

TOWN OF WINDSOR

ORDINANCE NO. 2022-1671

AN ORDINANCE AMENDING CHAPTER 16 OF THE *WINDSOR MUNICIPAL CODE* BY THE ADDITION OF NEW REQUIREMENTS RELATED TO THE REGULATION OF WELLS USED FOR GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE

WHEREAS, the Town of Windsor is a home rule municipality with all powers conferred under Colorado law; and

WHEREAS, the demand for alternative capture and storage of carbon dioxide emissions from industrial activity is increasing in response to the effects of atmospheric carbon emissions;

WHEREAS, the United States Environmental Protection Agency (“EPA”) is primarily responsible for the regulation of underground carbon dioxide storage facilities known as “Class VI” wells; and

WHEREAS, the EPA’s regulatory reach does not extend to surface impacts of underground carbon dioxide storage, such that the Town is not pre-empted from the regulation of surface effects; and

WHEREAS, recent experience in Windsor suggests that the storage of carbon dioxide underground may be an activity requiring land use regulation at the local level; and

WHEREAS, the Town Board finds that the within Ordinance promotes the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. Chapter 16, Article V of the *Windsor Municipal Code* is hereby amended by the addition of a new sub-section 16-5-60, which shall read as follows:

Sec. 16-5-60. – Wells Used For Geologic Sequestration of Carbon Dioxide.

- (a) For purposes of this Section, “Class VI Well” shall mean any underground facility and all related above-ground facilities used for the purpose of sequestering carbon dioxide captured from an industrial or energy-related source, and injected into deep subsurface rock formations for long-term storage.
- (b) Any person proposing to establish a Class VI Well shall file a written site plan application with the Town’s Community Development

Department on forms approved by the Director of Community Development (or designee). At a minimum, the application shall provide the specific location of the Class VI Well head, a depiction of all surface facilities (including roads) serving the Class VI Well head, the name and address of the Class VI Well operator, and affirmation that all required federal and state regulatory permits have either been obtained or have been applied for.

- (c) As a condition of site plan approval under this Section, the Class VI Well operator shall provide copies of all required federal and state regulatory permits issued for the Class VI Well and related facilities.
- (d) Upon the Director of Community Development (or designee)'s determination that the foregoing information has been satisfactorily provided, the Director of Community Development (or designee) shall approve a site plan or an amendment to an existing site plan, as the case may be. The Class VI Permit shall remain valid for so long as all required federal and state regulatory permits remain in good standing.
- (e) No Class VI Well shall be established without site plan approval or an amendment to an existing site plan, if any, in accordance with this Code.
- (f) The Director of Community Development (or designee) shall have the authority to seek injunctive relief to prevent the establishment and operation of any Class VI Well not approved in accordance with this Code.

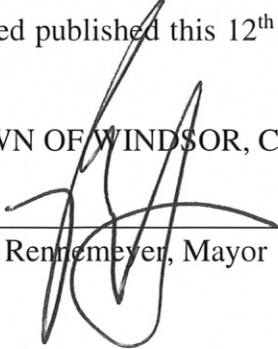
Section 2. Section 16-1-140 (c) (2) of the *Windsor Municipal Code* is hereby amended by the addition of a new sub-section, which shall read as follows:

- m. Class VI wells, as defined in Section 16-5-60 (a) of this Code.

Section 3. Nothing herein shall be construed to give the Town regulatory authority outside of its powers as a Colorado home rule municipality in relation to Class VI Wells, as defined in Section 16-5-60 (a) adopted herein, nor shall this Ordinance be construed to limit the Town's authority as a Colorado home rule municipality as to matters of local concern. However, should the Town's ordinance conflict with Federal and EPA rules and regulations, to the extent the EPA has exclusive authority, the Federal and EPA rules and regulations shall apply.

Introduced and passed on first reading and ordered published this 12th day of December, 2022.

TOWN OF WINDSOR, COLORADO



Paul Rennemeyer, Mayor



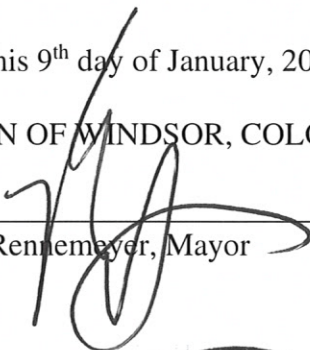
ATTEST:



Karen Frawley, Town Clerk

Passed on second reading, and ordered published this 9th day of January, 2023.

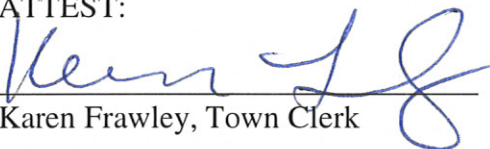
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