

City of Aztec
Ordinance 2024-547
An Ordinance Amending Chapter 15 Oil and Gas Wells

WHEREAS, the City of Aztec Community Development Department seeks to amend Chapter 15 oil and gas wells to allow permitting for oil and gas maintenance, removing the requirement for City Commission hearing and approval for maintenance of existing wells and facilities and;

WHEREAS, the City Commission shall regulate and approve oil and gas activity that involves new construction, variance/waiver requests and revocation of permit(s) that are not in compliance and/or violate City of Aztec Chapter 15 oil and gas wells, State of New Mexico and any/and all rules and regulations governed by the appropriate regulatory authority and;

WHEREAS, oil and gas companies are regulated by the New Mexico Energy Minerals and Natural Resources Department, Oil Conservation Division, required to obtain a permit prior to applying for permit with the City of Aztec and;

WHEREAS, the Oil Conservation Division of the State of New Mexico regulates oil and gas activity in New Mexico. The Division gathers well production data, permits new wells, enforces the division's rules and the state's oil and gas statutes, makes certain abandoned wells are properly plugged, and ensures the land is responsibly restored and;

WHEREAS, owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this ordinance and any other applicable state and/or federal statutory or regulatory requirements.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Aztec, New Mexico, that the Intent to Adopt Ordinance 2024-547, be adopted as attached.

PASSED, APPROVED AND SIGNED this _____ day of _____ 2024.

Michael A. Padilla, Sr., Mayor

ATTEST:

Karla Saylor, City Clerk CMC

APPROVE AS TO FORM:

City Attorney

Advertised Date of Final Adoption:

Effective Date of Ordinance:

Chapter 15 OIL AND GAS WELLS

ARTICLE II. PERMIT PROCESS

Sec. 15-11. Permit Required.

1. ~~Commission Approval~~ Permitting Required. No minor or major oil and gas facility shall be ~~constructed~~, dug or drilled, plugged or abandoned, nor shall any work in preparation for such facilities/activities be allowed within the boundaries of the municipality until the application and permitting process has been completed ~~and approved by the City Commission~~. Further, no major maintenance work shall be allowed within the boundaries of the municipality until the application and permitting process has been completed ~~and approved by the City Commission~~; major maintenance work is defined as any maintenance involving the use of a drilling rig, the addition of a new compressor or the upgrade to a larger horsepower compressor, and/or the addition of a pump jack. All codes and ordinances, adopted by the city, including but not limited to, Uniform Building Code, Uniform Fire Code, land use development and subdivision regulations, along with federal and/or state regulations shall be applied accordingly.

2. Commission Approval. Any oil and gas facility being constructed shall be permitted and approved by the City Commission. In emergency situations threatening the health and safety of the public or the environment, the City Manager is authorized to permit major maintenance work in lieu of Commission approval.
(Ord. 2013-430, eff. 2013-Sept-04)

3. Duration. The issuance and continued validity of a permit and the authorization for the construction of any minor or major oil and gas facility shall be conditioned upon compliance by the applicant with the following rules and regulations set forth in the following sections. Any departure (excluding an approved variance) shall constitute a violation of this chapter.
(Code 2007, 15-11)

Sec. 15-12. Permit Process.

1. Application. An application to drill, maintain, re-complete, and/or abandon a minor or major oil and gas facility shall be submitted to the city community development office and shall contain, but is not limited to, the following:
 - (1) Application;
 - (2) Name and address of the impacted off-set leasees/owner(s) in accordance with O.C.D Regulations;
 - (3) Name and address of the operator and/or applicant desiring to construct and/or operate a major or minor oil and gas facility;
 - (4) Name and address of all property owners within four hundred (400) feet of the well head location, as well as proof of notification (fifteen (15) days prior to hearing date);

- (5) Site plan (prepared by a state licensed and registered surveyor), will include:
 - (a) North arrow and scale;
 - (b) Existing improvements;
 - (c) Utility easements, right-of-ways;
 - (d) On and off-site drainage plan;
 - (e) Proposed facility, including access roads and pipeline right-of-way;
 - (f) Current land ownership
- (6) Vicinity maps (of county assessor or United States Geological Survey (U.S.G.S) Quad map quality) shall include:
 - (a) Section, township, and range;
 - (b) Site boundary;
 - (c) North arrow and scale;
 - (d) Major topographic features;
 - (e) Current surface ownership of parcels four hundred (400) feet from the well head location adjacent to the proposed site;
 - (f) Existing and proposed access;
 - (g) Pipeline routes
- (7) Weed and disturbance plan;
- (8) Visual mitigation plan;
- (9) Wildlife mitigation plan (threatened or endangered (T&E) species survey);
- (10) Noise mitigation plan;
- (11) Dust mitigation plan;
- (12) Performance standards check list;
- (13) Copy of original oil and gas lease;
- (14) Certificate of insurance which certifies that the operator and all persons who may be engaged in the construction of the facility and the drilling or operation of such well are insured to the public for any operation in the sum of five hundred thousand dollars (\$500,000.00) for damages to anyone (1) person, and one million dollars (\$1,000,000.00) for damages to more than one (1) person, from anyone (1) accident; also, for the sum of five hundred thousand dollars (\$500,000.00) for damages to property.
- (15) A copy of the bureau of land management (BLM or OCD) application permit drill (APD) or Sundry Notice 3160-5.
- (16) List of property owners notified by the oil and gas company submitting the permit.
- (17) One of the following:
 - (a) Surface damage/right-of-way agreement;
 - (b) Verified statement of confidentiality;

- (c) Court order or judgment; or
- (d) Evidence of "reasonable" effort to arrive at an agreement

(18) Any other information requested by the city deemed necessary to process the application.

2. Publication for those being put before by the City Commission. Upon receipt and processing of the above requirements, and the recommendation of the Community Development Department the city clerk shall establish a hearing date when the application is to be considered by the commission. Public notice of the hearing will follow the standard guidelines for public notification as set forth by resolution. In addition, the Planning Department will mail letters of notice to all property (surface) owners within four hundred (400) feet of the well head (excluding public right-of-way).
(Ord. 2010-393, eff. 2011-Jan-14)
3. Fees. A non-refundable fee as adopted in the city fee schedule will be charged, regardless of whether the application is approved or denied.
4. Approval or denial for those being put before the City Commission. The community development department shall issue a written recommendation of approval or denial to the commission. A permit may be denied based upon the following circumstances:
 - (1) Failure to provide the proper documentation;
 - (2) Presentation of written protest which demonstrates a legitimate public concern signed by the owners of fifty (50) percent or more of lands (surface) within four hundred (400) feet of the area.
 - (3) The commission determines that the oil and gas facility could be detrimental to the surrounding area, or may have significant impact on the general health, safety, and/or welfare of property owners in the general area.
 - (4) Failure to pay the proper fee.
5. Duration. Once approved, the application will be followed by the issuance of a permit to be valid for the life of the well, or until re-permit is required by state, or until revoked by commission due to violation. Any significant change in the oil and gas facility (i.e., addition of a compressor) or in the event of filing of sundry notice to the state (addressing a substantial change), the permittee will be required to request a "change in permit". The change of permit will follow the same process as the initial application and permit process. The filing of a "change in permit" is applicable to all abandoned, existing, and future oil and gas facilities or wells.
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 15-12)

Sec. 15-13. Revocation of Permits, Licenses or Other Authorizations.

Upon any substantial misrepresentation or violation of the conditions of any permit, authorization or any provisions of this chapter, the commission may, upon a hearing after five (5) days written notice by mail or personal service, to the permittee or licensee, or if the address of the permittee or licensee is unknown and the permittee or licensee cannot be found in the city, after the

expiration of five (5) days from the date of publication of notice of any such hearing in a newspaper authorized to publish legal notices in the city, revoke such permit, license or authorization; provided, however, that if in the judgment of the city commission restitution is made for any damage occasioned by such violation together with adequate provisions to prevent any further violations by such permittee or licensee, the commission may waive revocation of any permit or license, but the same shall not affect any penalty otherwise provided or the violation of this chapter.

(Code 2007, 15-13)

Secs. 15-14 to 15-20. Reserved.