Dec. 10, 2020 at 4 p.m.

Public meeting to discuss the changes requested by the BOCC on Dec. 3. No additional public testimony will be taken at this time. View the [December 10, 2020 DC-19-0002 staff report](#) and [4th draft of the updated oil and gas regulations](#).

BOCC Action Requested: Adoption or direction to staff on changes.

Link to join the virtual public meeting (no registration required):

[Join The Virtual Public Meeting Using Zoom](#)

Alternatively, call-in to the meeting: 1-833-568-8864, Webinar ID: 161 503 8158#

If you have questions about joining the meeting, please email hearings@bouldercounty.org.

Draft Regulations and Related Information

- DC-19-0002 Board of County Commissioners Staff Report for Dec. 10, 2020
- 4th draft of the updated oil and gas regulations, Dec. 9, 2020
- DC-19-0002 Board of County Commissioners Staff Report for Dec. 1, 2020
- DC-19-0002 Planning Commission Staff Report for Nov. 9, 2020
- Staff presentation for Planning Commission, Nov. 9, 2020
- 3rd draft of the updated oil and gas regulations, Nov. 23, 2020
- 2nd draft of the updated oil and gas regulations and summary, Oct. 20, 2020
- 1st draft of the updated oil and gas regulations and summary, March 6, 2020



4th DRAFT:
CHANGES MADE
BASED ON DIRECTION
FROM BOCC ON DEC.3

Boulder County



OPERATOR VIOLATIONS

- ✓ Edits made to Section 12-400(B)(3) to include notices of alleged violations in the list of operator incidents



MINERAL LEASE RIGHTS

- ✓ Edit made to Section 12-400(B)(2) requiring identification of operators' lease rights both inside and within 2,000 feet outside county boundaries since this may affect siting decisions within the county



OPERATOR FINANCIAL FITNESS

- ✓ Edits made to Section 12-1100(GG) to include notice from operators to the County of legal or financial changes that affect proposed or on-going operations



FOLLOW-UP AFTER SPILLS, LEAKS AND RELEASES

- ✓ Edits made to Section 12-500(D)(4)(b) and 12-1100(F)(5) and 12-1100(K)(3) to include inspections and reporting after clean-up of spills, leaks and releases



LOCAL AUTHORITY ON CLEAN-UP

- ✓ Edits made to Section 12-500(D)(4)(b), 12-1100(F)(5) and 12-1100(K)(3) to require that clean-up of spills, leaks and releases comply with local requirements as well as state and federal requirements



ODOR AND NOISE

- ✓ Edits made to Section 12-500(F) and 12-1000(P) to lower the allowable odor emissions to 2 dilutions instead of 5
- ✓ Edits made to Section 12-1400 to clarify that odor complaints will elicit prompt response from County inspectors
- ✓ Edits made to Section 12-1000(O) to clarify that site-specific noise requirements will be stricter during nighttime hours



RECLAMATION, REVEGETATION AND WEED CONTROL

- ✓ Edits made to Section 12-500(H) and (J), 12-900(C)(8) and (13), and 12-1100(L) and (N) to provide further detail to reclamation, revegetation and weed control provisions
- After consultation with Boulder County Parks and Open Space staff, requirements were modified to allow for discretion based on site-specific circumstances, including requiring native species where appropriate, use of integrated weed control and pest management that may include use of chemicals where appropriate.



SEISMIC TESTING PROTECTIONS

- ✓ Edits made to Section 12-700(D) to increase the notice provision to an 800-foot radius (instead of 400-feet) to match the area of known disruption, based on information from the noise and vibration engineers with whom staff consulted
 - Studies show that vibrations from vibroseis trucks (the only seismic testing method allowed in the county) become almost imperceptible at 800 feet from the source
- ✓ Edits made to Section 12-700(C)(4) clarifying that seismic testing will not be allowed after 6 p.m. and before 8 a.m.



NOTICE AND AVAILABILITY OF APPLICATION MATERIALS TO PUBLIC

- ✓ Edits made to Section 12-800(H), adding (5) to clarify that application materials will be available to the public online as well as in hard copy
- ✓ New Section 12-800(H)(1) added to provide notice alerting the public that an application has been received prior to completeness review



NEIGHBORHOOD MEETING

- ✓ Edit made to Section 12-800(J) to clarify that “all” the public will be allowed to attend neighborhood meetings
- ✓ Edit made to Section 12-800(O) to clarify that public feedback received at the neighborhood meeting will be considered as part of the County review of an application



POSAC PURVIEW

- ✓ Edit made to Section 12-800(K)(2) to add “recreational” to the list of subjects under POSAC’s review



ENVIRONMENTAL SURETY BONDS

- ✓ Edits made to Section 12-1000(F) and 12-1100(FF)(1) to include environmental surety bonds as types of financial securities that may be required



“LIFETIME” OF OIL AND GAS OPERATIONS

- ✓ Edits made to Section 12-900(A)(6) and 12-1000(F), and other areas where operations were referred to, to clarify that protections lasting for the “lifetime” of oil and gas operations or facilities include through complete establishment of final reclamation



OPERATOR-SUBMITTED MAPS

- ✓ Edit made to Section 12-900(B)(3) to clarify that maps required in application materials from the operator identify the “minimum” setbacks required by the Code



WILDLIFE PROTECTIONS

- ✓ Edit made to Sections 12-900(B)(13), 12-900(D)(5) and 12-1000(EE) to separate Boulder County terminology from CPW terminology, and add the following species to the list for identification and protection:
 - Boulder County Wildlife Species of Concern
 - CPW Tier 1 and Tier 2 species
 - Federally-designated threatened and endangered species



AIR EMISSIONS

- ✓ Edit made to Section 12-900(B)(19) to add the newest or most current ozone standard
- ✓ Edit made to Section 12-900(D)(1)(a) and (b) and 12-1000(A)(3) to add hazardous air pollutants to the list of emissions to be modelled
- ✓ Addition made to 12-1000(A)(3) setting health-based hazardous air pollutants standards as high as possible



EMERGENCY RESPONSE PLAN

- ✓ Edits made to Section 12-500(G)(5) and 12-900(D)(9)*(e) to make inclusion of external hazards in emergency response plans mandatory

*Staff memo referenced Section 12-900(D)(e)



STAFF REVIEW OF A PROPOSAL

- ✓ Edits made to Section 12-1000 to clarify:
 - “Cumulative impacts” more broadly
 - Review standards in Art. 12-1000 will be considered in the same manner they are evaluated throughout the rest of the Land Use Code, in that when standards conflict there will be an attempt to strike a reasonable balance to land on the best outcome
 - Avoidance of adverse impacts is the first goal, followed by minimizing and mitigating adverse impacts in a manner that protect PH/S/W/E/W
 - Features can be identified on-site through the review process and best available information



RENEWABLE ENERGY

- ✓ Edits made to Section 12-1000(Q) and 12-1100(U) to require renewable energy sources for electrification or, alternatively, allow for off-site offsets



SETBACKS

- ✓ Edits made to Section 12-1000(W) [formerly 12-1000(V)]:
 - Clarify that the BOCC can regulate location of oil and gas facilities and operations - and adjust it accordingly - as necessary to protect PH/S/W/E/W
 - Setbacks will generally be 2,500 feet and in no case less than 2,000 feet
 - In addition to existing Dwellings and related residential uses, Educational Facilities, and licensed Child Care Centers, the setbacks will also apply to public trails and trailheads (owned and maintained by the County or any municipality) and workplaces located in the LI, GI, C, B and T zoning districts
 - Discretion to require greater distances



RADIONUCLIDES IN WATER

- ✓ Edits made to Table 1 to add radionuclides for groundwater testing



SUBSTANTIAL MODIFICATIONS

- ✓ Edits made to Section 12-1300(D) regarding the County's review of modifications to oil and gas facilities and operations
 - Clarify that a modification may be not considered substantial if it results in a net decrease or other net mitigation of existing or potential environmental impacts



PENALTY CALCULATION

- ✓ Edits made to Section 12-1500(C)(2) to included operator's history of rule violations as a factor for consideration in calculating penalties



CRITERIA REVIEW FOR CODE AMENDMENTS

Staff finds that proposed Land Use Code amendments meet the criteria in Art. 16-100 of the Land Use Code in that:

1. the existing text is in need of the amendment;
2. the amendment is not contrary to the intent and purpose of this Code;
3. the amendment is in accordance with the BCCP

Planning Commission approved (with some suggested changes) and recommended approval of this docket to the Board of County Commissioners.

- **Staff recommends that the BOCC approve DC-19-0002 to update the oil and gas development and related regulations in light of S.B.19-181**

