

**BOARD OF COUNTY COMMISSIONERS
OF SANDOVAL COUNTY, NEW MEXICO**

ORDINANCE NO. _____

AN ORDINANCE FOR THE SURFACE LAND REGULATION OF OIL AND GAS EXPLORATION, DRILLING, PRODUCTION, TRANSPORTATION, ABANDONMENT AND RECLAMATION WITHIN SANDOVAL COUNTY ZONING JURISDICTION; ESTABLISHING JOINT REVIEW OF APPLICATIONS FOR OIL AND GAS EXPLORATORY AND PRODUCTION PERMITS WITH SANDOVAL COUNTY AND THE NEW MEXICO ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT, OIL CONSERVATION DIVISION (NMOCD); ESTABLISHING A MEMORANDUM OF UNDERSTANDING FOR THE REVIEW, MONITORING, ENFORCEMENT, AND CONSULTATION ON APPLICATIONS FOR OIL AND GAS ACTIVITIES WITH NEW MEXICO TECH; ESTABLISHING DESIGN AND OPERATIONAL STANDARDS FOR OIL AND GAS FACILITIES; AND FURTHER PROVIDING FOR VARIANCES, APPEALS, THE ENFORCEMENT OF THIS ORDINANCE AND OTHER RELATED MATTERS.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANDOVAL COUNTY, NEW MEXICO:

**ARTICLE 1
GENERAL**

1.1 SHORT TITLE.

This Ordinance shall be officially cited as the “Sandoval County Oil and Gas Ordinance.”

1.2. AUTHORITY, APPLICABILITY.

This Ordinance is promulgated pursuant to the authority set forth in Art. X and XIII of the New Mexico Constitution (1912); N.M.S.A. 1978, § Section 4-37-1 (1975), N.M.S.A. 1978, §§ Sections 3-21-1 et seq., N.M.S.A. 1978, §§ Sections 3-19-1 et seq.; N.M.S.A. 1978, §§ Sections 3-18-1 et seq., and N.M.S.A. 1978, §§ 19-10-4.1, 4.2 and 4.3 (1985).

This Ordinance constitutes an exercise of the County’s independent and separate but related police, zoning, planning and public nuisance powers for the health, safety and general welfare of the County and applies to all areas within the exterior boundaries of the County that lie outside of (1) the incorporated boundaries of a municipality; (2) any tribal trust lands owned by the Pueblo of Laguna, the Pueblo of Sandia, the Pueblo of

Santa Ana, the Pueblo of San Felipe, the Pueblo of Cochiti, the Pueblo of Santa Domingo, the Pueblo of Zia, the Pueblo of Jemez, the Navajo Nation/Ojo Encino Chapter, and the Jicarilla Apache Nation; (3) lands owned by the state of New Mexico; and (4) lands owned by the United States, including, but not limited to, lands that are managed by the Forest Service and the Bureau of Land Management. Additionally, this Ordinance does not apply to the construction and operation of Oil or Gas Facilities where the mineral right(s) associated with such Facilities are owned partially or in their entirety by the United States government, the State of New Mexico, or a Tribe or Pueblo.

1.3 SCOPE.

This Ordinance is intended to address oil and gas exploration, drilling, production, transportation, abandonment and remediation within the County zoning jurisdiction as described above.

In the event that lands under State, Federal, or Tribal ownership are conveyed to private ownership, following the adoption of this Ordinance, such lands are subject to the provisions of this Ordinance.

Nothing herein shall be deemed to waive the requirement of the Applicant to apply for, and receive, all other applicable permits and authorizations from other regulatory agencies.

1.4 PURPOSE.

This Ordinance is a zoning and public nuisance ordinance enacted to protect and promote the health, safety and general welfare of present and future residents of the County while at the same time providing for the responsible and economically viable extraction of oil and gas minerals. This Ordinance is a police power, public nuisance and land use regulation designed to establish separate land use, environmental, traffic, cultural, historical and archeological, emergency service and preparedness, health and safety, and other standards to protect from any possible adverse public nuisance effects and impacts resulting from oil and gas exploration, drilling, extraction or transportation in the County.

No oil or gas development shall take place in the County without a permit or prior authorization in accordance with the provisions of this Ordinance. Prior to authorizing any oil or gas development operation, the County shall require the Operator, owner of the mineral estate, oil or gas Lessee of the mineral estate, to apply for, and obtain the approvals, permits, and/or authorizations required herein.

1.5 SENATE JOINT MEMORIAL 71.

The County adopts, in accordance with the 2004 Senate Joint Memorial 71, the precautionary principle in public and environmental health assessment in New Mexico relating to oil and gas facilities and projects. Such principle is essential for all residents and businesses of the County to have an equal right to live and operate in a safe and healthy environment. This principle requires that when oil and gas projects, facilities and operations raise threats of harm to human health or the environment, even if some cause and effect relationships are not fully scientifically established, mitigation or abatement measures shall nonetheless be employed; and implementation of the precautionary principle promotes this premise as well as reduces potential effects on public health resulting from exposure to environmental toxins and other on and off-site environmentally harmful products and processes.

Senate Joint Memorial 71 establishes the foundation upon which this Ordinance, and all its contents, shapes and guides the intentions of Sandoval County to provide for the health, safety, and general welfare of all County citizens, as follows:

1.6 USE CATEGORY FOR OIL AND GAS FACILITIES.

Oil and gas facilities shall be defined as an Extractive Industrial Land Use, as established in Section 6, Definitions, Sandoval County Comprehensive Zoning Ordinance.

1.7 FINDINGS.

All forms of development have the potential to negatively impact County resources and the environment through the introduction of contaminants and surface disturbance, which can lead to habitat degradation, fragmentation, and loss as well as degraded qualities of air, soil, and water. Considering oil and gas activities as a form of development, the County designs this Ordinance as a means to allow for the economically feasible development of oil and gas resources, which benefits the economy of the County, while ensuring the minimum possible impact on the environment and fulfilling the County's interest of protecting the health and welfare of County residents.

The Board of County Commissioners hereby finds, declares, and determines that this Ordinance:

(A) Promotes the health, safety, and welfare of the County, its residents, and its environment by regulating adverse public nuisance impacts and effects resulting from the exploration, drilling, operation and transportation of oil and gas;

- (B) Protects traditional communities and traditional lifestyles, as defined in the Sandoval County Comprehensive Plan, within the County;
- (C) Prevents the occurrence of adverse public nuisance effects and impacts resulting from the abandonment of oil and gas activities within the County;
- (D) Protects the rights of Surface Property Owners.
- (E) Allows for the responsible and economically feasible development of oil and gas mineral resources;
- (F) Protects the County's unique and irreplaceable historic, cultural and archaeological, water and other natural resources;
- (G) Implements the goals and objectives of, and is otherwise in accordance with, the County's Comprehensive Plan; and
- (H) Attains the foregoing objectives while also promoting the efficient and appropriate regulation of the oil and gas industry in the County.

1.8 STATE AND FEDERAL PREEMPTION.

This Ordinance is supplementary to, does not replace, enhances and is consistent with the following Federal and State statutes:

- (A) the Surface Owners Protection Act, N.M.S.A. 1978, §§ 70-12-1 et. seq.;
- (B) the Oil and Gas Act, N.M.S.A. 1978, §§ 70-2-1 et seq.;
- (C) the Water Quality Act, N.M.S.A. 1978, §§ 74-6-1 et seq.;
- (D) the Solid Waste Act, N.M.S.A. 1978, §§ 74-9-1 et seq.;
- (E) the Rangeland Protection Act, N.M.S.A. 1978, §§ 76-7B-1 et seq.;
- (F) the Emergency Planning and Community Right To Know Act, 42 U.S.C.A. §§ 11001 et seq.;
- (G) the New Mexico Public Health Act, N.M.S.A. 1978 §§ 24-1-1 et seq.;
- (H) the Wildlife Conservation Act, N.M.S.A. 1978, §§ 17-2-37 et seq.;

- (I) the Cultural Properties Act, N.M.S.A. 1978, §§ 18-6-1 et seq.;
- (J) the National Historic Preservation Act, 16 U.S.C.A §§ 470 et seq.;
- (K) the Uniform Trade Secret Act N.M.S.A. 1978, §§ 57-3A-1 et seq.;
- (L) the Prehistoric and Historic Sites Act, N.M.S.A. 1978, §§18-8-1 et seq.;
- (M) the Cultural Properties Protection Act, N.M.S.A. 1978, §§ 1 8-6A- 1 et seq.;
- (N) the Archaeological Resources Protection Act, 16 U.S.C.A. § 470 aa et seq.; and
- (O) the Energy Policy Act, 42 U.S.C.A. § 6201 et. seq.

ARTICLE 2
DEFINITIONS

2.1 RULES OF INTERPRETATION.

- (A) Words, phrases, and terms defined in this Ordinance shall be given the meanings set forth below. Words, phrases, and terms not defined in this Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning.
- (B) The text shall control captions, titles, and maps.
- (C) The word “shall” is mandatory and not permissive; the word “may” is permissive and not mandatory.
- (D) Words used in the singular include the plural; words used in the plural include the singular.
- (E) Words used in the present tense include the future tense; words used in the future tense include the present tense.
- (F) Within this Ordinance, sections prefaced “purpose” and “findings” may be included. Each purpose statement is intended as an official statement of legislative purpose or findings. The “purpose” and “findings” statements are legislatively adopted, together with the formal text of the Ordinance. They are intended as a legal guide to the administration and interpretation of the Ordinance and shall be treated in the same manner as other aspects of legislative history. Additionally, such purposes and findings shall be considered part of the County’s Comprehensive Plan.

(G) In their interpretation and application, the provisions of this Ordinance are considered minimal in nature.

(H) In computing any period of time prescribed or allowed by this Ordinance, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is a Saturday, Sunday or holiday recognized by the State of New Mexico or the federal government, in which event the period runs until the next day that is not a Saturday, Sunday or such holiday.

2.2 DEFINITIONS.

Words with specific defined meanings are as follows:

Abandoned. The permanent abandonment of an Oil or Gas Facility, as established by filings of the Operator with the NMOCD, from production records maintained by the NMOCD, and from information gathered by the Director. The County may presume abandonment of an Oil or Gas Facility based upon: (i) plugging and abandonment of an Oil or Gas Well pursuant to NMOCD Rule 19.15.25.1 N.M.A.C. et. seq.; (ii) any other evidence that the Oil or Gas Facility has been abandoned or plugged and abandoned as established by filings of the Operator with the NMOCD. An Oil or Gas Facility which has been temporarily abandoned as approved by the NMOCD or the BLM is not considered permanently abandoned for purposes of this Ordinance.

Adverse Effect or Impact. A negative change or degradation in the quality of the environment, floodplains, floodways, watercourses, creeks, streams, wetlands, hillsides and steep slopes, wildlife or vegetation habitats, air and water quality, public facilities and services, transportation capacity, health and safety, quality of life, or the historical, architectural, archaeological, or cultural significance of a resource.

Applicant. The owner of a mineral estate, oil and gas lessee, or duly designated representative who shall have express written authority to act on behalf of the owner or oil and gas Lessee.

Best Management Practices. Practices that provide for mitigation of specific impacts that result from surface disturbances. In the case of an application, the proposed use of Best Management Practices may facilitate reduced processing times and limit the number of conditions of approval.

Board of County Commissioners. The Board of County Commissioners of Sandoval County, State of New Mexico.

Closed-Loop System. A system that uses above ground steel tanks for the management of drilling fluids.

Co-location. The placement of two or more well bores on a single well pad as described on a plat prepared by a licensed land surveyor.

Comprehensive Plan. The Sandoval County Comprehensive Plan adopted by the Board of County Commissioners, as amended from time to time.

County. Sandoval County, New Mexico.

Cumulative Impact. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what group or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Decibel (dB). A unit of measurement used to measure the intensity of sound/noise and is equal to ten (10) times the logarithm to the base ten (10) of the ratio of the measured sound pressure squared to a reference pressure of twenty (20) micropascals.

Derrick. Any portable framework, tower, mast, and/or structure which is required or used in connection with drilling or re-working an Oil or Gas Well for the production of oil or gas.

Design and Performance Standards. The design and performance standards set forth in Article 5 and Article 11 of this Ordinance.

Development. Any man-made physical change in improved or unimproved sub-surface mineral and surface estates, including, but not limited to: buildings or other structures; oil and gas drilling, dredging, filling, extraction or transportation of oil and gas, grading, paving, diking, berming, excavation, exploration, or storage of equipment or materials, whether in structures, ponds, containers, landfills or other detention facilities.

Director. The Director of the Sandoval County Planning and Zoning Division or any person or persons assigned or delegated to perform some portion of the functions exercised by the Director.

Drilling. Digging or boring a new Oil or Gas Well for the purpose of exploring for, developing or producing oil, gas, or other hydrocarbons, or for the purpose of injecting gas, water, or any other fluid or substance into the earth.

Easement. Authorization by a property owner for another to use the owner's property for a specified purpose.

Endangered Species. Plant or animal species defined and identified as endangered by

the United States pursuant to the Endangered Species Act, 16 U.S.C. § 1531 *et. seq.*, and by the New Mexico Department of Game and Fish pursuant to the New Mexico Wildlife Conservation Act, N.M.S.A. 1978, § 17-2-37 *et. seq.*, at the time an application is submitted.

Erosion. The process by which land surface materials, such as rock or soil, are worn away or removed.

Existing Structure. A structure that is built and completed as of the effective date of this code.

Exploration Activities. All activities for which an exploratory permit is required, including, but not limited to, geophysical surveys, seismic surveys, core testing, gravity surveys, magnetic surveys, and any other exploratory activity that may cause surface disturbance. An exploratory permit will not be required for aerial surveys, mapping activities, and any other exploratory activities that do not result in surface disturbance.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of run-off of surface waters from any source.

Floodplain. Any land area susceptible to being inundated by water from any source. See *Flood or Flooding* and *100-year floodplain*.

Floodway. A channel, river, stream, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood; the 100-year floodplain.

Fresh Water. Surface and ground waters to be protected including: the water in lakes and playas, regardless of quality, unless the water exceeds 10,000 mg/ITDS and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water; the surface waters of streams regardless of the water quality within a given reach, and underground waters containing 10,000 mg/l or less of TDS except for which, after notice and hearing by the OCD, it is found there is no present or reasonably foreseeable beneficial use that contamination of such waters would impair.

Gas. Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas, or any gaseous derivatives of

those extraction processes, such as carbon dioxide; whenever “gas” is used in this Ordinance it includes “natural gas” and/or “methane.”

Habitat. The natural place or environment of a species of plant or animal

Habitat Degradation. The condition where the natural, pre-development conditions necessary for the survival of plants and animals are degraded in quality or function due to the impacts associated with a development.

Habitat Fragmentation. The condition where the introduction of new development causes formerly contiguous landscapes to become fragmented and isolated. Habitat fragmentation causes increased isolation of populations or species, which leads to decreased genetic diversity and increased potential for extirpation of localized populations or even extinction. Habitat fragmentation alters vegetative composition and cover and the type and quality of the food base. Further, habitat fragmentation changes microclimates by altering temperature and moisture regimes and changing nutrient and energy flows. Well drilling pads and production sites will, by virtue of the construction process, temporarily cause vegetation to be displaced.

Habitat Loss. The condition where a development or action degrades existing environmental conditions necessary for the survival of plants and animals to the point where that environment is no longer hospitable to the plant and animal life existing there prior to development.

Historical, Cultural, or Archaeological Resource. Historic Sites, Cultural Sites, Archeological Sites, Artifacts, and Landmarks that are designated (or eligible for designation) by the State of New Mexico Historic Preservation Division, or cultural and historical resources as identified with in Sandoval County. A list, called the Official Register of Cultural Properties, and the list of the National Register for Historic Places, are on file with the Director.

Injection Well. A NMOCD permitted well through which fluids or gasses are injected into a subsurface formation to increase reservoir pressure and to displace oil (e.g., during secondary or tertiary oil recovery operations or water flooding operations), for disposal of produced water, for storage purposes, or any other NMOCD permitted purpose.

Interim Reclamation. The activity of reclaiming surface disturbed within the Well Site during previous phases of development which will no longer be utilized for future phases of development.

In the County, within the County. Areas within the boundaries of the County, but not within the limits of any incorporated municipality, any tribal or tribal trust lands, lands owned by the state of New Mexico, and lands owned by the United States or lands where the mineral rights associated with such surface property are owned partially, or in their entirety, by the United States.

Irrigated Agricultural Land. Lands which are either listed as “Irrigated Agricultural Land” by the Sandoval County Assessor by the effective date of Sandoval County Land Subdivision Regulations Ordinance, or lands identified by hydrographic survey which will describe if the said land has been historically used for irrigated agriculture, or, those lands which are shown to be irrigated in the records of the acequia.

Lessee. A person, corporation or other legal entity that has been granted an oil or gas lease from the Owner of a mineral estate or who has received an assignment of all or a portion of a previously granted oil or gas lease. For the purposes of this Ordinance the Lessee is used interchangeably with mineral lease owner.

Level of Service. As defined by the American Association of State Highway Transportation Officials (AASHTO) Regulations.

Lot. A tract, parcel, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for development.

Lot Line. The boundary of a recorded lot.

Mineral Rights Owner. The record owner of the fee sub-surface mineral estate, a contract purchaser holding equitable title, an oil and gas Lessee, or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in an Oil or Gas Lease.

New Mexico Construction Industries Division (NMCID). The Construction Industries Division of the Regulation and Licensing Department of the State of New Mexico.

New Mexico Oil Conservation Division (NMOCD). The Oil Conservation Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico.

Nuisance. As defined in the Sandoval County Comprehensive Zoning Ordinance, Section 6, Definitions.

Oil. A produced simple or complex mixture of hydrocarbons, in a liquid state at standard pressure and temperature, which can be refined to yield gasoline, kerosene, diesel fuel, and various other products.

Oil or Gas Facility or Facilities. A new well or wells and the surrounding Well Site and well pad, constructed and operated to explore for or produce crude oil and/or gas and includes auxiliary and associated equipment and facilities, such as derricks, separators; dehydrators; pumping units; tank batteries; tanks; metering stations and equipment; any equipment for the reworking of an existing well bore; workover rigs; compressor stations and associated engines, motors, facilities and equipment; water or fluid injection stations and associated facilities and equipment; storage or construction staging yards; gathering systems and associated facilities and equipment, collection lines, drip stations, vent stations, pigging facilities, chemical injection station, transfer pump stations and valve boxes; any other structure, building or facility, temporary or permanent, mobile or stationary, associated with or used in connection a new Oil or Gas Well or the installation, construction or operation of the Oil or Gas well; and the roads used for ingress and egress to and from a new Oil or Gas Well or surrounding Well Site.

Oil or Gas Well. Any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of exploring for, producing, and recovering any oil, gas, liquid hydrocarbon, or any combination thereof.

100-year Floodplain. The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year, and the area designated as a Federal Emergency Management Agency Zone A, AE, AH, or AO on the Flood Insurance Rate Maps.

Onsite Visit. The meeting conducted at the proposed Oil or Gas Well Site before consideration of a decision on a development permit, exploratory permit, or special use permit. The purpose of the Onsite Visit for the County is to verify information presented on an application, and to work with the Surface Property Owner and the Applicant to identify site specific concerns and potential environmental impacts associated with the proposed development, and to discuss possible conditions of approval and Best Management Practices to be used in mitigating the identified impacts. The Onsite Visit shall be arranged by the Applicant and shall include the County, Surface Property Owner(s), and the Applicant.

Operator. Any person or entity including but not limited to the Lessee or operating

rights owner, who has stated in writing to the Director that it is responsible under the terms and conditions of a lease for the operations conducted on the leased lands or a portion thereof.

Person. Any natural person, corporation, partnership, trust, entity, organization, joint venture, association (including homeowners' or neighborhood associations), trust, or any other entity recognized by law.

Police Power. Inherent, delegated, or authorized legislative power for purposes of regulation to secure health, safety, and general welfare and to prevent public nuisances.

Pollution. The contamination or other degradation of the physical, chemical or biological properties of land, water or air, including a change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance onto the land or into the water or air that will, or is likely to, create a nuisance or render such land, water or air harmful, detrimental or injurious to the public health, safety or welfare, or harmful, detrimental or injurious to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, wildlife, birds, fish or other aquatic life.

Produced Water. Water produced in conjunction with the production of oil or gas, the collection and disposal of which is regulated and permitted by the NMOCD.

Production Activities (Expand).

Projected Traffic. The traffic that is projected to develop in the future on an existing or proposed road.

Public Hearing. A proceeding preceded by published notice and actual notice to certain persons and at which certain persons, including the Applicant, may present oral comments or documentation. In a quasi-judicial or administrative hearing, witnesses are sworn in and are subject to cross-examination.

Remediation. The employment during and after an oil or gas operation of procedures reasonably designed to minimize or reverse, as much as practicable, the surface disturbance from the Oil or Gas Facility and to provide for the rehabilitation of affected land through the use of any number of the following techniques: re-contouring of the land, reseeding, stabilization of the soil, and any other measures deemed, by the Director, appropriate to the subsequent beneficial use of such reclaimed lands.

Sensitive Species. Plant or animal species defined and identified as sensitive by the

11 United States pursuant to the Endangered Species Act, 16 U.S.C. § 1531 *et. seq.*, and by the New Mexico Department of Game and Fish pursuant to the New Mexico Wildlife Conservation Act, N.M.S.A. 1978, § 17-2-37 *et. seq.*, at the time an application is submitted.

Slope. The ratio of elevation change to horizontal distance, expressed as a percentage. Computed by dividing the vertical distance by the horizontal distance and multiplying the ratio by one hundred (100).

Substantial Modification. Any modification to an Oil or Gas Well Site or to an Oil or Gas Facility beyond normal operation, reworking, recompleting, monitoring and maintaining that results in an increase in the size or area of the surface disturbance for which approval was granted under this Ordinance.

Storage Tank (or Tank). Any tank, excluding sumps and pressurized pipeline drip traps, used for the storage of condensate and crude oil or other liquids produced by and/or used in conjunction with any oil or gas productions. There are below-grade tanks where a portion of the tank's sidewalls is below the surrounding ground surface's elevation, and above ground storage tanks where the tank is located above or at the surrounding ground surface's elevation and is surrounded by berms.

Structure. Anything constructed or a combination of materials that form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

Surface Disturbance. Any activity that disturbs the surface of the land (a) as a result of exploration for, drilling for, and production of oil or gas or (b) as a result of the construction, development, operation, or abandonment and plugging of an Oil or Gas Facility.

Surface Property Owner. A person that hold legal or equitable title, as shown in the records of the County Clerk to the surface of the real property on which oil and gas operations are to take place.

Surface Use Agreement. An agreement between an Operator and Surface Property Owner specifying the rights and obligations of the Surface Property Owner and the Operator concerning oil or gas operations.

Surface Water Features. Any geographic surface feature which contains water at least seasonally, including but not limited to, perennial, seasonal, or ephemeral watercourses, streams, rivers, springs, wetlands, ponds, lakes, playas, creeks, arroyos, acequias, irrigation ditches, stock ponds and any other surface water impoundments.

Tenant. As defined in the Surface Owners Protection Act, N.M.S.A. 1978, §§ 70-12-1 et. Seq; a person who occupies land or premises belonging to another in subordination to the owner's title and with the owner's assent, express or implied.

Threatened Species. Plant or animal species defined and identified as threatened by the United States pursuant to the Endangered Species Act, 16 U.S.C. § 1531 et. seq., and by the New Mexico Department of Game and Fish pursuant to the New Mexico Wildlife Conservation Act, N.M.S.A. 1978, § 17-2-37 et. seq., at the time an application is submitted.

Watercourse. A river, creek, arroyo, canyon, draw or wash or other channel having definite banks and bed with visible evidence of the occasional flow of water.

Well Site. That portion of the surface of land used for the drilling, development, production, operation, abandonment, and plugging of an Oil or Gas Well or co-located oil and gas wells, including, but not limited to, the area of land in which all equipment, excavations, and facilities used for oil and gas operations are located. A Well Site shall include, at a minimum, the area of surface disturbance associated with such uses but excluding the area of surface disturbance necessitated for the construction and use of roads.

Wetland. Land that has a predominance of hydric soil, is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and under normal circumstances supports a prevalence of that vegetation. Wetlands include, but are not limited to, all wetlands as defined and mapped by the United States Army Corps of Engineers.

Workover. An operation on a producing Oil or Gas Well or a Well capable of commercial production to restore or increase production. A workover is typically performed for routine maintenance or repair of downhole equipment.

ARTICLE 3
CONSULTANT ASSISTANCE, FEE SCHEDULE AND FEE PROCEDURES

3.1 ESTABLISHMENT OF CONSULTANT ASSISTANCE, FEES.

(A) The County hereby establishes, by Agreement, Consultant assistance for the review and evaluation of applications, and the construction, modification, and monitoring of the site. This Agreement is attached to these Regulations as **EXHIBIT A**.

(B) An Applicant shall deposit with the County funds sufficient to reimburse the County for all reasonable costs of consultant and expert evaluation and consultation to the County in connection with the review of any Application including the construction and modification of the site, once permitted, as established in the Oil and Gas Fee Schedule and Fee Procedures (**EXHIBIT B**). The County shall maintain a separate escrow account for all such funds. The County's consultants/experts shall invoice the County for its services in reviewing the Application, including the construction and modification of the site, as approved under this Ordinance.

ARTICLE 4
GENERAL APPROVAL REQUIREMENTS

4.1 MINIMUM REQUIREMENTS.

The following approval requirements are hereby declared to be general minimum requirements as set forth in this Ordinance. The Planning and Zoning Commission may approve additional requirements for a Temporary Use Permit for Oil and Gas Exploration, and may recommend additional requirements to the Board of County Commissioners for Special Use zoning for Oil and Gas Production.

4.2 APPLICATION PROCESS FOR TEMPORARY USE PERMIT FOR OIL AND GAS EXPLORATION.

(A) In order to establish an Oil and Gas Exploration Facility, an applicant must secure an approved Oil and Gas Drilling Permit from the NMOCD. The applicant is required to submit the approved NMOCD Oil and Gas Exploration Permit with an application to the County for a Temporary Use Permit.

(B) The process of application for a Temporary Use Permit is established in Section 8 (3), Temporary Uses, Sandoval County Comprehensive Zoning Ordinance.

(C) The applicant shall provide additional Oil and Gas materials and information to address requirements as established in this Ordinance. The applicant shall submit the

required Oil and Gas materials and information with the application for a Temporary Use Permit. The Oil and Gas materials and information shall include, and may not be limited to, the following:

(1) Exploration Plan: the applicant shall provide an Oil and Gas Exploration schedule with information addressing facility construction, facility operation start up, and facility operation parameters. The applicant shall provide site plans, elevations, and equipment details for the Exploration facility.

(2) Road Plan: The applicant shall submit an Oil and Gas Exploration road route plan that identifies adequate roads for oil and gas related truck traffic. The County shall review and revise as needed. The County may require the applicant to secure Right Of Way (ROW) Permits for County, and/or municipal and State roads. The County may require the applicant to provide a cash bond security, a letter of credit, and/or Road Improvement Agreement for use of County roads.

(3) Waste Disposal Plan: The County shall require the applicant to certify arrangements for off-site waste disposal to a NMOCD licensed waste disposal site. On-site waste disposal is prohibited. The applicant is required to provide documentation regarding waste trucking and disposal site arrangements.

(D) The County Consultant shall review all submitted materials and information for the Temporary Use Permit application. The County Consultant shall provide comments regarding the application in writing to the County for review by the Planning and Zoning Commission.

4.3 APPLICATION PROCESS FOR SPECIAL USE ZONING FOR OIL AND GAS PRODUCTION.

(A) In order to establish an Oil and Gas Production Facility, an applicant is required to secure an approved Oil and Gas Form C-104 (Request for Allowable and Authorization to Transport) from the NMOCD. The applicant is also required to submit the approved NMOCD Oil and Gas Drilling Permit with an application to the County for Special Use zoning.

(B) In order to establish an Oil and Gas Production Facility, an applicant is required to secure an approved Air Quality Permit for an Oil and Gas Production Facility from the New Mexico Environment Department (NMED), Air Quality Division. The applicant is required to submit the approved NMED Air Quality Permit with an application to the County for Special Use zoning.

(C) The process of application for Special Use zoning is established in Section 16, SU – Special Use District, Sandoval County Comprehensive Zoning Ordinance.

(D) The applicant shall provide additional Oil and Gas materials and information to address requirements as established in this Ordinance. The applicant shall submit the required Oil and Gas materials and information with the application for Special Use zoning. The Oil and Gas materials and information shall include, and may not be limited to, the following:

(1) Production Plan: the applicant shall provide an Oil and Gas Production schedule with information addressing facility construction, facility operation start up, and facility operation parameters. The applicant shall provide site plans, elevations, and equipment details for the Production facility.

(2) Road Plan: the applicant shall submit an Oil and Gas Production Road Plan that identifies adequate roads for oil and gas related truck traffic. The County shall review and revise as needed. The County may require the applicant to secure Right Of Way (ROW) Permits for County, and/or municipal and State roads. The County may require the applicant to provide a cash bond security, a letter of credit, and/or Road Improvement Agreement for use of County roads.

(3) Fire/Police/Emergency Response Plan: the applicant shall provide documentation of all location of fire, police, and emergency response service facilities which may be contacted for these services. The documentation shall be reviewed and revised where needed by the County Fire Department, and municipal and other agencies where needed. The applicant shall provide to the County a vicinity map with these facilities indicated, and a document narrative of information that includes contact information, address, directions, and distance to each facility. The applicant shall provide documents indicating communication with these facilities, and financial arrangements with these facilities and agencies for fire/police/emergency response support.

(4) Storm Water Pollution Prevention Plan (SWPPP)/Grading and Drainage Plan: the SWPPP/Grading and Drainage Plan shall demonstrate that the applicant shall not deposit, drain or divert into or upon any public highway, street, alley, drainage ditch, arroyo, storm drain, sewer, gutter, creek, stream, river, lake or lagoon, any oil or liquid containing any hydrocarbons, or any drilling mud, sand, water or saltwater, or in any manner permit, by any means, any of such substances to escape from any property owned, leased or controlled by such person. All such material shall be properly disposed of at a NMOCD-licensed facility. The applicant is liable for all financial costs related to County Engineer review services. Review and approval of the SWPPP/Grading and Drainage Plan by the County Engineer is required prior to commencement of any oil drilling activities on the subject site.

(5) **Waste Disposal Plan:** the County shall require the applicant to certify arrangements for off-site waste disposal to a NMOCD licensed waste disposal site. On-site waste disposal is prohibited. The applicant is required to provide documentation regarding waste trucking and disposal site arrangements.

(6) **Site Remediation Plan:** the applicant shall provide a Site Remediation Plan. The Site Remediation Plan shall include a narrative describing clear goals for remediation and how those goals are to be achieved. A Remediation Plan should address the reclamation of roads, the pad site, and all other areas of the development where the surface was disturbed. A copy of the NMOCD Closure Plan shall be submitted as part of the Site Remediation Plan.

The Site Remediation Plan shall include, but may not be limited to, the following information:

- (a) A schedule and description of interim remediation activities to be conducted following the completion of each phase of development within the Well Site; and
- (b) A schedule and description of proposed final remediation activities to be completed upon the final plugging and abandonment of the Oil or Gas Well and a discussion of how those reclamation activities will impact the anticipated future uses of the property.
- (c) All remediation activities described in the Site Remediation Plan shall include the following, where appropriate, but may not be limited to:
 - (i) Configuration of the reshaped topography and restored drainage;
 - (ii) Soil treatments;
 - (iii) Reseeding materials and revegetation methods;
 - (iv) Backfill or grading requirements; and
 - (v) Soil stabilization techniques.

A cash bond security, or a letter of credit, from the applicant shall be required in an amount based on costs associated with facility final shutdown, equipment and material removal, well capping, and remediation of subject site. The County Consultant shall provide an estimate to the County of these costs. The applicant shall provide financial security based on the County Consultant's estimate, or may negotiate a different amount to the satisfaction of the County.

(7) **Financial Assurances to the County.** Acceptable financial assurances may include:

- (a) A bond in the principal sum of such amount as may be determined by the Board, but not less than Fifty Thousand Dollars (\$50,000), in an amount representing the actual cost to remediate the site of the Oil and Gas Facility after abandonment less the amount of any agreement entered into

by and between the applicant and a surface owner pursuant to the Surface Owners' Protection Act. A bond shall be executed by a reliable insurance company authorized to do business in the State of New Mexico, as surety, and the Applicant as principal, running to the County for the benefit of the County and all persons concerned, under the condition that the Operator shall comply with the terms and conditions of this Section 9 in the drilling and operation of the well;

(b) An irrevocable letter of credit issued by a federally-insured financial institution located within the State of New Mexico, backed by cash on deposit at the institution representing the full value of the amount of the letter of credit. The amount shall be set as may be determined by the Board, but in no event shall be for a sum less than Fifty Thousand Dollars (\$50,000). A letter of credit shall be for a term of not less than five (5) years, and shall be automatically renewed on like terms unless the issuer notifies the County in writing of non-renewal at least thirty (30) days prior to the end of the five (5) year period. The County shall release the financial assurance deposited pursuant to this Section upon written request of the Operator if the well has been plugged and abandoned and the location restored and/or remediated consistent with the Site Remediation Plan approved by the County Engineer, or if a Change of Operator of the well site has been approved by the State of New Mexico and a new Financial Assurance has been secured by the County.

(c) In addition to the above required Financial Assurance, a policy or policies of commercial general liability insurance, including contractual liability, covering bodily injuries and property damage that names the applicant as the insured and the County as an additional insured, issued by an insurance company licensed to do business in the State of New Mexico. The insurance policy must be in a form acceptable to the County and shall further provide a limit of liability of not less than Ten Million Dollars (\$10,000,000) per occurrence. Said policy or policies shall provide that they may not be cancelled without written notice to the County of at least thirty (30) days prior to the effective date of such cancellation.

(d) A pollution insurance policy or policies that provide standard pollution liability insurance with a coverage of not less than Ten Million Dollars (\$10,000,000) per occurrence, issued by an insurance company authorized to do business in the State, and that names the applicant as insured. Such insurance policy shall be maintained in full force and effect from the date of approval of this Zone Map Amendment request by the Board of County

Commissioners and continuing in force until the well is plugged and abandoned in accordance with the applicable State statutes, NM OCD regulations, and the Site Remediation Plan as approved by the County Engineer. A separate policy is not required if pollution coverage is included as a part of the comprehensive general liability insurance policy required by Section 11.4(b). The insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation. The applicant, offering a plan of self- insurance, may provide a certificate of insurance as required by this section issued pursuant to such plan provided that such plan has been approved by the Public Regulation Commission of the State of New Mexico and the County Manager.

(E) The County Consultant shall review all submitted materials and information for the Conditional Use Permit application. The County Consultant shall provide comments regarding the application in writing to the County for review by the Planning and Zoning Commission and the Board of County Commissioners.

(F) If the applicant pursues securing an oil or gas off-loading facility in the County zoning jurisdiction, the applicant must apply for a Conditional Use Permit for the facility (as an Essential Public Utility Structure). The Conditional Use Permit application must be submitted to the County for review at the time of submittal of the application for Special Use (SU) zoning for the Oil and Gas Production Facility. In the event that the applicant pursues a request for an oil or gas off-loading facility in a municipality or other jurisdiction, the applicant shall secure approval of this facility prior to submittal of an application to the County for Special Use zoning for an Oil and Gas Production Facility.

ARTICLE 5

DOCUMENTATION, DESIGN AND OPERATIONAL STANDARDS FOR OIL AND GAS FACILITIES

5.1 GENERAL REQUIREMENT.

All operations conducted at an Oil or Gas Facility or construction of structures associated with, or serving, an Oil or Gas Facility, for which a Drilling permit or a Form C-104 (Request for Allowable and Authorization to Transport) is required, shall strictly comply with the requirements of this Ordinance applicable to such Oil or Gas Facility or Facilities, including, but not limited to those set forth in this Article, and shall be conducted at all times in accordance with the Best Management Practices of a reasonable and prudent Operator.

5.2 DOCUMENTATION.

For all applications submitted for an Oil and Gas Facility in Sandoval County, as provided in this Ordinance, applicants shall be required to provide proof of compliance with the Surface Owners' Protection Act ("SOPA"), N.M.S.A. 1978, § 70-12-1 (2007). SOPA compliance may be satisfied by the applicant's statement of compliance, with a copy of the Surface Use Agreement or a letter signed by the Surface Property Owner stating the Operator has complied with SOPA, or proof of bonding as required by SOPA.

5.3 SETBACKS.

(A) No Oil or Gas Facility shall be permitted within a floodplain as mapped and designated by the Federal Emergency Management Agency (FEMA).

(B) Setbacks shall not apply to roads used solely for the purpose of accessing Oil or Gas Facilities.

(C) Setbacks shall be measured from the center of roads and from the seasonal high water mark of watercourses, or the outer boundary of the affected Surface Water Feature.

(D) No Oil or Gas Facility shall be permitted within the following distances:

(1) Distance from Ground Water Recharge Area: 1,000 feet.

(2) Distance from Lot Line or Property Where a NMCID Licensed, County Addressed Residential Structure is Present: 600 feet.

(3) Distance from Lot Line or Property Where NMCID Licensed, County Addressed Places of Worship and/or Schools are Present: 750 feet.

(4) Distance from Lot Line of Property Where NMCID Licensed and County Addressed Electrical, Natural Gas, and Water Related Utility Structures are Present: 1 mile.

(5) Distance from Lot Line of Property where a NMCID Licensed, County Addressed Non-Residential Structure and/or Use, Excluding Places of Worship and/or Schools, is Present: 400 feet.

(7) Distance from Existing Water Well Permitted by the NM Office of the State Engineer: 750 feet for well used by a single family residence; 1,000 feet for wells used by five (5) or more residences.

(8) Distance from a Cultural, Historic, or Archaeological Resource as designated by State Historic Preservation Register: 750 feet.

(9) Distance from a State or Federal Designated Trail or Open Space, whether part or not part of a State or Federal Forest or Preserve: 200 feet.

(10) Distance from a Public Road or Highway: 200 feet.

5.4 GAS FLARING LIMITATIONS.

Flaring of gases from an approved Oil and Gas Facility shall be limited to no more than ten (10) days, subject to review and comment by the NMOCD.

5.5 ROAD IMPROVEMENTS, AGREEMENTS.

(A) In order for the County to be assured of the completion of required road improvements, the Operator shall agree to either one of the following:

(1) The Operator shall install and construct such road improvements, if any, as are required by this Ordinance and in the manner and to the design standards provided in the Sandoval County Subdivision Regulations, Article 8, Design Regulations, or industry standards acceptable to the County. Prior to the construction of any improvements or the submission of any bond or other improvement guarantee, the Operator shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed and approved by the County Public Works Division.

(2) The operator shall provide a cash bond security or a letter of credit as deemed acceptable to the County.

5.6 STORAGE TANKS.

Except as otherwise mandated by the NMOCD, tanks used for the storage of condensate, crude oil, or other liquid hydrocarbons produced by and/or used in conjunction with any Oil or Gas Facility shall conform to the American Petroleum Institute (A.P.I.) standards for such tanks. All above ground storage tanks shall be equipped with a secondary containment system, constructed and maintained according to applicable current Best Management Practices. All below grade tanks shall be constructed and maintained according to NMOCD regulation.

5.7 WELL SITES AND FACILITIES.

(A) The Well Site shall not be used for the storage of pipe or other equipment or materials except during the drilling, operating, or servicing of Oil or Gas Wells. Where not already required by another permitting agency, the Operator may seek a written exception/permission for staging of pipe or other equipment from the Director which shall be approved upon a demonstration of need, for a length of time to be determined by the Director and the Surface Property Owner. Where storage permitting is authorized

by another permitting agency, a copy of the storage permit or authorization may be required at the request of the Director.

(B) Site dimensions for an Oil or Gas Facility or Facilities, shall be the size necessary to provide a safe work area and minimize surface disturbance.

(C) Following the completion of an Oil or Gas Well, the pad shall be reduced to the minimal size required to operate the site, and the surrounding disturbed surface shall be reclaimed.

5.8 PLUGGING AND ABANDONMENT.

The Operator shall comply with all NMOCD regulations and any other relevant Federal and State regulations applicable to the plugging and abandonment of an Oil or Gas Well.

5.9 FIRE PREVENTION AND EMERGENCY RESPONSE.

(A) The Operator shall insure that firefighting apparatus and supplies are provided, as required by any applicable Federal, State, or County law.

(B) The Operator shall conform to all red flag days as designated by the New Mexico State Forestry Division.

(C) The Operator shall place a sign at the Well Site, constructed and displayed pursuant to NMOCD regulation 19.15.16.8 N.M.A.C.

5.10 LIGHTING.

All permanent lighting fixtures shall comply with the New Mexico Night Sky Protection Ordinance.

5.11 CULTURAL, HISTORICAL, OR ARCHEOLOGICAL SITES.

(A) The Applicant shall contact the State Historic Preservation Division to determine if properties entered into the Register are within the boundaries of a proposed Oil and Gas Facility site.

(B) If there are no such properties entered in the Register that are within the boundaries of a proposed Oil and Gas Facility site, a copy of the letter to that effect from the State Historic Preservation Division will be provided by the applicant in an Oil and Gas Facility application.

(C) If any such properties entered in the Register exist within the boundaries of a proposed Oil and Gas Facility site, a copy of the letter to that effect from the State Historic Preservation Division will be provided by the applicant in an Oil and Gas Facility application. The County will then consult with the Historic Preservation

Division pursuant to the Cultural Properties Act 18-6-1 through 18-6-17 NMSA 1978 as to their recommendations, which must be provided to the County in writing.

5.12 AIR QUALITY.

All Oil and Gas Facilities shall comply with the New Mexico Environment Department's Air Quality Bureau standards.

5.13 WASTE.

(A) All solid and sewage waste shall be securely contained on the site and properly disposed of according to all applicable Federal, State, and County regulations.

(B) All drilling wastes and produced water shall be disposed of according to NMOCD regulations. Only Closed Loop waste systems are permitted on site, as regulated by the State of New Mexico.

5.14 SURFACE DISTURBANCE AND REMEDIATION.

(A) Soils and terrain management:

(1) Soils having severe limitations, or which are shown as unsuitable for the intended purposes shall not be used for those purposes unless the Operator has clearly demonstrated in the Surface Disturbance Plan how the soil limitations are to be overcome or mitigated.

(2) All topsoil stripped from the surface and retained on the site shall be carefully stockpiled in a manner to prevent erosion and to facilitate its re-application to the disturbed areas during reclamation.

(3) Any necessary grading or clearing should, to the extent possible, follow, preserve, match, or blend with the natural contours and vegetation of the land and should not increase the possibility for erosion.

(4) The Operator shall take sufficient measures to prevent dust arising from any area where the surface is disturbed.

(5) All changes made to the existing soil composition and arrangement should be compatible with the soil stability and erodibility as demonstrated in the soil survey, if a soil survey was required in the application.

(B) Drainage and Erosion:

(1) To the extent possible, the Operator shall preserve natural drainage existing on the site prior to development.

(2) Water that drains from the Well Site shall not contain pollutants or sedimentary materials at a greater concentration than would occur without the presence of the development.

(3) Drainage from the Well Site shall not cause erosion outside of the site to a greater degree than would occur without the presence of the development.

(C) Roads and Traffic:

- (1) Chains on heavy equipment shall not be permitted on paved County roads. All damage to County roads directly attributable to the installation, construction and operation of Oil or Gas Facilities shall be promptly repaired at the Applicant's expense.**
- (2) Heavy equipment shall not be used on roads with ruts measuring six (6) inches or more in depth.**
- (3) Speed limits shall be set at a minimum level possible to prevent the creation of dust and erosion.**
- (4) The amount of traffic generated by the proposed development shall not cause public roads to operate at a level less than what can be met by current capacity and structural conditions.**
- (5) In the event that traffic generated by the development increase the burden on or cause a deterioration of County Roads, the Operator shall be required to pay a pro-rata share of the costs incurred to improve the County Road. The pro-rata share shall be determined by the County's Public Works Director and the Applicant.**

(D) Vegetation:

- (1) During development and operation, the Operator shall minimize damage to existing vegetation.**
- (2) There shall be no introduction of or increase in the prevalence of invasive or noxious plant species within the Well Site as a result of oil or gas activity.**
- (3) Operators should consult the local agricultural extension office or the local Natural Resources Conservation Service to determine the appropriate materials needed to prevent or contain the spread of noxious and invasive plant species. Any materials used should be listed in the Surface Disturbance Plan.**

(E) Remediation:

- (1) The Operator shall begin interim and final remediation activities as soon as practical upon completion of each phase of development.**
- (2) The operator shall reseed by drilling on the contour, or another method as approved by the Director.**
- (3) The Operator shall obtain vegetative cover that equals seventy (70%) percent of the native perennial vegetative cover, which has not been impacted by overgrazing, fire, or some other damaging intrusion, and shall maintain that vegetative cover for at least two (2) successive growing seasons.**
- (4) The Operator shall notify the County at least ten (10) days in advance of the date that final remediation activities are to begin and the Operator shall also notify the County as soon as final remediation activities have been completed.**

5.15 VISUAL IMPACTS.

(A) To the extent possible, facilities shall not be located within immediate view of a scenic byway or visual resource, as identified and mapped by the County or in the BLM Resource Management Plan or the USDA Forest Service Plan.

(B) Oil or Gas Facilities shall be painted or otherwise made to be harmonious with the surrounding environment as follows:

- (1) uniform or camouflaging, non-contrasting, non-reflective color tones, similar to BLM Standard Environmental and Supplemental Colors coding system;
- (2) color matched to land, not sky, slightly darker than adjacent landscape;
- (3) any other color scheme as agreed upon by the Operator and Surface Property Owner.

5.16 FENCING.

Perimeter fencing and a locked gate for Oil or Gas Facility or Facilities shall be required surrounding the exploration facility, the production facility, and surrounding the perimeter of the lot within property lines. The design and construction of the required fencing shall be a chain link fence to a minimum height of six (6) feet and should be topped by a minimum of two strands of barbed wire, or any other design approved by the Director. The Operator shall, at a minimum, comply with NMOCD requirements for fencing to protect livestock and wildlife for Oil and Gas Facilities.

5.17 NOISE.

(A) All construction, maintenance, and operations of any Oil or Gas Facility shall be conducted in a manner to minimize the noise created to the greatest extent possible.

(B) Noise will be measured on the "A" scale, using an industry approved protocol. Sound measurement instruments will be either a Type I or Type II, SPL instrument that meet or exceed established ANSI standards.

(C) Oil and gas operations at any Well Site, production facility, or gas facility shall comply with the following maximum permissible noise levels measures at six hundred and fifty (650) feet from the source or at the receptor, unless another standard has been established in a surface use agreement.

(D) Noise standards for continuous operations shall apply to all oil or gas operations that operate on a continual (>8 hours/day), long-term basis (>3 weeks) in duration. In the hours between 7:00 a.m. and the next 7:00 p.m. the noise levels permitted below may be increased ten (10) db(A) for a period not to exceed fifteen (15) minutes in any one (1) hour period.

(E) Noise standards for temporary operations shall apply to all operations involving pipeline or gas facility installation or maintenance, the use of a drilling rig, completion rig, workover rig, or stimulation.

Duration	7:00 am to next 7:00 pm	7:00 pm to next 7:00am
Continuous Operations	60 db(A)	55 db(A)
Temporary Operations	90 db(A)	85 db(A)

(F) The exhaust from all engines, motors, coolers and other mechanized equipment, including compressor station fans, shall be vented in a direction away from the closest existing building units or platted subdivision lots.

5.18 CHANGE OF OPERATOR.

(A) If a permitted facility undergoes a change of Operator or a change of Operator name, the new Operator shall submit a copy of the applicable NMOCD permits to the County within ten (10) business days of the permit being approved by the NMOCD./

(B) The new Operator must also present proof of adequate insurance where applicable in this Ordinance.

5.19 WATER QUALITY AND QUANTITY.

(A) No oil or gas development shall degrade the quality or quantity of ground water or surface water, from the addition of point or non-point source pollution, beyond any and all standards enforced by the New Mexico Water Quality Control Commission pursuant to 20.6 N.M.A.C. et. seq.

(B) No oil or gas development shall cause significant degradation in the water quality, quantity, or pressure of any water wells in accordance with the New Mexico Office of the State Engineer.

(C) No oil or gas development shall interfere with the operation of infrastructure associated with existing water rights such as water wells, stock ponds, and acequias, and any other associated infrastructure.

ARTICLE 6
ADMINISTRATION

6.1 NOTICES OF DECISIONS.

The County shall notify, in writing, applicants of decisions regarding applications for Oil and Gas Facilities by the Planning and Zoning Commission and the Board of County Commissioners. The County shall also notify, in writing, all government agencies involved in the review process for Oil and Gas Facilities, and those government and Native American Pueblo/Nation agencies who received notices of meetings for application review.

6.2 VARIANCES.

The procedures for application for a Variance of the standards in this Ordinance are established in Section 8 (3), Variances, Sandoval County Comprehensive Zoning Ordinance.

6.3 NONCONFORMITIES.

The procedures for evaluation of a potential Non-Conforming Use are established in Section 18 (1), Nonconformities, Sandoval County Comprehensive Zoning Ordinance.

6.4 NOTIFICATION REQUIREMENTS.

(A) Notice of Public Hearing. Notification of the time and place of any public hearing held pursuant to this Section shall be published in a newspaper of general circulation in the County at least fifteen (15) days prior to the hearing. In addition, notice of the public hearing shall be mailed by certified mail, return receipt requested, to:

- (1) The applicant(s);
- (2) The owner(s), as shown by the records of the County Treasurer, of the land for which the approval is requested, if different from the applicant(s);
- (3) The owners, as shown by the records of the County Treasurer, of land within three hundred (300) feet, excluding public right-of-way, of the land for which the approval is requested. If any notice is returned undeliverable, the County shall attempt to discover the addressee's most recent address and shall remit the notice by certified mail, return receipt requested.

(B) All government and Native American Nation/Pueblo agencies within three (3) miles of subject site are notified by the County of any request for Oil and Gas Facilities as regulated by this Ordinance. Municipalities within five (5) miles of the subject site, with a population of over fifty thousand (50,000), are also notified by the County. The County shall communicate all comments from State reviewing agencies to notified area agencies regarding any request for Oil and Gas Facilities as regulated by this Ordinance.

(C) Notice of Planning and Zoning Commission Meeting on Legislative Amendment. The meeting of the Planning and Zoning Commission regarding a legislative amendment shall be noticed by publication of the title and a general summary of the proposed amendment in a newspaper of general circulation in the County at least once a week for two consecutive weeks prior to the date of the meeting.

6.5 APPEALS.

The procedures for filing an Appeal of a decision by the Planning and Zoning Commission or the Board of County Commissioners are established in Section 18 (5), Appeals, Sandoval County Comprehensive Zoning Ordinance.

6.6 ENFORCEMENT.

The procedures for enforcement of the provisions of this Ordinance are established in Section 18 (7), Penalties, Sandoval County Comprehensive Zoning Ordinance.

6.7 RELIEF.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance may request such in writing, provided that the request is contained in an application for an Oil and Gas Facility as established in this Ordinance. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant. The applicant shall bear all costs of the County in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the County, its residents and other service providers.

ARTICLE 7
SEVERABILITY, EFFECTIVE DATE

7.1 SEVERABILITY.

If any provision of this Ordinance shall be held invalid or non-enforceable by any court of competent jurisdiction for any reason, the remainder of this Ordinance shall not be affected and shall be valid and enforceable to the fullest extent of the law.

7.2 EFFECTIVE DATE.

As necessary to protect the public health and safety, this Ordinance proposed for adoption shall take effect immediately upon approval by the Sandoval County Board of County Commissioners.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SANDOVAL COUNTY

Eileen Garbagni, County Clerk

Darryl F. Madalena, Chair

James Dominguez, Vice Chair

APPROVED AS TO FORM:

Nora Scherzinger, Member

Natalia Sanchez-Downey, County Attorney

Don Chapman, Member

Glenn Walters, Member