



Frequently Asked Questions on Oil and Gas Operations and Facilities

The enclosed information pertains to questions that are frequently asked (FAQ) about oil and gas operations within the Town of Windsor. This information is solely intended to provide general information about oil and gas operations and facilities and is not intended to provide either legal advice or any information on any specific oil and gas operations on any specific property either within or outside the Town of Windsor.

Questions concerning applications that have been filed for oil and gas operations in the Town of Windsor may be directed to the Windsor Planning Department at 970-674-2415. General questions concerning State-wide rules and regulations on oil and gas operations may be directed to the Colorado Oil and Gas Conservation Commission (COGCC) at 303-894-2100, and complaints concerning oil and gas operations may be directed to the COGCC toll free complaint line at 888-235-1101.

1. PROPERTY RIGHTS

Each tract of land contains a set of rights (or “interests”) as it relates to use or development. Among those interests are ownership of rights related to the surface of the property, and also to the rights related to the minerals below the surface of the property. Examples of mineral rights include such resources as oil, gas, sand, and gravel. Mineral rights may be legally “severed” from surface rights and may be held separately from the surface rights. In such cases, the owner of the surface rights may be different than the owner of the mineral rights associated with the property. Because it is difficult, if not at times impossible, to access minerals once surface development occurs, the common practice in the oil and gas industry of “directional drilling” provides opportunities for drillers to drill from locations other than directly above specific below-ground mineral destinations, thereby allowing previously inaccessible areas to become viable for mineral extraction.

What are the surface owners’ rights related to oil and gas extraction?

Colorado law protects and encourages the extraction of minerals as a matter of broad public policy. In general, unless otherwise agreed upon with the mineral owner, the rights of surface owners are limited. Surface owners cannot interfere with the mineral owner’s activities or facilities and may not interfere with the mineral owner’s efforts to extract the minerals. However, the mineral owner may negotiate a “Surface Use Agreement” with the surface owner, and, among other things, the agreement may address how access will be provided to and from the subject property for the purposes of installing, maintaining, and operating the facilities.

When purchasing property, are the mineral rights included?

Not necessarily. A title insurance commitment, which accompanies a transfer of property, will indicate an exception of mineral rights if they are not included. A mineral certificate may be purchased, which will indicate what party or parties own mineral rights. One may wish to consult an attorney for questions or additional information.

Are property owners entitled to mineral royalties?

The determination of mineral rights and negotiation of mineral leases is beyond the scope of this FAQ. One may wish to consult an attorney for questions or information concerning any entitlements to royalties.

2. WELL LOCATIONS

How are well locations determined?

The State of Colorado has defined drilling “windows” for each section of land (a section of land is one square mile or 640 acres), the purpose of which is to maximize efficient and balanced extraction of oil and gas. Wells may be drilled outside of a drilling window for reasons such as avoiding flood plains, cliffs or other topographic considerations.

I’ve heard that cities in the east can limit the number of wells within a square mile. Can Windsor limit the number of wells within the Town limits?

The State of Colorado sets the rules for the location and spacing of wells. The number of drilling windows and locations vary by geologic formation, and there are variations from region to region. The area in and around Windsor is within the following two oil and gas reserves: the “Wattenberg Field” and the “Niobrara Shale Formation.” COGCC Rule 318 pertaining to location of wells outlines the state calculations. The Town is legally unable to over-ride the State’s regulations as to well spacing and numbers, if doing so interferes with the efficient and balanced extraction of oil and gas.

How many oil and gas wells are in Windsor?

The COGCC website indicated that as of March 2014 there were approximately 262 oil and gas wells within the Windsor Town limits.

3. APPROVALS TO ALLOW DRILLING

How does drilling approval occur, and what are the Town’s drilling requirements?

The regulation of oil and gas operations is within the statutory authority of the Colorado Oil and Gas Conservation Commission. The Commission’s rules dictate how drilling approval is obtained at the State level. The Commission’s home page is found at <http://cogcc.state.co.us>.

The Town’s drill-site regulations under [Chapter 16, Article 7, Section 60 of the Windsor Municipal Code](#) require that oil and gas operators receive approval of a conditional use grant (CUG) prior to the commencement of any oil and gas operations within the Town of Windsor. A CUG regulates the aesthetics of the site (fencing, paint colors, landscaping, site maintenance, etc.). The CUG is reviewed by the Planning Commission and Town Board at separate public hearings. Although a CUG is in some respects a restriction on the drilling site, the Town cannot prohibit wells from being drilled or unilaterally impose operational requirements that conflict

with the State's requirements. The operator is, however, free to negotiate voluntary restrictions with the Town to specify how the development, maintenance and servicing of wells will occur.

Can the oil and gas operator use my existing road or driveway?

The use of an existing road or driveway may be one of the items that are addressed in a Surface Use Agreement.

Can I use an access road constructed by the operator?

The use of an access road that is constructed by the operator may be one of the items that are addressed in a Surface Use Agreement.

Can an operator install more than one pipeline in an easement?

This depends on the specific language within an easement agreement. If the specific easement agreement has been recorded, the recorded copy of the easement document may be found in the clerk and recorder's office in the county in which the easement is located. If a new easement is being created, one may wish to consult an attorney for questions or information concerning the description and location of, and number of pipelines which may be installed within, any newly-created easement and how to go about recording the easement document.

Does the surface owner pay taxes on the property where the well site is located? Does the presence of a gas well affect the assessed valuation of my land?

Except as otherwise exempt from property taxes, landowners pay taxes on all surface areas of a property, including the well/lease site. The assessed valuation of the land may be increased or decreased by the presence of a well, depending on site-specific conditions, the determination of which is made by the assessor of the county in which the well site is located.

How can the surface owner use the land on top of an easement?

This depends on the specific language in an easement agreement and, if applicable, on the specific language in the Surface Use Agreement for the property.

What is the mandated setback from houses, schools, and public spaces?

[Sections 16-11-80 and 16-11-90 of the Windsor Municipal Code](#) address setbacks from existing oil and gas wells, and allow the Town to prevent new construction and open spaces from being placed too closely to drilling sites. The COGCC regulates the setbacks from existing structures.

Do air, noise and visual mitigation requirements apply?

In addition to the State regulating noise levels, air quality, and visual impacts, during the CUG review process the Town also addresses noise mitigation concerning drilling operations and mitigation measures to address visual impacts associated with the equipment and facilities on a well site. These mitigation measures cannot, however, conflict with State regulations over well site operations.

Has there been a study done on how trucks will impact public roads? Who will pay for the repair work needed on these roads?

Potential impacts to public roads are reviewed during the CUG review process. As a condition of approval of the CUG, the Town may require that if a public road becomes damaged as a result of an operator using the road for its operations, the operator will be required to pay the cost of repairing the road.

Is an Environmental Impact Statement required that would look at potential impacts to water, soil, air, plant life, and wildlife?

Potential environmental effects from proposed oil and gas drilling are managed through a combination of local, state, and federal regulations. An actual Environmental Impact Statement (“EIS”) is generally reserved for projects involving federal funds.

Once an oil and gas facility is developed, will the operator manage weeds? How will the Town prevent herbicides from running off of the site? What is the mitigation plan for issues such as light pollution and noise pollution?

[Article 3 of Chapter 7 of the Windsor Municipal Code](#) addresses weed violations within the Town. Herbicide runoff is monitored by the Colorado Department of Agriculture. Lighting and noise issues associated with oil and gas drilling operations are reviewed during the Town’s CUG process.

How will the Town regulate air pollution from the dust, vehicles, trucks, compressors, etc.? Who will monitor the pollution?

For questions about air quality associated with oil and gas drilling operations, contact the State Department of Public Health and Environment at: <http://www.cdphe.state.co.us/ap/oilgas.html>.

For additional information please visit the Colorado Oil and Gas Conservation Commission website at <https://cogcc.state.co.us/>.