

CHAPTER IX
OIL AND GAS REGULATIONS

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CHAPTER IX

OIL AND GAS REGULATIONS

9.01 Authority

Title 29, Article 30 and Title 30, Article 28 of the Colorado Revised Statutes, as amended, authorize the Regulations. Any reference to, or incorporation of, requirements imposed by the Colorado Oil and Gas Conservation Commission (COGCC) shall not be construed as providing independent authority to Las Animas County to enforce such requirements.

9.01.01 Purpose

This Chapter is enacted to protect and promote the health, safety, morals, convenience, order, prosperity or general welfare of the present and future residents of Las Animas County. It is the County's intent by enacting this Chapter to facilitate the development of oil and gas resources within the unincorporated area of Las Animas County while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that, under Colorado law, the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this Chapter and any other applicable statutory and regulatory requirements. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with this Chapter minimized. Should it be established by competent evidence that a proposed major facility, as defined herein, cannot be operated in compliance with this Chapter, County land use approval for such a facility may be denied.

9.01.02 Jurisdiction

This Chapter shall apply to all lands within the unincorporated area of Las Animas County, except only to the degree and to the extent the

County's jurisdiction is preempted by federal or state law, or by direct federal jurisdiction (Pinon Canyon Maneuver site).

9.01.03 General Procedures

Development of oil and gas facilities within the unincorporated areas of Las Animas County shall be subject to the provisions of this Chapter and any other applicable regulations of Las Animas County, as well as any state or federal entities or agencies having jurisdiction over such development.

Construction, installation and operation of oil and gas facilities which are subject to this Chapter shall not commence until administrative approval has been granted by the Planning Director or after recommendation following public review by the Planning Commission and approval and granting of a permit by the Board of County Commissioners.

Minor oil and gas facilities, as defined herein, which comply with the applicable standards and requirements of this Chapter shall be granted approval by the Planning Director upon the applicant's submittal of satisfactory documentation, in the manner prescribed, that the facility is in compliance with the standards set forth herein. Special mitigation measures may be required for minor facilities, which do not comply with the standards set forth herein. The Planning Director shall grant approval for minor facilities requiring special mitigation measures, provided that the applicant submits satisfactory documentation to the Planning Director that an appropriate mitigation plan for the facility will be implemented in accordance with this Chapter.

Planning Commission review and recommendation together with Board review and approval shall be required for activities and facilities classified as major facilities.

The Planning Director and his or her designee, unless otherwise provided by the Board of County Commissioners, shall be the authorized representative of Las Animas County with regard to the application of this Chapter. The requirements of all applicable chapters of these Regulations, to the extent not in conflict with the requirements of this Chapter, also apply to oil and gas facilities, it being the intention of the

County that this Chapter not be the exclusive regulation of such facilities. As an example, but not by way of limitation, the General Provisions of Chapter 1, the Sign Code Regulations of Chapter VI and the fee, enforcement, violations and penalties provisions of Chapters XI and XII also apply to oil and gas facilities.

9.01.04 Minor Oil and Gas Facilities: Processing

Applications for County land use approval for proposed minor facilities as defined herein shall be processed administratively by the Planning Director, provided that the information in the application establishes that the proposed use complies with the minimum requirements for such facilities as set forth in this Chapter. Applications for such minor oil and gas facilities shall receive approval without Planning Commission or Board of County Commissioners hearing or review, in accordance with the procedures set forth herein. An application that the Planning Director finds to comply with the relevant standards shall be granted administrative approval within fourteen (14) working days, with notification to the applicant as soon as possible but in no event later than twenty (20) working days of the filing of the application.

Should the Planning Director fail to notify the applicant of his or her decision on the application within twenty (20) working days, the application shall be deemed approved.

1. Application: Submittal Procedure. The application shall include information and/or documentation establishing that the proposed minor facility complies with all applicable requirements of this Chapter and shall be in the form prescribed by Section 9.01.06 herein. The application shall contain a certification from the applicant or its designated agent (accompanied by a written designation of agent in the form prescribed by the County) that the proposed facility complies with all applicable provisions of this Chapter, and that the information in the application, as well as in any documentation submitted, is true and accurate.

2. Administrative Determination of Compliance.

a. If the application is found to be complete, containing all information and/or

documentation required by this Chapter, the Planning Director shall then review the application for the compliance with applicable standards and requirements. The Planning Director shall complete this review within fourteen (14) working days of submittal. Should the information in the application and any accompanying documentation establish that the proposed minor facility will be constructed and operated in compliance with all applicable standards and requirements of this Chapter, then the Planning Director shall issue written approval for the proposed minor facility. Within six (6) working days of administrative approval for a minor facility, the Planning Director shall provide written notification of the decision to the applicant or its designated agent. Should the Planning Director determine that the proposed minor facility will not or cannot be constructed and operated in compliance with all applicable standards and requirements of this Chapter, then he or she shall issue a written denial of the application, stating with specificity the grounds for its decision. The Planning Director shall issue such written notifications within six (6) working days of administrative approval or denial.

b. The visual impact and visual mitigation provisions of this Chapter shall apply if:

1) The well or facility is located within three hundred fifty (350) feet of an existing residential dwelling, unless a waiver is obtained in writing from the homeowner; or

2) Public facilities, including public parks, schools, hospitals or similar facilities, are within a one-thousand-foot radius of the well or facility; unless a waiver is obtained in writing from the County, school district, hospital association or other public entity; or

3) If the facility or well is located within two hundred (200) feet of a maintained public highway.

3. Appeal of Administrative Denial

Should Planning Director deny administrative approval, the applicant may request County land use approval by the filing of a written appeal with the Board of County Commissioners within ten (10) days of receipt of written notification of such denial. Such an appeal shall be in writing and state with specificity the grounds for approval. The Board of County Commissioners shall proceed to consider and decide the applicant's appeal within thirty (30) working days of its receipt. Upon request of the applicant, the Board of County Commissioners shall provide it with an opportunity to be heard on such an appeal. Should the applicant request a hearing on its appeal, the Planning Director shall be notified and given an opportunity to present evidence at the hearing. Should the applicant provide satisfactory documentation that the proposed minor facility complies with all applicable requirements of this Chapter, the Board of County Commissioners shall approve the application forthwith.

4. Notice to Property Owners.

An application for approval of a proposed minor facility when submitted to Planning Director shall include a written certification by the applicant or its designated agent that written notice of the application has been made as follows:

- a. To the current owner or owners of the parcel of land within which the minor facility is proposed to be located.
- b. By posting a sign at the intersection of the leasehold access road and the nearest maintained public highway, or at the request of the applicant such other place as may be approved by the Planning Director, which is the same sign and/or contains the same information required for posting at the site per COGCC Rule 305, et seq. The sign to be posted must be not less than twenty-two (22) inches wide and not less than twenty-six (26) inches high composed of letters not less than one (1) inch in height.

- c. By publication in a local newspaper of the notice contained in Paragraph 9.01.05.3.b. below.

5. Notice to Property Owners by County.

Upon receipt of an application, the Planning Director will send notice to all surface owners within one thousand (1,000) feet of a wellhead of the application by certified mail. The sufficiency of said notice by Planning Director will not affect the processing of the application.

6. Expedited Approval Upon Emergency Circumstances.

The Planning Director may issue a permit in less than ten (10) days' time if an operator files a sworn statement and demonstrates to the satisfaction of the Planning Director that the operator had the right or obligation under the terms of an existing contract to drill a well and that the right or ability to drill will be lost or terminated unless the operator can immediately drill.

9.01.05 Major Facilities: Processing

All applications for major facilities (as defined under Section 9.03 of this Chapter) shall be scheduled for public review before the Planning Commission and the Board of County Commissioners in accordance with the provisions of this Chapter. The Planning Commission shall review such applications at a scheduled public meeting and forward a recommendation for approval, conditional approval or denial with appropriate findings to the Board of County Commissioners for final action. Board action on an application for a major facility shall be scheduled for a public hearing within thirty (30) days of the date of the Planning Commission's action on the application. Final actions of the Board of County Commissioners shall contain appropriate findings based upon competent evidence in the record before the Board of County Commissioners.

1. Application: submittal procedure.

The major facility application shall consist of all items identified in Section 9.01.06 of this Chapter. Prior to formal submittal of the application, the Planning Director shall meet with the applicant to discuss and identify any additional information required to adequately review the proposed facility.

2. Determination of completeness.

The Planning Director will review the application for completeness within fourteen (14) working days of submittal. If the application is deemed complete, the Planning Director will commence project review as described in Sections 9.01.08 and 9.01.09 of this Chapter. If the application is incomplete, the applicant will be notified of the deficiency and the application shall be withdrawn from the review process until the required information is submitted. If the Planning Director fails to advise the applicant that the application is incomplete, the application shall be deemed complete for processing purposes. Major facility applications must be complete at least fourteen (14) days prior to a scheduled Planning Commission meeting at which said application is scheduled for review.

The Planning Commission shall conduct a noticed public meeting for review of the proposed major facility. The application shall be considered at a scheduled Planning Commission meeting held no less than fourteen (14) days following public notice of hearing. On the basis of competent evidence received at such a public meeting, the Planning Commission shall make its recommendation to the Board of County Commissioners regarding approval, conditional approval or denial of the application. Such Planning Commission actions shall contain appropriate findings or reasons in support of the recommendation. The Planning Commission may continue a public meeting on an application to a date certain, not to exceed sixty (60) days. The Planning Commission shall render its written decision regarding a recommendation on the proposed facility within thirty (30) days of the evidentiary phase of the public meeting.

3. Notice of Planning Commission Review.

Not less than fourteen (14) days prior to the public meeting established to consider the major facility application, a legal notice of the public meeting before the Planning Commission shall be published in a newspaper of general circulation within the County and written notice shall be given individually to the following:

- a. The owners, as recorded in the records of the County Assessor, of any land adjacent to or located within one-half (½) mile (2,640 feet) of any portion of the subject site, said notice to be sent by the applicant by certified mail at the applicant's expense.
- b. The Public Notice of Planning Commission Review shall take a form prescribed by the Planning Director and shall include the following:
 - 1) A description of the location (including a legal and practical location description), applicant/ operator and proposed activity under review.
 - 2) Time and place of the Planning Commission's public meeting.
 - 3) The name and address of the applicant and/or its designated agent, and a statement that additional information may be obtained from the Planning Director.

4. Notice upon request.

Notice shall be sent to any other person, agency or organization that has filed a written request with the Planning Director to receive notice of major facilities undergoing public review, said notice to be sent by the Planning Director.

5. Planning Commission review.

The Planning Commission shall conduct a public meeting for review of a major facility no earlier than fourteen (14) days following submittal of a complete application. The Planning Commission shall issue a recommendation to the Board of County Commissioners concerning the facility's compliance with applicable standards and requirements as well as the appropriateness of the facility in the location proposed in accordance with the review criteria set forth in Section 9.01.09.

6. Board of County Commissioners review.

The Board of County Commissioners shall conduct a public hearing for review of the major facility within thirty (30) days of the

date of issuance of the Planning Commission recommendation. The Board of County Commissioners may continue a public hearing to a date certain not to exceed thirty (30) days in order to receive additional testimony or information. The applicant may request a continuation of the public hearing for good cause shown, satisfactory to the Board of County Commissioners, to a date certain, not to exceed thirty (30) days. The Board of County Commissioners shall render its written decision on the application within thirty (30) days of the close of the hearing.

9.01.06 Submittal Requirements

Submittal requirements are as found in the following table:

	<i>Elements</i>	<i>Minor</i>	<i>Major</i>
1.	Application	X	X
2.	Narrative, including:		
	operating plan		X
	estimated number of site visits by vehicles		X
	other site specific information, identified and requested at a preapplication conference		X
3.	Emergency contact (telephone, person)		X
4.	Site plan (map prepared for survey and location purposes by the applicant's surveyor may be used as per state and federal requirements), including		
	north arrow and appropriate scale	X	X
	existing improvements	X	X
	utility easements, right-of-way	X	X
	irrigation ditches crossing or within 100 feet of site	X	X
	drainage plans (onsite, offsite)		X
	proposed facilities	X	X
	other site specific information identified and requested at a preapplication conference		X
	current surface ownership of facility site	X	X
5.	Vicinity maps (county assessor's or U.S.G.S. quad maps may be used as base map), including		
	section, township and range	X	X

	<i>Elements</i>	<i>Minor</i>	<i>Major</i>
	site boundary	X	X
	north arrow and scale	X	X
	major geographic features, to include bodies of water, roads, utility corridors		X
	current surface ownership within one-half mile of site, to include names of platted subdivisions and approximate locatin of residences		X

The submittal requirements of this table may be met by submission of the applicable COGCC APD (Forms 2 and 2A). Applicants will not be required to provide duplicative information but will be required to supply information not contained within the COGCC APD.

9.01.07 Fee Schedule

The application fees to be imposed pursuant to this Chapter are set forth in Chapter XII.

9.01.08 Review and Referrals: Major Facilities

The Planning Director may, at his or her sole discretion, refer the application to other government agencies or entities for review and comment. For major facilities, the reviewing agencies will be asked to return their comments within ten (10) days of the receipt of the referral, or as otherwise provided by state law:

Oil and gas facilities shall also be reviewed for general consistency with the standards and policies set forth in the following documents:

1. The Las Animas County Oil and Gas Regulations.
2. The Las Animas County Land Use Regulations.
3. The Las Animas County Master Plan.
4. Colorado Department of Transportation Drainage Design Specifications and Standards.
5. Plans and regulations of municipalities in Las Animas County if applicable.
6. Other applicable local, county, state and federal plans, policies and regulations.

9.01.09 Major Facilities Review Criteria

The Board of County Commissioners' decision to approve or deny an application for a major facility shall be made and determined based upon its compliance with all applicable performance standards and other requirements of this Chapter and by applying the following evaluative criteria to the evidence in the record of proceedings before the Board of County Commissioners:

1. Need.

The demonstrated need for the facility, in the location proposed, to serve the applicant's existing and projected oil and gas development, production and operational requirements. *Primary consideration should be given to a mineral owner or lessees' desire to remove, extract and/or transport its minerals.*

2. Suitability.

Suitability of the location of the proposed facility given its size, design and operational characteristics. Factors to be considered include noise levels, impacts on air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety. These factors will be evaluated in accordance with applicable State, County and Federal standards and criteria.

3. Adequacy of Existing Roads and Access to the Site.

Factors to be considered are topography, natural hazards (landslides, flooding, wild-fire), current resource values (open space corridor, prime farmland as designated by Natural Resource Soil Conservation Service, wildlife habitat).

4. Compatibility.

Compatibility with existing uses and those which can be projected, based upon present subdivision and land use approvals for properties located within or around the affected area as determined by the Board of County Commissioners based upon competent evidence in the record. A facility's compatibility with land uses in the surrounding

area, which the Board of County Commissioners finds will be effected by its operation, shall be determined by the facilities' estimated or projected ability to mitigate the impacts which it generates, as set forth in the facility operational plan, and in accordance with applicable County, state and federal rules, regulations and standards.

5. Decision.

The Board of County Commissioners' decision shall be based upon competent evidence in the record. Following the conclusion of the public hearing, the Board may proceed to render its decision on the application, or it may take the matter under advisement to an announced date certain not to exceed thirty (30) days, at which time it shall render its decision. A written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings based upon competent evidence in the record of proceedings before the Board of County Commissioners and any applicable federal, state or County statutes, rules, regulations or policies. The Board of County Commissioners shall prepare the written resolution for the Board of County Commissioners' consideration within thirty (30) days of the public hearing. For the purposes of judicial review, the Board of County Commissioners' final action or decision on an application shall be deemed to have been made as of the date upon which the Board of County Commissioners executes the written resolution, which shall constitute the Board of County Commissioners' final action or decision.

9.01.10 Record of Comments

Where applications are scheduled for public review, the Planning Commission shall provide for comments on the application at the meeting prescribed in Section 9.01.05 of this Chapter. Comments from the reviewing agencies will also be provided. Comments from interested members of the public will be received at the meeting and incorporated into the written transcript of the meeting. A written draft copy of the minutes will be made available to any interested party within ten (10) days of said meeting, by the Planning Director.

For minor facility applications, the record of comments shall consist of the contents of the project file.

9.01.11 Duration, Modifications, Pre-Existing Uses, Severability

1. Duration

Approval granted for minor and major facilities shall expire or be considered revoked if construction of the facility has not commenced within one (1) year of the date of approval. The applicant may request in writing an extension on an application of six (6) months, and must be approved by the Planning Director and/or the Board of County Commissioners.

2. Modifications.

Where a minor or major facility has been approved and the applicant desires to modify the subject facility by changes to equipment, site lay-out, approved operating plan, etc., an amendment to the original application shall be required if the level of impact as defined in the Oil and Gas Performance Standards will be increased as a result of the modification. The activity described in the amendment to a minor or major facility will be granted administrative approval if it complies with the Performance Standards. (In cases where the amendment would consist of the addition of a major facility, public review shall be required as described in Section 9.01.05, Major Facilities: Processing.)

Modifications which the applicant determines in good faith are required in order for the facility to continue operating and which must be done immediately in order to maintain the existing level of production or operation may be done on an emergency basis, without prior notice or approval by the Planning Director, provided that such modifications do not include the addition of equipment or operations associated with a major facility. The applicant shall provide the Planning Director with notification of such emergency modifications by filing a written amendment to the application, specifying the modifications, within two (2) working days of their completion.

For modifications for existing facilities that have received an SUP through the Las Animas County SUP process as of the effective date of the amendments to the Regulations (expected to be amended as of April 2, 2002), the fee for a permit for such modification shall be one thousand dollars (\$1,000.00) and the applicant shall have the choice of proceeding to apply for modification through the former Las Animas County SUP process or under this Chapter. The ability to choose the mode by which modification can be requested either through the former SUP process or under the procedures and standards set forth in this Chapter shall exist for a period of one (1) year from the effective date of amendments (anticipated to be April 2, 2002). Future amendments to this Chapter, if any, shall not serve to extend this ability to choose between the SUP or this Regulation process unless specifically stated therein.

3. Effective Date, Pre-Existing/Nonconforming Uses.

This Chapter shall become effective on the date specified in the adopting Resolution of the Board of County Commissioners in accordance with Colorado law. The provisions of this Chapter shall apply to all minor and major facilities for which drilling has not commenced or a building permit has not been issued as of the effective date.

9.01.12 Severability

Each section, sentence, clause and phrase hereto is declared severable. If a court of competent jurisdiction adjudges any section, sentence, clause or phrase of this code to be invalid, the decision shall not affect the validity of the remaining portions of this code.

9.01.13 Violation and Enforcement

1. Unlawful to construct or install unapproved oil and gas facilities.

It is unlawful to construct, install or cause to be constructed or installed any oil and gas facility within the unincorporated areas of Las Animas County, not subject to state and federal jurisdiction, unless administrative approval has been granted by the Planning Director or approval by the Board of County Commissioners.

2. Penalty.

Subject to the provisions of Section 30-28-124, C.R.S., as amended, any person, firm, corporation or legal entity which owns, leases or operates a minor or major oil and gas facility, as defined herein, and which constructs, installs or uses, or which causes to be constructed, installed or used, any minor or major oil and gas facility without first receiving administrative approval from the Planning Director, for minor facilities and minor facilities requiring special mitigation, or approval from the Board of County Commissioners for major facilities, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00) per day.

3. Civil action.

In case any building or structure 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 Chapter, the Las Animas County Attorney, or where the Board of County Commissioners deems it appropriate, the District Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

4. False or inaccurate information.

The Board of County Commissioners may revoke approval of a facility if it is determined at a public meeting, held on at least thirty (30) days' notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants and employees, knew or reasonably should have known, was false, misleading, deceptive or inaccurate. The applicant and the Planning Director shall be provided with an opportunity to be heard at the public meeting prior to the Board of County Commissioners rendering its decision.

5. Liability insurance.

Each applicant for a permit shall maintain general liability insurance for property damage and bodily injury to third parties as required by the COGCC, and such policy shall include Las Animas County as a certificate holder so that the County may receive advance notice of cancellation.

6. Performance security.

The applicant shall provide one (1) form of the following security to assure compliance with mitigation requirements set forth in the Regulations, damage to County roads and specific conditions of approval for minor and major facilities: five thousand dollar (\$5,000.00) performance bond for each minor or major facility; fifty thousand dollars (\$50,000.00) countywide blanket bond for all facilities operated by the applicant within the County; irrevocable letter of credit; or equivalent financial security acceptable to the County.

7. Right to enter.

For the purpose of implementing and enforcing this Chapter, County personnel may enter onto subject property upon notification of the permittee, lessee, surface owner or other party holding a legal interest in the property; if such entry is denied, the County shall have the right to obtain an order from a court of competent jurisdiction to obtain entry.

9.01.14 Emergency Preparedness Plan Required

Each operator with facilities in Las Animas County is required to provide an emergency preparedness plan. No application for a minor or major facility shall be considered until the operator has provided said plan to the County. The plan shall be filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency plan shall consist of the following information, as a minimum:

1. Name, address and phone number, including a 24-hour emergency number of at least two (2) persons responsible for emergency field operations.

2. An as-built facilities map showing the name, location and description of all minor and major facilities, including the size and type of all pipelines and isolation valves (note: isolation valves shall not be operated by anyone except the owner of the pipeline). The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (1"=2000'), or digitally on the County Geographic Information System Parcel Maps, if available. The as-built facilities map which includes the information regarding the location of isolation valves shall be held confidentially by the County's Emergency Management Staff and shall only be disclosed in the event of an emergency. The County's Emergency Management Staff shall deny the right of inspection of the as-built facilities map to the public pursuant to Section 24-72-204(3)(a)(IV), C.R.S. An operator who is new to Las Animas County and has no facility shall supply the information in this Paragraph within six (6) months of commencement of operations.

3. Provide a written response plan for the potential emergencies that may be associated with 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.
4. Project specific emergency preparedness plans are required for any project (minor or major) that involves drilling or penetrating through known zones of hydrogen sulfide gas, as determined by the County's Emergency Management Staff. This plan shall be coordinated with and approved by the County's Emergency Management Staff prior to beginning field operations.

9.02 Oil and Gas Performance Standards

9.02.01 Compliance

All oil and gas facilities granted administrative approval by the Planning Director, recommended for approval by the Planning Commission and/or approved by the Board of County Commissioners must comply with the standards contained herein. Failure to comply with these standards shall be grounds for denial. For major

facilities, the Planning Director shall determine the level of detail required in a submittal based on the potential adverse impacts of the proposed facility on the unique characteristics of the proposed site and activity.

All mitigation measures shall be determined with regard to the actual situation and actual land use existing at the time of an application for a minor or major facility. Thus, among the factors to be considered are any building permits obtained prior to the filing of an application for a minor or major facility.

9.02.02 Land Use Coordination Standards

Purpose: to minimize conflicts between differing land users.

1. Setbacks.

The visual impact and visual mitigation provisions of this Chapter shall apply if:

- a. The well or facility is located within three hundred fifty (350) feet of an existing residential dwelling, unless a waiver is obtained in writing from the homeowner; or
- b. Public facilities, including public parks, schools, hospitals or similar facilities are within a one-thousand-foot radius of the well or facility; unless a waiver is obtained in writing from the County, school district, hospital association or other public entity; or
- c. If the facility or well is located within two hundred (200) feet of a maintained public road.

2. Nuisance.

a. Security fencing and a locked gate for minor and major facilities shall be required in the following locations:

- 1) Where there are four (4) or more existing residences within six hundred sixty (660) feet of the facility site perimeter;
- 2) Where there is a public or private school within six hundred sixty (660) feet of the facility site perimeter;

- 3) Where there is any other existing structure with commercial occupancy as defined by the Uniform Building Code within six hundred sixty (660) feet of the facility site perimeter;
- 4) Where there is an existing recreational facility designated by an appropriate federal, state, local authority within six hundred sixty (660) feet of the facility site perimeter.
- b. Safety practices generally accepted by the oil and gas industry shall be used at all times during drilling and production to minimize the danger to the general public.
- c. Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured where the facility site is unattended and/or accessible to the general public.
- d. All land within twenty-five (25) feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.
- e. Where the applicant's visual mitigation plan specifies alternative security fencing, the alternative fencing shall apply.
- d. When clearing trees and vegetation for construction of minor and major facilities, the applicant shall feather and thin edges of vegetation.
- e. To the extent possible, the applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.
- f. The applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
- g. To the extent possible, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
- h. Minor and major facilities shall be painted as follows:
 - 1) Uniform, non-contrasting, non-reflective color tones, similar to Munsell Soil Color coding system.
 - 2) Color matched to land, not sky, slightly darker than adjacent landscape.
- i. The applicant shall minimize damage to existing trees and vegetation.
- j. Pad dimensions for a minor facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance.

9.02.03 Environmental Quality Standards

1. Visual impacts.

- a. To the extent possible, minor and major oil and gas facilities shall be located away from prominent natural features such as distinctive rock and landforms, river crossings and other landmarks.
- b. To the extent possible, minor and major facilities shall be located to avoid crossing hills and ridges or silhouetting.
- c. To the extent possible, the applicant shall use structures of minimal size to satisfy present and future functional requirements.
- k. Reserved.
- l. One (1) or more of the following landscape practices may be applied, on a site specific basis:
 - 1) Establishment of ground cover.
 - 2) Shaping cuts and fills to appear as natural forms.
 - 3) Cutting rock areas to create irregular forms.
 - 4) Designing the facility to utilize natural or planted screens.

- 5) Construction of fences for use with or instead of landscaping.
- m. Exterior lighting shall be directed away from residential areas, or from said areas.
- n. The provisions of Paragraphs 9.02.03.a.1 through 9.02.03.a.7 shall be waived if the operator notifies the County that geologic considerations preclude compliance.
2. Visual mitigation plan.
- If the visual mitigation requirements of this Chapter are triggered by the setback provisions noted in Paragraph 9.02.02.a above:
- a. A visual mitigation plan may be required for all new minor and major facilities. The plan should incorporate the appropriate design elements of items 1.a through 1.m above, and include the design information in Paragraph b. below. The County Planning Director may waive the requirement for a visual mitigation plan if a plan is deemed unnecessary. The Planning Director or Board of County Commissioners designee appointed by resolution shall have discretion to choose what combination of elements are required mitigation under Paragraph 1.l above for minor facilities. The Board of County Commissioners shall have discretion with regard to the same matter as to major facilities.
- b. Visual mitigation plan minimum requirements:
1. Scaled drawing.
 2. Site boundary dimensions and descriptions.
 3. Existing and proposed contours and pad elevations.
 4. Existing conditions and site features that incorporate and surround said site to be developed.
 5. Existing and proposed access.
 6. Cross-section of existing and proposed contours, if applicable.
 7. Orientation and dimensions of facilities (pump jacks, buildings, etc.).
 8. Description of existing and proposed vegetation.
 9. Location, height and extent of perimeter berms, if applicable.
 10. Type, location and amount of mulch materials, if applicable.
 11. Type, location and height of fencing, if applicable.
 12. Delineate drainage and run-off patterns and mitigation.
 13. Direction and type of lighting, if applicable.
 14. Written maintenance and irrigation plan for at least one (1) year after reclamation.
 15. Title block:
 - a) Name of development.
 - b) Name of applicant or developers.
 - c) Project number.
 - d) Date of preparation.
 - e) Section, township and range.
 16. Vicinity map.
 - a) Major roads, adjacent subdivisions and town boundaries.
 - b) Section, township and range.
 - c) Rivers, streams, ponds and wetlands.
- c. Performance security: For sites requiring a visual mitigation plan, performance security shall remain in place for at least one (1) year after installation of the plant and landscape materials. The performance security shall be of an amount sufficient to cover the costs of the proposed improvements or the amount required by Section 9.01.13.6, whichever is greater.

3. Wildlife.

a. Impact zone.

When a major facility is located within a designated moderate, high or very high impact area on the Environmental Constraints Map based on information provided by the Division of Wildlife, the applicant shall consult with the Division of Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. Major facility and cumulative impact recommendations shall be submitted for review and approval by the Planning Director, not to exceed the recommendations of Division of Wildlife.

b. Site specific.

The following mitigation measures shall be included as appropriate in the site specific wildlife mitigation procedures required under Paragraph a. above, as appropriate.

- 1) Avoid construction activities during critical use periods. (Examples: near eagle nests during nesting, on big game winter ranges during winter.)
- 2) Avoid conducting on-site operation and maintenance activities during critical use hours.
- 3) Confine vehicular access to established roads except under emergency circumstances.
- 4) Forbid use of firearms in project areas.
- 5) Install gates that can be locked at the first property boundary crossed when accessing facility from closest public road.
- 6) Conduct work in streams in a manner that minimizes siltation and erosion and at a period of little or no flow.
- 7) Place pipe below channel scour depths in streams and rivers to avoid partial diversion or channel discharges.

8) Stabilize excess material at stream and river crossings in place or remove offsite.

9) Complete fueling and lubrication of construction equipment away from aquatic environments.

c. Non-mitigable impacts.

As to major facilities non-mitigable impacts from oil and gas facilities that threaten endangered species (as identified by the U.S. Fish and Wildlife Service) shall be considered grounds for denial.

4. Water.

On-site containment and disposal of water associated with minor and major facilities shall be in accordance with any applicable federal and state requirements.

5. Geologic hazard areas, floodplains.

Major facilities shall not be located in geologic hazard areas (as determined by the Planning Director). Major facilities shall comply with the adopted County Floodplain Ordinance when they are located in a one-hundred-year floodplain area.

9.02.04 Surface Disturbance Standards

Purpose: to encourage minimal damage to surface activities and surface conditions.

1. Roads and access.

Installation of major facilities which are accessible by non-maintained roads included in the County road system, which the County Road Supervisor determines are inadequate to safely accommodate the additional traffic associated with the operation of the facility, shall be permitted only if such roads are improved and maintained by the applicant to a level which the County Road Supervisor determines is necessary to allow such traffic to use such roads in accordance with applicable state and County standards.

2. Waste disposal.

a. When a minor or major facility becomes operational, all construction-related debris shall be removed from the site. The

site shall be maintained free of debris and excess materials at all times during operation.

- b. No burning of trash shall occur on-site. The appropriate fire district must approve all controlled burns.
3. Weed control.
 - a. The applicant shall be responsible for ongoing minor and major facility sites and access road weed control during construction and operation of the facility, until the OGCC reclamation bond is released or operation of the major facility is terminated.
 - b. The appropriate weed control methods and species to be controlled shall be determined through review and recommendation by NRCS and Las Animas County Weed Coordinator.

9.02.05 Miscellaneous Provisions

1. Oil and gas facilities shall be located and designed so as to provide access by fire or other emergency response personnel and vehicles.
2. The operator shall undertake appropriate dust abatement measures related to their operations as approved by the Planning Director with respect to unpaved leasehold or County roads.
3. All storage tank batteries shall be bermed, subject to requirements placed on oil and gas facilities according to COGCC rules and regulations.
4. The operator shall, upon plugging and abandonment of any well, remove all pumps, tank batteries and other equipment from the location, and restore the surface of the land, including revegetation, in accordance with the COGCC requirements.

9.02.06 Special Exceptions

The applicant may request special exceptions to the Oil and Gas Performance Standards. All applications where a special exception is requested not provided elsewhere in this Chapter

will be processed as a major facility. Requests for special exceptions for proposed facilities may include but not be limited to one (1) or more of the following factors:

1. Topographic characteristics of the site.
2. Duration of use of the facility.
3. Proximity of occupied structures to the facility.
4. Ownership status of adjacent and/or affected land.
5. Construction of adequate infrastructure to serve the project.
6. Planned replacement and/or upgrading of facility equipment.
7. Conflicts with the Oil and Gas Conservation Act and/or the Colorado Oil and Gas Conservation Planning Commission rules.

If the Board of County Commissioners finds, based upon the competent evidence in the record, that compliance with regulations is impossible, a special exception may be granted by the Board of County Commissioners.

9.02.07 Board Review of Granted Permit

The Board of County Commissioners retains the right to review all permits for a major facility previously granted on a yearly basis or otherwise as often as the Board of County Commissioners deems appropriate and reasonable.

9.03 Oil and Gas Definitions

Abandonment: Presumption of permanent abandonment of a major facility shall be based upon non-use or operation for one (1) year without notification to the Planning Department of intent to resume operations under specified conditions.

Agricultural: Currently in use for farm or ranch purposes, including pasture.

Applicant: That person, corporation or other legal entity possessing the legal right to develop the mineral resource or any other use proposed in connection thereof for the site in question; generally, the applicant will be the owner or lessee of the mineral estate.

Collection line: A pipeline to a well designed to collect produced or waste water and transport it to a central disposal area (evaporation pit or injection well).

Compatible: Able to exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface and ground water quality/quantity, adequacy of the road system, air quality and surrounding land uses.

Compressor station: An installation consisting of one (1) or more individual compressors, located on a gathering or transmission line, or both.

Corridor: The route within which a pipeline right-of-way is located.

Critical use hours: That time of day when disturbance is most likely to increase stress to and negatively impact wildlife.

Critical use period: That portion of the year (weeks or months) when disturbance is most likely to increase stress to and negatively impact wildlife.

D.O.T.: United States Department of Transportation

Designated agent: Agent designated by the owner or lessee as defined by O.G.C.C.

Developable: Land is considered to be developable for residential purposes if it does not have slopes exceeding thirty (30) percent, and is not located within a geologic hazard area, federally defined floodway, drainage channel or wetland area greater than one (1) acre. (See **Residential**.)

Easement: Authorization by a property owner for use of a designated portion of his property by another, for a specified purpose.

Evaporation pit: An excavated pit used for storing and evaporating wastewater produced in degasification activities during drilling or production or both, sometimes lined.

Gas well: A well having a pressure and volume of natural gas.

Gathering system: A system consisting of well (or gathering), lateral and trunk pipelines transporting oil, gas or other products derived from oil and gas production to a central facility of transmission line, and so classified under the D.O.T. regulations.

Lessee: The individual or firm leasing mineral rights for development purposes from the owner; may also be the permittee, for the purposes of this Chapter.

Major oil and gas facilities:

1. Compressor stations and associated facilities, including their pipelines, which serve multiple wells employing engines and/or motors with a cumulative horsepower rating of 200 bhp or more.
2. Any facility related to the production of oil and/or gas, which contains engines and/or motors with a cumulative horsepower rating of 200 bhp or more.
3. Gas treating facilities, which serve multiple wells, or gathering systems.
4. Pipelines for which the power of eminent domain is available. All pipelines formerly required to proceed through the Las Animas County special use permit/conditional use permit process as set forth in the Las Animas County Land Use Guide prior to the implementation of this Chapter.

Minor oil and gas facilities:

1. An individual well site built and operated to produce petroleum and/or natural gas, including auxiliary equipment required for such production; i.e., separators, dehydrators, pumping units, tank batteries and other equipment located within the perimeter of the well site pad, employing engines or motors with a cumulative horsepower rating of less than 200 bhp, provided that it complies with all applicable standards and requirements.

2. Gas gathering lines and water collection lines serving minor oil and gas facilities, including trunk and lateral lines, shall not be subject to the setback standards required for such facilities, but shall comply with other applicable standards in this Chapter.
3. Facilities which are in place for more than three (3) months associated with gas gathering lines and water collection lines, such as: drip stations, vent stations, pigging facilities, chemical injection stations, transfer pump stations and valve box, where such equipment or facilities employ engines or motors with a cumulative horsepower rating of more than 100 bhp and less than 200 bhp, which comply with all applicable standards and requirements in this Chapter.
4. An individual well head compression and multiple well compression facility powered by motors or engines with a cumulative horsepower rating of more than 100 bhp and less than 200 bhp, which complies with all applicable standards and requirements in this Chapter.
5. Water injection stations and associated facilities.

Multiple completion well: A well equipped to produce oil and/or gas separately from more than one (1) reservoir.

Nuisance: A facility which is not being constructed, operated or installed in substantial compliance with the Regulations and any applicable conditions of approval and as to which the applicant has failed or refused to abate, correct or discontinue the violation of this Chapter after being ordered to do so by the Board of County Commissioners.

O.G.C.C.: Oil and Gas Conservation Commission of the State of Colorado.

Operating plan: A general description of a facility identifying purpose, use, typical staffing pattern, seasonal or periodic considerations, routine hours of operating, source of service/infrastructure and any other information related to regular functioning of that facility.

Operator: That individual or firm engaged in all or a portion of the extraction operations at a well or other facility; usually the lessee of the mineral estate, although day-to-day operations may be contracted to another firm.

Pollution: The contamination or other substantial degradation of the physical, chemical or biological properties of water or air.

Producing, in production: The development stage in which marketable oil and gas are extracted from a well; may also signify the extraction level at which the quantitative terms of the lease are fulfilled.

Quiet zone: Area within one-half (½) mile of a school, hospital, institution of learning, court, rest home or other designated area where exceptional quiet is necessary, while the same are in use.