



**SANDOVAL COUNTY PLANNING AND ZONING COMMISSION
JUNE 29, 2017 PUBLIC HEARING**

TO: Sandoval County Planning and Zoning Commission

FROM: Michael Springfield, Planning and Zoning Division Director

RE: Comprehensive Zoning Ordinance Revision, Section 10D.13 (Oil and Gas Exploration and Production).

DATE: June 29, 2017 Regular Meeting

BACKGROUND:

At a March 28, 2016 work session meeting of the Board of County Commissioners, the Commission discussed the Comprehensive Zoning Ordinance and the Section of the Ordinance dealing with Oil and Gas activities within Sandoval County. Present at the meeting were representatives of the NM Oil and Gas Conservation Division (NMOCD) and NM Tech. During the meeting several issues were discussed:

1. The public's request to impose a moratorium on all oil and gas activities within the County.
2. An agreement with NM Tech to provide technical assistance to the County regarding oil and gas activities within the County.
3. Potential amendments to the Comprehensive Zoning Ordinance regarding oil and gas activities within the County.

Each issue was discussed at length and the County Commission provided guidance as to actions needing to take place:

1. There would be no moratorium imposed regarding oil and gas activities within the County.
2. While the County Commission agreed initially that an agreement with NM Tech was desired to provide technical assistance regarding oil and gas activities, staff was not able to establish a clear and consistent role for NM Tech in the review and

- consultation for oil and gas proposals in the County. NM Tech was retained to review and comment on drafts for oil and gas regulations, and later was retained to complete a geologic/hydrogeologic study of the County area that is intended to provide more detailed technical insights into the County's sub-grade characteristics as they relate to oil and gas activities. This study is scheduled for completion in May 2018.
3. The staff was to begin the process of Zoning Ordinance revisions needed to clarify County guidelines regarding oil and gas activities within the County. Staff was instructed to develop such guidelines in a manner that provides no conflicts between County jurisdiction and the jurisdiction of the NMOCD.

STATUS:

In April 2016, staff began reviewing existing County ordinances from around the State. Three County ordinances were reviewed for content: Rio Arriba, San Miguel, and Santa Fe. Staff developed a draft ordinance utilizing portions of these ordinances. After the draft was developed, it was sent to NMOCD and NM Tech for review and comment. Staff met with OCD in the fall of 2016. Significant changes to the draft ordinance were made after discussing concerns regarding jurisdiction with OCD staff.

NM Tech was instrumental in providing staff with information related to environmental, technical and economic issues related to oil and gas activities throughout the State. Of importance was information regarding regulatory requirements of "producing" vs. "non-producing Counties. Of the ordinances reviewed, only Rio Arriba County is a producing County. Below is a listing of regulatory requirements of the producing counties within the State:

- **Chaves County** - Has zoning. Oil and gas uses are permissive in agricultural and nonresidential zones. Administrative approval in residential zones.
- **Colfax County** - No zoning. No local regulation.
- **Eddy County** - No zoning. Rudimentary Ordinance requiring property owner approval of a drilling site within 300 feet of a residence.
- **Harding County** - No zoning. No local regulation.
- **Lea County** - No zoning. No local regulation.
- **McKinley County** - No zoning. No local regulation.
- **Rio Arriba County** - Has zoning and does regulate oil and gas drilling and exploration.

- **Roosevelt County** - No zoning. No local regulation.
- **San Juan County** - No zoning. No local regulation.
- **Union County** - No zoning. No local regulation.

It became apparent that Sandoval County was not in line with the rest of producing counties. Sandoval County currently requires a Special Use rezoning for both exploration and production activities. Staff further amended the draft to reflect regulatory realities throughout the State. Due to the differing population distributions and densities within Sandoval County, staff adopted the Rio Arriba approach to regulatory requirements. Rio Arriba has a 2 tiered approach that recognizes the difference between densely populated areas and those areas that area sparsely populated.

In the summer of 2016, the staff held 2 public meetings to gather public input regarding oil and gas activities within the Sandoval County. Most of the comments had nothing to do with land use issues, and were primarily engineering issues that were in direct conflict with the jurisdiction of NMOCD. Specifically, the majority of comments had to do with the actual drilling technologies (Fracking) used within the oil and gas industry.

A second draft of material was sent to NMOCD for review at the beginning of 2017. A second review and comment meeting was set up with NMOCD and NM Tech. Further changes were made to the draft to clarify the intent of various sections of the ordinance.

A third draft has been completed and sent to NMOCD and NM Tech for review and comment. Review by NMOCD and NM Tech has been completed. Staff has prepared the June 2017 Draft Ordinance Amendment for Oil and Gas for review and comment by the Planning and Zoning Commission. The Board of County Commissioners has approved the initiation of public review for this material.

AMENDMENT TO SANDOVAL COUNTY COMPREHENSIVE ZONING ORDINANCE FOR OIL AND GAS EXPLORATION AND PRODUCTION.

The subject amendment to the Sandoval County Comprehensive Zoning Ordinance is entitled “Sandoval County Comprehensive Zoning Ordinance Revision, Ordinance No. 10-11-18.7A, Section 10D.13 (Oil and Gas Exploration and Production), and shall be placed in the text of the Sandoval County Comprehensive Zoning Ordinance as an Appendix.

PROPOSED CONTENT.

Staff proposes the following content for the Amendment:

Article 1 General.

- Article 1.1 Ordinance Amendment Title.
- Article 1.2 Authority, Applicability.
- Article 1.3 Scope.
- Article 1.4 Purpose.
- Article 1.5 Findings.
- Article 1.6 State and Federal Preemption.

Article 2 Definitions.

- Article 2.1 Rules of Interpretation.
- Article 2.2 Definitions.

Article 3 Establishment of Energy Development Areas.

- Article 3.1 Energy Development Areas.
- Article 3.2 Boundaries of Energy Development Areas.
- Article 3.3 Findings – Northwest Energy Development Area.
- Article 3.4 Findings – Southeast Energy Development Area.
- Article 3.5 Application Process for Northwest and Southeast Energy Development Areas for Oil and Gas Exploration Only.
- Article 3.6 Application Process for Northwest Energy Development Area for Exploration Only.
- Article 3.7 Application Process for Southeast Energy Development Area for Exploration and Production.

Article 4 General Provisions for Oil and Gas Facilities.

- Article 4.1 General Requirement.
- Article 4.2 Minimum Requirements.
- Article 4.3 Documentation.
- Article 4.4 Floodplain.
- Article 4.5 Gas Flaring.
- Article 4.6 Road Improvements, Agreements, Standards.
- Article 4.7 Storage Tanks.
- Article 4.8 Lighting.
- Article 4.9 Terrain Management Plan Standards.
- Article 4.10 Additional Financial Securities.
- Article 4.11 Visual Impacts.
- Article 4.12 Fencing.
- Article 4.13 Change of Operator.

Article 5 Administration.

Article 5.1 Notices of Decisions.

Article 5.2 Notification Requirements.

Article 5.3 Posting of Applications.

Article 5.4 Fees.

Article 5.5 Variances.

Article 5.6 Nonconformities.

Article 5.7 Relief.

Article 5.8 Appeals.

Article 5.9 Enforcement.

PROPOSED AMENDMENT SUMMARY.

In summary, the Amendment proposes to establish two areas within the County's planning, zoning, and platting jurisdiction for oil and gas activities based on population. The Northwest Energy Development Area is designated for areas north of Pena Blanca, and the Southeast Energy Development Area is designated for areas including Pena Blanca and areas south of Pena Blanca. The Northwest Energy Development Area is designed to establish an Administrative Review process for all oil and gas activities, where they are intended for exploration and production. The Southeast Energy Development Area is designed to establish a public review with the Planning and Zoning Commission for a Conditional Use Permit for oil and gas activities, where they are intended for exploration and production. An Administrative Temporary Use Permit process for oil and gas exploration only activities is also proposed for both areas.

The application requirements for the Northwest Energy Development Area's Administrative Review include Facility Plan, Road Plan, Fire/Police/Emergency Response Plan, Storm Water Pollution Prevention Plan (SWPPP), Terrain Management Plan, applicable approved permits from NMOCD, and where needed, applicable air quality permits from the New Mexico Environment Department. The Application requirements for the Southeast Energy Development Area's Conditional Use Permit review with the Planning and Zoning Commission are the same, with the additional prohibition of Reserve Pits for drilling refuse.

The General Provisions section includes Road standards and criteria for financial bonding/financial security, and additional financial securities related to insurance and liabilities. The Administrative section includes notification procedures and posting of all applications submitted for review within twenty-four (24) hours of receipt.

Overall, the proposed Amendment is designed to emphasize review and regulation of land use and related surface level issues that are typically within the County's jurisdiction and authority for land use and zoning matters.

MEETINGS.

Following the June 29, 2017 regular meeting of the Planning and Zoning Commission, the Commission will also hold a meeting specifically for the proposed Amendment on Tuesday July 11, 2017. Additional meetings may be scheduled in August 2017. Staff requests that the Planning and Zoning Commission review and consider the proposed Amendment for a recommendation to be sent to the Board of County Commissioners.