COUNTY OF RIO ARRIBA
ORDINANCE NO. 2011-07

AN ORDINANCE AMENDING THE PROVISIONS OF THE RIO ARRIBA DESIGN
AND DEVELOPMENT REGULATION SYSTEM, ORDINANCE NO. 2011-02,
REGARDING REGULATION OF THE USE AND DEVELOPMENT OF LAND WITHIN
THE IRRIGATED AGRICULTURAL OVERLAY ZONING DISTRICT

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF RIO ARRIBA
COUNTY:

Section One. Section 3.3 of Rio Arriba County Design and Development Regulation
System, Ordinance No. 2011-02 ("Ordinance No. 2011-02") is hereby amended to include
the following additional definitions:

Irrigated Area—A lot or that portion of a lot that has been irrigated in connection
with the use of said lot for irrigated agriculture. The size, location and configuration of the
irrigated area shall be verified by the Director through documentation obtained from the
applicant/owner, an acequia, County assessor, State Engineer or by any other reliable form
of documentation, including site inspections by the County.

Protected Water Rights—Protected water rights are those water rights which are
displaced by development within an irrigated area and which are protected by this Ordinance
and thereafter are available for beneficial use.

Section Two. Section 5.4(D) of Ordinance No. 2011-02 is hereby deleted in its entirety
and substituted with the following new Section 5.4(D):

"(D) In addition to all applicable submittals required by this ordinance and any other
County Ordinance, the following additional submittals provided by the Applicant are
required for development proposed within the IAOZD:

1. Written documentation of any water rights appurtenant to the lot
2. A letter from NMED stating whether or not the soils will support a liquid waste
system and what type of liquid waste system the soils will support.
3. A site plan or survey depicting the developable area, the irrigated area and the
proposed location of all structures and improvements. The site plan shall also state
the total square feet within the irrigated area that is proposed for development and
the total quantity of preserved water rights."
(4) A determination of depth to groundwater, in the location of any proposed leach field, during the high water season.

(5) An explanation of the manner in which the applicant shall comply with Section 5.4(F) of this ordinance, if applicable.

(6) Such additional information as the Director may require to give proper effect to the application and Ordinance.

Section Three. Section 5.4(E) of Ordinance No. 2011-02 is hereby deleted in its entirety and substituted with the following new Section 5.4(E):

"(E) In addition to any minimum design and development standards already required in the CRAD, any new development with the IAOZD shall adhere to the following additional requirements:

(1) Development on each lot within the IAOZD shall be limited to a maximum of 30 percent of the developable area and with the minimum of at least 70 percent remaining as irrigated agricultural land. Any portion within the developable area may continue to be irrigated in addition to the designated irrigated land.

(2) Except as allowed by the New Mexico Environment Department regulations no development shall be allowed in areas where the water table is within four (4) feet of the surface as measured during the high water season.

(3) Development within the IAOZD shall be located upon a lot in such a manner as to minimize the length of driveways by placing the development as close to the point of nearest legal or public access to the lot as is practicable.

(4) After the approval of the application, subsequent modifications or applications to the shape or location of a developable area or agricultural area that has been designated on a recorded map or approved site plan may be made, provided the following requirements are met:

a. The size of the developable area, together with the first or original application shall not exceed the maximum of the 30% allowed for the developable area. Agricultural areas may be enlarged.

b. Any modifications to the shape or location of the developable area or agricultural area shall conform to applicable design and development standards of the CRAD and the IAOZD.

c. The applicant will implement water rights protective measures in section 5.4(F) as needed to conform to this ordinance.

d. A revised site plan or survey shall be delineated which defines the original and revised developable areas and agricultural areas and lists the size of each in square feet.

e. The Director shall approve the revised site plan or survey as to conformance with the design and development standards of the CRAD and the IAOZD with his signature and date of approval in a place provided on the revised site plan or survey.

f. The revised site plan or survey shall be recorded with the office of the County Clerk.
Section Four. Ordinance No. 2011-02 is hereby amended to include the following new Section 5.4(F).

“(F) As a condition for the granting of any development permit, special use permit, conditional use permit, subdivision approval or any other approval or permit of any kind, in order to protect water rights within the IAOZD for continued beneficial use, the applicant shall take the following actions if any development is permitted within the irrigated area of a lot:

1. First Protective Measure

   a. The Applicant / Owner of the subject property shall protect the water rights that are being displaced within the developable area of the subject property by a written document to be recorded with the County Clerk. This document can be a survey, site plan, water rights deed, affidavit, declaration or other recordable instrument.

   b. Upon preliminary approval of the application by the County, the Applicant / Owner shall record the appropriate document or instrument with the Office of the County Clerk.

   c. Upon submittal of a copy of the recorded document or instrument by Applicant / Owner to the County Planning Department, the application shall be approved by the Department and the Applicant / Owner may proceed to build on the developable area of the subject property.

   d. The Applicant / Owner may convey the water rights that are being displaced within the developable area of the subject property to another party, other than the Applicant / Owner.

2. Second Protective Measures

   a. The Applicant / Owner shall undertake one or more of the following protective measures on his own initiative or at the prompting of the County or the Acequia of origin of the water rights as soon as practically possible but no later than four years from the date of the recording of the document or instrument which protects the water rights:

      i) The temporary or permanent transfer of water rights to another location within the community in accordance with the applicable rules and regulations of the Acequia of origin, any other affected Acequia and the New Mexico Office of the State Engineer.

      ii) The temporary or permanent placement of the water rights to any beneficial use within the community that can be made in accordance with the rules and regulations of the Acequia of origin and the NMOSE.
iii) The annual placement of the water rights in an approved Acequia water banking program, subject to the applicable rules and regulations of the Acequia and the NMOSE.

iv) The temporary or permanent placement of the water rights within the Forty Year Water Plan of any local governmental unit, including but not limited to: the County of Rio Arriba County, any community Mutual Domestic Water Consumers Association, the water banks of Acequias, an Acequia Association or the Santa Cruz Irrigation District.

v) These subsequent protective measures will be deemed complete and sufficient for the purposes of this Ordinance upon the Applicant / Owner’s submittal of written documentation of their implementation to Rio Arriba County in a form acceptable to the Planning Department.

b. Although this Ordinance protects the surface water rights of acequias and their communities, the County recognizes and adheres to the principle that these water rights are the private property of the Applicant / Owner, and it is the exclusive choice of how the Applicant / Owner will place, loan, lease, sell or otherwise convey these water rights in the context of this Ordinance.

Section Five. Section 5.5 of Ordinance 2011-02 is hereby deleted in its entirety.

Section Six. Pursuant to NMSA 1978, Section 4-37-7, it is hereby declared by the Board of County Commissioners of Rio Arriba County that there is an immediate danger to the public health, safety and welfare of Rio Arriba County and therefore this Ordinance shall take effect immediately upon signature by the County Commissioners, signature and recording by the County Clear and publication of the title and general summary in a newspaper of general circulation in Rio Arriba County.
PASSED, APPROVED AND ADOPTED ON THIS 24th DAY OF FEBRUARY, 2011 BY BOARD OF COUNTY COMMISSIONERS OF RIO ARRIBA COUNTY.

BOARD OF COUNTY COMMISSIONERS OF RIO ARRIBA COUNTY, NEW MEXICO

[Signatures]

FELIPE MARTINEZ, CHAIRMAN
COMMISSIONER, DISTRICT 3

BARNEY TRUJILLO
COMMISSIONER, DISTRICT 1

ALFREDO MONTOYA
COMMISSIONER, DISTRICT 2

ATTEST:

[Signature]
MOISES A. MORALES, JR., COUNTY CLERK

CERTIFICATE OF FILING:

I, MOISES A. MORALES, JR., COUNTY CLERK FOR THE COUNTY OF RIO ARRIBA, NEW MEXICO, DO HEREBY CERTIFY THAT THE FOREGOING ORDINANCE, DESIGNATED AS ORDINANCE NO. 2011-07, WAS FILED FOR RECORDED IN MY OFFICE ON THE 3rd DAY OF MARCH, IN BOOK 1065 OF PAGES 1065.

[Signature]
MOISES A. MORALES, JR., COUNTY CLERK