

RESOLUTION 12-2025

A RESOLUTION IMPOSING A TEMPORARY MORATORIUM ON THE CONSTRUCTION OF CARBON CAPTURE FACILITIES AND WASHINGTON COUNTY'S PROCESSING OF APPLICATIONS FOR CARBON CAPTURE FACILITIES

WHEREAS, the County is currently reviewing and considering possible amendments to its 1041 Land Use Regulations and/or its Use By Special Review Regulations to regulate carbon capture facilities;

WHEREAS, the County, during this review process, desires to impose a moratorium on the construction of and applications requesting review and approval of carbon capture facilities;

WHEREAS, for purposes of this Resolutions, "carbon capture facilities" shall mean any type of structure or facility designed to trap carbon dioxide produced by burning fossil fuels or other chemical or biological processes and store it in such a way that it is unable to affect the atmosphere;

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 *et seq.*, provides the County with the broad authority to plan for and regulate the use of land in order to provide for orderly development while balancing the health, safety and welfare of its citizens;

WHEREAS, the Local Government Land Use Control Enabling Act authorizes local governments within their respective jurisdictions to plan for and regulate the use of land by, among other actions, regulating development and activities in hazardous areas; protecting land from activities that would cause immediate or foreseeable material danger to significant wildlife habitat; regulating the use of land on the basis of the impact thereof on the community or surrounding areas; and otherwise planning for and regulating the use of land so as to provide for the planned and orderly use of land;

WHEREAS, the Board believes it has the responsibility to its residents to plan for and regulate the use of land for the purposes laid out in the Local Government Land Use Control Enabling Act as well as those purposes specified in other applicable state and federal statutes and common law grants of authority, and to promote the health, safety and general welfare of its residents;

WHEREAS, the County needs a reasonable period of time to consider carbon capture facility regulations in an orderly manner to protect the public's health, safety and welfare;

WHEREAS, the Board estimates that the time needed to perform the appropriate review and to determine appropriate amendments is approximately nine (9) months;

WHEREAS, if construction commences on or if applications requesting review and approval of carbon capture facilities are submitted prior to the County having adequate time to conduct the appropriate studies and adopt appropriate amendments, the Board believes irreparable harm will be done to the public health, safety and welfare;

WHEREAS, the U.S. Supreme Court and the Colorado Supreme Court recognize that in the field of land use regulation, temporary moratoria of reasonable duration are often employed to preserve the status quo in a particular area while developing a long-term plan for development;

WHEREAS, in countering the incentive of property owners to develop their property quickly to avoid the consequences of an impending land use plan for the jurisdiction, moratoria are a crucial tool

for local governments and, therefore, pursuant to express and implied authority granted by the Colorado Revised Statutes and multiple Colorado and federal legal decisions upholding temporary moratoria on land use applications while amendments are considered, the Board has the legal authority to adopt a temporary moratorium in this situation; and

WHEREAS, in light of the foregoing recitals and findings, after a duly noticed public meeting held on March 18, 2025, the Board desires to adopt this temporary moratorium to protect the public health, safety, and welfare, and to avoid development which, during the County's planning and land use regulation amendment process, may contravene the results of this review and process put the public at risk.

NOW BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, COLORADO:

1. This temporary moratorium shall take effect immediately. No construction of a carbon capture facility may commence and the County shall not accept, process, or approve any applications for uses of land that involve the development of carbon capture facilities.
2. This temporary moratorium shall remain in place until December 16, 2025, unless terminated or extended.
3. County staff are hereby directed to work with the Washington County Planning Commission to analyze and develop any necessary amendments to the County's land use regulations concerning carbon capture facilities sufficient to protect the public health, safety and welfare.

DATED this 18th day of March, 2025.

**BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY, COLORADO**



Gisele Jefferson, Chair



Brandy Ward, Commissioner



Scott Ramey, Commissioner



ATTEST:



Annie Kuntz, Clerk to the Board