

Sandoval County Commission
Resolution No. _____
An Ordinance
For
The Regulation of Oil and Gas Development

WHEREAS, the Commissioners of Sandoval County seek to facilitate the safe and effective development and production of oil and gas resources located in Sandoval County (the "County");

WHEREAS, the Commissioners, pursuant to the County's general welfare and police powers, seek to protect the health, safety, welfare, morals, and interests of County residents while promoting economic development within the County;

WHEREAS, the Commissioners recognize that the County's unique and vital natural resources must be protected and preserved and that the County may act to prevent and mitigate significant adverse environmental impacts to any air, water, soil, biological, or public resource to the extent necessary to protect public health, safety, and welfare, while also considering economic development, costs, technical feasibility, and practicality;

WHEREAS, the oil and gas resources within Sandoval County are of significant quantity and value, and provide significant benefits to the County and its residents;

WHEREAS, the Commissioners recognize that oil and gas development has occurred within Sandoval County for over fifty years with minimal impact on the County and its natural environment;

WHEREAS, the Commissioners recognize that the permitting process and oversight authority of the New Mexico Oil Conservation Division (OCD), the New Mexico State Land Office, the United States Bureau of Land Management, the New Mexico Environment Department, the United States Environmental Protection Agency and the Bureau of Indian Affairs, has adequately regulated oil and gas development while protecting the County's natural environment and preserving the quality of life in the County and for its residents;

WHEREAS, the Commissioners seek to establish protections for the County in the event that oil and gas resource development takes place in greater proximity to more populated areas of the County;

WHEREAS, the County seeks to establish protections for unique County concerns related to oil and gas resource development that minimizes the burden on the oil and gas industry while promoting the health and welfare of the public that will be followed by County Officials, mineral interest owners, and entities seeking to develop such resources;

NOW, THEREFORE, be it **RESOLVED** by the Commissioners of Sandoval County, adopt the **Sandoval County Oil and Gas Ordinance**.

Dated: _____

ARTICLE I.
GENERAL

Section 1.1 Short Title. This Ordinance shall be officially cited as the "Sandoval County Oil and Gas Ordinance" and shall be made a part of the Comprehensive Ordinance as Appendix C, thereto.

Section 1.2. Statutory Authority. The Sandoval County Board of County Commissioners (the "Commission") is authorized to adopt this ordinance pursuant to NMSA 1978, Section 3-2-1 et seq., and NMSA 1978 Section 4-37-9 et. seq.

Section 1.4. Severability. If any provision of this ordinance shall be held invalid or unenforceable by any court of competent jurisdiction for any reason or by operation of any applicable law, the remainder of this ordinance shall not be affected or invalidated and shall be enforceable to the fullest extent of the law.

Section 1.5. Conflicts. This ordinance is promulgated pursuant to the police powers of Sandoval County and to protect County residents from potential and foreseeable nuisances. The County recognizes the primary authority of various other state and federal agencies to regulate oil and gas operations and development and their role balancing and protecting the interests of mineral interest owners, protecting correlative rights, and overseeing subsurface activities related to oil and gas resource development and extraction. Should a conflict arise between any provision of this ordinance and any state or federal law or regulation, the County shall defer to the authority of state and federal agencies.

ARTICLE II.
DEFINITIONS

Section X. Incorporation by Reference. For purposes of defining the terms used in this Ordinance, the County hereby adopts the definitions used by the New Mexico Oil Conservation Division, which are provided in 19.15.2.7 NMAC.

ARTICLE III.
DRILLING REQUIREMENTS

Section X. Notification Requirements. Prior to commencing drilling, deepening or re-entry operations, commencing an additional lateral, plugging a well back to a different pool, or completing or re-completing a well in an additional pool, an operator is required to provide the County the following information:

- A. Scope of Operations. A brief description of the scope of operations contemplated by the operator, including the estimated depth of any proposed well(s) and the estimated commencement date of the operations.

- B. Contact Information. The name and contact information (including for emergencies) of (i) operator and any contractors known as of the date of the notice and (ii) lease owner(s) and surface owner(s).
- C. Site Plan. The proposed site plan for the well(s), including the proposed location and routing of any gathering lines, and a diagram of the permanent location/footprint.
- D. Property Details. The legal property description and a map or plat depicting (i) the location of the proposed well(s), (ii) any regularly occupied building(s) within three hundred (300) feet for a single well and seven hundred fifty (750) feet with production equipment, (iii) fresh water supply wells and subsurface fresh water storage reservoirs within _____ feet of the proposed well(s), and (iv) the distance of the proposed well(s) from any public or private road.
- E. Noise Control Plan. Estimate the noise levels from expected operations requiring notice, which will not exceed _____ decibels, including noise from traffic, and describe the manner in which operator intends to limit the noise levels associated with such operations below that threshold.
- F. F. Road Plan. Plan identifying roads for use in operations and the estimated amount of traffic anticipated in conducting operations. Roads constructed will take into account soil type, slope, grade, weight of loads transported, and expected use including length of time to be used.
- G. Emergency Response Plan. Plan identifying all fire, police, and emergency response services in the County that are within five miles of the drill site as well as a description of standard operating procedures, including applicable health, safety and environment protocols, used by the operator in the event of emergencies.
- H. Proof of Bond. Certify the OCD's financial assurance requirements, as set forth in 19.15.5 NMAC, have been satisfied.
- I. SOPA Certification. Certify that it will comply with the requirements of the Surface Owner Protection Act as enforced by the New Mexico Oil Conservation Division pursuant to NMSA 1978, § 70-12-1 (2007).
- J. Air Quality Certification. Certify that it will comply with the requirements of the Air Quality Control Act as enforced by the New Mexico Environment Department's Air Quality Bureau pursuant to NMSA 1978, § 74-2-1.
- K. Water Protection Certification. Certify that it will comply with the requirements of OCD and NMED concerning the protection of waters.

Section X. Setback Requirements. No person shall drill or deepen an oil and gas well within five hundred (500) feet of a residence, business, school or church outside an incorporated

municipality in the County without the written consent of the owner of such residence, business, school or church.

Section X. Fencing and Exclusionary Protocols. Unless provided for in an agreement with the applicable surface owner, all well site locations following drilling and completion operations shall have fencing or other exclusionary measures to prevent harm to the public and wildlife. Fencing will comply with all OCD and Occupational Safety and Health Administration (OSHA) requirements for the protection of the public, livestock, and wildlife.

Section X. Prudent Operator. Operator shall conduct its operations as a reasonably prudent operator and comply with all applicable federal and state requirements.

Section X. Trash and Debris. Operator will maintain all locations and well sites upon which operations have taken place clear of all litter, trash, and other waste.

Section X. Water Protection. Operator will take reasonable measures to ensure that surface water, subsurface water, and groundwater are protected during operations and comply with all applicable state and federal regulations relating thereto.

Section X. Abandonment, Plugging and Remediation. Operator shall submit to the County copies of all OCD approved plugging and abandonment permits.

ARTICLE IV. LIGHTING AND VISUAL IMPACTS

Section X. Light Direction. To the extent practicable, site lighting shall be directed downward and internally to avoid glare on public roads and buildings within seven hundred (700) feet of the drill site.

Section X. Color of Well Site Structures. Oil and gas facilities observable from any public highway shall, to the extent reasonably practicable, be visually harmonious with the surrounding environment and painted with uniform, non-contrasting, non-reflective color tones (similar to the Munsell Soil Color Coding System), and with colors matched to but slightly darker than the surrounding landscape.

ARTICLE V. INSURANCE REQUIREMENTS

Section X. Insurance. In addition to the financial assurance required by the OCD and other laws and subject to the self-insurance option below, the operator shall carry the insurance policy or policies required below provided by an insurance company or companies authorized to do business in New Mexico. In the event such insurance policy or policies are cancelled, the operator will take corrective actions to reinstate the insurance policy or policies.

- A. The County, its officials, employees, agents and officers shall be endorsed as an "additional insured" on the required policies.

- B. Certificates of insurance shall be delivered to the Sandoval County, Planning and Zoning Commission, 1500 Idalia Road, Building D, Bernalillo, NM 87004, evidencing all the required coverage, including endorsements, prior to the commencement of operations requiring notice.
- C. Each policy shall be endorsed to provide the County a minimum thirty-day notice of cancellation, non-renewal and/or material change in policy terms or coverage. A ten days' notice shall be acceptable in the event of non-payment of premium.

Section X. Standard commercial general liability policy. This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources and equipment hazard damage, broad form property damage, independent contractors' protective liability and personal injury. This coverage shall be a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage.

Section X. Self-Insurance Option. Operator may elect to self-insure all or any part of the insurance requirements in this Ordinance if the operator has ownership of unencumbered assets in excess of \$1 billion dollars. In such an event, operator will provide the County with a letter of self-insurance.

ARTICLE VI. **VARIANCES**

Section X. Application for Variance. A written application for a variance from the terms, limitations, and requirements of this ordinance shall be submitted to the Planning and Zoning Commission by operator as part of the notice packet or later as a separate submission along with a \$50.00 review fee per variance.

Section X. Required Information. The variance shall identify the term, limitation, or requirement with reference to the article, section, and paragraph for which operator seeks the variance. Operator shall also state the grounds upon which the variance is sought and should be granted.

Section X. Criteria. Granting of the variance shall not be detrimental to the public health, safety, or welfare or injurious to the County's resources. Granting of a variance is justified if there is a demonstrable hardship on operator or common benefit to all interested parties based upon articulable conditions upon the site covering the application.

ARTICLE VII **PROCEDURES AND FEES**

Section X. Review of Notice. The Director of the Planning and Zoning Commission or the Director's designee shall review the Notice for completeness. The review of the Application shall be finished by the Director of the Planning and Zoning Commission or the Director's

designee within 10 days of submission or else it will be deemed to be complete. If the Notice is incomplete, the Director will notify operator within 10 days of receipt and describe the information that was required to be provided but missing in the Notice. Operator will promptly resubmit the Notice to include any required information that was not already submitted.

Section X. Well Activity Fee. For any new well drilled by operator in the County, operator will pay to the County a fee of \$250 per well with such payment to be included with the Notice provided for such new drilling operation. For any other operation requiring Notice to the County as provided in this Ordinance, operator will pay \$100 to the County for each Notice submitted by operator with such payment included with such Notice.

Section X. Appeal. Any person or company aggrieved by a decision of the Director of the Planning and Zoning Commission or the Director's designee arising by virtue of the provisions of this Ordinance shall have the right to appeal such decision directly to the County Commission.

ARTICLE VIII **ENFORCEMENT**

Section X. Non-Compliance. In the event of failure by the operator to comply with this Ordinance, the Director of the Planning and Zoning Commission or his designee shall issue a written notice to operator stating a time of at least 60 days to comply with the notice. If material compliance has not been made within the timeframe contained in the notice, the Director of Planning and Zoning may assess a monetary penalty not to exceed \$100 per day of non-compliance and \$1000 in the aggregate.

Section X. Violations. If any person knowingly or willfully violates any provision of this Ordinance and such violation directly causes material harm to the public health, safety of county residents, or the environment, the Director of the Planning and Zoning Commission or his designee shall issue a written notice to such person describing the violation and corrective actions required. The person in receipt of such notice will promptly take the corrective actions. The Director of Planning and Zoning may assess a monetary penalty not to exceed \$500 per day for each violation and \$10,000 in the aggregate.