
From: Mary Feldblum <feldblum2487@gmail.com>
Sent: Monday, November 13, 2017 4:09 PM
To: Sidney Hill
Subject: Comments on the Proposed Sandoval County Oil and Gas Ordinance
Attachments: OGAP Comments 111317.pdf; Attachment 1 Arango article.pdf; Attachment 2 RRA.pdf; Attachment 3 Sandoval Project.pdf; ATT00001.txt; Attachments 4 & 5 .zip; ATT00002.txt; Attachment 6 ABQ Journal 42317.pdf

Dear Sidney,

Attached are my comments on behalf of the Oil and Gas Accountability Project.

There are numerous attachments (11 in all) . 1 - 6 are included here. I will send you 7-11 in a second email.

Mary



**Oil & Gas
Accountability
Project**

A program of EARTHWORKS

OGAP Comments on Item 9
Sandoval County Commission
November 16, 2017

Sandoval County Board of County Commissioners
1500 Idalia Road, Building D
Bernalillo, NM 87004

Re: Comments regarding proposed Oil and Gas Ordinance to be considered for approval on November 16, 2017

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My name is Mary Feldblum. I have been a resident of Sandoval County for almost thirty years. I live in Corrales and served on the Village's Planning and Zoning Commission for five years. I chaired the commission for over two of those five years.

I represent the Oil & Gas Accountability Project in New Mexico. OGAP is a program of Earthworks, a non-profit organization that works with urban, rural and Native communities to help them protect their homes, health and environment from the impacts of oil and gas development. Earthworks is a resource for these communities, providing technical and legal expertise on oil and gas development, including its environmental and public health impacts. Earthworks has thousands of members nationwide. In New Mexico our members include ranchers, farmers and homeowners.

The proposed ordinance you are considering for final approval does not adequately protect the residents of this county, our environment and cultural resources. In addition, the ordinance, as currently drafted, could result in large costs to the county and added financial burdens on its taxpayers. The overwhelming number of oral and written comments you have received do not support it. Our important neighbors, the tribes, the Town of Bernalillo are among those who are concerned that they have not been considered partners in the drafting of this ordinance.

The draft before you has all too many flaws including technical ones.

We urge you to table this ordinance and send it back to the Planning and Zoning Commission. While OGAP understands the potential benefits of oil and gas development in our county, this proposal goes overboard in opening the door to a high-risk industry without providing county safeguards. A new draft

is needed - one that will assure those of us who live in this county that we will be protected from the possible and all too likely harmful and financial impacts of this industry.

There are numerous reasons why we think you should not approve this draft ordinance.

1. The ordinance denies a basic democratic right: the right of Sandoval County residents to be notified and have the opportunity to comment on a proposed oil and gas application for a permit to drill.

On August, 22, 2017, at a Planning and Zoning Committee meeting John Arango, who was still serving as the chair, clearly articulated the benefits of a public hearing process. No matter how complete the application, he said, he has found that the best applications are improved from public and commission comments. In his *Corrales Comment* article dated 10/23/17, he further clarifies his opinion.

Denying the public the opportunity to comment on any commercial or industrial use is a significant blow to local democracy. One thing I learned in nearly 25 years on the Planning and Zoning Commission is that the public always has something important to say. Granted, comments are often irrelevant and sometimes hostile. But, if you listen carefully, there's wheat in the chaff: a road that won't stand the proposed traffic; a clear threat to neighbors; or a project better located somewhere else. In my view, the County— and the oil operators— will lose something important if the public is unable to comment on oil and gas projects. (Attachment 1)

If sand and gravel operations must go through an open process of public notice and public hearing, why shouldn't the same rule apply to an oil and gas operator? One can only presume that the industry wants to hide what it is doing from the people of this county. Creating suspicion and hostility is not good for the county, the industry and for economic development.

2. Allowing oil and gas operations to be included as a permissive use under RRA clearly violates the intent of that section of the Sandoval County Comprehensive Zoning Ordinance.

Section 9(1). RRA- Rural/Residential Agricultural District

A. Intent. This zone district maintains a rural character of land use with low-density residential and agricultural development, ideally on large lots that do not rely on or require connections to centralized water and sewer systems. Certain other uses are allowed, provided they are compatible with the rural residential and/or agricultural nature of the district.

There is not one example of a heavy industry in the list of permissive uses under RRA. Uses include: guest houses, agricultural activities, parks and open spaces. (Attachment 2)

In his article published in the *Corrales Comment* (10/23/17) former chairman Arango points out the following:

Making oil and gas development a permissive use guts the Zoning Ordinance. How can the County make a church—or a private school, a real estate office or a gym— go through the conditional use process while allowing an oil well to be drilled with no notice at all? What’s to stop another powerful applicant from asking the County to make its project a permissive use? (Attachment 1)

Allowing an oil and gas operator to apply for a permissive use permit sets a dangerous precedence, and is contrary to the purpose of the Sandoval County Comprehensive Zoning Ordinance and the RRA district.

3. Sandoval County has broad zoning authority.

The County’s zoning authority is a critical power that enables it to protect its residents and its environment – its water, air, wildlife and cultural resources.

Section 2 of the Sandoval County Comprehensive Zoning Ordinance unambiguously states that the purpose of the ordinance is as follows:

The provisions of this Ordinance are designed to promote health and the general welfare of the County; to secure safety from fire, flood, and other dangers; to protect local water resources; to facilitate adequate provisions for transportation, water and wastewater systems, schools, parks and other community requirements; to conserve the value of property; and to provide for the compatible development of land and other natural resources in Sandoval County.

In addition, New Mexico state law outlines the broad powers of counties.

4-37-1. Counties; powers; ordinances.

All counties are granted the same powers that are granted municipalities except for those powers that are inconsistent with statutory or constitutional limitations placed on counties. Included in this grant of powers to the counties are those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants. The board of county commissioners may make and publish any ordinance to discharge these powers not inconsistent with statutory or constitutional limitations placed on counties.

The proposed oil and gas ordinance, if approved, would virtually negate the county's broad land use and zoning powers. It tosses out critical county duties and responsibilities.

Under Article I, Section 1.5 of the proposed ordinance the language states that the county will "defer to the authority" of any state or federal agency should there be any conflict in interpretation. This means that the county is giving away its ability to go to court to challenge interpretations of applicability and preemption.

Why would our county even consider surrendering its powers to regulate an industry that will have an enormous impact on our residents, our neighbors, our wildlife, our air and water? Does the county assume that the federal and state agencies are always right?

4. The role of the county is not pre-empted by state and federal laws.

Despite the broad range of powers and authority granted to counties in state law, the Director of Planning and Zoning, Mike Springfield, has taken the position that federal and state agency powers and duties pre-empt the county's ability to regulate the oil and gas industry. Springfield specifically cites the Oil Conservation Division, which, he points out, is responsible for "down hole" issues. Section 1.4 of the "State and Federal Preemption" in the proposed oil and gas ordinance lists state and federal statutes assuming that local governments cannot enter this forbidden territory.

The 2015 Mora County case is often cited as the key decision that supports such a broad preemption position. So it is important to be clear what the decision actually entailed.

In his final decision, Judge James Browning wrote the following:

“New Mexico state law does not impliedly preempt the entire oil and gas field.”

The judge distinguished between ordinances that address issues that state law does not (traffic, sound, dust, impact on neighboring properties and chemical run-off) and those that would ban an activity that is permitted by the state (such as oil and gas drilling). He concluded that there is “room for concurrent regulations.”

Judge Browning’s decision even goes further regarding county powers.

If the Defendants had merely *regulated* oil-and gas production in Mora County, those regulations may not conflict with state law *even if they were stricter than state law*. As long as the regulations did not prohibit conduct that state law permits or permit conduct that state law prohibits, the regulations would likely be upheld.

Thus, Judge Browning’s decision leaves room for counties to develop complementary ordinances and even stricter ones than state oil and gas-related laws and regulations permit.

Finally, if local governments were already prohibited from passing ordinances that relate to “down hole” issues, why would there be a need for bills to pass that prohibit local governments from regulating oil and gas? Over the years such legislation has been introduced and defeated due to the opposition of the Association of Counties and the Municipal League. (For example, HB 199, HB 366 and SB 421 all were introduced during the 2016 legislative session and all failed to pass.)

5. While off-site issues are an important responsibility of the county, it must be noted that there are some serious gaps in current state oil and gas laws and regulations that counties are allowed to address and, indeed, should address.

One example: The **pit rule** was substantially changed in 2013 by OCC (the commission that is in charge of promulgating oil and gas regulations). The effect of these changes places fewer restrictions on oil and gas companies regarding what they can dump into pits and for how long.

Both San Miguel and Santa Fe Counties prohibit pits altogether and require closed loop systems. (In its application for a special use permit from

Sandoval County SandRidge Energy wrote that it would use a closed-loop system.) Rio Arriba, on the other hand, allows pits and refers to the OCD rules. (Yet, Rio Arriba still reserves the right to go beyond NM Oil Conservation Division standards regarding reclamation and fencing.)

Some other examples of gaps in state laws:

● Are there areas so environmentally sensitive that drilling should not occur? **Suitability** is not an issue addressed by the Oil Conservation Division. Don Phillips, a petroleum geologist, in his comments to the Sandoval County Commission on the proposed ordinance, writes that there are areas that are high risk in Sandoval County where oil and gas drilling and fracking could contaminate drinking water. He considers the Albuquerque basin to be at high risk. However, the eastern side of the Albuquerque basin he categorizes as “extremely high risk.” This aquifer supplies drinking water to over 800,000 people.

The proposed ordinance does not address this issue. It does not require a site-specific geological/hydrological report. If such a provision were included the county would need to hire independent consultants to analyze the report. The cost of this important expertise could and should be borne by the applicant.

And, of course, this raises the issue why the county commission is considering passage of this ordinance prior to the completion of a hydrologic/geologic report to be made by the well-respected New Mexico Tech Bureau of Geology and Mineral Resources. The report is due May 2018 and is paid for with taxpayer dollars. (Attachment 3)

● **Financial penalties for oil and gas violators of the Oil and Gas Act and its regulations** are inadequate at the state level. Financial penalties have not been updated since the 1930s. The low penalties actually make it lucrative for bad actor companies to violate the laws and regulations.

Energy Minerals and Natural Resources Secretary Ken McQueen, at his confirmation hearing before Senate Rules on March 8, 2017, made the following comments about penalties.

The OCD lost its ability to assess administrative fines with the Marbob decision that occurred probably 6 or 7 years ago. Our surrounding states do have varying amounts of administrative penalties they can assess. But what I think is important to point out is we’ve got two issues we need to discuss: one of those is compliance and one of those is penalties. In looking at the way

we conduct our business I am convinced that oil and gas companies in New Mexico are being compliant or that OCD is able to bring them into compliance under the current rules without fines. Having said that I can tell you as coming from the industry I can tell you that if fines were available to OCD I think we would see an accelerated attempt to achieve compliance by companies which were not in compliance.

And, in response to a follow-up question from Sen. Jerry Ortiz y Pino, he stated:

Compliance for oil and gas is a complicated issue and regulators need a complete toolbox to guarantee and assure state residents that oil and gas companies are in fact in compliance. And having the ability to assess administrative fines I think is one of several components that could be incorporated in that toolbox.
(Attachment 4)

If state financial penalty limitations are too low surely the state statutory limit of \$300 to counties does not even merit putting into the toolbox, as described above by Secretary McQueen.

There are other tools to ensure compliance. Both Hobbs (8.44.080) and Farmington (19-2-4), located in oil producing counties, have the power to suspend or revoke a permit that they issue. (Attachment 5) The proposed ordinance needs to do the same.

In fact, the New Mexico Oil and Gas Association testimony against SB 307 during the 2017 legislative session, a bill, which would have enabled OCD to impose and increase financial penalties, asserted that the ability of OCD to suspend or pull a permit was a sufficient hammer to ensure good behavior. They argued that there was no need to increase financial penalties or give OCD the authority to even impose financial penalties.

Currently the proposed ordinance relies on the "cease and desist" approach. However, the cease and desist language gives a 30 day window during which the "significant safety or environmental hazard" can continue. For many of the industrial hazards inherent in oil and gas development, 30 days is far too long. At a minimum the proposed ordinance needs to include injunctive relief against such hazards. Cease and desist is not designed to address industrial risks.

On April 23, 2017, there was an editorial in the *Albuquerque Journal* that expressed the following opinion in support of SB 307.

Considering the recent industry ramp up and the uncertain fate of the federal methane rule safeguards, OCD authority to enforce the law is more than likely to become an even more needed protection in the near future. (Attachment 6)

OCD's power to enforce compliance given the "industry ramp up" should not only be of concern to the state but also should be of concern to a county's ability to enforce its land use ordinances.

In sum, not to provide the county with strong legal tools to ensure compliance with county ordinance requirements, especially when a violation "directly causes material harm to the public health, safety of county residents, or the environment" seems contrary to the legal duty of the county to protect its residents, its water, air, wildlife and cultural resources.

● **Bonding requirements** are inadequate at the state level. Financial assurance to cover plugging and remediation of abandoned wells – a serious problem in our state especially at a time when so many companies (like SandRidge) declare bankruptcy. The state's maximum amount of required financial assurance, no matter the number of wells owned by a company, is \$50,000. The Oil Conservation Division can only afford to plug approximately 30 wells a year out of a potential pool of over 2,000. (Attachment 7)

This problem is not only of concern to New Mexico but to other states as well. In an article in the *Wall Street Journal* titled, "How 'Orphan' Wells Leave States Holding the Cleanup Bag," reporters Dan Frosch and Russell Gold wrote:

Lucas Davis, an associate economics professor at University of California, Berkeley, says current bonding levels are "unreasonably low" and should be raised in anticipation of abandoned wells from fracking. "Given the sheer number of wells that are being drilled by companies, many of which are small and medium sized, states really need to be worried about situations where no company is around anymore," he says. "Without increased bonding levels, these cleanups will be financed by the state and federal government." (Attachment 8)

Clearly the county can and should require additional financial assurance. It is unfair to taxpayers who either will be paying for costly legal challenges or taxed to pay for the potentially serious damages of abandoned wells.

●There are insufficient numbers of state **inspectors** who must monitor and inspect active wells and the thousands of abandoned wells in the state. This was a point of serious concern raised by Planning and Zoning commissioners during the SandRidge hearings and during Planning and Zoning hearings on a proposed draft ordinance written by staff. (Attachment 9)

At the July 11, 2007, Planning and Zoning meeting Chairman Arango asked Planning and Zoning Director Mike Springfield who is responsible for enforcement. What happens, if an agency does not do its job? Commissioner Madueña raised the problem of the lack of sufficient numbers of OCD inspectors.

Director Springfield responded as follows: If OCD does not have enough inspectors – *and that is an opinion*, the county cannot do it. This is a pre-emption issue. The legislature has to deal with the inspection problem issue.

Commissioner Brown followed-up with this subject and wanted to know who is responsible for enforcement? Doesn't the county have any say if the state can't monitor and enforce? Otherwise, what's the point? (Attachment 9)

Monitoring and enforcement are not solely state issues. There is a role for the county to ensure that its ordinances are complied with and there are additional tools that a county can use.

Because of inadequate state resources to monitor and enforce the laws and regulations relating to the oil and gas industry, the county needs to be able to inspect and take action against a serious violator of county laws (and report any potential state violations to OCD or the Environment Department).

There is nothing in state law that prohibits the county from contracting with a company that is experienced in this area and requiring the oil and gas operator to pay for the inspections.

●**Water and Air.** There is no requirement for pre-and post-water well testing. There is no OCD or Air Quality Division requirement to monitor wells for potential water and air contamination.

There is nothing in state law that prohibits counties from requiring monitoring, which should be beneficial to the industry as well as to the public.

- The investigation of the **financial stability** of a company (and its parent owners) both in-state and out-of state is not required by OCD. SandRidge's serious financial difficulties come to mind, of course. If a company goes bankrupt and abandons the well, who pays for the clean up if the state does not have the funds?

There is no state law that prohibits a county from requesting that the company prove its financial stability. (And there are websites that actually track the financial strength of various oil and gas companies like SandRidge.)

- In evaluating an application to drill, a company's history of in-state **and** out-of-state **violations of environmental laws** needs to be taken into consideration. The OCD website does provide information on in-state spills, but doesn't inform us how they were dealt with. (Colorado, on the other hand, provides the public with clear information on violations and how they were addressed.)

State law does not prohibit a county from requesting such important information from an applicant, particularly an industry whose operations pose an enormous risk to our water and air (unlike a restaurant or an assisted living home.)

*These are a **few** illustrations of the serious gaps in state law that counties can address. Counties are not pre-empted from enacting more stringent requirements both on-site and off-site where oil and gas drilling occurs as long as they do not contradict state or federal law.*

Technical problems with the proposed ordinance.

Article 4.1. The term "Director" is used. Since the definitions incorporated by reference are those used by OCD, the term "director" would refer to the Oil Conservation Division Director. It needs to be made clear that it is the Planning and Zoning Director that grants approval for a request for a permit.

Article 1.2. Statutory Authority. The legal references referred to are inaccurate. (Attachment 10)

NMSA 1978 Section 3.2-1 refers to the procedures for incorporating territory into a municipality. Why is this relevant?

NMSA 1978 Section 4 -37 -9 seq. Why are 4-37-1 through 8 omitted?. 9 only deals with the recording and publication of an

ordinance. 1 – 8 spells out the counties power to pass and enforce ordinances. Thus, what needs to be included is the following: NMSA 1978 Section 4-37-1 seq.

Article 5.9 Proof of Bond. 19.15.5 NMAC. This provision deals with enforcement and compliance. 19.15.8 addresses financial assurance. (Attachment 11)

Other problems with the proposed ordinance

- The skimpy contact information is not explicitly required to be updated so in the case of an emergency it is unlikely that the county will be able to actually reach the appropriate person.
- The site plan contains no details. It does not include where pits, tanks, compressors, dehydrators and other equipment will be located, much less off-site information (location of homes, schools, hospitals, churches, etc.).
- Once the permit is accepted there is no clear requirement to update information so in the future the county will have no way to track changes in the facilities on site.
- There is no permit renewal requirement.
- There is no distinction between an exploratory well and a producing well. Certainly the amount of traffic, noise, and potential for damage will differ. OCD has a two-year permit requirement for an exploratory well. The ordinance is not clear what happens when OCD grants a production permit. This issue came up at a Planning and Zoning meeting on August 22, 2017, but it was never addressed at subsequent meetings. This issue also was discussed during the SandRidge hearing. The company ultimately was required to apply for a special use permit for both an exploration well and production wells.
- There is no impact fee to pay for deteriorating roads, so the taxpayers will be subsidizing the operator's use of county roads.
- There is no fee required for special equipment and training of emergency services. Taxpayer dollars should not be expected to pay for costly explosions or fires at well sites.
- There is no pollution insurance requirement. Who pays for the damages? Once again, the taxpayer is at risk.

●5.9. Proof of Bond. The applicant should be required to show actual proof of OCD financial assurance rather than simply certify that it complies with OCD financial assurance requirements.

●5.10, simply requires that the applicant certify that it will comply with the requirements of SOPA. The applicant should be required to include proof of an agreement with the surface owner or the required \$10,000 bond.

●Article 5.11 and 5.12. While the applicant must certify that it will comply with OCD, the Air Quality Bureau, and New Mexico Environment Department requirements, there is no request that the applicant certify compliance with the Cultural Properties Protection Act, or the Prehistoric and Historic Sites Act. And, what does certify mean? Whose signature is required for certification?

Conclusion: There are so many flaws and weaknesses in this proposed ordinance. The required simple and grossly inadequate application amounts to a checklist – a term used by Director of Planning and Zoning at Planning and Zoning Commission meetings. The application requirements do nothing to ensure that the county is fulfilling its obligations under state law and as described in the purpose section of the Sandoval County Comprehensive Zoning Ordinance.

As commissioners you are required to protect our county. You have a duty to ensure that our health and safety, our air and water, our wildlife and plant life, our cultural treasures will not be harmed, and that the county budget will not be negatively impacted.

This poorly drafted ordinance not only opens the door to the oil and gas industry without adequate county restrictions and rules, it will open the door to other dangerous and risky industries to ask for permissive use. It makes the Comprehensive Zoning Ordinance a meaningless document. While sand and gravel mining permits require a public hearing, this ordinance provides no opportunity for public notification and comment. It violates a basic tenet of democracy – that the people are entitled to have a voice in decisions that impact them and especially when a high risk, volatile industry like oil and gas wants to engage in operations in our county. Our neighbors, the tribes, the town of Bernalillo, and other municipalities have been ignored in this process even though they may be seriously affected by oil and gas drilling on county lands.

Despite all their cries against overregulation, the industry manages to thrive very well in Colorado, which has strong state and local laws. It continues to

operate on the lands of the Jicarilla Apache nation, which has ordinances that are dedicated to protecting their ancestral lands.

There simply is no excuse for our county to pass such a weak and potentially dangerous oil and gas ordinance, which was only presented to Planning and Zoning three months ago. Moreover many of the concerns raised by various Planning and Zoning commissioners were simply not addressed. T In addition, there was enormous pressure from the county commission chair to push this industry drafted ordinance out of Planning and Zoning and get it to the county commission for a quick vote for approval.

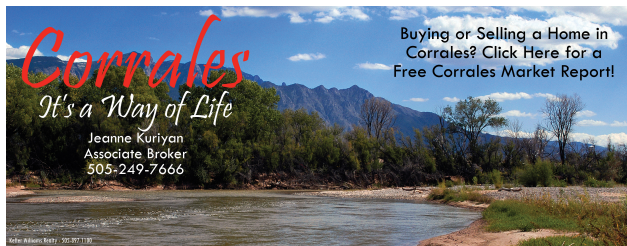
The history of this particular draft, unfortunately, is not a shining example of democracy at work.

The proposed oil and gas ordinance clearly needs to be tabled. Regulating oil and gas is a complicated task, one that should not be rushed. We urge you to request the Planning and Zoning Commission to go back to the drawing boards. The citizens' ordinance, a very reasonable alternative, is a great starting point.

Thank you for your consideration.



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County Oil and Gas Ordinance

Published: 23 October 2017

By John Arango

I was a member of the Sandoval County Planning and Zoning Commission for 25 years. I resigned as chair of the P&Z Commission after the Board of County Commissioners took the first step towards adopting the “Stoddard Ordinance” (named for the P&Z Commissioner who introduced the ordinance) which creates a permit for oil and gas wells on private property in Sandoval County.

Imagine coming home from work to discover that an oil well is being drilled within sight of your home in western Rio Rancho. Or heavy tanker trucks appear on the streets your child’s school bus uses.

You call City Hall. They tell you to call the County. A few calls later, you learn that the County issued a permit for an oil well several weeks ago. When you ask why you didn’t know, you learn that the County is not obliged to hold a hearing, or even notify the public, when it processes a permit for an oil or gas well.

This is exactly what will happen if the “Stoddard Ordinance” oil and gas law now being rushed through the Sandoval County Board of Commissioners is approved without changes at its meeting on October 19. Why? Because the Stoddard Ordinance makes oil or gas wells a “permissive use” in the County’s Planning and Zoning Ordinance.

Sandoval County regulates zoning on all private property in the county that is not located in an incorporated community. That includes the land west of Rio Rancho (“Rio Rancho Estates”), Placitas, Algodones, and the many ranches and small communities in the northern part of the county.

The County’s Planning and Zoning Ordinance allows for three kinds of uses: permissive, conditional and special.

- Permissive uses are the least restrictive. A land owner proposing a permissive use, such as building a single-family residence, needs no permission from the County. He or she does not have to notify the County of the proposed use; does not have to meet any County standards; and does not have to undergo a public hearing.
- Conditional uses –almost all commercial and industrial uses– are more tightly regulated. The developer must file detailed plans with the County; the County must notify adjacent landowners and the public of the proposed project; and there must be a hearing with opportunity for public comment before the Planning and Zoning Commission can approve the use.
- Special uses are those that “require special consideration because of their magnitude, unusual nature...[or] questionable impact on surrounding property...” These uses can only be approved by the County Commission after public notice and a hearing before the Planning and Zoning Commission.

Special uses include an asphalt batching plant, a feedlot or a landfill. And, until the Stoddard Ordinance is approved, oil and gas exploration and production.

The proposed ordinance amends the Planning and Zoning Ordinance to remove oil and gas exploration and production as a special use and adds it as a permissive use in the section of the ordinance that applies to every private lot where the County has zoning jurisdiction.

That means no notice to the adjoining property owners or the public that an oil company has applied to drill an oil well. And no posting of the company’s plans, or the county staff’s analysis of the project and its recommendation regarding approval. And, most importantly, no hearing to allow the public to comment on the proposed well.

Making oil and gas development a permissive use guts the Zoning Ordinance. How can the County make a church –or a private school, a real estate office or a gym– go through the conditional use process while allowing an oil well to be drilled with no notice at all? What’s to stop another powerful applicant from asking the County to make its project a permissive use?

Denying the public the opportunity to comment on any commercial or industrial use is a significant blow to local democracy.

One thing I learned in nearly 25 years on the Planning and Zoning Commission is that the public always has something important to say. Granted, comments are often irrelevant and sometimes hostile. But, if you listen carefully, there’s wheat in the chaff: a road that won’t stand the proposed traffic; a clear threat to neighbors; or a project better located somewhere else. In my view, the County –and the oil operators– will lose something important if the public is unable to comment on oil and gas projects.

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Before resigning as chair of the Planning and Zoning Commission, I proposed making oil and gas wells a conditional use. My proposal does not impose any more burdens on oil companies. The information required to receive a County drilling permit would be sufficient to initiate the conditional use process.

Adjoining property owners would receive a notice from the County. Nearby cities and villages and Pueblos would also receive notice. A public hearing would be held. The Planning and Zoning Commission would make its decision based on the facts submitted by the operator and offered by the public. Its decision could be appealed to the County Commission.

And the integrity of Sandoval County's Planning and Zoning Ordinance would be preserved. What's wrong with that?

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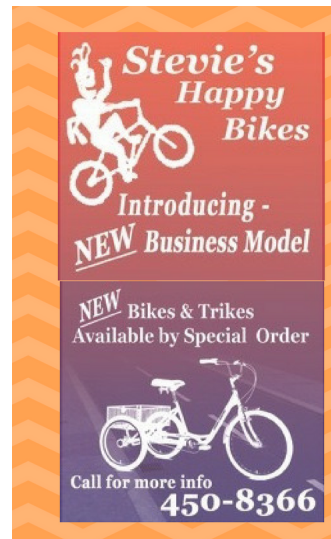
I've known, loved and sold Corrales for 38 years."
Ann Taylor, CRS

Ann Taylor
Corrales Realty
4313 Corrales Rd.
505-890-3131 • 379-7774

(/component/banners/click/1)



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(/component/banners/click/11)

Contacts

- [About Us \(/about-us-3\)](#)
- [Contact Us \(/contact-us-3\)](#)
- [Submit a Letter to the Editor \(/submit-a-letter-to-the-editor\)](#)
- [Submit Commentary \(/commentary\)](#)
- [Submit Tips, Article Ideas and Corrections \(/tips\)](#)
- [Webmaster \(/webmaster\)](#)

Archived Articles Pre-2010

- [December, 2009 \(/archived-articles-access/2009?view=archive&month=12\)](#)
- [March, 2004 \(/archived-articles-access/2004?view=archive&month=3\)](#)

Services

- [Advertising \(/advertising\)](#)
- [Subscriptions \(/subscriptions\)](#)
- [Publication Dates \(/publication-dates\)](#)

Related Sites

- [Village of Corrales \(http://www.corrales-nm.org/\)](http://www.corrales-nm.org/)
- [Corrales MainStreet \(http://www.visitcorrales.com/\)](http://www.visitcorrales.com/)



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Unique Visitors

	5378
Today	2
This_Month	33
All_Days	5378
Logged In Users	1
Guests	274
Registered Users	513
Registered Today	0

and anchored to standards equivalent to and/or in accordance with regulations established pursuant to the Manufactured Housing Act of New Mexico, Section 60-14-1 to Section 60-14-20 NMSA 1978].

- C. **Solid Waste Disposal.** All persons owning or occupying lands within Sandoval County shall be responsible for the sanitary conditions of their premises. No person shall permit or cause the accumulation of solid waste in a manner or to an extent that may be hazardous to public health or safety, or that obstructs traffic, drainage, or access to structures. All solid waste shall be properly disposed in accordance with the Solid Waste Management Regulations of the New Mexico Environment Department.

- D. **Water and Wastewater Requirements.** All development within Sandoval County shall be in compliance with applicable regulations established by the New Mexico Environment Department concerning water and wastewater systems and by the New Mexico State Engineer's Office concerning water systems.

- E. **Minimum Lot Size.** To protect County residents from the effects of undue concentrations of onsite liquid waste systems and population, the minimum lot size in all zones shall be three-quarters (¾) of an acre (32,670 square feet), unless specified otherwise. Lots that were legally created prior to the effective date of this Ordinance and in accordance with the laws in effect at the time of such creation are not affected by this provision.

A lot size of less than three-quarters (¾) of an acre may be approved:

- 1. For a lot that is not served by a community sewer system, by (a) the grant of a permit by the New Mexico Environment Department, and (b) the subsequent grant of a variance pursuant to Section 18 of this Ordinance;
- 2. For a lot that is served by a community sewer system, by approval of a variance pursuant to Section 18 of this Ordinance; or
- 3. As otherwise permitted by this Ordinance.

F. **Building Height**

- 1. **Rural Districts.** Unless otherwise specified herein, the maximum height of a building in any rural zoning district shall be thirty-six (36) feet.
- 2. **Urban Single-Family Residential Districts.** The maximum height of a building in any urban single-family residential district (R1-35, R1-15, R1-8, R1-6, and R1-5) shall be thirty-six (36) feet.

SECTION 8. ESTABLISHMENT OF ZONE DISTRICTS.

- A. **Zone Districts.** In order to carry out the provisions of this Ordinance, the following zone districts are designated for use within Sandoval County:

RRA	-	RURAL RESIDENTIAL/AGRICULTURAL DISTRICT
CD	-	COMMUNITY DISTRICTS
CD-AL	-	ALGODONES COMMUNITY DISTRICT
CD-RRE	-	RIO RANCHO ESTATES COMMUNITY DISTRICT
CD-LC	-	LA CUEVA COMMUNITY DISTRICT
CD-JV	-	JEMEZ VALLEY COMMUNITY DISTRICT
CD-DT	-	DIAMOND TAIL MASTER PLANNED COMMUNITY DISTRICT
CD-WP	-	WEST PLACITAS COMMUNITY DISTRICT
CD-LP	-	LAS PLACITAS COMMUNITY DISTRICT
CD-IASF	-	IDEAL ACRES/SAN FRANCISCO COMMUNITY DISTRICT
DOZ-LP	-	LAS PLACITAS DESIGN OVERLAY ZONE
DOZ-I25	-	I-25/BERNALILLO INTERFACE DESIGN OVERLAY ZONE
DOZ-WP	-	WEST PLACITAS DESIGN OVERLAY ZONE

DOZ-LC -	LA CUEVA DESIGN OVERLAY ZONE
DOZ-CORR -	CORRIDOR OVERLAY ZONE
MP -	MASTER PLANNED DISTRICT
RC -	RURAL COMMERCIAL DISTRICT
SU -	SPECIAL USE DISTRICT
R1-35 -	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R1-15 -	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R1-8 -	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R1-6 -	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R1-5 -	URBAN SINGLE FAMILY RESIDENTIAL DISTRICT
R-2 -	URBAN MULTI-FAMILY DISTRICT
R-3 -	URBAN MULTI-FAMILY DISTRICT
R-4 -	URBAN MULTI-FAMILY DISTRICT
R-5 -	URBAN MOBILE HOME PARK DISTRICT
C-O -	URBAN COMMERCIAL OFFICE DISTRICT
C-1 -	URBAN NEIGHBORHOOD COMMERCIAL DISTRICT
C-2 -	URBAN COMMUNITY COMMERCIAL DISTRICT
C-3 -	URBAN MAJOR COMMERCIAL DISTRICT
I-1 -	GENERAL INDUSTRIAL DISTRICT

B. Official Zoning Maps.

All Official Zoning Maps in effect at the time of adoption of this Ordinance, including those adopted pursuant to Legislative and Quasi-Judicial Zone Map Amendments, will continue to be in full force and effect with the adoption of this Ordinance. **The establishment of any zoning district, other than the Rural Residential/Agricultural (RRA) District, shall require adoption by Ordinance of an Official Zoning Map showing the district designation and boundaries of the territory so zoned. Any territory subject to this Ordinance that is not classified otherwise on an Official Zoning Map or is not shown on any Official Zoning Map is within the RRA District.**

The original of all Zoning Maps shall be recorded in the office of the County Clerk. Copies of all Official Zoning Maps shall be maintained by the County Zoning Officer and shall be available for public reference.

C. Form of Official Zoning Maps.

Official Zoning Maps, adopted at the time of this Ordinance and as subsequently adopted or amended, shall be identified by the signature of the Chairman of the County Board, attested to by the County Clerk, and shall bear the seal of the County under the following language:

“This is to certify that this is an official Zoning Map, adopted on the _____ day of _____, _____, by action of the Board of County Commissioners pursuant to the Comprehensive Zoning Ordinance of Sandoval County, New Mexico.”

D. Interpretation.

Any person adversely affected by a determination of the Zoning Officer regarding the location of any zone district boundary or the zone district classification of any property may appeal that determination to the Zoning Commission pursuant to the provisions of Section 22 of this Ordinance.

SECTION 9. RURAL DISTRICTS

SECTION 9 (1). RRA - RURAL RESIDENTIAL/AGRICULTURAL DISTRICT.

A. Intent. This zone district maintains a rural character of land use with low-density residential and agricultural development, ideally on large lots that do not rely on or require connections to centralized water and sewer systems. Certain other uses are allowed, provided they are compatible with the rural residential and/or agricultural nature of the district.

Permissive Uses. Any of the following uses are allowed in this zone district:

1. One singular dwelling unit per lot;
2. One Guest House per lot, provided that:
 - a. A Guest House may not be rented or leased, separately from the principal dwelling unit on a lot, for any period of time.
 - b. All applicable requirements of the New Mexico Environment Department are met prior to construction of a Guest House.
 - c. All other applicable requirements of this Ordinance are met.
3. Accessory uses and structures;
4. Agricultural activities, including wineries as defined by this Ordinance, provided that any areas devoted to livestock shall be constructed and maintained to discourage the concentration and breeding of insects and rodents that may be detrimental to human habitation, and provided that animal excrement shall not be allowed to accumulate in excessive amounts;
5. Home occupations; and
6. Public parks, open space, and accessory uses customarily incidental to such uses.
7. Exploratory water wells related to the development of water resources by governmental entities.
8. Permissive group homes.

Conditional Uses. The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:

1. Family Cluster Developments
2. Public and private schools and related facilities;
3. Churches and related facilities;
4. Recreational facilities;
5. Day-care and child-care facilities as regulated by the State of New Mexico;
6. Residential group training homes for developmentally or physically handicapped persons, and residential nursing homes that have, no more than ten (10) residents at any one time;
7. Boarding, rooming, or lodging houses that have no more than ten (10) residents at any one time, including "Bed and Breakfast" establishments;
8. Real estate offices;
9. Essential public utility structures;
10. Commercial stables, rodeo arenas, polo grounds, and riding academies;
11. Government and government affiliated operations, activities, and accessory structures except as otherwise provided in this Ordinance; and
12. Communications Towers as authorized by Sandoval County Ordinance #03-10-16.11A.
13. A Building or Structure that would otherwise be defined as an "Accessory Structure" to a dwelling unit under the terms of Section 6 of this Ordinance but that is not physically located on the same lot with a dwelling unit. Periodic inspections by the Zoning Officer will be required to verify compliance with the provisions of this section.
14. Exploratory water wells related to the development of water resources by non-governmental entities.
15. Conditional group homes.

D. District Standards. The following standards apply to all land uses within the zone district:

1. All residential and residential-related buildings and structures shall be located with a front setback of no less than twenty (20) feet, side setbacks of no less than ten (10) feet and rear setback of no less than ten (10) feet;
2. All non-residential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty (20) feet.

SECTION 9 (2). CD- COMMUNITY DISTRICTS/OZ-OVERLAY ZONES.

- A. **Intent.** These zone districts/overlay zones are intended to preserve and protect communities and areas that have land use planning and regulation concerns arising from their particular history, culture, development pressures, and/or physical or natural characteristics that may differ from those in the County at large.
- B. **Consistency with County Land Use Plans.** The County Board pursuant to Section 19 of this Ordinance may create Community Districts or Overlay Zones that are consistent with the Sandoval County Comprehensive Plan, and other applicable land use plans adopted by the County.

SECTION 9 (2.1) CD-AL ALGODONES COMMUNITY DISTRICT.

- A. **Intent.** This zone district preserves and protects the established unincorporated community known as Algodones and the affiliated communities of Angostura and Las Colonias. This zone district shall be preserved as a predominantly residential community with necessary commercial, business, and other non-residential activities that serve the local residents.
- B. **Permissive Uses.** Any of the following uses are allowed in this zone district:
 1. All uses that are permissive in the RRA zone district;
 2. Cemetery; and
 3. Galleries and museums.
- C. **Conditional Uses.** The following uses may be allowed in this zone district only upon review and approval by the Zoning Commission as provided in Section 17 of this Ordinance:
 1. All uses that are conditional uses in the RRA zone district;
 2. Retail commercial business and eating and drinking establishments intended to serve the local market area, provided that each such establishment does not exceed ten thousand (10,000) square feet of floor area;
 3. Business, personal, financial and professional services, provided the maximum floor area for each establishment shall not exceed ten thousand (10,000) square feet;
 4. Motor vehicle related services; and
 5. Greenhouses, plant nurseries, and landscapers.
- D. **District Standards.** The following standards apply to all land uses within this zone district:

All residential and residential-related buildings and structures shall be located with setbacks as provided in the RRA zone district.

All non-residential buildings and structures shall be located with front, side, and rear setbacks of no less than twenty (20) feet.

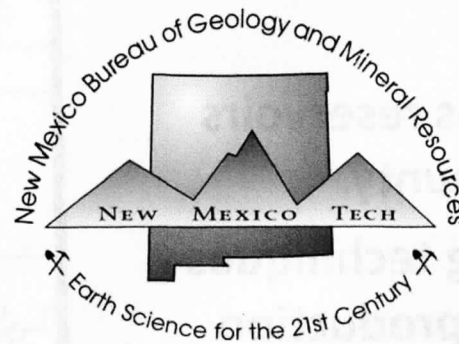
SECTION 9 (2.2) CD-RRE RIO RANCHO ESTATES COMMUNITY DISTRICT.

PRESENTATION To Interim Health and Human Services Com.
October 12, 2017.

Oil & Natural Gas Activities

New Mexico Bureau of Geology and Mineral Resources

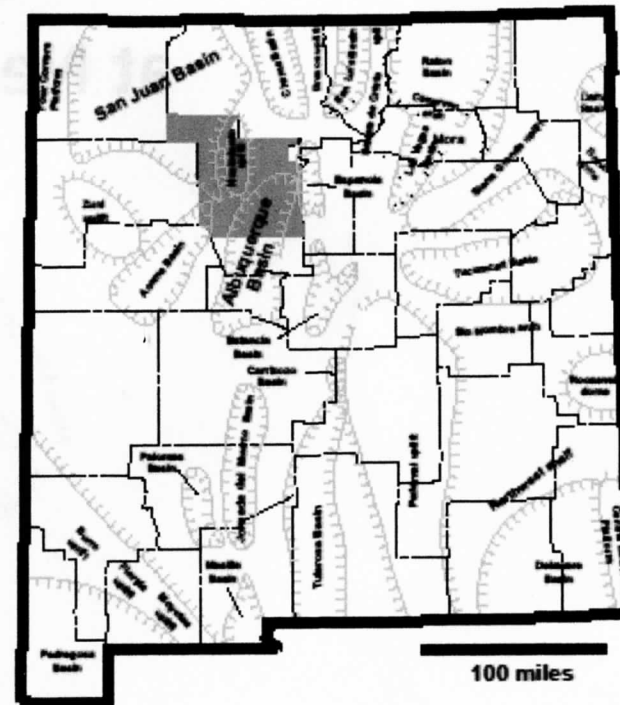
at New Mexico Tech



Ron Broadhead
Principal Petroleum Geologist

Current project: Sandoval County

- Study at request of county in response to efforts to drill an exploratory well near Rio Rancho.
- Funded by Sandoval County.
- Assess oil & natural gas potential of the county.
- Relate potential oil & gas reservoirs to aquifers across the county.
- Describe modern drilling techniques and effects on oil & gas production and on aquifers in the Sandoval County setting.
- Project is in its beginning stages; project report is due at end of May 2018.



EMNRD Secretary-designate Ken McQueen testimony before Senate Rules Committee 3/8/17

Video available:

<http://sg001-harmony.sliq.net/00293/Harmony/en/PowerBrowser/PowerBrowserV2/20170308/-1/32552>

Sen. Steinborn stated that surrounding states are able to levy more significant penalties. Ours is an outdated penalty system for violators.

“The OCD lost its ability to assess administrative fines with the Marbob decision that occurred probably 6 or 7 years ago. Our surrounding states do have varying amounts of administrative penalties they can assess. But what I think is important to point out is we’ve got two issues we need to discuss: one of those is compliance and one of those is penalties. In looking at the way we conduct our business I am convinced that oil and gas companies in New Mexico are being compliant or that OCD is able to bring them into compliance under the current rules without fines. Having said that I can tell you as coming from the industry I can tell you that if fines were available to OCD I think we would see an accelerated attempt to achieve compliance by companies which were not in compliance.”

Follow-up question by Sen. Ortiz y Pino regarding SB 307. Would you support restoring OCD’s ability to levy fines??

“Compliance for oil and gas is a complicated issue and regulators need a complete toolbox to guarantee and assure state residents that oil and gas companies are in fact in compliance. And having the ability to assess administrative fines I think is one of several components that could be incorporated in that toolbox.

Chapter 19 - OIL AND GAS WELLS^[1]

Footnotes:

--- (1) ---

Cross reference— *Businesses and sales, ch. 8; environment, ch. 12; fire prevention and protection, ch. 13; oil and gas wells in Lake Farmington watershed area, § 20-3-37.*

State Law reference— *Oil and Gas Act, NMSA 1978, § 70-2-1 et seq.*

ARTICLE 1. - IN GENERAL

Sec. 19-1-1. - Definitions.

Technical or oil and gas industry words or phrases used in this chapter and not specifically defined shall have the meanings customarily attributable thereto by prudent operators in the oil and gas industry. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Building means any structure used or intended for supporting or sheltering any use or occupancy.

*Curblin*e means the line established by the city for any particular street.

Daylight hours mean 7:00 a.m. to 7:00 p.m., except during the months of April through August, when this time means 7:00 a.m. to 8:00 p.m.

Director means the community development director or his/her designee.

Existing well means a gas or oil well with a valid special use permit or that has been annexed into the city limits.

Gathering lines means all pipelines operated as an incident to the development and operation of oil or gas wells.

Low profile tank means an above-ground storage tank not higher than eight feet tall as measured from the adjacent grade.

Modification means the replacement or installation of any customary production equipment. Like-kind replacements of existing production equipment are not considered a modification.

Oil and gas inspector means the fire chief of the city or his designee.

Permittee means the person to whom is issued a permit or certificate for the drilling, operating and producing of a well under this chapter and his heirs, legal representatives, successors and assigns.

Person means and includes any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator and a fiduciary or representative of any kind.

Principal use building means a commercial, institutional, industrial, or residential building on a lot, tract, or parcel that is intended for human occupancy. A multi-occupant property may have more than one principal building and use.

Production equipment means any apparatus utilized for the extraction or processing of oil and gas on a well site including, but not limited to separators, dehydrators, meter houses, well heads, tanks, valves, compressors, pumping units, injection units, and cathodic protection devices.

Right-of-way is expressly limited to all public rights-of-way or streets or other public property within the city.

Site plan means a scaled, dimensioned drawing showing the well head and all production equipment, fences, gates, access driveways, road, buildings, and all applicable separations between roads and buildings and the well head and production equipment.

Spacing means a tract of land comprising a spacing unit or proration unit, as determined by the state oil conservation division.

Street means any street, highway, sidewalk, alley, avenue, recessed parking area, or other public right-of-way including the entire right-of-way.

Well means any hole or bore to any sand, horizon, formation, strata or depth for the purpose of producing any oil, gas, or liquid hydrocarbon or for use as an injection well for secondary recovery or any of them.

Well site means the area enclosed by the fence surrounding the well head and all production equipment.

(Code 1969, § 22-1; Ord. No. 98-1068, § 1, 2-24-1998; Ord. No. 06-1168, § 1, 2-28-2006; Ord. No. 2009-1220, §§ 1A, B, 12-8-09)

Cross reference— Definitions generally, § 1-1-2.

Sec. 19-1-2. - Obstructing streets.

No oil or gas well shall be drilled and no permit shall be issued for any well to be drilled at any location which is within any of the streets or alleys of the city. No such street or alley shall be blocked or encumbered or closed in any drilling, production or pipeline operation except by written permission of the oil and gas inspector and the city engineer and then only temporarily.

(Code 1969, § 22-2)

Sec. 19-1-3. - Proximity of well, tanks or pipelines to building.

- (a) No well shall be drilled, no permit shall be issued for any well to be drilled and no hydrocarbon storage tank, separator or dehydrator shall be placed at any location which is nearer than 200 feet to any residence, commercial or industrial building or 300 feet to any buildings used as a place of assembly, institution, or school without the applicant having first secured the written permission of the city council. No production equipment shall be placed at any location which is nearer than 75 feet to any street, or at any location which is nearer than 100 feet to any building not necessary to the operation of the well.
- (b) No high-pressure gas injection well or a compressor used in conjunction with the gas injection well shall be located nearer than 200 feet to any residential, commercial, or industrial building except by permission of the city council.
- (c) No building, other than buildings necessary for the operation of the well, shall be constructed or moved within 100 feet of any wellhead, production equipment or hydrocarbon storage tank. No building used as a place of assembly, institution, or school shall be constructed within 300 feet of any wellhead, production equipment, or hydrocarbon storage tank. No street shall be constructed or realigned to be within 75 feet of any wellhead, production equipment or hydrocarbon storage tank. Variances to this subsection may be granted by the administrative review board.
- (d) No residential, commercial or industrial building other than buildings or equipment necessary to operate the pipeline shall be erected or moved to a location nearer than 30 feet to any pipeline transporting gas when the pipeline operating pressure is greater than 250 pounds per square inch gage (p.s.i.g.), unless a greater or lesser distance is recommended by the then-applicable code.
- (e)

The building setbacks required under subsections (c) and (d) of this section shall be shown or otherwise disclosed on all subdivision plats as reasonably prescribed by the city council at the time of approval of such plat.

(Code 1969, § 22-3; Ord. No. 98-1068, § 2, 2-24-1998; Ord. No. 06-1168, § 2, 2-28-2006; Ord. No. 2009-1220, § 2, 12-8-09)

Sec. 19-1-4. - Removal of rigs from the premises; watchman.

The drilling or completion rig shall be removed from the premises within 30 days from the date of completion of the well; and thereafter, when necessary, such completed well shall be served by portable rigs, which shall be removed from the premises within 15 days from the completion of the servicing operation. At all times from the start of the drilling phase until the well is abandoned and plugged or completed as a producer and enclosed as provided in this chapter, the permittee shall keep a watchman skilled in oil and gas well operations on duty on the premises at all times when other workmen of the permittee are not on such premises.

(Code 1969, § 22-4; Ord. No. 98-1068, § 3, 2-24-1998)

Sec. 19-1-5. - Workover and temporary reserve pits.

- (a) Steel pits and/or approved tanks and their contents shall be removed from the drilling site within 30 days after completion or reworking of the well. All waste substances such as drilling muds, oil, brine or acids produced or used in connection with drilling operations or oil production shall be retained in watertight receptors from which they may be disposed of at an appropriate site.
- (b) All workover and temporary reserve pits shall be constructed, lined, and sealed with an impervious material as specified by the state oil conservation division. Within 30 days of completion of the well, the reserve pit shall be pumped out, dried to the extent practicable, and covered and leveled to match existing grade.

(Code 1969, § 22-5; Ord. No. 98-1068, § 4, 2-24-1998; Ord. No. 06-1168, § 3, 2-28-2006; Ord. No. 2009-1220, § 3, 12-8-09)

Sec. 19-1-6. - Abandonment and plugging.

Whenever any oil or gas well is abandoned, it shall be the obligation of the permittee and the operator of the well to comply with the regulations of the appropriate federal and state agencies in connection with the abandonment and plugging of a well. A copy of the plugging and abandonment form shall be furnished to the oil and gas inspector. Upon the abandonment of a well, the permittee shall erect and maintain an aboveground dry hole marker. No building shall be erected on or over any abandoned well.

(Code 1969, § 22-6; Ord. No. 98-1068, § 5, 2-24-1998; Ord. No. 06-1168, § 4, 2-28-2006)

Sec. 19-1-7. - Connection to municipal sewer system.

- (a) All wells are prohibited from connecting to the municipal sewer system.
- (b) Wells with a special use permit condition of approval that require connection to the City of Farmington sewer system for disposal of produced water shall be exempted from that condition of approval. All oil and gas wells with a connection shall have 180 days from adoption of this section to disconnect and permit a new tank.
- (c) Well sites requiring the addition of a produced water tank shall comply with the provisions of section 19-2-74.

(Ord. No. 06-1168, § 5, 2-28-2006)

Sec. 19-1-8. - Co-location.

The city strongly encourages multiple wells to be co-located on a single well site. Well site size may be increased where there are multiple wells co-located on a single site, but only to the extent required to accommodate safe operation of the multiple oil and gas wells.

(Ord. No. 2009-1220, § 4, 12-8-09)

ARTICLE 2. - ADMINISTRATION AND ENFORCEMENT^[2]

Footnotes:

--- (2) ---

Cross reference— Administration, ch. 2.

DIVISION 1. - GENERALLY

Sec. 19-2-1. - Oil and gas inspector advised by commission.

In all matters pertaining to this chapter, the oil and gas and geologic and engineering hazards advisory commission shall act as an advisory commission to the oil and gas inspector, the planning and zoning commission and to the city council, and shall make recommendations concerning all matters pertaining to this chapter.

(Code 1969, § 22-8; Ord. No. 98-1068, § 7, 2-24-1998)

Sec. 19-2-2. - Applicability of federal and state laws; conflicts.

- (a) Any violation of the laws of the state or any rules, regulations, or requirements of any state or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, installing, maintaining, or abandoning any oil or gas wells, pipelines, or related appurtenances, equipment, or facilities therein or in reference to firewalls, fire protection, blowout protection, safety protection, or convenience of persons or property shall also be a violation of this chapter and shall be punishable in accordance with section 1-1-10.
- (b) In cases where conflicts may arise between the provisions of this chapter and any other codes, rules or regulations, the code, rule or regulation which imposes the greater restriction shall control.

(Code 1969, § 22-7; Ord. No. 98-1068, § 6, 2-24-1998; Ord. No. 06-1168, § 6, 2-28-2006)

Sec. 19-2-3. - Enforcement, penalties and waiver.

- (a) The provisions of this chapter shall be enforced by the oil and gas inspector. Nonsafety aspects of this chapter may be enforced by the community development director or a designee of the city manager.
- (b) Existing wells shall be inspected a minimum of once per year by the oil and gas inspector with assistance from other city staff as needed.
- (c) The violation of each separate section of this chapter and of the permit issued under this chapter shall be considered a separate offense, and each day the violation shall be allowed to continue shall be considered a separate offense. In addition to the penalty provided for in section 1-1-10, it is further provided that the city council may revoke or suspend any permit or certificate issued under this chapter.

- (d) Upon written request from a petitioner or operator, and after appropriate notice and hearing, the city council may waive compliance with any requirement of chapter 19 upon finding that:
- (1) Strict compliance with a particular provision of this section is unachievable or impracticable; and
 - (2) Such waiver will not create a hazardous situation or otherwise compromise well site safety; and
 - (3) Such waiver will not adversely diminish the compatibility of the well site with the surrounding neighborhood.

(Code 1969, § 22-9; Ord. No. 98-1068, § 8, 2-24-1998; Ord. No. 2009-1220, § 5, 12-8-09)

Editor's note— Ord. No. 2009-1220, § 5, adopted Dec. 8, 2009, amended the Code by changing § 19-2-3 title to read as herein set out. Former § 19-2-3 title pertained to similar subject matter. See the Code Comparative Table for complete derivation.

Sec. 19-2-4. - Suspension or cancellation for noncompliance.

If a permittee under this division fails to comply with any section of this chapter, the oil and gas inspector shall issue a written notice to the permittee of the nature of the noncompliance and stating a reasonable time not to exceed 15 days from the date the permittee is notified of the violation to gain compliance. After lapse of such reasonable time, if compliance has not been made, the oil and gas inspector shall direct the permittee to shut in the well during the period of such repairs if, in the opinion of the oil and gas inspector, the violation or condition results in a significant safety or environmental hazard. The decision of the oil and gas inspector shall be final unless, within 15 days from the date such decision is rendered, the party shall appeal such decision in writing to the city council. The city council may, on appeal, uphold the suspension, order the well to be placed back in production, or cancel the permit.

(Ord. No. 06-1168, § 7, 2-28-2006)

Sec. 19-2-5. - Appeal of suspension or cancellation for noncompliance.

If any appeal is presented to or brought forth to the city council as provided in this division, the city council shall hear the appeal as part of regular city business and shall render its decision, which shall include findings of fact and reasons in support thereof, which shall be reflected in the official city minutes. Any councilor may separately state his views or objections to the findings of the council, which shall also be incorporated in the official city minutes.

(Ord. No. 06-1168, § 8, 2-28-2006)

Secs. 19-2-6—19-2-30. - Reserved.

DIVISION 2. - OIL AND GAS AND GEOLOGIC AND ENGINEERING HAZARDS ADVISORY COMMISSION^[3]

Footnotes:

--- (3) ---

Cross reference— Boards, commissions and committees, § 2-4-1 et seq.

Sec. 19-2-31. - Established.

There is established an oil and gas and geologic and engineering hazards advisory commission, hereafter referred to, for brevity only, as the "oil and gas commission".

(Code 1969, § 22-50; Ord. No. 06-1168, § 9, 2-28-2006)

Sec. 19-2-32. - Membership.

The oil and gas commission shall consist of four members to be appointed by the mayor and confirmed by the city council. One member shall be a municipal employee designated by the mayor and approved by the city council who shall serve with voice but without vote. One member shall be a professional geologist, and one member shall be a professional petroleum engineer and one member shall have expertise in any area of the oil and gas industry. Such voting members shall be persons who reside in the Four Corners area who possess expertise and experience in the oil and gas industry. The municipal employee member shall serve indefinitely until replaced by the mayor. The remaining members shall serve staggered terms of four years each. One alternate member with expertise in the oil and gas industry may also be appointed for a term of four years and shall serve pursuant to section 2-4-1. The oil and gas inspector, or his designee, shall attend all meetings and serve as an ex officio, nonvoting member.

(Code 1969, § 22-53; Ord. No. 98-1068, § 30, 2-24-1998; Ord. No. 06-1168, § 10, 2-28-2006)

Sec. 19-2-33. - Meetings.

Meetings of the oil and gas commission shall be held upon call as business of the city may require, provided that the commission shall meet at least one each year for the purpose of reviewing the status of existing oil and gas wells in the city and for the purpose of reviewing city ordinances pertaining to oil and gas wells and operations within the city. All meetings shall be held in accordance with the Open Meetings Act.

(Code 1969, § 22-54; Ord. No. 06-1168, § 11, 2-28-2006)

Sec. 19-2-34. - Vacancies and removal from office.

Members of the oil and gas commission may be removed by a majority vote of all members of the city council. Vacancies in the commission shall be filled by the mayor with approval of the city council for the unexpired portion of the term of the member whose position has become vacant.

(Code 1969, § 22-55; Ord. No. 06-1168, § 12, 2-28-2006)

Sec. 19-2-35. - Quorum.

The oil and gas commission may conduct an official meeting with a minimum of two voting members present, one of whom may be the alternate serving and voting in the place of a regular voting member. The non-voting member does not count toward a quorum. Members may make separate recommendations if the commission is unable to agree on a joint recommendation.

(Code 1969, § 22-56; Ord. No. 06-1168, § 13, 2-28-2006; Ord. No. 2010-1236, § 1, 12-28-2010)

Sec. 19-2-36. - Purpose.

The purpose of the oil and gas commission shall be to advise the mayor, city council, planning and zoning commission and the city manager on the following:

- (1) The drilling and maintenance of oil and gas wells within the city limits.
- (2) Zoning matters pertaining to oil and gas wells.
- (3) Matters pertaining to oil, gas, natural resources and other mineral interests.
- (4) Any other matter pertaining to natural resources and the oil and gas industry as may be appropriate.

(Code 1969, § 22-51; Ord. No. 98-1068, § 28, 2-24-1998; Ord. No. 06-1168, § 14, 2-28-2006)

Sec. 19-2-37. - Powers and duties.

The oil and gas commission is an advisory commission to the mayor and city council. The commission has no decision-making authority. The commission shall make studies and surveys of existing wells and shall review and make recommendations to the mayor and city council, planning and zoning commission, and the city manager, or his designees, concerning natural resources and the drilling, development, and maintenance of oil and gas wells within the city.

(Code 1969, § 22-52; Ord. No. 98-1068, § 29, 2-24-1998; Ord. No. 06-1168, § 15, 2-28-2006)

Secs. 19-2-38—19-2-65. - Reserved.

DIVISION 3. - PERMITS

Sec. 19-2-66. - Required.

It shall be unlawful and an offense for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any other person to knowingly drill any oil or gas well or to install any water or gas repressurizing or injection facility within the corporate limits without a special use permit having first been approved by the city council and a license and permit to drill having first been issued by the city clerk in accordance with this chapter.

(Code 1969, § 22-10; Ord. No. 2009-1220, § 6, 12-8-09)

Sec. 19-2-67. - Annexation of existing wells.

- (a) For all wells and water or gas repressurizing or injection facilities and other facilities covered by this chapter which are in existence at the time the land upon which such wells or facilities are situated is annexed to the city, no city permit or filing fee shall be required. Existing wells shall be operated in accordance with this chapter.
- (b) The oil and gas inspector shall inspect such facilities and note any code deficiencies found. Within 90 days of annexation, the city shall provide to the operator a letter giving notice of the annexation into the corporate limits, make available a copy of this chapter and the oil and gas inspector shall provide

an inspection report listing code deficiencies to be corrected.

- (c) The operator shall submit plans to bring the well into compliance with this chapter to the oil and gas inspector within 60 days of the date of the letter giving notice of the annexation of the well. Notwithstanding the provisions of item (a) above, the operator shall not be required to relocate or modify equipment unless the oil and gas inspector finds a threat to safety on the existing well.
- (d) The operator shall correct any code deficiencies within 180 days of the date the operator is required to submit the plans to bring the well into compliance with this chapter.
- (e) The director may, in consultation with the oil and gas inspector, vary the compliance requirements or extend the time for compliance upon finding compliance is not practicable given the existing condition of the well site.
- (f) Modifications to existing wells shall be in compliance with the provisions of this chapter and the City of Farmington Unified Development Code, as applicable.

(Ord. No. 2009-1220, § 7, 12-8-09)

Editor's note— Ord. No. 2009-1220, § 7, adopted Dec. 8, 2009, deleted former § 19-2-67, and enacted a new § 19-2-67 as set out herein. The former § 19-2-67 pertained to exemption for existing wells. See the Code Comparative Table for complete derivation.

Sec. 19-2-68. - Application; filing fee.

- (a) Every application for a permit to drill an oil or gas well or to install a water or gas repressurizing or injection facility shall be in writing, signed by the applicant, or the applicant's agent, or the applicant's representative duly authorized to sign on his behalf, and shall be filed with the city clerk. In case a permit is requested for drilling a well or reentering and drilling to a deeper formation, the application shall be accompanied by a filing fee in accordance with a fee schedule adopted by resolution of the city council.
- (b) A separate application shall be required for each well and each water or gas repressurizing or injection facility. The application shall include full information, including the following:
 - (1) The date of the application.
 - (2) The name of the applicant.
 - (3) The address of the applicant.
 - (4) Proposed site of the well, including proposed location of gathering lines, or water or gas repressurizing or injection facility, including:
 - a. Name of the lease owner.

- b. Accurate description of the land.
 - c. Location with respect to property lines, right-of-way boundaries, and the grades.
- (5) Type of drilling rig to be used.
 - (6) The proposed depth of the well.
 - (7) Detailed explanation of operating pressures of wellhead and all pipelines and facilities.
 - (8) Location and type of compressor, compressor control, or safety devices with explanation of operating characteristics of each.
 - (9) The name of the person to be notified in an emergency.
 - (10) Details and specifications of the safety provisions and equipment.
 - (11) Copy of permit to drill approved by the appropriate state or federal agency.

(Code 1969, § 22-14; Ord. No. 98-1068, § 12, 2-24-1998; Ord. No. 06-1168, § 17, 2-28-2006)

Sec. 19-2-69. - Issuance or denial; contents.

- (a) The city clerk, within 20 days after the filing of the application for a license and permit to drill an oil or gas well or a permit to install water flooding, gas injection, or any primary or secondary recovery system for the production of oil, gas, and liquid hydrocarbons, shall determine whether or not the application complies in all respects with this chapter. If it does and is approved, the city council shall then fix the amount of the principal of the bond and insurance provided for in division 4 of this article and shall issue a permit for the drilling of the well or the installation of the facilities applied for. Each permit shall:
 - (1) By reference have incorporated therein all the sections of this chapter with the same force and effect as if this chapter were copied verbatim in such permit.
 - (2) Specify the location of the proposed well or injection facility, with particularity to lot number, block number, name of addition or subdivision, section line or other available correct legal description.
 - (3) Contain and specify that the term of the permit shall be for a period of one year from the date of the permit and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operation of such well or facility for which the permit was issued.
 - (4) Contain and specify such other terms and provisions as may be necessary in the particular case to accomplish the purposes of this chapter.
 - (5) Specify the total depth to which the well, if any, may be drilled.

(6) Contain and specify that no actual operations shall be commenced until the permittee shall file and have approved an indemnity bond in the designated principal amount as so determined by the city council or until the permittee has complied with the bond and insurance sections of division 4 of this article.

(b) Such permit, in duplicate, shall be signed by the mayor and prior to delivery to permittee shall be signed by the permittee, with one original to be retained by the city and one by the permittee. When so signed, it shall constitute the permittee's drilling and installation license, as well as the contractual obligation of the permittee to comply with the terms of such permit, bond and of this chapter.

(Code 1969, § 22-15; Ord. No. 98-1068, § 13, 2-24-1998; Ord. No. 2009-1220, § 8, 12-8-09)

Sec. 19-2-70. - Limitations on authority.

No permit shall authorize the drilling of more than one well or the installation of more than one water or gas repressurizing or injection facility.

(Code 1969, § 22-12; Ord. No. 98-1068, § 10, 2-24-1998)

Sec. 19-2-71. - Authority and rights conferred.

(a) When a permit has been issued for the drilling of an oil or gas well, such permit shall constitute sufficient authority for drilling, operation, production, gathering of production, maintenance, repair, reworking, testing, plugging, and abandonment of the well. Such a permit shall allow the construction and use of necessary equipment, including gathering lines installed at the time of the initial drilling of an oil or gas well by the permittee and his employees, agents, and contractors. Compliance with the standards for such equipment as provided for in this chapter shall be required.

(b) A new permit shall be obtained before such well may be deepened below the geological formation in which it was originally completed and before it may be used for repressurizing or injection of water or gas.

(c) When a permit has been issued for the installation of any water or gas repressurizing or injection facility, such permit shall constitute sufficient authority for the construction, operation, maintenance and conversion of existing wells to injection wells and the repair and abandonment of such facility, and for all facilities reasonably necessary or convenient in connection therewith, including gathering lines, by the permittee and his employees, agents and contractors.

(Code 1969, § 22-11; Ord. No. 98-1068, § 9, 2-24-1998; Ord. No. 06-1168, § 18, 2-28-2006)

Sec. 19-2-72. - Excavations; standards of operation.

- (a) No person issued a permit under this division shall make any excavation for any purpose or construct any lines for conveyance of fuel, water, or minerals on, under, or through the streets and alleys without express permission of the city council in writing, and then only in strict compliance with city ordinances.
- (b) No permit for construction within a public right-of-way shall be issued unless the written application is accompanied by the plans and descriptions and unless such plans and descriptions are approved by the city engineer.
- (c) The gathering lines and pipelines installed within the corporate limits for the purpose of transporting oil, gas, or water in conjunction with the operation of any well, tank or tank battery, injection or gathering system, are limited to a maximum operating gauge pressure of 250 p.s.i.g., unless otherwise specifically approved in writing by the city engineer.
- (d) The pipeline shall be pressure tested prior to being placed in service.
- (e) The companies responsible for any and all pipelines installed within the corporate limits are required to furnish as-built plans to the city showing the location of all their facilities for permanent record with the city.
- (f) All pipelines within the corporate limits, other than utility lines of the city and its franchises designed or utilized to transport oil, gas, or water in connection with the production and transportation of oil or gas or for repressurizing operations shall be installed with the minimum to cover or backfill specified by the then-applicable codes for such pipelines. The city engineer is authorized to approve a lesser cover or specify a greater cover or backfill in special cases where, in the opinion of the city engineer, such variation is advisable and will not increase the degree of hazard.
- (g) The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any street or leaving upon any street any earth or other material or obstruction shall not be permitted unless such person shall first have obtained written permission from the city engineer.
- (h) Exceptions to this section shall be as follows:
 - (1) Work done in new developments by utility and street contractors under and in conformity with the city's Unified Development Code is exempt from this section.
 - (2) Work done by the city or under city contract and under directions of the city is exempt from this section.
 - (3)

Work done by public utility companies who operate under a current franchise for the city are exempt from the bond and insurance requirements of division 4 of this article when such work is in connection with the distribution of the product of such utility.

- (4) Work done by plumbers who are qualified and bonded with a valid license from the state are exempt from the bond and insurance requirements of division 4 of this article, but must comply with the balance of the sections of this chapter.
- (5) When work is done in response to an emergency, the operator shall be allowed to take any and all necessary action to have full access to the pipeline to protect workers and/or the public.

(Code 1969, § 22-19; Ord. No. 98-1068, § 15, 2-24-1998; Ord. No. 06-1168, §§ 19, 21, 2-28-2006; Ord. No. 2009-1220, §§ 9A, B, 12-8-09; Ord. No. 2007-1184, 9-8-10)

Sec. 19-2-73. - Well site equipment modification permit.

Except as otherwise provided elsewhere in the code, no production equipment at an existing well site shall be modified until a modification permit has been issued by the director.

(Code 1969, § 22-16; Ord. No. 06-1168, §§ 20, 22, 2-28-2006)

Sec. 19-2-74. - Well site equipment modification permit requirements.

- (a) The director, or his/her designee, shall have the authority to administratively approve modifications to existing well sites in the City of Farmington. The approval shall allow the modification of production equipment, provided the requirements of this section are met.
- (b) Existing wells requiring modifications shall apply for a modification permit to enlarge, replace, modify or add equipment except like-kind replacements (see modifications as defined in section 19-1-1).
- (c) The drilling of new wells does not constitute a well site equipment modification and shall require a special use permit pursuant to the City of Farmington Unified Development Code, section 8.9 and the articles of this chapter.
- (d) An application and a written request from the permittee or representative for a well site equipment modification permit shall be received by the director and approved prior to the commencement of work at the well site, and shall include:
 - (1) A location map;
 - (2) A legal description of the well location;

- (3) The special use permit number issued for the well, if applicable;
 - (4) Demonstration of compliance with existing special use permit, if applicable, Chapter 19 of the City Code, and all applicable state and federal regulations;
 - (5) A description and scale drawing of the proposed modification;
 - (6) A company contact name and phone number; and
 - (7) Five 8.5 x 11 inch copies of a detailed site plan, drawn to scale, clearly identifying all associated equipment and fencing, and all adjacent buildings and roadways with their distances from the existing well head, and certified by a registered land surveyor in the State of New Mexico.
- (e) The application shall be accompanied by a filing fee in accordance with a fee schedule adopted by resolution of the city council.
- (f) In addition to the requirements of Chapter 19, the well site seeking administrative approval shall meet the following requirements:
- (1) All conditions attached to existing special use permits, if applicable, shall be met.
 - (2) The well site shall not be expanded beyond the site plan approved by the controlling special use permit or the existing well site.
 - (3) Removal of any existing open pits within 30 days of completion of the well modification. All removal shall be accomplished in accordance to state regulations.
 - (4) The maximum height of any new pumping unit shall be limited to 14 feet in height as measured from the adjacent ground level.
 - (5) A minimum of four vertical sound mitigation panels of sufficient height shall surround the pumping unit and motor and/or compressor, so sound levels are increased less than one decibel (dB(A)) when measured at 300 feet or to the nearest principal use building.
 - (6) Exhaust from all engines, motors, coolers and other equipment shall be muffled and vented in a direction away from adjacent buildings to the extent practicable. All mufflers shall be properly installed and maintained in proper working order.
 - (7) The fencing shall be, at a minimum, six-foot opaque prewoven slats in chainlink with double strands of barbed wire across the top or other type, as approved by the director, to adequately screen the well site.
 - a. If the fencing does not comply with the minimum standard, the permittee shall have 30 days from the completion of well modification to bring the fencing to minimum standards.
 - (8)

If not to minimum city standards, the access road shall be improved with four inches of gravel road base or equivalent material and be 20 feet in width to meet minimum city standards for all-weather access to the well site.

- a. Any required access road improvements shall be completed within 30 days of completion of the modifications to the well.
 - b. All access roads shall be maintained to city standards by the permittee.
- (9) Use of the municipal sewer system for water discharge shall be not permitted.
- (10) All hydrocarbon storage tanks shall meet the requirements of section 19-3-11.
- (11) Other storage tanks shall be low profile, as approved by the director and/or the oil and gas inspector.
- (12) Exterior security lighting, if needed, shall be downward casting, shielded on the horizontal and contained within the perimeter fence.
- (13) Submittal of a proposed landscape plan to screen adjacent development, if a well site is within 100 feet of a paved street and/or 300 feet of a residential or commercial building.
- a. The well site shall be landscaped on all sides visible from the street or adjacent residential or commercial buildings.
 - b. If landscaping is required, the installation shall be completed within 180 days of completion of the modifications to the well.
 - c. The use of development services landscape policy for appropriate well site screening is recommended, other landscaping plans may be approved by the director.
- (g) Within 21 days of submittal of an application for a well site equipment modification permit, the director shall determine whether the proposed modifications conform to the regulations of this section.
- (1) If it is the finding that the site and proposed modifications are in conformity with these regulations and the controlling special use permit, then the director, or his designee, shall administratively approve the application.
 - (2) If it is the finding that the site and proposed modifications are not in conformity with these regulations or the controlling special use permit, the director shall notify the applicant in writing. The applicant may then apply for a special use permit to perform any modification to the site or correct the site plan or amend the proposed modifications to meet these regulations.

(Ord. No. 06-1168, § 23, 2-28-2006; Ord. No. 2009-1220, §§ 10A—C, 12-8-09)

Secs. 19-2-75—19-2-100. - Reserved.

DIVISION 4. - BOND AND INSURANCE

Sec. 19-2-101. - Bond required; amounts.

- (a) If a permit or certificate of compliance is issued by the city council or the oil and gas inspector under the terms of this chapter for the drilling of a well or installation of a water flooding project or gas injection project, no actual operations shall be commenced unless the permittee shall file with the city clerk a bond as provided in this section.
- (b) The bond shall be in the principal sum of such amount as may be determined by the city council, but not less than \$20,000.00. The bond shall be executed by a reliable insurance company authorized to do business in the state, as surety, and the applicant as principal, running to the city for the benefit of the city and all persons concerned, under the condition that the permittee shall comply with the terms and conditions of this chapter in the drilling and operation of the well, water flooding project, or gas injection project.
- (c) Such bond shall become effective on or before the date it is filed with the city clerk and shall remain in force and effect for at least a period of six months subsequent to the expiration of the term of the permit issued. In addition, the bond will be conditioned that the permittee will promptly pay all legally imposed fines, penalties, and other assessments imposed upon permittee by reason of his breach of any of the terms, provisions, and conditions of this chapter and that the permittee will promptly restore the streets and sidewalks and other public property of the city, which may be disturbed or damaged in the operations, to their former condition; that the permittee will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the operations, and will after abandonment or completion, grade, level and restore such property to the same surface conditions, as nearly as possible, as existed when operations were first commenced; and that the permittee will indemnify and hold the city harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time the city council shall, after a hearing thereon, deem any permittee's bond to be insufficient for any reason, it may require the permittee to file a new bond.
- (d) If after the completion of a producing well, gas injection well, water injection well or any facility for which bond is required by this section and the permittee has complied with all the sections of this chapter to the satisfaction of the oil and gas inspector, the permittee may apply to have the bond

reduced to a sum of not less than \$10,000.00 on each well or facility for the remainder of the time the well produces or a facility is operated without reworking. During reworking operations, the amount of the bond shall be increased to the original amount.

(Code 1969, § 22-20; Ord. No. 98-1068, § 16, 2-24-1998; Ord. No. 06-1168, § 24, 2-28-2006)

Sec. 19-2-102. - Public liability insurance required; amounts.

- (a) In addition to the bond required in section 19-2-101, the permittee shall carry a policy of commercial general liability insurance, including contractual liability, covering bodily injuries and property damage, naming the permittee as insured and the city as additional insured, issued by an insurance company authorized to do business in the state. Such policy shall provide a limit of liability of not less than \$5,000,000.00 combined single limits per occurrence.
- (b) The permittee shall file with the city clerk a certificate of insurance as evidence of coverage. If liability insurance coverage terminates, the permit shall terminate and the permittee's right to operate under such permit shall cease until the permittee files evidence of reinstatement or replacement coverage.
- (c) An operator having 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 found to be financially responsible by the human resources director.

(Code 1969, § 22-21; Ord. No. 98-1068, § 17, 2-24-1998; Ord. No. 06-1168, § 25, 2-28-2006)

Sec. 19-2-103. - Exceptions to division.

The city council may elect to make an exception to the requirements of this division when in its opinion the intent and purpose for the requirements of the bond and insurance can be assured by any of the following means:

- (1) Acceptance of a guarantee or indemnity to the city in lieu of a bond.
- (2) Acceptance of a blanket bond and single policy of insurance to cover all operations of the permittee within the corporate limits.
- (3) Application of bond and insurance requirements acceptable to the city council.

(Code 1969, § 22-22; Ord. No. 98-1068, § 18, 2-24-1998)

ARTICLE 3. - EQUIPMENT, OPERATIONS, STANDARDS AND PRACTICES

Sec. 19-3-1. - Cleanliness and sanitation at well site.

The premises of an oil or gas well shall be kept in a clean and sanitary condition, satisfactory to the oil and gas inspector. The permittee shall take reasonable precautions to prevent any mud, wastewater, oil, slush or other waste matters from flowing into the alleys, streets, lots or leases within the corporate limits. Suitable and adequate toilet facilities shall be made available in a clean and sanitary condition at all times during drilling operations.

(Code 1969, § 22-32)

Cross reference— Solid waste management, ch. 23.

Sec. 19-3-2. - Fire prevention.

- (a) Any permittee engaged in the drilling operation of an oil or gas well or the operation of any facility used in conjunction with the production of oil or gas within the corporate limits shall comply with Chapter 13, Article 3, the fire prevention code, and take reasonable precautions to prevent gas from escaping into the air and shall not flare or burn gas from a torch or any similar means within the corporate limits, provided gas may be burned for a limited time when necessary to complete any oil or gas well upon the original completion or upon a recompletion of a workover job upon oil or gas wells, so long as such does not constitute a fire hazard to the property of others within the vicinity of such oil or gas wells. Emergency firefighting apparatus and supplies, subject to approval by the fire emergency services department, shall be maintained on the drilling site at all times during the drilling operations and on the site of each compressor used for gas injection operations. The permittee shall place a sign in a conspicuous site at each well location or site to identify the well with the name or number of the lease and the telephone number where a responsible person can be reached at any time.
- (b) Adequate firefighting apparatus and supplies as approved by the fire emergency services department shall be maintained on the drilling site at all times during drilling and production operations. No refining process or any process for the extraction of products from natural gas shall be carried on at the drilling site, except that separators may be maintained on the drilling site for the separation of liquids from natural gas.

(Code 1969, § 22-31; Ord. No. 98-1068, § 26, 2-24-1998; Ord. No. 06-1168, § 26, 2-28-2006)

Cross reference— Fire prevention and protection, ch. 13.

Sec. 19-3-3. - Nuisances and annoyances.

- (a) Drilling, completing and operating of well sites shall be carried out in a manner such that no noise, vibration, dust, odor, or other harmful or annoying substances or effect which can be eliminated or diminished occurs to the injury or annoyance of persons living in the vicinity. Proven technological improvements in methods of production shall be adopted as they, from time to time, become available if capable of reducing factors of nuisance or annoyance.
- (b) Well sites or structures thereon shall not be permitted to become dilapidated, unsightly or unsafe. Aboveground production equipment shall be painted in a uniform flat green or tan color, or other color as approved by the director and maintained in good repair by the operator.
- (c) Drilling, completing and reworking operations shall be allowed to exceed the noise control standards of section 12-5-8 only during the hours drilling and completing is permitted by the city council in the approval of the special use permit for the well, or during the hours reworking is allowed by this chapter. The operation of the well site shall comply with the noise regulations as defined in section 19-3-12.
- (d) There shall be no manual venting of gas into the open air without direct on-site supervision. Manual or automatic venting shall occur only during daylight hours, except in the case of an emergency.

(Ord. No. 2009-1220, § 11, 12-8-09)

Editor's note— Ord. No. 2009-1220, § 11, adopted Dec. 8, 2009, deleted former § 19-3-3, and enacted a new § 19-3-3 as set out herein. The former § 19-3-3 pertained to similar subject matter. See the Code Comparative Table for complete derivation.

Sec. 19-3-4. - Operations generally.

- (a) All drilling and operations at any well performed by a permittee under this chapter shall be conducted in accordance with the practices of a reasonable and prudent operator in the San Juan Basin area. At the time of installation all casings, valves, bradenhead, Christmas tree, and well head connections shall be new and of a type and quality consistent with such practice.
- (b) Setting and cementing casing and running drill stem tests shall be performed in a manner and at a time consistent with the practices of a reasonable and prudent operator. There shall be a minimum of two joints of surface casing set a minimum of 50 feet into bedrock and cemented to the surface.

Each permittee under this chapter shall observe and follow the regulations of the appropriate federal and state agencies.

- (c) Drilling operations for wells shall be limited to daylight hours, except in the case of an emergency, where the depth of the well exceeds 5,000 feet, or where directional drilling has been approved by special use permit. In such cases 24-hour drilling shall be permitted provided there are no occupied dwellings within 500 feet of the well hole. If occupied dwellings are within 500 feet, drilling may be limited to daylight hours only. If the permittee makes a request for 24-hour drilling, the residents of any occupied dwellings within 500 feet will be notified of the request and provided the date and time when the request will be heard.
- (d) The well shall only be completed during daylight hours.

(Code 1969, § 22-23; Ord. No. 98-1068, § 19, 2-24-1998; Ord. No. 06-1168, § 28, 2-28-2006; Ord. No. 2009-1220, § 12, 12-8-09)

Sec. 19-3-5. - Pipelines and valves.

- (a) All operations relative to the design, installation, maintenance, and operation of pipelines shall conform to the requirements of this chapter and the applicable codes and standards of performance of the reasonable and prudent operators of the trades involved.
- (b) All pipelines constructed shall be tested prior to being placed in operation, in accordance with applicable codes. Valves shall be installed on all pipelines at such locations and spacing to safely and adequately control the operation of the line and to minimize the quantity of gas, oil or water that would be released from the line if a line fails or ruptures. The types and locations of all valves shall be indicated on a plan layout and approved by the oil and gas inspector.
- (c) Pipelines crossing certain thoroughfares, designated by the oil and gas inspector, shall be cased and vented in accordance with accepted practices of the pipeline industry.

(Code 1969, § 22-24; Ord. No. 98-1068, § 20, 2-24-1998)

Sec. 19-3-6. - Pipeline location markers.

Under this chapter, pipeline location markers shall be approved, as to type and location, by the oil and gas inspector, and the removal of any pipeline marker without the express permission of the oil and gas inspector shall constitute a violation of this chapter. All pipeline markers shall include the name of the owner or operator of the pipeline and a telephone number where a responsible person can be reached at any time.

(Code 1969, § 22-25; Ord. No. 98-1068, § 21, 2-24-1998)

Sec. 19-3-7. - Internal combustion engines; electrical equipment; percolating water.

- (a) Internal combustion engines or electrical equipment may be used in the drilling operations of the oil or gas well. If internal combustion engines are used, mufflers shall be installed on the mud pumps and on the engines so as to reduce noise to a minimum. All of such installations shall be done in a manner satisfactory to the oil and gas inspector. All electrical installations shall be made in conformity with the applicable state electrical code.
- (b) Drilling operations must be conducted in such a manner that percolating or groundwater will not be adversely affected, including the prevention of vertical movement of percolating water.

(Code 1969, § 22-26; Ord. No. 98-1068, § 22, 2-24-1998)

Sec. 19-3-8. - Hours of delivering or removing tools and materials.

Except in an emergency, no materials, equipment, tools or pipe used for production operations under this chapter shall be delivered to or removed from the drilling site, except during daylight hours on any day.

(Code 1969, § 22-27; Ord. No. 98-1068, § 23, 2-24-1998; Ord. No. 2009-1220, § 13, 12-8-09)

Sec. 19-3-9. - Storage at well site.

The oil or gas well site shall not be used for the storage of pipe, equipment or materials except during the drilling or servicing of the well or pipelines from the well or the production facilities allowed on the site.

(Code 1969, § 22-29)

Sec. 19-3-10. - Fencing and landscaping of well site.

- (a) Under this chapter, all drilling and production sites shall be enclosed on all sides by a minimum six-foot chain link fence with double strands of barbed wire across the top. Fences at well sites that have production equipment located within 300 feet of a principal use building or within 100 feet of a paved street shall be, at a minimum, opaque prewoven slats in chain link or other type, as approved by the director. The chain link fence shall have a minimum of two remotely located gates or exit

ways, on the site and the gates shall be kept locked at all times when the permittee or his employees are not within the enclosure. Notwithstanding the time that landscaping is to be installed, the fence required by this section shall be installed prior to production commencing on the well.

- (b) If at any time a principal use building comes within 300 feet of production equipment on the well site, or a paved street comes within 100 feet of production equipment on a well site, the permittee shall submit a landscaping and screening plan within 60 days for review and approval by the director. The site shall be screened and landscaped in substantial conformance with the community development department landscape guidelines for purposes of screening the production facilities from outside view and ensuring the compatibility of the well site with the surrounding area.
- (c) Well sites annexed into the city shall have 60 days to submit a screening and landscaping plan for review and approval by the director if they are within 100 feet of a paved street or 300 feet of a principal use building.
- (d) The director shall render a decision regarding a landscaping and screening plan submitted as required by this section within 21 days of the submittal. Waivers to the community development department landscape guidelines may be approved by the director.
- (e) The plan shall be installed within 18 months of special use permit approval by the city council or 180 days from the well going into production, whichever comes first.

(Code 1969, § 22-30; Ord. No. 98-1068, § 25, 2-24-1998; Ord. No. 06-1168, § 29, 2-28-2006; Ord. No. 2009-1220, §§ 14A—F, 12-8-09; Ord. No. 2011-1241, §§ 1(1)—1(4), 4-12-2011)

Sec. 19-3-11. - Storage tanks.

- (a) Tanks used for the storage of condensate, crude oil or other hydrocarbon liquids produced by and used in conjunction with any oil or gas well in the city shall meet American Petroleum Institute (API) specifications.
- (b) All aboveground tanks will be low profile tanks with a height of no more than 12 feet.
- (c) The earthen fire wall and reservoir area required by state regulations, shall be lined with an impermeable material that is "liquid tight" and that extends over the fire wall. Any such liner shall:
 - (1) Have a minimum UV exposure life of 12 years;
 - (2) Be chemically compatible with the substance stored within the aboveground storage tank; and
 - (3) Be of a durable material that is repairable and/or weldable.

(Code 1969, § 22-33; Ord. No. 98-1068, § 27, 2-24-1998; Ord. No. 06-1168, § 30, 2-28-2006; Ord. No. 2008-1207, § 1, 8-26-08)

Sec. 19-3-12. - Noise.

- (a) Within 15 days of the start up of a new well or modification to an existing well, the operator shall demonstrate initial compliance with this section by requesting a sound level measurement from the oil and gas inspector.
- (b) Measurement of sound levels from existing oil and gas operations shall be performed:
 - (1) Sound levels shall be measured at a distance of 300 feet of the subject equipment emitting the noise, if no buildings are adjacent. Sound levels at buildings shall be measured, as near as practicable, to the exterior edge of the principal use building closest to the equipment emitting the noise.
 - (2) In all sound level measurements, the existing ambient noise level from all other sources in the area shall be considered to determine the contribution to the sound level by the oil and gas operation.
 - (3) The ambient noise level shall be taken between 12:00 a.m. and 3:00 a.m.
 - (4) The temporary shut down of well site equipment may be required to measure ambient sound levels.
- (c) Acceptable noise levels:
 - (1) The sound levels shall not be increased more than one dB(A) at 300 feet or at the nearest residence or commercial building, whichever is closest to the source.
 - (2) Upon receipt of a complaint of any of the standards above, the code compliance officer or oil and gas inspector shall investigate the specific complaint. If it is determined and documented that violations have occurred, the code compliance officer or oil and gas inspector shall take appropriate action.

(Ord. No. 06-1168, § 31, 2-28-2006)

other vegetation or unnecessarily disturb the soil. The scraping and tillage of lots and tracts of land is prohibited, unless permission of the City Manager is first obtained; except, that scraping and tillage as part of normal construction activities or as ground preparation for agriculture or landscaping activities shall be allowed. The City Manager may allow scraping and tillage of lots or tracts of land when this will not detract from or violate the clear intent and purpose of this chapter. (Prior code § 12-14)

8.40.100 Administration and enforcement.

The City Manager or his or her designated representative shall be the Administrative Authority for this chapter. The Administrative Authority shall establish rules and regulations for the fair and equitable administration and enforcement of this chapter and for the receiving and hearing of protests concerning the application of this chapter and the levying of the charges provided for herein. (Prior code § 12-15)

8.40.110 Violation—Penalty.

Any person who shall fail and neglect to cut the weeds and remove the cuttings or any accumulation of weeds as provided in this chapter, or who shall fail, neglect or refuse to comply with the provisions of any section of this chapter or of any notice herein provided for, or who shall violate any of the provisions of this chapter whatsoever, or who shall resist or obstruct the City Manager or his or her authorized representatives in the cutting of weeds or the removal of cuttings or the removal of the accumulation of the weeds shall, upon conviction thereof, be subject to a fine not to exceed fifty dollars (\$50.00), and each day on which such violation continues may constitute a separate offense. (Prior code § 12-16)

Chapter 8.44 OIL AND GAS ACTIVITIES

Article I. In General

8.44.010 Definitions.

Technical or oil and gas industry words or phrases used in this chapter and specifically defined shall have the meanings customarily attributable thereto by

prudent operators in the oil and gas industry. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

"API Standards" means American Petroleum Institute standards.

"Building" means a commercial, institutional, industrial or residential building on a lot, tract, or parcel that is intended for human occupancy.

"City" refers to the City of Hobbs, New Mexico.

"Commission" refers to the City Commission of the City of Hobbs.

"Drill site" means all of the land area used in the drilling or other related operations, specifically including, but not limited to, rig locations, portable or permanent structures, steel tanks, storage of pipe or other material, and the parking or maneuvering of vehicles, except roadways used for ingress or egress to the drill site.

"Existing well" means a well with a valid well drilling permit identified in this chapter located within the jurisdiction of this chapter as well as wells drilled prior to the adoption of this chapter.

"I.F.C." refers to the International Fire Code.

"Injection line" refers to any line that transports oil, gas or water from a gathering facility to a well that injects these constituents for the purposes of re-pressurization, down hole disposal, down hole storage or is used for secondary recovery of oil and gas.

"Inspector" means the person or entity retained by the City to monitor the activity at the well sites.

"O.C.D." refers to the Oil Conservation Division of New Mexico.

"Permittee" means the person to whom is issued a permit for the drilling, operating and producing of a well under this section, and his or her heirs, legal representatives, successors and assigns.

"Person" means and includes any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator and a fiduciary or representative of any kind.

"Production equipment" means any apparatus utilized for the extraction or processing of oil and gas on a well site including, but not limited to separators,

dehydrators, meter houses, well heads, tanks, valves, compressors, pumping units, injection units, and cathodic protection devices unless another more to specific meaning has been given to any of these terms.

"Production line" refers to any line pipe, which transfers oil, brine water or gas to/from the well and processing equipment.

"Property owner" means real property surface record owner(s).

"Right-of-way" is expressly limited to all public rights-of-way or streets or other public property within the City of Hobbs.

"Street" means any street, highway, sidewalk, alley, avenue, recessed parking area, or other public right-of-way, including the entire right-of-way.

"Vessel" means a hollow receptacle used as a container for produced well fluids.

"Well" means any hole or holes, bore or bores, to any sand, horizon, formation, strata or depth, for the purpose of producing any oil, gas, liquid hydrocarbon or brine water or for use as an injection well for secondary recovery, or any of them.

When the title of any City official is used herein such title includes any duly authorized representative of such official. (Ord. 974 (part), 2008)

8.44.020 Penalties.

A. It is unlawful and an offense for any person to violate or fail to comply with any provision of this chapter, irrespective of whether or not the verbiage of each section hereof contains the specific language that such violation or failure to comply. Any person who shall violate any of the provisions of this chapter, or any of the provisions of a permit issued pursuant hereto, or who shall fail to comply with the terms hereof, shall be guilty of a misdemeanor and shall, on conviction thereof, be punished in accordance with Hobbs Municipal Code, Chapter 1.16. A separate offense shall be deemed committed on each day during or on which a violation of this chapter occurs or continues to occur.

B. The City shall have the right to enforce the provisions of this chapter through both its civil and criminal jurisdiction in both the Municipal Court of the City of Hobbs or the District Court of the State of New Mexico. In the event of a violation of this chapter, the appropriate authorities of the City, in addition to other available remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent, enjoin or remedy such violation. (Ord. 974 (part), 2008)

8.44.030 Applicability of Federal and State laws—Conflict.

A. Any violation of the laws of the State or any rules, regulations, or requirements of any State or Federal regulatory body having jurisdiction in reference to drilling, completing, equipping and operating therein or in reference to firewalls, fire protection, blowout protection, safety protection, or convenience of persons or property shall also be a violation of this chapter and shall be punishable in accordance with Hobbs Municipal Code, Chapter 1.16.

B. In cases where conflicts may arise between the provisions of this chapter and any other codes, rules or regulations, the code, rule or regulation which imposes the greater restriction shall control. (Ord. 974 (part), 2008)

Article II. Permits

8.44.040 Required.

A. It is unlawful and an offense for any person acting either for himself or herself or acting as agent, employee, independent contractor or servant for any person to knowingly drill any well within the corporate limits of the City and jurisdiction of this chapter without a well drilling permit.

B. When a permit has been issued for the drilling of a well, such permit shall constitute sufficient authority for drilling, operation, production and for the construction and gathering lines and discharge by the permittee and its employees, agent and contractors.

C. No permit shall authorize the drilling of more than one (1) well. (Ord. 974 (part), 2008)

8.44.050 Existing well permit.

A. An existing well permit application must be filed with the City Clerk's office fifteen (15) days prior to the start of any procedure that requires O.C.D. notification and permits. Existing well permit applications shall include:

1. A brief description of the procedure;
2. The completed applicable O.C.D. permit and/or form.

B. All existing well permits will be approved by the Inspector, as long as they meet the conditions in subsections (A)(1) and (A)(2) of this section.

C. Existing wells shall be operated in accordance with the practices of a reasonable and prudent operator. (Ord. 974 (part), 2008)

8.44.060 Application.

A. Every application for a permit to drill a well shall be in writing, signed and notarized by the applicant, or the applicant's agent, or the applicant's representative duly authorized to sign on his or her behalf, and shall be filed with the City Clerk.

B. A separate application shall be required for each well. The application shall include full information, including the following:

1. The date of the application;
2. The name of the applicant;
3. The address of the applicant;
4. Proposed site plan of the well, including proposed location and routing of gathering lines; as well as a diagram of permanent location (footprint) and:
 - a. Name of lease owner and surface owner,
 - b. Accurate description of the land (legal description and a map or plat), building(s) within three hundred (300) feet for a single well and seven hundred fifty (750) feet with production equipment respectively. Identify distance from Municipal fresh water supply wells and Municipal subsurface fresh water storage reservoirs,
 - c. Location with respect to property lines, right-of-way boundaries and drainage grades,
 - d. Identify distances from public streets, highways and operating railway;
5. The proposed depth of the well;
6. Detailed explanation of operating pressures of wellhead and all production or injection lines;
7. Location and type of pumping unit, all production equipment such as: fluid storage, gas separator, treating vessels, compressor, compressor control, or safety devices with explanation of operating characteristics of each (if applicable);
8. The name of the person(s) to be notified in an emergency;

9. Details and specifications of the safety provisions and equipment.
 - a. Identification of routing of all equipment on streets within the jurisdiction of this chapter;
10. Copy of permit to drill approved by the appropriate State or Federal agency;
11. Names and addresses of all individuals authorized to act on behalf of the applicant;
12. A copy of the Emergency Response Plan;
13. A copy of the Public Notice. (Ord. 974 (part), 2008)

8.44.070 Issuance or refusal to issue.

A. The City Manager or designee, within fifteen (15) days after the filing of the complete application for a permit to drill a well, shall determine whether or not the application complies in all respects with this chapter. If it does, the permit will stand approved. However, if the application does not comply with all requirements, the permit will not stand approved and will continue to be denied until all requirements are met. Each permit shall:

1. By reference have incorporated therein all the sections of this chapter with the same force and effect as if this chapter were copies verbatim in such permit.
2. Specify the location of the proposed well, with particularity to lot number, block number, name of addition or subdivision, section line or other available correct legal description.
3. Contain and specify that the term of the permit shall be for a period of one (1) year from the date of the permit and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operation of such well or facility for which the permit was issued.
4. Contain and specify such other terms and provisions as may be necessary in the particular case to accomplish the purposes of this chapter.
5. Contain and specify that no actual operations shall be commenced until the permittee has complied with the bond and insurance provisions of this chapter.

B. Such permit, in duplicate, shall be signed by the City Manager or designee and prior to delivery to permittee shall be signed by the permittee, with one (1) original to be retained by the City and one (1) by the permittee. When so signed, it

shall constitute the permittee's drilling license, as well as the contractual obligation of the permittee to comply with the terms of such permit, terms and of this chapter. (Ord. 974 (part), 2008)

8.44.080 Suspension/termination of permit.

In the event of failure of permittee to comply with any provision of this chapter, the Inspector shall issue in writing a notice to the permittee of the nature of the noncompliance and stating a reasonable time necessary to gain compliance. After lapse of such reasonable time, if compliance has not been made, the Inspector may suspend the permit for a period of time or recommend cancellation of the permit. (Ord. 974 (part), 2008)

8.44.090 Permit suspension—Hearing and appeals.

No application or permit shall be refused, revoked, or suspended or terminated without due cause having been shown for such refusal, revocation or suspension, and in no event until such notice of such hearing to be held at any regular meeting of the City Commission.

A. Any person or operator aggrieved by a decision of the City Manager or designee arising by virtue of the provisions of this chapter shall have the right to appeal such decision to the City Commission. The decision by the City Commission shall be final. Any appeal from the City Manager or designee shall be filed in writing with the City Clerk within ten (10) calendar days after rendition of such decision of the City Manager or designee. (Ord. 974 (part), 2008)

8.44.100 Modification of permit.

If, after a permit has been issued as provided in Article II, Section 8.44.070 and drilling operations have commenced and the operator finds it necessary to substantially alter the nature of drilling operations, the operator shall file with the Inspector a duplicate copy of the Form C-103 report filed with the New Mexico Oil Conservation Division. (Ord. 974 (part), 2008)

8.44.110 Bond and insurance.

A. Bond Required Amounts.

1. If a permit or certificate of compliance is issued by the City Commission or the Inspector under the terms of this chapter for the drilling of a well, no actual operations shall be commenced unless the permittee shall file with the City Clerk a bond as provided in this section.

2. The bond shall be in the principal sum of such amount as may be determined by the City Commission, but not less than one hundred thousand dollars (\$100,000.00). The bond shall be executed by a reliable insurance company authorized to do business in the State, as surety, and the applicant as principal, running to the City for the benefit of the City and all persons concerned, under the condition that the permittee shall comply with the terms and conditions of this chapter in the drilling and operation of the well.
3. Such bond shall become effective on or before the date it is filed with the City Clerk and shall remain in force and effect for at least a period of six (6) months subsequent to the expiration of the term of the permit issued. In addition, the bond will be conditioned that the permittee will promptly pay all legally imposed fines, penalties, and other assessments imposed upon permittee by reason of his or her breach of any of the terms, provisions, and conditions of this chapter and that the permittee will promptly restore the streets and sidewalks and other public property of the City, which may be disturbed or damaged in the operations, to their former condition; that the permittee will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the operations, and will after abandonment or completion, grade, level and restore such property to the same surface conditions, as nearly as possible, as existed when operations first commenced; and that the permittee will indemnify and hold the City harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time the City Commission shall, after a hearing thereon, deem any permittee's bond to be insufficient for any reason, it may require the permittee to file a new bond.

B. Public Liability Insurance Required Amounts.

1. In addition to the bond required in subsection A of this section, the permittee shall carry a policy of commercial general liability insurance, including contractual liability, covering bodily injuries and property damage, naming the permittee as insured and the City as additional insured, issued by an insurance company authorized to do business in the State. Such policy shall provide a limit of liability of not less than five million dollars (\$5,000,000.00) combined single limits per occurrence.
2. The permittee shall file with the City Clerk a certificate of insurance as evidence of coverage. If liability insurance coverage terminates, the permit

shall terminate and the permittee's right to operate under such permit shall cease until the permittee files evidence of reinstatement or replacement coverage.

C. Exceptions to This Subsection.

1. The City Commission may elect to make an exception to the requirements of this subsection when in its opinion, the intent and purpose for the requirements of the bond and insurance can be assured by any of the following means:
 - a. Acceptance of a guarantee or indemnity to the City in lieu of a bond.
 - b. Acceptance of a blanket bond and single policy of insurance to cover all operations of the permittee within the jurisdiction of this chapter.
 - c. Application of bond and insurance requirements acceptable to the City Commission.

D. All insurance and bond requirements shall be issued by an insurance or bond company authorized to do business in New Mexico with an A or better rating. (Ord. 974 (part), 2008)

Article III. Regulations—Standards

8.44.120 Notification.

Each application for the drilling of any new well shall provide notice to the public by the following means:

- A. Forty-five (45) days prior to the start of new well drilling operations at least one (1) notice will be published in a newspaper of general circulation in the City of Hobbs that identifies:
 1. Name of operator with contact information to request information.
 2. The physical location of well site: street address and legal description.
 3. The thirty (30) day filing period during which any aggrieved citizen or applicant may file written comments, grievances or request for an appeal of the well drilling permit.
 4. Name and contact information of City personnel with whom to file objection.
- B. Forty-five (45) days prior to the start of new well drilling operations, a sign containing the thirty (30) day filing period during which any aggrieved citizen

or applicant may file written comments, grievances or request for an appeal of the well drilling permit shall be placed in the approximate location of the proposed new well drilling operations, of such size and lettering that can be read from the nearest public street or right-of-way. This sign shall include the same information as listed in subsections (A)(1) through (A)(4) of this section. (Ord. 974 (part), 2008)

8.44.130 Streets and alleys.

A. No permittee shall make any excavations for any purpose or construct any pipelines for conveyance of fuel, water or minerals on, under or through the streets or other land of the City without an express right-of-way permit from the City, at a reasonable price to be agreed upon, and then only in strict compliance with this chapter and the specifications established by City Chapter 12.20 (Ditches and pipelines, street and alley right-of-way evacuation and encroachment policy).

B. The digging up, excavating, tunneling, undermining, breaking up or damaging of any street or other land of the City or leaving upon any street or other land of the City any earth or other material or obstruction, shall not be permitted unless such persons shall first have obtained written permission from the City Engineer, and then only in compliance with specifications established by the City Engineer.

C. The permittee shall repair or have repaired all damage to the streets or other land of the City. Such repair shall be done to the standards established by the City Engineer. (Ord. 974 (part), 2008)

8.44.140 Street and alley—Obstructions.

No well shall be drilled and no permit shall be issued for any well to be drilled at any location which is within any of the streets of the City or streets shown by the master plan of the City, and no street shall be blocked or encumbered or closed in any drilling or production operation except by written permission of the Police and Fire Chief or their designees. (Ord. 974 (part), 2008)

8.44.150 Proximity of: a) single wells, b) tanks, vessels, compressors, or c) production and injection flow lines to occupied buildings, public streets, highways and operating railways.

A. No single well (producer or injector) can be drilled, and no permit shall be issued for any well to be drilled at any location nearer than three hundred (300) feet (greater or lesser distance can be established at time of permitting) to any building

located within the jurisdiction of this chapter, unless said building is owned or controlled by the permittee. However, no surface production equipment can be located at this site with the exception of a pumping unit. All other production equipment must follow the conditions of subsection B of this section. Provided, however, that the City Manager may in exceptional cases, in considering any application for permit, may require greater or allow lesser distance depending on the circumstances and so specify in the permit. Any allowances for a lesser distance must be accompanied by written permission approved by all affected property owners. New wells may be drilled and permitted for drilling on existing well locations regardless of the distance to any building, but still must comply with subsection C of this section, as it pertains to public streets and railways.

B. No new installations of production equipment (including but not limited to crude oil, condensate or water storage tanks, separators, compressors or vessels) used in any process of producing crude oil, produced water or natural gas shall be constructed or operated on any site if the perimeter of said site is within seven hundred fifty (750) feet (greater or lesser distance can be established at time of permitting) to any building located within the City limits, unless said building is owned or controlled by the permittee. Fluid storage capacity is limited to one thousand five hundred (1,500) barrels per location. Storage capacity in excess of one thousand five hundred (1,500) barrels per location must be approved in writing by Hobbs Fire Chief, No fluid storage can be located nearer than seventy-five (75) feet to any dedicated public street, highway, or nearest rail of an operating railway. Street distance measures are from the back of the nearest curb or in the absence of a curb, the closest pavement, railroad distance measures will be determined to the nearest rail. Existing sites with said equipment may be updated with new equipment as necessary regardless of distance. Provided, however, that the City Manager may in exceptional cases, in considering any application for permit, require greater or allow lesser distance depending on the circumstances and so specify in the permit. Any allowances for a lesser distance must be accompanied by written permission approved by all affected property owners.

C. In compliance with the I.F.C., as adopted by the City of Hobbs, no permit shall be issued for any well to be drilled at any location nearer than seventy-five (75) feet to any dedicated public street, highway, or nearest rail of any operating railway. Street distance measures are from the back of the nearest curb or in the absence of a curb, the closest pavement, railroad distance measures will be determined to the nearest rail.

D. No new production or injection flow lines shall be placed nearer than fifty (50) feet to any existing building located within the City limits, unless said building is owned or controlled by the permittee. Provided, however, that the City Manager or designee may in exceptional cases, require greater or allow lesser distance depending on the circumstances. All repairs and maintenance will be governed by City Chapter 12.20. Any allowances for a lesser distance must be accompanied by written permission approved by all affected property owners. New wells may be drilled and permitted for drilling on existing well locations regardless of the distance to any building. (Ord. 974 (part), 2008)

8.44.160 Proximity of well, tanks, or pipelines to Municipal fresh water supply.

No well shall be drilled, and no permit shall be issued for any well to be drilled at any location or production equipment to be located nearer than one thousand five hundred (1,500) feet to any Municipal fresh water supply well. All proposed new wells within two thousand five hundred (2,500) feet to one thousand five hundred (1,500) feet must be reviewed by City Engineer prior to a well drilling application being approved. (Ord. 974 (part), 2008)

8.44.170 Proximity of well, tanks, or pipelines to Municipal fresh water subsurface storage facility.

No well shall be drilled, and no permit shall be issued for any well to be drilled at any location or production equipment to be located nearer than one thousand five hundred (1,500) feet to any Municipal fresh water subsurface storage facility. All proposed new wells within two thousand five hundred (2,500) feet to one thousand five hundred (1,500) feet must be reviewed by City Engineer prior to a well drilling application being approved. (Ord. 974 (part), 2008)

8.44.180 Operation and equipment—Penalties and standards.

A. All drilling and operations at any well performed by a permittee under this section shall be conducted in accordance with the practices of a reasonable and prudent operation. Storage and circulation of all drilling fluids shall be confined to steel tanks in a closed loop system. All casing, valves, and blowout preventers, drilling fluid, tubing, wellheads, Christmas trees, and wellhead connections shall be of a type and quality consistent with such practice. Setting and cementing casing

and running drill stem tests shall be performed in a manner and at a time consistent with the practices of a reasonable and prudent operator. Each permittee under this section shall observe and follow the regulations of the O.C.D.

B. An internal combustion engine may be used in the drilling operations of the well, or wells, and if an internal combustion engine is used, that mufflers be installed on all engines so as to reduce noise and comply with the Hobbs Municipal Code Noise Ordinance, Chapter 8.20. Any waiver of said ordinance must be approved by City Commission. All of said installations must be done in accordance with accepted practices for fire prevention purposes. For production purposes, only electric power may be used. Drilling operations must be conducted in such a manner that groundwater will not be adversely affected.

C. Oil drilling and production equipment used shall be so constructed and operated so that noise, dust, odor or other harmful substances or effect will be minimized by the operations carried on at any drilling site or from anything incidental thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe, proven technological improvements in methods of production, shall be adopted as they, from time to time, become available if capable of reducing factors of nuisance or annoyance. There shall be no venting of gas into the open air.

D. Except in cases of emergency or approved variance, no materials, equipment, tools or pipe used for drilling or production operations shall be delivered or removed from the site except between the hours of 7:00 a.m. to 9:00 p.m. on any day. On drill stem tests, only one (1) trip will be allowed at night between 9:00 p.m. and 7:00 a.m. unless an emergency exists.

E. Firefighting apparatus and supplies shall be maintained on the drilling site at all times during drilling and production operations. No refining process or any process for the extraction of products from natural gas shall be carried on at the drill site, except that a dehydrator and separator may be maintained on the drill site for the separation of liquids from natural gas. Any such separator shall serve only one (1) well.

F. The well site shall not be used for the storage of pipe, equipment or materials except during the drilling or servicing of the well and the production facilities allowed on the site.

G. That no refinery, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises at any time. This shall not be deemed to exclude a simple gas separation process.

H. All electric lines to production facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision. (Ord. 974 (part), 2008)

8.44.190 Cleanliness and sanitation.

A. The premises shall be kept in a clean and sanitary condition. The permittee shall prevent any mud, wastewater, oil, slush, or other waste matters from flowing into the alleys, streets, lots or leases within the jurisdiction of this chapter.

B. All permittees' premises shall be kept clear of high grass, weeds and combustible trash within a radius of one hundred (100) feet around any production equipment or thirty (30) feet past anchors, whichever distance is greater. All waste shall be disposed of in such manner as to comply with the air and water pollution control regulations of the State and all ordinances of the City and removed as required in Hobbs Municipal Code Section 8.36.060 regarding unsanitary premises.

C. An SPCC plan on each facility must be available upon request by City Inspector. (Ord. 974 (part), 2008)

8.44.200 Surface equipment—Pumping units, storage tanks and separators.

A. Completed wells shall be equipped with high-low valves or automatic shut-in equipment to shut in the well in the event of any malfunction downstream from the wellhead.

B. All crude oil, condensate or water storage tanks used, constructed or operated on any permitted site within seven hundred fifty (750) feet of a building location shall be so constructed and maintained as to be vapor tight and properly vented. All crude oil storage tanks must have a vapor recovery unit. A permittee may use, construct and operate a steel conventional separator and such other approved tanks and appurtenances as are necessary for treating oil with each of such facilities, to be so constructed and maintained as to be vapor tight. All fluid storage vessels and confined spaces (injection well enclosures) must be equipped with H₂S monitoring equipment that emits an audible and visual alarm when H₂S levels exceed acceptable levels. Each oil and gas separator shall be equipped with adequate over pressure relief protection safety devices. All tanks shall be placed above ground, and the tanks shall be placed upon a suitable earth or concrete pad. All equipment is to be constructed and maintained in accordance with API Standards.

C. The use of a central tank battery is permitted, but must comply with the requirements of subsection B above.

D. Unless prohibited by Federal Emergency Management regulations, tanks shall be enclosed within a conventional type fire wall constructed of compacted earth; sufficient water shall be used during the fire wall construction to assure adequate compaction.

E. The firewall enclosing the tanks shall have a minimum capacity equal to one and one-third ($1\frac{1}{3}$) times the volume of the tanks enclosed.

F. The top or crown of the fire wall shall have a normal height of three (3) feet above normal ground elevation. The location of the tank site shall be approved by the Inspector. (Ord. 974 (part), 2008)

8.44.210 Fences with locking gates required.

A. After drilling and completion operations have been conducted and prior to marketing the well product or well function:

1. Production and injection sites shall be enclosed on all sides by a minimum eight-foot chainlink fence with double strands of barbed wire or concertina wire across the top. The chainlink fence shall have a minimum of two (2) remotely located gates or exit-ways on the site and the gates shall be kept locked at all times when the permittee or his or her employees are not within the enclosure.

B. The permittee shall place a sign at each entrance to each well location or site that includes the following information as well as any other information required by O.C.D.:

1. The site;
2. The operator;
3. Emergency contact information; and
4. All applicable warnings and dangers. (Ord. 974 (part), 2008)

8.44.220 Minor deviations during actual operations.

The City Manager or his/her designee may authorize minor deviations from the standards of this chapter that appear necessary in light of technical or engineering considerations first discovered during actual development or operations and that are not reasonably anticipated during the initial approval process, as long as they

comply with the spirit and intent of this chapter. Minor deviations shall not include increases in the intensity of use or the introduction of uses not previously approved. (Ord. 974 (part), 2008)

Chapter 8.48 NUISANCE ABATEMENT AND PROBLEM PROPERTY FORFEITURE*

Article I. In General

8.48.010 Purpose and intent.

The purpose of this chapter is to prevent the use of real property, vehicles and personal property as a public nuisance. (Ord. No. 984, Art. I(1), 5-5-2008)

8.48.020 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- A. Abate: To bring to a halt, eliminate or, where that is not possible or feasible, to suppress, reduce, and minimize.
- B. Building: A structure, hereinafter defined, which is enclosed with walls and a roof so that there are no sides left open.
- C. Close, to Close, or Closure: To seize the property and remove all owners, tenants, occupants and other persons and animals from the real property, vehicle, or personal property, or a specified discrete portion thereof, and to lock, board, bar, or otherwise close and prohibit all entry, access, and use of the real property, vehicle, or other personal property, or a specified discrete portion thereof, except such access and use as may be specifically ordered by the Court for purposes of inventory, maintenance, storage, security, and other purposes, and to vest the sole right of possession and control of the

***Editor's note**—Ord. No. 984, Arts. I—III, adopted May 5, 2008, did not specifically amend the Code; hence, inclusion herein as Ch. 8.48, was at the discretion of the editor. See the Code Comparative Table and Disposition List for a detailed analysis of inclusion.

Cross reference—Nuisances generally, Ch. 8.24.

OPINION

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EDITORIAL

Oilfield pump jacks are scattered through Loco Hills, located between Artesia and Hobbs.

Boom - for now?

Slowly rebounding gas and oil prices, coupled with news that major multinational energy companies have spent more than \$13 billion in recent months on assets in the state's oil and gas fields, brings some welcome economic news to our state.

Both hint at a revival in oil and gas production, which accounts for about one-third of the tax revenues New Mexico uses each year to pay for education, public safety and other government services.

At the moment, New Mexicans are acutely aware of the impact of the prolonged downturn in oil and gas production. On one hand, we've been paying a lot less at the gas pump over the past few years; on the other, the state is facing a financial crisis so severe that lawmakers and Gov. Susana Martinez are deadlocked over the coming fiscal year's state budget that kicks in July 1.

Public schools, state-supported colleges and universities and state government workers are hamstrung trying to craft budgets for the coming year with no clue how much state funding they'll receive.

Because we know how we got to this point, any hint at a recovery in the oil and gas industry — and a corresponding recovery in the tax revenue it provides — is welcome news in most quarters.

Still, a few cautionary notes seem in order.

For decades, the hue and cry from the Legislature and taxpayers alike is that New Mexico needs to diversify

At last, some good news regarding oil and gas

its economy and wean itself from its over-dependence on not only the oil and gas industry, but federal government — i.e., military installations, national laboratories, entitlement programs and the like, all of which remain major economic foundations. And when one of those sectors falters, New Mexico suffers proportionately. Like it is right now.

Broadening our economic base remains a challenge, in part because of a political reluctance to create the economic atmosphere that attracts new businesses. The Legislature is poised to take a major step in that direction by considering a much-needed overhaul of our tax structure — one that broadens the tax base while lowering the overall tax rate — in tandem with setting a 2018 budget.

The city of Hobbs, which has dealt with the boom/bust cycle of the oil and gas industries for nearly a century, is learning to mitigate the finan-

cial roller coaster by building up reserves during the booms so it can better weather the busts. There's a lesson in there for other cities, counties and state legislators. In fact, the original incarnation of House Bill 191, sponsored by Rep. Larry Larrañaga, R-Albuquerque, would have used flush revenue times to create a true "rainy day fund."

In light of any expansion, it bears repeating that the Legislature should also have passed Senate Bill 307, which would have restored the New Mexico Oil Conservation Division's legal authority to fine oil and gas companies for spills and other violations of state law. When the state Supreme Court stripped the OCD of that power in 2009, its collection of fines dropped from an average of \$597,000 annually to \$14,000 in 2010. Lawmakers have had eight years to correct that. Considering the recent industry ramp up and the uncertain fate of the federal methane rule safeguards, OCD authority to enforce the law is more than likely to become an even more needed protection in the near future.

It's great news that the oil and gas industry may be on the verge of revival in New Mexico, but let's hope the state learns from this bust by moving forward to diversify its economy and put some revenue away for leaner times.

Because — as we are seeing now — it simply doesn't work to rely on boom and bust to fund state government.

SB 307!
Penalties
Bill.