

# W. Va. Code 22-6A-12

## Well Location Restrictions



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## **W. Va. Code 22-6A-12 Well Location Restrictions**

### **W. Va. Code 22-6A-12(d)**

The well location restrictions set forth in this section shall not apply to any well on a multiple well pad if at least one of the wells was permitted prior to the effective date of this article.



## W. Va. Code 22-6A-12(a) - Well Location Restrictions

<b>TYPE A RESTRICTION</b>	<b>Distance</b>	<b>Measured From:</b>
<b>Existing Water Well</b>	250 Feet	Well
<b>Developed Spring Used for Human or Domestic Animal Consumption</b>	250 Feet	Well
<b>Occupied Dwelling Structure</b>	625 Feet	Center of Well Pad
<b>Building 2,000 square feet or larger used to House or Shelter Cattle or Poultry Husbandry</b>	625 Feet	Center of Well Pad

This limitation is applicable to those wells, developed springs, dwellings or agricultural buildings that existed on the date a notice to the surface owner of planned entry for surveying or staking as provided in section ten of this article or a notice of intent to drill a horizontal well as provided in subsection (b), section sixteen of this article was provided, whichever occurs first, and to any dwelling under construction prior to that date.



# W. Va. Code 22-6A-12(a) - Well Location Restrictions Waiver

- This limitation may be **waived by written consent of the surface owner** transmitted to the department and recorded in the real property records maintained by the clerk of the county commission for the county in which such property is located.

## Variance

- The well operator **may** be granted a variance by the secretary from these distance restrictions upon submission of a plan which identifies the sufficient measures, facilities or practices to be employed.



# W. Va. Code 22-6A-12(a) - Well Location Restrictions

## Variance Terms & Conditions

The variance, if granted, shall include terms and conditions the department requires to ensure the safety and protection of affected persons and property.

The terms and conditions may include:

- insurance,
- bonding and indemnification,
- as well as technical requirements.

## Variance Procedure

Chief shall provide notice and opportunity to comment on proposed action to:

1. Surface of record; and
2. Any coal owner, operator or lessee.

The notice timeline for such variance is at the discretion of the Chief.



## W. Va. Code 22-6A-12(b) - Well Location Restrictions

<b>TYPE B RESTRICTION</b>	<b>Distance</b>	<b>Measured From:</b>
<b>Perennial Stream</b>	100 Feet	Horizontally from Limit of Disturbance "LOD"
<b>Natural or Artificial Lake</b>	100 Feet	Horizontally from Limit of Disturbance "LOD"
<b>Pond or Reservoir</b>	100 Feet	Horizontally from Limit of Disturbance "LOD"
<b>Wetland</b>	100 Feet	Horizontally from Limit of Disturbance "LOD"
<b>Naturally Reproducing Trout Stream</b>	300 Feet	Horizontally from Limit of Disturbance "LOD"
<b>Surface Water Intake of a Public Water Supply</b>	1000 Feet	Boundary of Lake/Reservoir or Flowing Stream: Measured from a semicircular radius extending upstream of surface water intake
<b>Ground Water Intake of a Public Water Supply</b>	100 Feet	Wellhead or Spring

# Waiver

- The department **may**, in its discretion, waive these distance restrictions upon submission of a plan identifying:
  - 1) sufficient measures,
  - 2) facilities or
  - 3) practices ...to be employed during well site construction, drilling and operations to protect the waters of the state.
- A waiver, if granted, shall impose any permit conditions as the secretary considers necessary.

# Waiver Process

- Operator shall submit a Waiver Request to OOG that outlines:
  1. **Why** the Operator can not comply with the well location restriction;
  2. **What** the Operator will establish on the pad to safeguard against potential impacts;
    - **Strenuous Construction & Operational Requirements;**
    - **Additional Liner System Safeguards;**
    - **Water Quality Monitoring Requirements;** and
    - **Additional Engineer Certification Requirements;**
- OOG will review the waiver proposal and submit additional requirements or questions for the Operator to answer;
- Operator will conduct a presentation to OOG which details the entire request;
- OOG will make a final decision and issue a Waiver Order either approving or denying such request; and
- Upon approval/denial, the Waiver Order will be attached to each permit on the well pad at issue.



# W. Va. Code 22-6A-12(c) - USACE

...Nothing contained in this section prevents an operator from conducting the activities permitted or authorized by a **Clean Water Act Section 404 permit** or “**other approval**” from the United States Army Corps of Engineers within any waters of the state or within the restricted areas referenced in this section.

## USACE Review

- OOG will contact USACE to discuss any potential USACE permits or delineations that are in effect on the specific well pad location.
- A **Clean Water Act Section 404 permit** or “**other approval**” must be well location specific.



<b>TYPE A RESTRICTION</b>	Surface Owner Waiver	DEP Waiver	Variance
Existing Water Well	X		X
Developed Spring Used for Human or Domestic Animal Consumption	X		X
Occupied Dwelling Structure	X		X
Building 2,000 square feet or larger used to House or Shelter Cattle or Poultry Husbandry	X		X
<b>TYPE B RESTRICTION</b>	Surface Owner Waiver	DEP Waiver	Variance
Natural or Artificial Lake		X	
Pond or Reservoir		X	
Wetland		X	
Naturally Reproducing Trout Stream		X	
Surface Water Intake of a Public Water Supply		X	
Ground Water Intake of a Public Water Supply		X	



# Questions

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