

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

ORDINANCE NO. 2008-

AN AMENDMENT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE, ENACTING AN ORDINANCE GOVERNING OIL AND NATURAL GAS EXPLORATION, DRILLING, PRODUCTION, ABANDONMENT AND REMEDIATION; ESTABLISHING THE POSITION OF OIL AND GAS INSPECTOR; PROVIDING FOR ZONING OF OIL AND NATURAL GAS FACILITIES AS A SPECIAL EXCEPTION PURSUANT TO THE SANTA FE COUNTY LAND DEVELOPMENT CODE; PROVIDING LOCATIONAL CRITERIA FOR OIL AND NATURAL GAS FACILITIES; REQUIRING A DEVELOPMENT PERMIT FOR ESTABLISHMENT OF OIL AND NATURAL GAS FACILITIES; ESTABLISHING PROCEDURES AND SUBMITTALS FOR OBTAINING SPECIAL USE PERMITS AND DEVELOPMENT PERMITS FOR OIL AND NATURAL GAS FACILITIES; ESTABLISHING BONDING AND INSURANCE REQUIREMENTS; PROVIDING FOR PENALTIES AND ENFORCEMENT PROCEDURES; PROVIDING STANDARDS FOR EQUIPMENT, OPERATIONS, STANDARDS AND PRACTICES AT AN OIL AND NATURAL GAS FACILITY INCLUDING EMERGENCY PLANS, PROCEDURES AND EQUIPMENT, DRILLING, PRODUCTION AND REMEDIATION, NOISE AND NUISANCES, APPEARANCE, WATER, ROADS, LIGHTING, OPERATING HOURS, CULTURAL, HISTORICAL AND ARCHEOLOGICAL RESOURCES, SPILLS AND LEAKS AND TEMPORARY AND PERMANENT ABANDONMENT; PROVIDING FOR APPLICATION AND ANNUAL FEES; AMENDING A PORTION OF SANTA FE COUNTY ORDINANCE 1996-1, ARTICLE III, SECTION 5.2, DEFINING "MINERAL."

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY:**

ARTICLE 1 - GENERAL

SECTION 1. SHORT TITLE.

The Santa Fe County Land Development Code (1996)(as amended) is amended by this Ordinance, which may be cited as the "Santa Fe County Oil and Natural Gas Amendments to the Santa Fe County Land Development Code."

SECTION 2. AUTHORITY, APPLICABILITY.

This Ordinance is promulgated pursuant to the authority set forth in Art. X of the New Mexico Constitution (1912), NMSA 1978 Section 4-37-1 (1975), and NMSA 1978 Sections 3-21-1 *et seq.* (1965, as amended). This Ordinance applies to all areas within the exterior boundaries of the County that lie outside of the incorporated boundaries of a municipality to the extent constitutionally permissible, and to the extent permitted by applicable statutes and regulations.

SECTION 3. SCOPE.

This Ordinance is intended to address oil and natural gas drilling and production within Santa Fe County. It does not address the drilling or production of coalbed methane (CBM), and coal bed methane production is not permitted under this Ordinance. Drilling and production of coal bed methane will be addressed, if necessary, in subsequent amendments to this Ordinance.

SECTION 4. RELATIONSHIP WITH THE OIL AND GAS ACT, THE WATER QUALITY ACT, AND RULES AND REGULATIONS PROMULGATED THERE UNDER.

This Ordinance supplements, but does not replace, the Oil and Gas Act, NMSA 1978, Sections 70-2-1 (1935) *et seq.*, the Water Quality Act, NMSA 1978, Sections 74-6-1 *et seq.* (1967), and the rules and regulations of the Oil Conservation Commission.

SECTION 5. COMPLIANCE WITH ORDINANCE REQUIRED.

No person shall engage in any work or construct any Oil and Natural Gas Facility in violation of any of the provisions of this Ordinance and relevant provisions of the Code.

SECTION 6. DEFINITIONS.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. *Abandonment or Abandoned* means permanent abandonment of a Well or an Oil and Natural Gas Facility as established by filings of the Operator with the OCD, from production records maintained by the OCD, and from information gathered by the Administrator. The County may presume abandonment of an Oil and Natural Gas Facility based upon: (i) nonuse or the lack of any production for one (1) year plus ninety (90) days as established from records of the OCD; (ii) plugging and abandonment of a Well pursuant to OCD Rule 19.15.4.202 NMAC; or (iii) any other evidence that the Well

has been abandoned or plugged and abandoned as established by filings of the Operator with the OCD or other records maintained by the OCD, or independent observations of the Administrator.

B. *The Administrator* is the Director of the Land Use Division of the Growth Management Department, Santa Fe County, or any person subsequently assigned to perform some portion of the functions exercised by that person.

C. *Agricultural* means property currently used for farming or ranching purposes, including pasture.

D. *Closed Loop System* means a system for drilling that utilizes a series of completely enclosed above ground tanks instead of a Reserve Pit that are used for the management of drilling or workover fluids.

E. *Code* means Santa Fe County Land Development Code, Ordinance No. 1996-11 (as amended) and any successor ordinance.

F. *Collection Line* means a pipeline that collects produced or waste water and transports it to a central disposal area.

G. *Compatible* means that uses can exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface water and groundwater quality/quantity, adequacy of the road system, air quality and surrounding land uses.

H. *Completion rig* is a drilling rig or a Workover rig used to complete or service a Well.

I. *Compressor* is a device in which the pressure of gas is raised for transmission through a Gathering System or Transmission Line.

J. *Compressor Station* means an installation consisting of one or more individual compressors, located on a Gathering System, Transmission Line, or both.

K. *County* means Santa Fe County, New Mexico.

L. *Cultural, Historic or Archeological Resource* means Historic Sites, Cultural Sites, Archeological Sites and Landmarks that are designated (or eligible for designation) by the State of New Mexico. A list, called the Official Register of Cultural Properties, and the list of the National Register for Historic Places, are on file with the Administrator.

M. *Gas Well* means a well having a pressure and volume of natural gas; specifically, producing methane, often in combination with a variety of other substances

such as butane, propane and carbon dioxide, or an Oil Well with a gas-oil ratio in excess of 100,000 cubic feet of gas per barrel of oil.

N. *Gathering System* means a system of pipes, auxiliary tanks and other equipment used to move oil, natural gas or water from the Well to a Tank Battery or to a Transmission Line for eventual delivery to a refinery.

O. *Lease* means any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as a single property.

P. *Lessee* means a person, corporation or other legal entity that has been granted a Lease from the Owner.

Q. *OCD* means the Oil Conservation Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico, or any successor agency.

R. *Oil and Natural Gas Facility or Facilities* means:

i. A new Well and the surrounding Well site, built and operated to produce crude oil and/or natural gas, including auxiliary equipment required for such production (i.e., separators, dehydrators, pumping units, Tank Batteries, Tanks, metering stations, and other equipment located within the perimeter of the well site);

ii. A Compressor Station and associated facilities that serve one or more Wells employing engines and/or motors;

iii. A water injection station and associated facilities;

iv. A storage or construction staging yard associated with an Oil and Natural Gas Facility;

v. A facility related to the production of crude oil and/or natural gas which contains engines and/or motors;

vi. A Gathering System consisting of crude oil or natural gas gathering lines or water lines;

vii. Any facility associated with a Gathering System or water collection line, such as a drip station, vent station, pigging facility, chemical injection station, transfer pump station and valve box;

viii. A gas treating facility that serves multiple Wells or Gathering Systems; and

ix. A pipeline for transportation of oil, natural gas or water.

S. *Oil Well* means a Well capable of producing oil that is not a Gas Well.

T. *Operator* means that person, corporation or other legal entity possessing the legal right to develop oil and gas resources or who is in charge of the operation and management of an Oil and Natural Gas Facility.

U. *Pit* means a surface or subsurface impoundment, man made or natural depression, or diked area on the surface that is used for the purpose of retaining or storing substances associated with the drilling or operation of oil and natural gas wells.

V. *Platted Subdivision Lot* means any lot created pursuant to State law and the Code.

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

X. *Producing* means the development stage in which marketable quantities of oil or natural gas, or both, are extracted from a Well and may also signify the extraction level at which the quantitative terms of the lease are fulfilled.

Y. *Reasonably Prudent Operator* means an Operator that operates and conducts oil field operations in a proper and workmanlike manner, consistent with rules and regulations of the OCD (including standards provided by the OCD called "Pollution Prevention Best Management Practices"), common industry practices, and guidelines of the American Petroleum Institute.

Z. *Recompletion* means drilling within the same Well bore or re-perforating within an existing Well bore to reach a new reservoir.

AA. *Reserve pit* means a pit that is created at the drilling site of a Well for drilling fluid and mud and other materials used in or produced during drilling.

BB. *Residential* means having an existing residence or Platted Subdivision Lot.

CC. *Residential Urban Zone* means a residential zone in which three or more dwelling units per acre are permitted.

DD. *Right-of-Way* means a tract or strip of land, separate and distinct from the adjoining property, owned, occupied or intended to be occupied by a Gathering Line.

EE. *Shut-in* means to close a valve on a Well so that it stops producing by disconnection or other physical means.

FF. *Sour Gas* means natural gas containing hydrogen sulfide (H₂S).

GG. *Spacing* means the area dedicated to a well under a well spacing rule or order of the OCD.

HH. *State* means the State of New Mexico.

II. *Tank* means a cylinder made of steel or some other material for the storage of oil, water, produced water or other substances.

JJ. *Tank Battery* means a group of tanks located at a convenient point for storing oil prior to transportation by truck or pipeline to a refinery.

KK. *Transmission Line* means a pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a "transmission line" by regulations of the Department of Transportation pursuant to the Natural Gas Pipeline Safety Act of 1968, as amended.

LL. *Well* means any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of exploring for, producing and recovering any oil, gas, liquid hydrocarbon, or any of them.

MM. *Workover* means an operation on a producing Well to restore or increase production. A Workover is typically performed for routine maintenance or repair of downhole equipment.

NN. *Workover Rig* means a piece of equipment designed to carry various tools necessary to complete a Workover.

OO. All technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry. All other words used in this Ordinance shall be given their usual, customary and accepted meaning in the oil and gas industry, or as defined in the Rules and Regulations of the OCD.

SECTION 7. OIL AND GAS INSPECTOR.

A. The position of Oil and Gas Inspector is established. The Oil and Gas Inspector shall serve under and at the direction of the Administrator. It shall be the duty

of the Administrator and the Oil and Gas Inspector to enforce the provisions of this Ordinance. It shall also be the duty of the Oil and Gas Inspector to assist the Administrator, the County Development Review Committee and the Board of County Commissioners with technical review of Applications.

B. The Oil and Gas Inspector shall be a person or persons who, by virtue of education, training or experience is/are qualified to enforce the provisions of this Ordinance. The Oil and Gas Inspector may be a person or persons employed by the County as a Code Enforcement Officer or may be a person or persons contracted to perform the duties.

ARTICLE II - ZONING

SECTION 1. ESTABLISHMENT OF SPECIAL USE REQUIRED.

A. Use of any property within the County for an Oil and Natural Gas Facility shall not be permitted unless a Special Use has been approved for the property in question. Approval of a Special Use is required to locate a new Oil and Natural Gas Facility or Facilities anywhere in the County, to substantially change, expand, or modify an existing Oil and Natural Gas Facility or Facilities, or to re-enter a Well that is plugged and abandoned as shown on the records of the OCD.

B. An Application for a special use shall be processed according to the procedures established in the Code for securing approval of a master plan.

C. An Oil and Natural Gas Facility shall not be established within an area where development is not permitted as set forth in the Code, or in a Traditional Community, or within an area that is classified as Residential Urban zoning. An Oil and Natural Gas Facility shall not be permitted within a Cultural, Historic or Archeological site, a site listed on the National Register for Historic Places, a site designated in the Galisteo Basin Archaeological Sites Protection Act (as amended), 108 Pub. L. No. 208, 118 Stat. 558 (2004), the Cerrillos Hills Historical Park, or the Ortiz Mountains Educational Preserve. Nothing in this paragraph shall prevent accessing oil and natural gas that lies beneath these areas through directional drilling or other advanced technologies, so long as no Oil and Natural Gas Facilities occupy the surface.

SECTION 2. APPLICATION AND SUBMITTALS.

A. A single Application for approval of a Special Use shall be submitted that encompasses all Oil and Natural Gas Facilities for which a Special Use is desired and for which a Development Permit will be requested within any five year period.

B. In addition to submittals required by the Code, an Application for a Special Use shall include the following:

1. A detailed site and development plan that shows the Oil or Natural Gas Facilities proposed to be constructed within a five year period relative to all structures and land uses within a three mile radius of each Oil and Natural Gas Facility;

2. A statement of the proposed use of the Oil and Natural Gas Facilities;

3. A statement that describes how the proposed Oil and Natural Gas Facilities will comply with all the requirements of this Ordinance and other applicable provisions of the Code, or, as required, a statement describing why the Oil and Natural Gas Facility is entitled to a variance applied for of any particular provision of this Ordinance or the Code;

4. Copies of all relevant documents filed with and/or approved by the OCD including, but not limited to, the Operator's registration and authority from OCD and any other submittals to and approvals from the OCD;

5. A description of the Operator's organizational structure, including a description of any wholly owned subsidiaries or parent companies and the relationship of the Operator to those subsidiary or parent companies;

6. A complete list of Oil and Natural Gas Facilities owned or operated in the State of New Mexico, in the United States and internationally, including facilities owned or operated by a parent or subsidiary identified in the previous paragraph;

7. If required by the Administrator after a review of the organizational documents of the Applicant, a letter of indemnity from a parent or subsidiary corporation with the County identified as a third-party beneficiary;

8. A list of Oil and Natural Gas Facilities owned or operated by the Applicant that are not in compliance with regulatory requirements in the respective jurisdiction, or are alleged not to be in compliance. For each such facility listed, provide details concerning the compliance issues experienced;

9. If a Well or Wells are to be drilled, details concerning the geological formations to be explored and details concerning the specific objectives, information about water-bearing strata to be encountered, estimated quantity of oil or natural gas present, specific geologic and engineering data that supports the estimated quantities, the depth of each proposed interval, any special difficulties anticipated (excessive pressure, tight rocks, H₂S gas, etc.), and any anticipated difficulties expected in drilling, production, plugging and abandonment;

10. A detailed explanation of how products will be removed from the site, including information on the relevant legal access (e.g., public road, private road,

Gathering System, pipeline, etc.). If surface trucking is to be used, provide a copy of the interstate and intrastate certificates of the trucking company, and provide a copy of the insurance certificate of each such company;

11. A detailed description and a time table for each phase of operations (exploration, drilling, production, abandonment), including specifically a description of all development that is reasonably foreseeable within the five year period, in sufficient detail to permit the County to evaluate the scope, intensity, compatibility, benefits, relationships and impacts of the proposed development, and socio-economic factors;

12. A detailed explanation of all steps to be taken to comply with applicable portions of this Ordinance, the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and of the Water Quality Control Commission, other applicable laws and regulations, and any applicable health and safety standards, and an explanation of how the applicable laws and regulations apply to the activities contemplated in the Application;

13. A description of all hazardous, harmful, and toxic materials to be used and transported in connection with the proposed Oil and Natural Gas Facility, including a copy of the Material Safety Data Sheet ("MSDS") for any such material, a description of how these materials will be used at the Oil and Natural Gas Facility, and a description of steps that will be taken to ensure that the a release of such materials will not occur;

14. A terrain management plan pursuant to the requirements set forth in Art. VII Sec. 3 of the Code.

15. A reclamation plan consisting of the following:

a. A description of the physical disturbance caused by the proposed Oil and Natural Gas Facility;

b. A detailed description of how reclamation of the surface shall be accomplished, as set forth in Art. VI, § 28(D) - (G);

c. A detailed description of techniques proposed to be used in reclamation;

d. The estimated cost of accomplishing each major step in the reclamation plan, including re-contouring the surface to its pre-existing condition, re-vegetation of affected lands, and restoration of existing soils;

e. Detailed information about existing conditions at the area to be disturbed by the Oil and Natural Gas Facilities, including the degree of slope, precipitation patterns, and density of each species of vegetation, soil types, extent and location of water resources, geologic or other hazards, flood zones, eroded areas, wildlife and wildlife habitat, vegetation types

and extent of cover. Photographs, videos and plans shall be used to document existing conditions;

f. Detailed information concerning the methods for stockpiling, protecting and restoring topsoil and adding other growth mediums where required, time of planting, method(s) of planting, proposed seed rates and/or density of planting, and if necessary, use of fertilizers;

g. A statement explaining how the proposed reclamation plan is consistent with any applicable County land use plans and programs;

h. A description of the manner in which the reclamation plan is consistent with the following local physical environmental and climatological conditions:

i. streams, creeks, arroyos, and bodies of water within three miles of the boundaries of the Well site;

ii. existing soils and geologic conditions;

iii. climate/meteorology characterization, such as prominent wind direction and speed, rainfall and ambient temperature ranges, with supporting data; and

iv. existing vegetation, wildlife and wildlife habitat according to species and density of occurrence, including photographs that document the existing conditions.

i. A listing of surface and sub-surface owners of record and anyone claiming an interest in the property proposed for the Well site, and a listing of surface owners within three miles of the Well site;

j. A description by township, range and section including the estimated acreage of surface area which will be disturbed as a result of the oil and gas exploration and/or production activities and transportation of the oil and gas products and waste. If an agreement has been reached with an affected surface owner pursuant to the Surface Owner's Protection Act or otherwise, so state;

k. A schedule which specifies the anticipated date upon which the Oil and Natural Gas Facility will commence activities and an approximate date when it will cease activities, an approximate date when reclamation will begin, and the date reclamation is expected to be complete; and

l. Any additional submittals required by the Administrator.

16. An inventory of existing surface water and groundwater uses within three miles of the proposed Oil and Natural Gas Facility, including existing wells for which information is available to the public through the Office of the State Engineer, and the extent of area water rights either used or available for use from area wells and surface water diversions;

17. A surface water and ground water monitoring plan consistent with the requirements of Art. VI, Sec. 28 of this Ordinance; ;

18. A description of the waste and wastewater (quantity, chemical and physical quality) that are estimated to be produced from the Oil and Natural Gas Facility, and how such waste material will be disposed of at an OCD-approved facility;

19. Plans and specifications, stamped by an engineer registered in the State of New Mexico with experience in Oil and Natural Gas Facilities, that detail construction, operation and maintenance of any facility intended for in-situ storage, containment, treatment, control and disposal of solutions, chemically-treated or contaminated materials, and wastes, including tanks used for oil storage;

20. A traffic impact analysis as described in the Code, prepared by a registered engineer in the State of New Mexico;

21. A road maintenance, improvement or modification plan that includes information on the type and volume of rigs and heavy equipment that are anticipated to be used at the Oil and Natural Gas Facility so that the County can evaluate whether damage to roads or highways is a realistic possibility. The plan should include baseline data for each road or highway to be impacted by the Oil and Natural Gas Facilities (including current photographs or video of the relevant portions of each existing road or highway). If damage to any road or highway is anticipated, the plan must also include preliminary engineering reports concerning improvements proposed for each road or highway, and a plan for addressing anticipated damage;

22. An emergency preparedness plan consistent with the requirements of Art. VI, § 2 of this Ordinance;

23. A landscaping and screening plan, consistent with the requirements of Art. VI, § 8(D) and 13(B), of this Ordinance, and the Code;

24. A water budget for the proposed Oil and Natural Gas Facility, including specifically water needs for well drilling, completion and Abandonment and reclamation, as appropriate, and a detailed explanation of the proposed source of water to be used, including an explanation of the water rights that support the source of the proposed water;

25. A list of all Cultural, Historic or Archeological sites, parks and other public facilities within three miles of the proposed Oil and Natural Gas Facility;

26. A reconnaissance survey of cultural and archeological resources conducted at the proposed site of the Oil and Natural Gas Facility;

27. A survey of any rare or endangered species of animal, plant, or habitat of such species within three miles of the site of the proposed Oil and Natural Gas Facility;

28. A survey of affected Agricultural land, wetlands, wild and scenic rivers or waterways, or ecologically critical areas within three miles of the proposed Oil and Natural Gas Facility; and

29. If a Well is proposed, copies of documents that establish the Operator's authority to conduct drilling on behalf of the owner of the mineral rights, including, as relevant, the operating agreement, oil and gas leases, title opinions and other relevant documents.

C. All of the foregoing shall be incorporated into a site development plan and report, as required by the Code.

SECTION 3. NOTICE.

A. In addition to any notice requirements set forth in the Code, a written notice of the pendency of an Application for a Special Use shall be provided to each surface owner within three miles of the proposed Oil and Natural Gas Facility, and to any surface owner whose property abuts a private easement to be used to access the Oil and Natural Gas Facility. The Operator shall present proof of such notice by submitting a copy of the letter providing such notice, a list of the land owners notified, and certified mail receipts. The notice shall be mailed no more than five (5) days following submission of the Application. For purposes of notice for a proposed Well, a surface owner shall receive notice if the property boundary of the surface owner is within three miles of the proposed wellhead.

B. In addition to any notice requirements set forth in the Code, the notice of the pending Application shall also contain the following:

1. A description of the location of the proposed Oil and Natural Gas Facility, including a legal description and a street address, if available. The notice must identify the Operator and any designated agent for the Application; the current business address and telephone number for the Operator and its agent, if one has been designated; and a brief description of the facilities and equipment proposed to be located at the site when operational; and

2. A statement that additional information may be obtained from the Administrator.

C. The notice shall be posted in a conspicuous and visible location on the property using a notice provided by the County containing the information described in subsections (A) and (B) above.

D. A notice of the time, place and street address of the public hearing, together with a description of the location of the proposed Oil and Natural Gas Facility and a detailed summary of the Application, shall be published in a newspaper of general circulation in the County at least twenty-one (21) days prior to the date of the public hearing. An affidavit of publication shall be obtained from the newspaper and provided to the Administrator.

E. The Applicant shall also provide notice to any other person, agency or organization that has filed a request with the Administrator to receive notice of an Application for a Special Use or Development Permit for an Oil and Natural Gas Facility.

SECTION 4. APPLICATION FEE

Each Application for approval of a Special Use pursuant to this Ordinance shall be accompanied by a nonrefundable application fee in the amount set forth in Appendix A. The application fee shall be paid by cashier's check, wire transfer or certified funds.

SECTION 5. COMPLETENESS.

The Administrator shall notify the Applicant concerning completeness of the Application within thirty (30) days of receipt. No Application shall be processed until it is deemed complete by the Administrator.

SECTION 6. REFERRALS.

A. The Administrator, may, in his or her sole discretion, refer an Application for approval of a Special Use, to other government agencies or entities for review and comment, including but not limited to, specifically, the New Mexico Oil Conservation Division, the New Mexico Taxation and Revenue Department, the New Mexico Environment Department, the New Mexico State Engineer, and the New Mexico State Land Office.

B. The County may, in its discretion and at the expense of the Applicant, hire experts to review the Application and submittals or to evaluate specific technical issues, or require the Applicant to retain experts to provide analysis and studies of relevant issues to support the Application.

C. When an Application is scheduled for public hearing, the Administrator shall provide any comments received by other government agencies at the public hearing held on the Application.

SECTION 6. SETBACKS.

A. An Oil and Natural Gas Facility shall not be located nearer to any of the following than the distance specified from the following existing uses, measured from the Well pad in the case of a Well, or from the edge of the disturbed area, in the case of another Oil and Natural Gas Facility:

1. One half mile of a Residential structure or a building used as a place of assembly, institution, or school;
2. One half mile of the area designated on the plat as the buildable area of a vacant Residential lot or the building site for a Residential structure on which a building permit has been obtained or applied for;
3. Seventy-five (75) feet of a public road or highway;
4. Two hundred (200) feet of an Industrial use or a Nonresidential use not otherwise addressed in subsection (A)1 above,;
5. Five hundred (500) feet of a groundwater re-charge area, alluvial aquifer, acequia, perennial, seasonal or ephemeral water course, creek, arroyo or playa lake, or a wetland as defined by the United State Army Corps of Engineers;
6. Five hundred (500) feet of the limits of a one hundred (100) year floodplain, designated by the Federal Emergency Management Agency;
7. Five hundred (500) feet of any existing water well permitted by the Office of the State Engineer;
8. Five hundred (500) feet of a Cultural, Historic or Archeological Resource; and
9. Two hundred feet of any County trail or County-designated open space.

C. No building used as a place of assembly, institution, or school shall be constructed within three hundred (300) feet of any existing wellhead, production equipment or hydrocarbon storage tank. No road or highway shall be constructed or realigned to be within seventy-five (75) feet of any existing wellhead, production equipment or hydrocarbon storage tank.

D. No Residential, Nonresidential or Industrial structure other than structures necessary to operate a pipeline shall be erected or moved to a location nearer than thirty (30) feet of any pipeline transporting gas when the pipeline operating pressure is greater than 250 pounds per square inch gage (p.s.i.g).

E. Any setback required as a result of this Ordinance shall be shown or otherwise disclosed on all plats that encompass or border the Oil and Natural Gas Facility.

SECTION 7. DRILLING ISLANDS.

A. All Wells shall be preferentially located on drilling islands, and directional drilling or horizontal drilling techniques shall be utilized from each designated drilling island to reach the oil and gas at its bottomhole location. Each drilling island shall be

located so as to minimize the disruption to County residents, and the specific location shall be established during the zoning process, but shall not exceed four acres in size, each. All equipment and processes related to oil and natural gas production must be located within the drilling island.

B. The Operator shall propose the location of a drilling island or islands as a part of the Application for approval of a Special Use. It is anticipated the Operator will propose a location or locations based on geology and the limits of well geometry. However, drilling islands shall also be located so as to minimize the number of surface locations that will be disturbed or affected and minimize the disruption to County residents while maximizing the recovery of the resource. A template for each proposed drilling island shall be included in the Application that shows the specific Well locations within the drilling island, the location of proposed monitoring wells, details concerning noise emitted from the drilling island and proposed mitigation measures, the proposed setbacks, the access, and other relevant matters. The Operator shall endeavor to reach agreement with the surface owner at the proposed location of each drilling island prior to filing the Application; locations that are agreed upon by the surface owner shall be preferred.

C. If drilling islands are utilized, the drilling of individual Wells outside the area designated for drilling shall not be permitted.

D. Drilling islands may be located within the setbacks set forth in Art. II, Section 6, subsections A(1), A(2), A(3) and A(4). However, in no event may a setback be reduced by more than one-half the setback set forth in Art. II, Section 6, subsections A(1), A(2), A(3) and A(4). No reduction in the setbacks set forth in Art. II, Section 6, subsections A(5), A(6), A(7), A(8) and A(9) shall be permitted.

E. If any Well within a drilling island is a dry hole, it shall be plugged as soon as practicable.

SECTION 8 HEIGHT.

The permissible height of an Oil and Natural Gas Facility shall be that already established by the Code in the immediate vicinity of the proposed Oil and Natural Gas Facility or twenty-four (24) feet, whichever is less, provided that height limitations shall not apply to drilling, Workover, Recompletion or Abandonment operations or to radio antenna necessary for communication with remote production equipment.

SECTION 9. VARIANCES.

A. A variance of a requirement of this Article may be obtained pursuant to the procedures set forth in the Code and NMSA 1978, § 3-21-8(C)(1965, as amended). If a variance is approved, mitigation measures to address the deleterious impact of the variance shall be required as a condition of approval.

B. Variances that are sought from required setbacks specified in this Ordinance shall be considered use variances, and shall be granted sparingly, and particularly so when an Oil and Natural Gas Facility is proposed to be located upon surface property whose ownership has been severed from the underlying mineral estate.

SECTION 10. REVIEW CRITERIA.

A. Each Application for approval of a Special Use shall be reviewed for general consistency with the standards and policies set forth in this Ordinance, the Code, and other applicable local, County, state and federal laws and regulations.

B. If the Application for a proposed Oil or Natural Gas Facility does not comply with the criteria set forth in this Ordinance, the Application shall be processed in accordance with the procedure for requesting variances, found in the Code at Article II, Section 3, or any successor ordinance, and shall be subject to the review criteria for variances set forth in the Code.

C. An Application for a Special Use Permit for an Oil or Natural Gas Facility shall be evaluated according to the applicable standards and requirements of this Ordinance and by applying the following criteria to the evidence:

i. Operational Standards. Whether the proposed Oil and Natural Gas Facility meets or exceeds the operating standards set forth in Art. VI of this Ordinance.

ii. State and Federal Permitting. Whether the Operator has secured the necessary and applicable permits for the proposed Oil and Natural Gas Facility.

iii. Compatibility. Whether the proposed location of the Oil and Natural Gas Facility is compatible with adjoining uses given its size, design and operational characteristics, or can be made compatible by applying reasonable mitigation measures. Factors to be considered include whether the mineral estate has been severed from the surface estate at the proposed location, probable noise levels, property values, impacts upon air and water quantity and quality, impacts on roads and highways, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety.

iv. Adequacy of existing roads and access to the site. Whether existing roads, highways and local access to the site are adequate for the proposed Oil and Natural Gas Facility. Factors to be considered include existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses.

v. Site characteristics. Whether the specific site selected is adequate for the proposed development. Factors to be considered include topography, slopes, natural hazards (such as landslides, flooding, wildfire), and current resource values (such as open

space, prime farmland as designated by Soil Conservation Service and wildlife habitat, Cultural, Historic or Archeological sites).

vi. Past Performance. Whether the Operator has violated any federal, state, and local laws regulating or pertaining to oil and gas exploration and production either in the United States or elsewhere. Relevant considerations include whether the Operator has experienced spills or leaks, water contamination (whether surface or subsurface), other environmental problems; the Operator or Owner's prior reclamation activities; whether the Operator has damaged fauna, flora, and adjacent properties in previous operations; as well as any measures taken by the Operator to alleviate any such problems.

vii. Whether the proposed Oil and Natural Gas Facility will have an adverse impact on any social, economic or environmental factors, including local government services such as budgets, housing, schools, water supplies, transportation systems, utilities, health care, law enforcement and fire protection, whether the proposed Facility will be detrimental to the public health, safety, morals or the general welfare pursuant to NMSA 1978, § 3-21-1(A), or whether the proposed Facility will be detrimental to the safety, health, prosperity, morals, order, comfort and convenience of the County pursuant to NMSA 1978, § 4-37-1.

SECTION 11. CONDITIONS.

Reasonable conditions may be imposed on approval of a Special Use to mitigate deleterious effects of the proposed Oil and Natural Gas Facility, and to address issues that arise related to the review criteria specified in Section 10 of this Article.

SECTION 12. EXPIRATION.

A Special Use approved pursuant to the provisions of this Article shall expire five years later unless a Development Permit is applied for within that period.

ARTICLE III

PERMITS FOR DEVELOPMENT OF AN OIL AND NATURAL GAS FACILITY

SECTION 1. DEVELOPMENT PERMIT REQUIRED

A. Construction, installation and operation of an Oil and Natural Gas Facility shall not commence until a Development Permit for the specific Oil and Natural Gas Facility has been issued in accordance with the procedures for securing a Development Permit as set forth in the Code.

B. No Development Permit may be issued unless the property on which the Oil and Natural Gas Facility is located is first zoned for the Special Use pursuant to Article II of this Ordinance.

SECTION 2. APPLICATION REQUIRED.

A. An Application for a Development Permit for an Oil and Natural Gas Facility is required.

B. The Application shall be in writing and signed by a person duly authorized to sign on behalf of the Operator. The Application shall be filed with the Administrator along with the required submittals set forth in Art. III, § 3 of this Ordinance, and the required application fee set forth in Art. III, § 4 of this Ordinance.

C. A separate application shall be required for each Well and for each Oil and Natural Gas Facility. Applications may be consolidated and processed simultaneously, but each Oil and Natural Gas Facility shall be considered separately.

D. The application shall contain all information required by the Administrator, and shall at a minimum contain the following:

1. The name and address of the Operator;
2. Copies of all relevant documents filed and approved by the OCD including, but not limited to, the approved Application for Permit to Drill (C-101), copies of the financial security deposited with the OCD, the Operator's registration and authority from OCD, OCD's approval to Change Operator (as appropriate), and any other submittals to and approvals from the OCD;
3. If a Change of Operator is desired, a description of the new Operator's organizational structure, including a description of any wholly owned subsidiaries or parent companies and the relationship of the Operator to those subsidiary or parent companies;
4. If a Change of Operator is desired, a complete list of Oil and Natural Gas Facilities owned or operated in the State of New Mexico, in the United States and internationally, including facilities owned or operated by a parent or subsidiary identified in the previous paragraph;
5. If a Change of Operator is desired and, if required by the Administrator, a letter of indemnity from a parent or subsidiary corporation with the County identified as a third-party beneficiary shall be provided;
6. If a Change of Operator is desired, a list of Oil and Natural Gas Facilities owned or operated by the Applicant that are not in compliance with regulatory

approvals in the respective jurisdiction. For each such facility listed, provide details concerning the compliance issues experienced;

7. The exact location of the proposed Oil and Natural Gas Facility;

8. If a new Well or a Workover of an existing Well is proposed, a drilling or Workover plan shall be submitted, including the amount, weight and size of conductor pipe, surface pipe and production pipe, and the procedures proposed for cementing each;

9. If a plugging and abandonment is proposed, a plugging and abandonment plan shall be submitted that details the proposed operations;

10. A statement describing the need for water during the proposed operations and the source of same;

11. The name and address of the person upon whom service of process or legal notice may be made on the Applicant within this State;

12. A nonresident Applicant shall provide copies of documents establishing the Applicant's right to do business in the State of New Mexico from the Public Regulation Commission;

13. A bond or irrevocable letter of credit as described in Art. IV, § 1 of this Ordinance;

14. Proof of insurance as required in Art. IV, § 2 of this Ordinance; and

15. Any additional material deemed necessary by the Administrator.

E. Where the Application is one for the re-entry of an Abandoned well, said Application shall contain all the information required by this Section, and shall also provide all of the following information:

1. a statement of:

a. the condition of the Abandoned Well at the time the application is filed;

b. the depth to which it is proposed such Well shall be deepened; and

c. the casing program to be used in connection with the proposed deepening.

2. a statement of the tests which will be run on the casing strings to show that the casing strings meet the same requirements for an original well. Include any proposed remedial cementing.

SECTION 3. SUBMITTAL REQUIREMENTS.

A. Required submittals for any Application seeking a development permit for an Oil and Natural Gas Facility, shall be as follows:

1. A copy of the Order issued by the County authorizing a Special Use at the location of the proposed Oil and Natural Gas Facility;
2. Insurance certificates for insurance policies required by this Ordinance;
3. Financial security required by this Ordinance;
4. Four current 35 mm 3_ inch X 5 inch color photos, each taken from the center of the site facing north, south, east and west, respectively, properly focused and exposed, taken with a 50 mm lens, prior to any activities having taken place, for purposes of establishing a baseline for site restoration following Abandonment;
5. A site plan;
6. An updated terrain management plan, as applicable;
7. An updated reclamation plan, as applicable;
8. An updated groundwater monitoring plan, as applicable;
9. A waste disposal plan;
10. Plans and specifications for the Oil or Gas Facility;
11. An updated traffic impact analysis, as applicable;
12. An updated road maintenance, improvement or modification plan, as applicable;
13. An updated emergency preparedness plan, as applicable;
14. A landscaping and screening plan;
15. Documentation that the conditions of approval imposed during approval of the Special Use have been complied with;

16. Certification that the Applicant has fully and finally resolved all claims for compensation for surface damage with affected surface owners pursuant to the Surface Owners Protection Act, the New Mexico State Land Office's statutory form mineral lease, or otherwise according to common law.

SECTION 4. APPLICATION FEE

Each Application for issuance of a Development Permit pursuant to this Ordinance shall be accompanied by a nonrefundable application fee in the amount set forth in Appendix A. The application fee shall be paid by cashier's check, wire transfer or certified funds.

SECTION 5. EFFECT OF PERMIT.

A. When a Development Permit has been issued for an Oil and Natural Gas Facility, such permit shall constitute sufficient authority for drilling, operation, production, Workover, maintenance, repair and testing and all other usual and customary activities associated with the exploration, development, operation and production of oil and natural gas.

B. A permit issued pursuant to this Ordinance shall expire or be considered revoked if construction of the Oil and Natural Gas Facility is not completed within two (2) years of the date of issuance of the permit (and the completion of administrative and judicial appeals), with the following exceptions: (i) a multiyear phased project that is approved as such during the approval of the Special Use; (ii) an Oil and Natural Gas Facility that is substantially completed.

SECTION 6. AMENDMENTS, SUPPLEMENTAL PERMITS.

A. An amendment to the Development Permit shall be required prior to undertaking any substantial modification to the Oil and Natural Gas Facility including, but not limited to, Recompletion of a Well or substantially altering equipment at the Facility, the Well configuration or type of product being produced (e.g. oil or natural gas), substantially altering the site layout, or any material change from conditions presented by the Applicant during the permitting process (including but not limited to a substantial increase in traffic from that predicted, increase in water use or consumption, use of different materials or processes than those disclosed during permitting, substantial change in type of operations, etc.).

B. Any operation that deviates from the Development Permit that the Operator determines in good faith is necessary to preserve the public health, safety or welfare or to prevent property damage or Pollution may be done on an immediate basis without prior notice or approval by the County. The Applicant shall provide the Administrator with notification of such emergency modifications as soon as practicable after determining the need for emergency modifications, and thereafter by filing a written amendment to the Application, specifying the modifications made, within two (2) working days of

completion. The Administrator may require that the Applicant pursue the permitting process after the fact as necessary.

C. Once a Well has either been completed as a producer or Abandoned as a dry hole, a Supplemental Permit is required to Recomplete the Well. A supplemental permit shall require filing an application for a supplemental permit, specifying:

- i. The condition of the Well and the casing therein;
- ii. The depth to which it is proposed such Well be deepened or the new intervals to be perforated;
- iii. The proposed casing program to be used in connection with proposed deepening operations; and
- iv. Evidence of adequate current tests showing that the casing strings in said Well passed such tests.

D. In the event the Administrator is satisfied that the Well may be Reworked with the same degree of safety as existed in the original Well, a supplemental permit may be issued authorizing the operation. In any Reworking operation, the Operator shall comply with all other provisions contained in this Ordinance applicable to the drilling, completion and operation of a Well.

SECTION 7. ANNUAL OPERATING FEE.

A. A non-refundable annual inspection fee is hereby levied upon each Oil and Natural Gas Facility operated or maintained within the County. The amount of such fee is set forth on Appendix A. The fee shall be paid by cashier's check, wire transfer or certified funds. The fee shall be payable to the County on or before the annual anniversary date of the issuance of the development permit. No permit shall be considered valid for any year for which the annual inspection fee has not been paid.

B. Revenue from fees collected pursuant to this Ordinance shall be placed in a special fund the revenue from which shall be used to retain and pay the Oil and Gas Inspector and to administer and enforce this Ordinance. Revenue in excess of that required to retain and pay the Oil and Gas Inspector may be used for County general purposes.

SECTION 8. ANNUAL REPORTING.

A. Each Oil and Natural Gas Facility shall, annually, provide the following information to the Administrator:

1. A current list of personnel who may be contacted in case of an emergency at the Oil and Natural Gas Facility. This list shall contain all information set

forth in Article V, Section 2 of this Ordinance, information requested by the Administrator, and information including, but not limited to the following:

- a. the name(s) of such person or persons;
- b. the job description(s) of such person or persons; and
- c. the residence, office and mobile telephone numbers of such person or persons.

2. A list of all Oil and Natural Gas Facilities owned or operated within the County by that Operator. This list shall include all Wells except Wells that have been plugged and Abandoned in compliance with law. The list shall contain all information requested by the Administrator, including but not limited to the following:

- a. the lease name and well number of each Well;
- b. the legal description of each Well;
- c. the current status and use of each Well; and
- d. the current status and use of each Oil and Natural Gas Facility.

SECTION 9. CHANGE OF OPERATOR.

A. If a new Operator is appointed for an Oil and Natural Gas Facility, a new Development Permit for the Oil and Natural Gas Facility shall be required.

B. The new Operator must provide copies of the approved Change of Operator, Form C-145, from the OCD in addition to all submittals required for a Development Permit specified herein.

C. The obligations stated in this Ordinance on the previous Operator shall not be released (including required financial security and insurance) until new Development Permits are obtained by the new Operator.

ARTICLE IV – BONDS AND INSURANCE

SECTION 1. FINANCIAL ASSURANCE.

A. An Operator seeking to obtain a Development Permit for an Oil and Natural Gas Facility shall furnish a financial assurance acceptable in form to the County that runs in favor of the County and is conditioned upon remediation of the Oil and Natural Gas Facility to the full satisfaction of the County. .

B. Acceptable financial assurances include a performance bond, irrevocable letter of credit, or equivalent financial security acceptable to the County for each Well or Oil or Natural Gas Facility in an amount representing the actual cost to remediate the site of the Oil and Natural Gas Facility after Abandonment less the amount of any agreement entered into by and between the Operator and a surface owner pursuant to the Surface Owners' Protection Act. .

C. A surety bond shall be executed by a reliable corporate surety authorized to do business in the State with the Operator as principal that runs in favor of the County. An appropriate power of attorney must be submitted along with a surety bond that provides the individual executing the bond on behalf of the principal with authority to execute same.

D. An irrevocable letter of credit shall be issued by a federally-insured financial institution located within the State of New Mexico, backed by cash on deposit at the institution representing the full value of the amount of the letter of credit. A letter of credit shall be for a term not less than five (5) years, and shall be automatically renewed on like terms unless the issuer notifies the County in writing of non-renewal at least thirty (30) days prior to the end of the five (5) year period. The County may forfeit and collect a letter of credit if not replaced by an approved financial assurance at least thirty (30) days prior to the expiration date. Authorized representatives of the Operator and the depository institution shall execute a document evidencing the terms and conditions of the letter of credit. From time to time, accrued interest over and above the face value of the bond may be paid to the Operator.

E. All financial assurances pursuant to this Section shall become effective on or before the date the same is filed with the County.

F. For good cause, the Administrator, after notice to the Operator, may require the filing of financial assurance that exceeds the amount specified at inception of operations. "Good cause" shall include, but shall not be limited to, a showing that the Operator has violated any of the provisions of this Ordinance.

G. The County shall release the financial assurance deposited pursuant to this Section upon written request of the Operator if the Well has been plugged and Abandoned and the location restored and/or remediated pursuant to this Ordinance, if the relevant Oil and Natural Gas Facility has ceased operation and has been similarly restored and/or remediated pursuant to this Ordinance, or if a Change of Operator has been approved pursuant to this Article and a new Development Permit has been issued.

SECTION 2. COMPREHENSIVE GENERAL LIABILITY INSURANCE.

A. In addition to the performance security required by this Ordinance, the Operator shall also submit with the Application a policy or policies of commercial general liability insurance, acceptable in form to the County, that includes contractual liability, covering bodily injury and property damage that names the Operator as insured,

issued by an insurance company authorized to do business in the State. Such policy shall provide a limit of liability in the aggregate of not less than \$10,000,000.00 per occurrence. Said insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation.

B. In addition to the performance security required by this Ordinance and in addition to the comprehensive general liability insurance required by the preceding paragraph, the Operator shall also submit with the Application a pollution insurance policy or policies that provides standard pollution liability insurance with a coverage of not less than \$10,000,000 per occurrence, issued by an insurance company authorized to do business in the State, and that names the Operator as insured. Such insurance policy shall be maintained in full force and effect from the date an Application is submitted pursuant to this Ordinance, through the commencement of drilling operations, completion and production of the Well, and continuing in force until the Well is plugged and Abandoned in accordance with the Oil and Gas Act, the Rules and Regulations of the New Mexico Oil Conservation Division, and this Ordinance. A separate policy need not be obtained if pollution coverage is provided as a part of the comprehensive general liability insurance policy. Said insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation.

C. The Operator shall provide the County with a certificate of insurance and a copy of the policy as evidence of coverage. If liability insurance coverage terminates, the Development Permit shall terminate effective as of the date of cancellation and the Operator's right to operate under such permit shall cease until the Operator files evidence of reinstatement or replacement coverage.

D. An Operator offering a plan of self-insurance may provide a certificate of insurance as required by this section issued pursuant to such plan provided that such plan has been approved by the Public Regulation Commission of the State of New Mexico and the County's Risk Manager.

ARTICLE V – VIOLATIONS, ENFORCEMENT, PENALTIES.

SECTION 1. CONSTRUCTION OR INSTALLATION OF UNAPPROVED OIL AND NATURAL GAS FACILITIES.

A. It shall be unlawful to construct, install, or cause to be constructed or installed, any Oil and Natural Gas Facility unless a Special Use Permit and a Development Permit has been granted by the County.

B. It shall be a violation of this Ordinance to construct, install, or cause to be constructed or installed, any Oil and Natural Gas Facility in violation of this Ordinance, or contrary to any conditions established on the Special Use or the Development Permit.

SECTION 2. PENALTY.

A. Any Operator, person, firm, corporation or legal entity that violates any provision of this Ordinance, any provision of a Development Permit or any condition thereto, or a valid directive of the Administrator, shall be subject to the penalties set forth in NMSA 1978, § 4-37-3 (1993)(as amended).

B. The violation of each separate section of this Ordinance or a permit issued pursuant to this Ordinance shall be considered a separate offense, and each day the violation is allowed to continue shall be considered a separate offense.

C. Notwithstanding any other penalty or remedy provided for in this Ordinance, the County may revoke or suspend any Development Permit issued under this Ordinance if such violation is found to exist. In addition, the County may revoke or suspend any development permit issued under this Ordinance if it is determined that the Operator provided information and/or documentation on which approval was based that was false, misleading, deceptive or inaccurate..

SECTION 3. AUTHORITY OF THE ADMINISTRATOR.

A. The Administrator shall have authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance. Failure of any person to comply with such order or directive shall constitute a violation of this Ordinance.

B. The Administrator shall have authority to enter and inspect any Oil and Natural Gas Facility governed by this Ordinance to determine compliance with this Ordinance. If such entry is denied, the County shall have the right to obtain an order from a court of competent jurisdiction to obtain entry.

C. The Administrator shall have the authority to request and receive any records, logs, reports, studies or other documents relating to the status or condition of an Oil and Natural Gas Facility. Items that are marked "confidential" or "proprietary" shall be kept confidential to the extent permissible as provided in the New Mexico Inspection of Public Records Act. Failure of any person to timely provide any such requested materials shall be a violation of this Ordinance.

D. The Administrator shall have the authority to order immediate remedial action if he or she finds that any person is not in compliance with this Ordinance or the practices of a Reasonably Prudent Operator, and that such noncompliance constitutes a hazard to life, natural resources or property. If the persons responsible for noncompliance fail to take immediate steps to comply with the law and to eliminate the hazard, or if the situation is so perilous as to constitute an imminent threat to the public health, safety or welfare, the Administrator may order the prompt cessation of all activity at the Well site or Oil and Natural Gas Facility, the clearance of the premises, and/or the temporary revocation of the Development Permit applicable to the Facility.

SECTION 4. CIVIL ACTION.

In case any Well, building, structure or other oil and gas related development is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this Ordinance, the County, in addition to the other remedies provided by law, ordinance or resolution, may seek an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

SECTION 5. PRIVATE RIGHT OF ACTION.

Any person residing within the County may sue the Operator to enjoin violations of, or compel compliance with, any provision of this Ordinance, regardless of whether that person is specially injured by the alleged violation or noncompliance.

SECTION 6. RECOVERY OF FEES.

Should the County or any person prevail in an action against an Operator for legal or equitable relief for a violation of this Ordinance, in addition to any other penalties or remedies available, the County or person shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorney's fees incurred.

**ARTICLE VI – EQUIPMENT, OPERATIONS,
STANDARDS AND PRACTICES**

SECTION 1. GENERAL.

All drilling and operations of an Oil and Natural Gas Facility shall strictly follow the requirements of this Ordinance and the Code, , and shall be conducted at all times in accordance with the practices of a Reasonably Prudent Operator.

SECTION 2. EMERGENCY PREPAREDNESS PLAN.

A. Each Applicant shall provide an emergency preparedness plan with its Application for a Development Permit of an Oil or Natural Gas Facility. The plan shall be filed with the Fire Chief and the Administrator and shall be updated annually or more frequently if conditions change.

B. The emergency plan shall consist of the following, at a minimum:

1. Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations;

2. A facilities map showing the name, location and description of all Oil or Natural Gas Facilities, including the size and type of all pipelines. Once as-built drawings are available, they shall be provided if they deviate from the plans previously submitted. " The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (one inch = 2,000 feet), or digitally on the County geographic information system parcel maps. The as-built facilities map shall be held confidentially by the County's Fire Chief, and shall only be disclosed in the event of an emergency;

3. Copies of the Material Safety Data Sheet (MSDS) for each chemical or substance present at the Oil and Gas Facility;

4. A written response plan for emergencies that may result from the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills; and

5. Project specific emergency preparedness plans for any project that involves drilling or penetrating through known zones of hydrogen sulfite gas. This plan shall be coordinated with and approved by the County prior to beginning field operations.

SECTION 3. FIRE PREVENTION.

Each Oil and Natural Gas Facility shall comply with all fire prevention requirements set forth in the Code and other applicable ordinances of the County relating to fire prevention, including the County Fire Code, and the Urban-Wildland Interface Code. Each Oil and Natural Gas Facility shall take all reasonable precautions to prevent natural gas from escaping into the air and shall not flare or burn natural gas from a torch or otherwise; however, natural gas may be burned for a limited time when necessary to complete a Well upon the original completion or upon Recompletion of a Workover so long as such does not constitute a fire hazard to the property of others within the vicinity of such oil or natural gas Well. The Operator 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 Well and the telephone number where a responsible person can be reached twenty-four hours per day.

SECTION 4. REQUIRED FIRE PREVENTION EQUIPMENT.

A. Each Oil and Natural Gas Facility shall maintain adequate firefighting apparatus, equipment and supplies at the site of the Facility at all times during drilling and production operations, including, but not limited to:

1. During drilling operations, a minimum of four portable fire extinguishers, the size, rating, distribution and maintenance of which shall be in accordance with National Fire Protection Association (NFPA) Standard No. 10 ("Portable Fire Extinguishers) and NFPA Standard No. 30 ("Flammable Liquids Code");

2. Where flammable vapors may be present, precautions shall be taken to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flames, lightning, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical and mechanical), spontaneous ignition, chemical and physical-chemical reactions and radiant heat. NFPA Standard No. 77 ("Recommended Practice on Static Electricity") and NFPA No. 78 ("Lightning Protection Code") shall be adhered to;

3. All hazardous materials and/or special hazards at the Facility shall be handled and protected as set forth in applicable NFPA standards;

4. Lightning protection equipment shall be provided at each Facility containing crude oil or water storage tanks in accordance with recommendations of the NFPA;

5. Crude oil and water storage tanks shall be installed with a vent system approved by the Administrator with a flame arrestor approved by the Administrator installed on the vent line;

6. Copies of the Material Safety Data Sheet (MSDS) for each chemical or substance present at the Oil and Gas Facility, posted in a conspicuous place at the Facility; and

7. Emergency firefighting apparatus and supplies shall be subject to the approval of the County Fire Chief, and shall be at the Oil and Natural Gas Facility at all times during the drilling operations, Workover operations and plugging operations, and at other times as appropriate given the nature of the operation.

SECTION 5. REMOVAL OF RIGS FROM THE PREMISES, SECURITY.

Any Drilling or Completion Rig shall be removed within thirty (30) days from the date of completion of a Well. Thereafter, when necessary, the completed Well may be served by portable rigs, which shall be removed from the premises within fifteen (15) days from the completion of the servicing operation. At all times from the start of the drilling phase until the Well is completed, the Operator shall keep a watchman skilled in oil and gas operations on duty on the premises at all times when other workmen of the Operator are not on such premises.

SECTION 6. DRILLING.

A. Internal combustion engines or electrical equipment may be used in drilling operations. If internal combustion engines are used, mufflers shall be installed on the mud pumps and on the engines. All electrical installations shall be made in conformity with the applicable New Mexico or County electrical code.

B. Drilling operations must be conducted in such a manner that surface water and ground water will not be degraded or Polluted, and shall at all times be conducted in such a manner that prevents vertical movement of water within the well bore. The Operator shall be solely responsible for ground water or surface water degradation or Pollution that occurs during drilling or completion operations and shall promptly remediate any degradation or Pollution that occurs.

C. The Operator shall also identify all aquifers penetrated, the depth of water and estimated production of all water bearing intervals by filing a written report no later than ten (10) days after completion of drilling.

D. Drilling operations shall be limited to daylight hours where possible consistent with safety and consistent with the protection of the environment. An Operator shall establish the need for drilling after daylight hours to the Administrator prior to commencing such operations. A Well shall be completed, serviced or fractured only during daylight hours. Except in an emergency, no materials, equipment, tools or pipe shall be delivered to or removed from a drilling site or the site of any Oil or Natural Gas Facility except between the hours of 7:00 a.m. and 7:00 p.m.

E. Unless otherwise required by OCD, at the time of installation, all casing, tubing, valves, bradenhead, Christmas tree, blowout preventers, and well head connections shall be in good condition and of a type and quality consistent with the practices of a Reasonably Prudent Operator.

F. Setting and cementing casing and drill stem tests shall be performed in a manner and at a time consistent with the rules and regulations of the OCD, the directives of the OCD and the Administrator, and the practices of a Reasonably Prudent Operator. Surface casing shall meet or exceed the requirements of the OCD. The Administrator may require a cement bond log or other appropriate integrity testing to verify the integrity of all cement placed in the well during drilling and completion operations.

- OR - (From Oklahoma City):

G. Except as otherwise provided by the OCD, surface casing shall be set a minimum of 200 feet below the deepest fresh water (1,000 mg/L or less total dissolved solids) zone found in the eight sections (or the equivalent distances where government sections are missing) adjacent to the Well site. A resistivity and porosity electric log shall be run in the surface hole before surface pipe is set, and a copy of said log shall be filed with the OCD and the Administrator. The Administrator may, in the Administrator's sole discretion, waive the requirement for a resistivity and porosity log if the Operator furnishes sufficient information from wells in the same section of land and surrounding sections of land that identifies the base of treatable water. Surface pipe shall have a centralizer in the middle of the shoe joint, a centralizer on the top of the second joint of casing, and centralizers no more than 200 feet apart above the second centralizer. Surface casing shall have a guide shoe installed on the bottom of the first joint of casing, and a float shall be installed within 90 feet of the guide shoe to prevent upward flow of

cement through the casing. No cement baskets may be installed on the surface casing. Surface pipe shall be cemented by attempting to circulate good cement to surface by normal displacement practices. If cement cannot be circulated to surface due to washed out hole or lost circulation, the existing cement shall not be over-displaced and a plug shall be left in the bottom of the casing string to be drilled out once the surface is set. The remaining open hole behind the surface pipe shall be cemented by running a tubing string between the conductor string and the surface pipe until the top of the cement is tagged. The remaining uncemented annular space shall then be cemented until good cement is circulated to the surface. The Administrator may require logs to be run to determine the actual top of the cement in the annulus prior to pumping cement down the small string of pipe installed in the annulus of the Well. The casing shall not be disturbed in any way until the cement has set for a minimum of eight hours or any longer time required for the cement to reach a compressive strength of 500 psi. A cement bond log shall be run after the cement has set for 18 hours and before drilling operations are resumed. The Administrator shall witness the calibration and running of the cement bond log, and the Administrator shall examine the log and give approval of the cement bond before drilling operations are resumed. The Administrator may waive the requirement for the cement bond log when he or she has witnessed the actual cementing of the Well and observed only positive indications that a good cement job was achieved. Surface casing must be new pipe of API grade J or K or higher grade and have a minimum burst pressure rating of 2,900 psi. All cement blends to be used in the installation of surface casing shall be submitted to the Administrator for testing to determine the setting time. The cement samples and other information required by the Administrator shall be submitted a minimum of thirty (30) working days prior to use. The Operator shall pay a nonrefundable testing fee for each cement blend sample to be tested in the amount of the actual fee for testing. The Administrator may require all such samples as necessary to be submitted at drilling sites or elsewhere for quality control testing.

H. Upon completion of a Well, the Operator shall certify by affidavit that the Well has been set according to the rules and regulations and requirements of the OCD, the directives of the Administrator and the practices of a Reasonably Prudent Operator. The affidavit shall stipulate the number of sacks of cement, the class of cement, blended materials, weight of cement in pounds per gallon, cement displacement pressure, final pumping pressure and whether checkvalves (float shoes, float collar) held the pressure. Commencement and completion times of such operation shall be stipulated. The affidavit shall be completed by a cementing service company and signed by both the Operator and the cementing service company.

I. Except as otherwise provided by OCD, appropriate blowout prevention equipment shall be used on all Wells being drilled, worked-over, or in which the tubing is being replaced. Unless otherwise specified by OCD, Wells being drilled shall have hydraulically operated blowout preventers installed and these blowout preventers shall meet the American Petroleum Institute's recommendation for Class 3M blowout preventers. Unless otherwise specified by OCD, Wells being drilled shall also have a kill line, choke line, and choke manifold that meet the recommendations of the American Petroleum Institute for Class 3M blowout prevention equipment.

J. Only Closed Loop Systems that meet or exceed the requirements of NMAC 19.15.1.21 shall be used during drilling and Completion of a Well. No open pits or Reserve Pits shall be permitted under any circumstances.

K. The Operator shall maintain all safety monitoring equipment deemed necessary by the Administrator, and shall inspect that equipment quarterly. The results of the monitoring and inspections shall be submitted to the Administrator.

L. Drilling mud shall be disposed of by transporting the mud to an OCD-licensed disposal site. The mud may not be buried in an earthen pit on site, pumped down the Well bore or down the annulus of a Well, or spread on the surface of the ground at the site. All other waste shall be treated, stored and disposed in accordance with all local, state and federal requirements and regulations.

M. No surface waste disposal of wastes of any kind shall be permitted at the site of the Oil or Natural Gas Facility.

SECTION 7. GATHERING SYSTEMS.

A. All operations relative to the design, installation, maintenance, and operation of a Gathering System shall conform to the requirements of the Administrator, the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, this Ordinance and the applicable codes and that of a Reasonably Prudent Operator.

B. Each Gathering System must be operated in such a manner that surface water and ground water will not be degraded or Polluted. The Operator shall be solely responsible for ground water or surface water degradation or Pollution that occurs as a result of the operations of a Gathering System and shall promptly remediate any degradation or Pollution that occurs.

C. Any Gathering System shall be tested prior to being placed in service and the results of the tests shall be provided to the County.

D. Any Gathering System shall be tested at least annually and the results provided to the County. Additional integrity testing may be required by the Administrator.

E. The Operator of a Gathering System shall provide the County as-built plans showing the location of all facilities.

F. A Gathering System shall be buried and backfilled as specified by the then-applicable codes.

G. Valves shall be installed on all Gathering Systems at such locations and spacing to safely and adequately control the operation of the lines and to minimize the quantity of natural 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 Administrator.

H. Pipelines crossing roads and highways shall be cased and vented in accordance with the practices of a Reasonably Prudent Operator.

I. Location markers shall be installed to mark the exact location of gathering lines associated with a Gathering System. Each marker shall be approved, as to type and location, by the Fire Chief and the Administrator. The failure to mark a location, or the removal of any marker without the express permission of the Administrator shall constitute violations of this Ordinance. All location markers shall include the name of the Operator of the Gathering System and a telephone number where a responsible person can be reached at any time.

SECTION 8. APPEARANCE AND MAINTENANCE OF THE SITE,

A. The premises of an Oil and Natural Gas Facility shall be kept in a clean and orderly condition. No mud, wastewater, oil, slush or other waste shall be permitted to flow into alleys, roads, streets, lots or leases. Suitable and adequate toilet facilities shall be made available in a clean and sanitary condition at all times during drilling operations.

B. An Oil and Natural Gas Facility 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.

C. Any Well shall be enclosed together with its surface facilities, by a chain link fence sufficiently high and properly built so as to ordinarily keep persons and animals out of the enclosure with all gates thereto to be kept locked when the Operator is not within the enclosure.

D. If a Residential structure exists or is constructed within one half mile of the Oil and Natural Gas Facility, the Operator shall provide landscaping and screening as set forth in the Code and herein unless this requirement contradicts an agreement with the surface owner pursuant to the Surface Owners Protection Act, or other agreement with the surface owner. The Oil and Natural Gas Facility shall be screened and landscaped to screen all facilities from outside view and ensure compatibility with the surrounding area. Such screening shall consist of evergreen vegetation or landscaped earthen berms at least six feet in height that completely surround the site and all fences or lease equipment and facilities. Once approved by the Administrator, the Operator shall provide the landscaping and screening described in the Plan and shall keep all landscaping, or berms in good condition at all times.

E. The Administrator shall have the power and authority to require general landscaping (trees, shrubs, grass, ground cover or flowers) of any Well or Oil and Natural Gas Facility as is deemed necessary, unless this requirement contradicts an agreement with the surface owner pursuant to the Surface Owners Protection Act, or other agreement

F. An Operator shall promptly clear all premises associated with an Oil and Natural Gas Facility of all litter, trash, waste, and other substances used, allowed, or occurring in the drilling or producing operations.

SECTION 9. STORAGE TANKS.

Except as otherwise provided by the OCD, tanks used for the storage of condensate, crude oil or other hydrocarbon liquids produced by and used in conjunction with any Well shall be located in an unobtrusive, centralized location upon completion of the drilling of the Well. An impermeable liner shall be installed to protect against leaks and spills.

SECTION 10. ROADS AND HIGHWAYS.

A. Any traffic generated by an Oil and Natural Gas Facility shall not at any time impede traffic flow or cause a road or highway to operate at a lesser level of service than existed previously, except on a temporary basis.

B. The type and amount of traffic to be generated by the proposed Oil and Gas Facility or at the time of its installation shall not cause physical damage to a public road or highway as a result of the activity without just compensation to the County. Any impacts on a public road or highway shall be mitigated by the Operator and approval of a Special Use may be conditioned upon implementation of specific mitigation measures.

C. If roads or highways are reasonably certain to be damaged as a result of operations related to the Oil and Natural Gas Facility, or if existing roads are inadequate for the Oil and Natural Gas Facility, the Operator shall be required to improve said roads or highway, at the Operator's sole expense. The design, plans and specifications for any such improvements must be first approved by the County, and all such specifications shall meet or exceed then-applicable County road improvement standards, whether established by Ordinance, resolution or operating policy. A road improvement agreement between the Operator and the County may be required prior to undertaking the construction of any such improvements.

D. At least thirty (30) days prior to the actual commencement of operations at an Oil and Natural Gas Facility, the Administrator shall be notified in writing of the proposed date for commencement of operations. Such notification shall also contain the following information:

1. The maximum length, width and weight of any motor vehicle and the maximum weight of the load to be carried by any motor vehicle to be used in traveling to and from the site and transporting equipment to the site; and

2. A complete list of the proposed routes to and from the site for all motor vehicles carrying a drilling rig or a Workover Rig to be used to travel to and from the site. Such list shall identify any and all roads and highways (including private roads and easements) within the limits of the County proposed to be used by such motor vehicles traveling to and from the site.

E. The Administrator shall review the proposed routes and shall prepare a written order that either approves or disapproves the routes to and from the Oil and Natural Gas Facility. The Administrator shall designate alternate routes which are acceptable. During all operations, all motor vehicles used by any person to travel to and from the site shall be restricted to roads and highways approved by the Administrator.

F. No Oil and Natural Gas Facility shall be located within any road or highway maintained by the County. No such road or highway shall be blocked or encumbered or closed in any drilling, production or pipeline operation.

G. No excavation for any purpose or construction of any lines for the conveyance of fuel, water, or minerals on, under, or through a County road or public highway shall be made without express permission of the County.

H. The digging up, excavating, tunneling, undermining, breaking up, or damaging of any road or highway or leaving upon any road or highway any earth or other material or obstruction shall not be permitted unless authorized by the County.

SECTION 11. NUISANCE AND ANNOYANCE.

A. All equipment associated with an Oil and Natural Gas Facility shall be constructed and operated so that no noise, vibration, dust, odor, or other harmful or annoying substance or effect is created. The Oil and Natural Gas Facility shall be maintained in good repair by the Operator.

B. All above-ground production equipment associated with an Oil and Natural Gas Facility shall be painted in a uniform flat green or tan color.

C. Proven technological improvements in methods of production of a Reasonably Prudent Operator shall be adopted as they, from time to time, become available if capable of reducing nuisance or annoyance of the Oil and Natural Gas Facility.

D. There shall be no manual venting of natural gas into the open air without direct on-site supervision. No manual or automatic venting shall occur between the hours of 7:00 p.m. and 7:00 a.m. except as otherwise permitted by OCD during drilling, or in the case of an emergency.

E. Nothing in this Section shall be construed as an abrogation of common law or statutory remedies for creating a private or public nuisance.

SECTION 12. NOISE.

A. Within fifteen (15) days of the drilling of a new Well, servicing of an existing Well, or the construction of an Oil and Natural Gas Facility, the Operator shall take sound pressure measurements to establish ambient sound levels, under the supervision of the Administrator.

B. Measurement of sound levels shall be performed as follows:

1. Sound levels shall be measured at a distance equal to the residential setback required by this Ordinance from the subject equipment emitting the noise, or to the nearest residence, whichever is less. Sound levels shall be measured, as near as practicable, at the exterior edge of any building or residence closest to the equipment emitting sound.

2. In all sound level measurements, the existing ambient noise level from all other sources in the area shall be measured and considered to determine the contribution to the sound level of the oil and gas operation.

3. The ambient noise level shall be measured between normal operating hours.

C. An Oil and Natural Gas Facility shall use shielding or enclosures on each Oil and Natural Gas Facility.

E. Production equipment shall be powered by electric motors if located within 1,320 feet of distribution voltage capable of powering production equipment. Production equipment may be powered by engines prior to the time that the Oil and Natural Gas Facility is provided with electric power.

F. All equipment associated with an Oil and Natural Gas Facility shall minimize transmission of vibration through the ground consistent with the practices of a Reasonably Prudent Operator.

SECTION 13. LIGHT

A. Oil and Natural Gas Facilities shall comply with the Code, including the Night Sky Protection Ordinance, at all times except as otherwise specifically provided herein.

B. The Operator shall log all lighting levels and shall provide night ambient levels prior to commencing work on the Oil and Natural Gas Facility. Levels shall be provided during the development and operation of the Oil and Natural Gas Facility on a

daily basis. All lighting shall be limited to the minimum required to meet security and prescribed safety standards and consistent with the practices of a Reasonable and Prudent Operator.

C. Lights shall be shut off on a drilling rig when not drilling or performing other operational, maintenance or repair functions related to the drilling rig. Lights required by the Federal Aviation Administration to alert aircraft of the rig shall not be subject to this requirement.

D. Lighting that does not comply with the Code shall be permitted only as necessary for worker safety.

SECTION 14. CULTURAL, HISTORICAL OR ARCHEOLOGICAL RESOURCES

No Oil and Natural Gas Facility may be located so as to adversely affect any Cultural, Historical or Archeological resource.

SECTION 15. OPEN HOLE FORMATION OR DRILL STEM TESTING.

A. Except as otherwise directed by OCD, all open hole formation or drill stem testing shall be done during daylight hours, with adequate advance notification thereof to the Administrator to enable him or her to be present during such testing.

B. Except as otherwise directed by OCD, all open hole formation testing shall be done into tanks or flared properly in the case of gas.

SECTION 16. FLARING OF GAS.

Gas shall not be flared except as necessary during drilling and workover operations, and then only as permitted by regulations of the OCD and in accordance with flaring procedures approved by the OCD.

SECTION 17. DISPOSAL OF SALTWATER OR OTHER DELETERIOUS SUBSTANCES.

A. Each Operator shall make sufficient provisions for the safe disposal of water containing salts or other minerals in quantities that exceed applicable ground water standards established by the Water Quality Control Commission, hydrocarbons, or other deleterious substances which may be brought to the surface. Any such disposal shall be at an OCD-approved disposal well or site. No disposal of such substances shall be permitted at the site of the Oil and Natural Gas Facility. When a disposal well is to be used for disposal of such substances, the location of the proposed well shall be identified, the Operator shall identify the disposal well by operator, lease, well name and number, and location.

B. In the event of any spill or leak of produced water or any deleterious substance, whatever the cause thereof, the Operator shall promptly notify the Administrator. If, in the judgment of the Inspector, such leak or spill represents a potential hazard to surface or ground water resources or the environment, the Administrator shall immediately notify OCD. The Administrator may require that the Operator strictly follow all orders issued by OCD with respect to the spill or leak, and may additionally require that the Operator conduct testing of the surface and subsurface for pollutant incursion and conduct remediation of the spill or leak as directed by OCD, the cost of which is to be paid by the Operator.

SECTION 18. FRACTURING AND ACIDIZING.

A. Fracturing and acidizing of any Well shall be performed in strict compliance with OCD Rules and the practices of a Reasonably Prudent Operator. Fracturing pressures shall be strictly controlled to limit the extent to which fractures escape the zone being fractured. Fracturing operations may be monitored by the Administrator to ensure compliance with this Section.

B. Fracturing operations shall use water and sand only. Water and sand used in fracturing operations shall not contain dissolved hydrocarbons or other toxic contaminants. The use of synthetic fracturing fluids is prohibited. Fracturing with brine shall only be permitted when current or potential drinking water supplies will not be affected. Fresh water that meets or exceeds drinking water standards shall be used preferentially to brine, and such water shall be obtained from the County or a municipal system that supplies drinking water.

C. After fracturing, all fluids used in the fracturing process shall be removed from the Well.

D. In no circumstance shall fracturing or acidizing operations allow oil, gas or other deleterious substances or pollutants to degrade or Pollute any surface or subsurface fresh waters.

SECTION 19. SWABBING, BAILING AND PURGING WELLS.

In swabbing, bailing or purging a Well, all deleterious substances removed from the bore hole shall be placed in appropriate tanks and no use of the substances shall be applied to the ground, nor shall any such procedures be permitted to degrade or pollute any surface or subsurface waters.

SECTION 20. RUPTURE IN SURFACE OR PRODUCTION CASING.

In the event a rupture, break or opening occurs in surface or production casing, the Operator, service company or drilling contractor shall promptly report the incident to the Administrator. Immediate action shall be taken to repair such casing consistent with

the Rules and Regulation of the OCD and the repairs shall be witnessed by the Administrator.

SECTION 21. DEPOSITING OIL PRODUCTS.

No person shall deposit, drain or divert into or upon any public highway, street, alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon, any oil or oily liquid with petroleum content, or any mud, rotary mud, sand, water or saltwater, or in any manner permit, by seepage, overflow or otherwise, any of such substances to escape from any property owned, leased or controlled by such person and flow or be carried into or upon any public highway, street, alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon within the County. All such disposal shall be accomplished at an OCD-approved facility.

SECTION 22. SERVICE COMPANIES.

Upon request of the Administrator, the Operator shall make available for inspection reports and records showing perforating, hydraulic fracturing, acidizing, cementing, shooting, chemical treatment and all other service operations on any Well.

SECTION 23. ACCUMULATION OF VAPOR.

The Fire Chief, in consultation with OCD, shall have the authority to require the immediate shutting in of any Well or Oil and Natural Gas Facility if the Fire Chief finds that there exists, within a 100-foot radius, any gas or vapor in a quantity sufficient to constitute a fire hazard. The Well or Oil and Natural Gas Facility shall remain shut-in or closed in until the hazard and its cause have been remedied.

SECTION 24. INSPECTION OF PRESSURE LINES.

The Administrator shall inspect all pressure lines in use at any Well or at any project to ensure that tubing, fittings, equipment or connections are reasonably tight, safe and free from leaks.

SECTION 25. TEMPORARY ABANDONED WELLS.

A. Whenever the OCD has granted temporary abandonment status for a Well, the Operator shall immediately provide a copy of the approved C-103 form on which such status has been granted to the Administrator. The Well may remain in temporary Abandoned status no longer than two (2) years without the necessity of obtaining a new Development Permit.

B. Except as otherwise provided by OCD, any Well placed in temporary Abandoned status shall be supplied with fittings and valves to permit the pressure on tubing and each string of casing to be measured independently using a gauge. If, in the judgment of the Administrator, mechanical integrity of the temporarily Abandoned Well

is suspect, the Administrator, in conjunction with the OCD, may order a mechanical integrity test be performed by one of the techniques described in 19.15.4.203 NMAC of the OCD rules and regulations. Except as otherwise provided by OCD, mechanical integrity testing may be required by the Administrator each year that a Well is in temporarily Abandoned status. When the Administrator determines that a leak exists, appropriate repair work or remedial cementing shall be performed by the Operator to correct the problem, pursuant to OCD regulations and as approved by OCD. All repair procedures shall be approved by the Administrator and OCD and shall be consistent with rules and regulations of the OCD, and practices of a Reasonably Prudent Operator. The Administrator shall be notified so that he or she may witness the repair work and test to confirm the success of such repair work. Nothing in this paragraph shall require action by the Operator that is inconsistent with OCD regulations or directives.

C. Any Well placed in temporary Abandoned status more than two years must be plugged and Abandoned or brought back into production, except as otherwise provided by OCD. If OCD permits a Well to be placed in temporary Abandoned status for longer than two years, a supplement Development Permit must authorize same.

SECTION 26. ABANDONMENT, PLUGGING AND REMEDIATION.

A. Whenever a Well is Abandoned or an Oil and Natural Gas Facility ceases operation, it shall be the obligation of the Operator to comply with the rules and regulations of the OCD, the regulations of the Water Quality Control Commission, or the appropriate federal agency in connection with its abandonment, plugging and remediation.

B. A copy of the plugging and Abandonment forms shall be furnished to the County within ten (10) days of the date submitted to OCD. Upon Abandonment, the Operator shall erect and maintain an aboveground dry hole marker as required by OCD regulations.

C. No building shall be subsequently erected on or over, or restricting access to, any Abandoned Well.

D. Following Abandonment, the area formerly occupied by the Well or Oil and Natural Gas Facility shall be restored to a safe and clean condition. This shall include, but not be limited to, re-grading of the site to its former contours, revegetation (as specified in the Code and this Ordinance), removal of all remains of the Well or Oil and Natural Gas Facility (including all deadmen, junk, tanks, buried material), fencing or walls, signs (except the Abandoned well marker), and access roads. Any and all spills, leaks or other Pollution of the site shall be fully remediated as set forth in this Ordinance.

E. When revegetating the Well or Oil and Natural Gas Facility, topsoil and other suitable rooting medium shall be provided and the affected land shall be revegetated in such a way as to establish a diverse, effective, and long lasting vegetative cover that is capable of re-seeding itself or spreading, is at least equal in extent of cover to the natural

vegetation of the surrounding area, and is capable of supporting the range of wildlife associated with particular life zones affected. Native species should receive first consideration, but appropriately introduced species that are non-sterile hybrids may be used in the revegetation process. The vegetative cover shall consist of 70 percent of the native perennial vegetative cover (un-impacted by grazing, fire or other intrusion damaging to native vegetation) or scientifically documented ecological description consisting of at least three native plant species, including at least one grass, but not including noxious weeds, and maintenance of that cover through two successive growing seasons. In order to assure the success of the revegetation program, the planting and seeding shall take place when natural precipitation will assist in establishing the plants and shall be supplemented with an irrigation program. Plants that die or are not established after a two year period shall be replaced; revegetation shall be monitored for a minimum of five (5) years. Success rate of re-seeding and re-vegetation shall be determined by the Administrator.

F. When preparing for revegetation of the Well or Oil and Natural Gas Facility, topsoil shall be removed from the affected land and segregated from other material. If such topsoil is not replaced on a backfill area soon enough to avoid deterioration, vegetative cover or other means shall be employed so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If it is determined that such topsoil is of insufficient quantity or is of poor quality for sustaining vegetation, or if other strata can be shown to be as suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata which are best able to support vegetation.

G. When revegetating the Well or Oil and Natural Gas Facility, new planting shall not be required on any affected area where the chemical and physical characteristics of the surface and immediately underlying material of such affected area are, through no fault of the Operator, toxic, deficient in plant nutrients, or composed of sand, gravel, shale or stone to such an extent as to seriously inhibit plant growth and such condition cannot economically be remedied by chemical treatment, fertilization, replacement of overburden, natural weathering or like measures. In those cases where planting is not required, the Operator shall still be required to stabilize the affected area so that all applicable local, state and federal laws and regulations are not violated.

SECTION 27. COPIES OF FORMS FILED WITH OCD TO BE FURNISHED.

A. Copies of all applications, notices, forms, records, logs and all similar documents filed by the Operator with the OCD shall also be filed with the Administrator within one week of filing with the OCD, unless the Administrator informs the Operator that the Inspector will review the documents on the OCD website. The Administrator shall, consistent with the requirements of the Open Records Act, keep confidential any material identified as confidential by the Operator unless such material is necessary as evidence in the prosecution of any violation of the provisions of this Ordinance or required to be available for public inspection under applicable law.

B. Copies of all documents required to be filed by the Operator with the County pursuant to this Ordinance shall be filed with the OCD on the appropriate form.

C. No change of Operator of any Oil and Natural Gas Facility shall be valid until the OCD has approved the change of Operator, a copy of the approved change of ownership form is provided to the Administrator, and the new Operator has received a Development Permit as provided in this Ordinance.

SECTION 28. PROHIBITION OF POLLUTION.

A. Each Oil and Natural Gas Facility, each Operator, and any contractors, drillers, service companies, pipe-pulling and salvaging contractors, or other persons, shall at all times conduct their operations and drill, equip, operate, produce, plug and abandon all Wells and Oil and Natural Gas Facilities (including seismic, core and stratigraphic holes) in a manner that will prevent Pollution or contamination and the migration of oil, gas, saltwater or other substance from one stratum into another, including specifically the Pollution or degradation of any aquifer or fresh water bearing formation. Degradation or Pollution of surface or subsurface fresh water by deleterious substances used in connection with the exploration, drilling, producing, refining, transporting or processing of oil or gas is hereby prohibited and shall constitute a violation of this Ordinance.

B. Prior to applying for authorization for a Special Use, the Operator shall complete a baseline water quality testing program. At least three monitoring wells shall be constructed according to guidelines prepared by the County Hydrologist. The location of the monitoring wells shall be specified by the County Hydrologist. However, at least one of the wells shall be at the Oil and Natural Gas Facility or, if directional drilling or horizontal drilling is utilized, at least one monitoring well shall be located at each bottomhole location. A down gradient well or wells shall be provided. If permission to utilize property for purposes of locating a monitoring well is not provided, the Operator may use County rights-of-way or property as sites for monitoring wells. Water samples from all water wells and surface water sources within a three mile radius of the proposed Well site shall be taken and the parameters tested to establish the baseline water quality in the area. All samples shall be split with the County to enable the County to conduct independent testing. The parameters to be tested shall be specified by the Administrator and the County Hydrologist.

C. In the event a property owner refuses access to a well for purposes of locating a monitoring well, an affidavit from the Operator shall be provided that summarizes efforts to obtain water samples from the location and the obstacles encountered. If possible, the Operator shall secure the signature of the property owner confirming that property owner's decision. If access is refused as described, the Operator shall be required to drill monitoring wells in alternative locations or provide the baseline data and monitoring required by this Ordinance.

D. At least annually thereafter, the Operator shall repeat its testing of surface and subsurface water resources to determine whether fresh waters have been degraded or Polluted as a result of the operation of the Oil and Natural Gas Facility, as compared to the baseline established during initial testing. Such results shall be provided to the Administrator.

E. The Administrator shall have the authority to require the construction of supplemental monitoring water wells in the event degradation or Pollution is suspected to physically document any degradation or Pollution of an aquifer or any other fresh water bearing formation. Such construction and monitoring shall be at the expense of the Operator.

F. In the event degradation or Pollution of surface or subsurface waters, the Operator shall immediately abate the degradation or Pollution, at its own expense, and cooperate and follow the directives of County, State and federal officials having jurisdiction over the incident.

G. Solid waste (garbage, refuse or discarded material generated by Oil and Natural Gas Facility's operations) shall not be stored or buried on the Well site. Solid waste must be removed on a scheduled basis to a designated and properly permitted landfill or authorized transfer station.

SECTION 29. EFFECTS ON GROUND WATER AND HYDROLOGY.

Disturbances of prevailing hydrologic balances and affecting the quantity of ground water and surface water both during and after exploration and extraction activities and during reclamation operations shall be unlawful.

SECTION 30. GENERAL ENVIRONMENTAL PROTECTION STANDARDS.

A. Each Oil and Natural Gas Facility shall take reasonable measures consistent with that of a Reasonably Prudent Operator to minimize any noise, vibration, smoke and other particulate matter, odorous matter, toxic or noxious matter, radiation hazards, fire and explosive hazards, and electromagnetic interference.

B. To the greatest extent possible and consistent with the standards of a Reasonably Prudent Operator, oil and natural gas exploration and extraction shall be conducted to mitigate or avoid disturbances and direct impacts to fish, wildlife and their habitats or migratory habits. In addition, the design, construction and maintenance of access roads into and across the Oil and Natural Gas Facility shall be configured to control or prevent erosion and siltation, to prevent Pollution of water or damage to fish or wildlife or their habitat. All vertebrates and all other wildlife considered endangered by federal or state governmental authorities shall be prevented by the Operator from contact with chemicals, solutions, and wastewaters containing chemicals.

SECTION 31. CONTROL OF SURFACE WATER RUN-ON AND RUN-OFF

A. Surface water run-on and run-off shall be controlled such that it will not endanger the Oil and Natural Gas Facility or become contaminated by contact with process materials or loaded with sediment. The control systems shall be designed to accommodate a 200-year, 24-hour storm event, or the largest storm occurrence within the general area within the previous twenty (20) years from the date of the Application, whichever is greater, as well as any other defined climatic event that is more appropriate to the site, and be placed so as to allow for restoration of the natural drainage network, to the maximum extent practicable, upon facility closure.

B. All materials shall be properly placed and protected from surface water and precipitation so as not to contaminate surface water.

SECTION 32. ENHANCED RECOVERY, SALTWATER OR OTHER DISPOSAL WELLS.

A. Construction of a new Well for disposal of saltwater or other types of deleterious substances is prohibited.

B. Nothing herein shall prohibit purification of produced water for subsequent re-use, pursuant to OCD regulations and other applicable law.

SECTION 33. RECORDS OF APPROVALS.

Appropriate memoranda that note any approval of a special use and issuance of a development permit pursuant to this Ordinance shall be recorded in the Office of the County Clerk.

ARTICLE VII - SEVERABILITY
AND
AMENDMENT OF THE DEFINITION OF "MINERAL"
WITHIN THE SANTA FE COUNTY LAND DEVELOPMENT CODE,
ARTICLE III, SECTION 5.2

SECTION 1. SEVERABILITY.

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

SECTION 2. AMENDMENT OF THE CODE, ART. III, SEC. 5.2.

The definition of “Mineral” set forth in Article III, Section 5.2 of the Code, is hereby amended as follows:

Mineral – means an inanimate constituent of the earth in solid state which when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form of metal or metallic compound, a non-metal, a non-metallic compound, a raw material for manufacturing, but shall not include surface water, or subsurface water, sand or gravel regulated by Article XI of this Code, or oil and gas. Mineral shall include oil shale or tar sands.

APPENDIX A
FEES

1. Application Fee, Application for Approval of a Special Use: \$6,000 per Well or Oil and Natural Gas Facility.

2. Application Fee, Application for a Development Permit: \$1,000 per Well or Oil and Natural Gas Facility.

3. Annual Fee: \$2,500 per Well or Oil and Natural Gas Facility.