

**LAS ANIMAS COUNTY
LAND USE REGULATIONS**

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GENERAL PROVISIONS

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CHAPTER I

GENERAL PROVISIONS

1.01 Title

The title of this document shall be *The Las Animas County Land Use Regulations*, referred to hereinafter as "these Regulations" or "the Regulations."

1.02 Authority

Las Animas County is authorized and enabled by statute to establish zoning districts, to control land uses in those districts; to regulate the subdivision of land and building activities; to plan for and regulate various activities on and uses of land by Title 30, Article 28 and Title 29, Article 20, Colorado Revised Statutes; to identify, designate and regulate areas and activities of local concern and state interest by Title 24, Article 65.1, Colorado Revised Statutes, as amended; and to regulate Planned Unit Developments (PUDs) by Title 24, Article 67, Colorado Revised Statutes, 1973 as amended.

1.03 Purpose

The purpose of these Regulations is to protect and promote the health, welfare, safety, comfort, convenience and prosperity of the present and future residents of Las Animas County, as enabled and required by the constitutions and laws of the State of Colorado and the United States.

These purposes include securing for County residents safety from fire, floodwaters, toxic substances and other potential hazards, dangers and nuisances; protecting the tax base of Las Animas County, conserving and promoting the value of property, securing economy in government operations, providing for the phased development of government services, fostering the emergence of balanced, orderly patterns of growth, protecting existent urban and rural development, preserving areas of historical and archaeological significance, protecting the physical environment and otherwise accomplishing the goals, objectives and policies of Las Animas County as set forth in the Las Animas County Master Plan.

The regulations, district characteristics, standards and other provisions of these Regulations have been proposed and adopted on the basis of comprehensive studies prepared with reasonable consideration

given to, among other items, past, current and projected future social, economic and environmental conditions within Las Animas County and the surrounding territory and the identified beliefs, aspirations and needs of the residents of this County regarding present and future utilization of the land and the erection of structures thereon in a manner that will promote and foster the public health and safety.

1.04 Scope

The provisions of these Regulations shall apply to all private and public land and structures located within Las Animas County except land within the boundaries of municipal corporations and except as otherwise prohibited by state or federal law.

1.05 Interpretation and Application

The provisions of these Regulations shall be considered the minimum requirements for the protection of the public health, safety, welfare, comfort, convenience and prosperity of the present and future residents of Las Animas County. Consequently, these Regulations shall be regarded as remedial and, where appropriate, it shall be construed liberally in order to accomplish its purpose.

Whenever a given element in these Regulations contains provisions regarding the same subject matter as any other element or any other law, statute, regulation or resolution of Las Animas County, the State of Colorado or the United States, the more restrictive requirement shall apply unless otherwise specified.

Words in these Regulations used in the present tense include the future tense, words in the singular include the plural, words in the plural include the singular, the word "shall" is mandatory and the word "may" is permissive. The feminine gender includes the masculine and vice versa.

1.06 Severability

Should any part, section or provision of these Regulations be declared illegal, unconstitutional or otherwise invalid by any court of competent jurisdiction, such action shall have no bearing upon the validity, application or effect of the remainder of these Regulations.

1.07 Repeal; Applicability

All regulations, resolutions and amendments to such regulations and resolutions of Las Animas County in effect prior to the adoption of these Regulations are hereby repealed. The repeal of any prior regulations or resolutions does not revive any other regulation or resolution or portion thereof. This repeal shall not affect or prevent the prosecution or punishment for the violation of any resolution or regulation hereby repealed, for any offense committed prior to the repeal. These Regulations are not intended to abrogate, annul, govern over or prevail over any permits or easements issued prior to the effective date of their adoption.

1.08 Application to Developments in Process

All applications for land use changes initiated on and after August 1, 2010, shall be reviewed pursuant to the review process and standards set forth in these Regulations, as amended by Resolution No. 10-47, and effective on that date. All applications for land use changes submitted for review prior to August 1, 2010, shall be reviewed pursuant to the process and under the criteria set forth in applicable portions of these Regulations in force prior to that date. Such prior regulations are continued in force and effect for that limited purpose only. Upon approval or denial of all such remaining applications, the prior regulations shall be deemed repealed. In no event shall any resubmission of an application after its rejection or any application filed after the effective date of these regulations be reviewed under any such prior regulations.

1.09 Master Plan Compliance

All land use changes, as defined herein, shall be in compliance with the goals, objectives, policies and other provisions of the Las Animas County Master Plan.

1.10 Planning Commission

1.10.01 Creation and Organization

The Board of County Commissioners shall establish and maintain a County Planning Commission in the manner provided for by the laws of the State of Colorado. Each such member of the Planning Commission shall be a resident of the County. The Board of County Commissioners may appoint associate members of the

Planning Commission, each of whom shall be a resident of the County. In the event any regular member is temporarily unable to act before the Planning Commission or any other cause, his place may be taken during such temporary disability by an associate member designated for the purpose.

The terms of the appointed members of the Planning Commission shall be as provided for by the laws of the State of Colorado, and the members of the Commission shall receive such compensation as may be fixed by the Board of County Commissioners. The Board of County Commissioners shall provide for reimbursement of the members of the Planning Commission for actual expenses incurred, for the filling of vacancies in the membership of the Planning Commission and for the removal of members for nonperformance of duty or for misconduct. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.

The Planning Commission shall elect a chairman from among its members, whose term shall be for one (1) year, and the Planning Commission may create and fill such other offices as it may determine and adopt such rules and regulations governing its procedure as it considers necessary or advisable and shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times. The powers and duties of the Planning Commission shall be as provided for by the laws of the State of Colorado.

1.10.02 Meetings

The Planning Commission shall meet periodically to review and process applications and other requests and matters submitted to it. All meetings shall be open to the public and an agenda of items to be considered by the Planning Commission shall be made available to the public prior to the meeting. The Planning Commission may call special meetings to review, discuss, recommend or take action on matters that may periodically come to its attention.

A majority vote of the voting members of the Planning Commission is required for a recommendation or determination. In the event of a dissenting vote by one or more members of the

Planning Commission, a roll call vote shall be recorded in the minutes of the meeting. Minutes of Planning Commission meetings shall be a matter of public record within a reasonable time after any official meeting of the Planning Commission and any persons wishing to have a transcript of the proceedings may have a court recorder present at their own expense.

1.10.03 Procedures

At public hearings conducted by the Planning Commission, any party at interest shall be allowed to present evidence. A **party at interest** for this purpose shall be defined to include an applicant or duly appointed representative of an applicant, owners of and tenants on property adjacent to the site under discussion, members of the Planning Commission and their officers, agents or representatives.

Public hearings before the Planning Commission shall be conducted as follows:

1. The Planning Commission may, at its discretion, limit the presentation of evidence and cross-examination in order to prevent repetitive, redundant or superfluous evidence or cross-examination.
2. Whenever the Planning Commission decides to table review, discussion or action on an agenda item before the Commission, it may do so without further notice to the affected parties. The matter tabled shall be rescheduled within thirty (30) days from the date of the meeting at which it was heard unless the Planning Commission receives written consent from the applicant to extend the time period. If an applicant or duly appointed representative is not present, the Planning Commission may decide on its own initiative to continue a proposal or other agenda item.
3. Failure of the Planning Commission to act on any proposal or other agenda item before it within a specified time period, involving a tie vote, shall be considered by the Board of County Commissioners as a de facto recommendation for approval of the item in question.

4. Applicants appearing at a public hearing before the Planning Commission shall be notified in writing within five (5) working days after the Planning Commission takes action or makes a recommendation of the action taken or recommendation made and any comments or special conditions recommended.

1.10.04 Actions of the Planning Commission

The Planning Commission shall make one (1) of the following recommendations:

1. Approval without any special conditions.
2. Conditional approval with a description of the special conditions.
3. Denial, indicating for the record the reasons for such action.
4. Continuation until a future date to gather more information or obtain clarification or for any other relevant cause.

1.11 Board of Adjustment

1.11.01 Creation and Organization

A Board of Adjustment is hereby created. The purpose of the Board shall be to provide for special exceptions to certain provisions of this zoning regulation in conformance with its general purpose and intent and the purpose and intent of these Regulations. The term *Board of Adjustment* and the word *Board*, when used in this Section, shall mean the Board of Adjustment established herein.

The Board of County Commissioners shall appoint the members of the Board of Adjustment, which shall consist of five (5) voting members. Each of the members of the Board shall be a resident of the County. Until otherwise provided, the members of the Board shall serve without compensation, except for reimbursement of actual expenses, and each member shall serve for five (5) years.

Any member of the Board of Adjustment may be removed for cause by the Board of County Commissioners upon written charges and after a

public hearing. Vacancies shall be filled for an unexpired term in the same manner as in the case of original appointments. The Board of County Commissioners may appoint associate members to the Board of Adjustment and, in the event that any regular member is temporarily unable to act owing to absence from the County, illness, interest in a case or other cause, his place may taken during such temporary disability by an associate member designated for that purpose.

The Board of Adjustment shall elect from its members a chairman, whose term of office shall be one (1) year, and other such officers as the Board sees fit to create. The Board shall adopt such rules and regulations governing its proceedings as it considers necessary or advisable, and the Board shall meet as often as necessary to hear and act upon applications and other appropriate matters within its duties and powers.

All meetings of the Board of Adjustment shall be open to the public, and the Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. Any persons wishing to have a transcript of the proceedings of the Board may have a court recorder present at their own expense.

Until the Board of County Commissioners appoints the members of the Board of Adjustment, the Board of County Commissioners shall sit as the Board of Adjustment. In that event, the membership of the Board of Adjustment shall be three (3) members.

1.11.02 Powers and Duties of the Board

The Board of Adjustment shall have the following powers and duties, which shall be exercised in accordance with the laws of the State of Colorado and the provisions of these Regulations and in harmony with the public interest and the most appropriate use of the land:

1. To hear and decide appeals when it is alleged that there is or has been an error in any order, requirement, decision, denial or

refusal made by an administrative officer or agency based on or made in the enforcement of the zoning district regulations contained within these Regulations.

2. To interpret the zoning district boundaries and pass upon disputed questions of lot lines and similar questions that may arise periodically in the administration of these Regulations.
3. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of enactment of these Regulations, or by reason of exceptional topographic conditions or other extraordinary or exceptional physical characteristics or conditions of such piece of property not created by the applicant subsequent to the adoption of these Regulations or previously adopted County zoning regulations, the strict application of any zoning regulation or provision therein would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, the Board shall have the authority, upon an appeal relating to said property, to authorize a variance from such strict and literal application so as to relieve such difficulties or hardship. Such relief shall be granted without substantial detriment to the public good and without altering or impairing the intent and purpose of the zoning regulations and other provisions contained within these Regulations. The Board shall not have the power to grant variances from the uses prohibited or permitted conditionally in the zoning district involved.
4. To review and decide upon such other matters relating to this zoning regulation as may be specifically referred to the Board by other provisions of these Regulations or by the Board of County Commissioners, by the County Building Inspector or by the Planning Director.
5. Meetings of the Board of Adjustment shall be held at the call of the chairman and at other such times as the Board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of

witnesses by application to the district court. The court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings.

1.11.03 Appeals Procedure

Appeals to the Board of Adjustment may be made by any person aggrieved by an inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of these zoning regulations. Appeals to the Board shall be made within thirty (30) days after the effective date of the order, requirement, decision or refusal alleged to have occurred or to be in error. Appeal applications submitted to the Board of Adjustment shall include a full and accurate legal description of the land involved.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or agency or to decide in favor of an appellant. In the event the Board of County Commissioners is functioning as the Board of Adjustment, the concurring vote of three (3) members shall be necessary.

The Board shall hold a public hearing on all appeals. A notice of public hearing shall be published in the manner set forth in Section 2.04.

The applicant shall also mail a written notice of the hearing in the manner set forth in Section 2.04.

All appeals to the Board of Adjustment shall be in writing and on such forms as shall be prescribed by the Board and the appropriate filing fee (see Chapter XII) shall accompany the application. Every appeal shall state what provisions of the zoning regulation are involved, what relief from the provisions is being sought, and the grounds on which the relief should be granted to the applicant. The chairman of the Board, or his appointed designee, shall call a meeting of the Board scheduled to take place no earlier than fifteen (15) days after the submission of the appropriate materials, including proof of notification of a public hearing, and at the same time the

Board of Adjustment may, at its discretion, transmit a copy of the appeal to the Planning Commission or other appropriate public bodies for review and comment.

Any further appeal from decisions made by the Board of Adjustment shall be made to the courts, as provided by law.

1.12 Building Codes

It is unlawful to erect, construct, reconstruct, alter or remodel any building, structure or improvements of land within the unincorporated territory of Las Animas County except as allowed for by the building codes adopted by Las Animas County. No building permit may be issued unless the County has determined that adequate water, sewer and electrical supplies are available on the site.

Any required agreement for construction in the County right-of-way (Pipeline Agreement, Electrical Agreement, Cattle Guard Agreement, Communication Device ROW Agreement, etc.) shall be obtained from the Las Animas County Road and Bridge Department prior to the commencement of any construction within a County right-of-way.

No building or structure shall be demolished without first obtaining a demolition permit for such work. The County may demolish buildings declared nuisances, charging the costs thereof to the owner, and if not paid, as a lien upon the property to be collected in the same manner as taxes.

1.13 Definitions

Unless the context otherwise requires, the following words and phrases shall be defined as stated below. The masculine shall include the feminine and vice versa. The singular shall include the plural. The Planning Director shall decide any questions or disputes regarding the interpretation and application of the definitions.

Accessory building, structure or use: A subordinate building, structure or use customarily incidental and subordinate to the principal building, structure or use and located on the same lot as the principal building, structure or use.

Addition: Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Adjacent: Meeting, abutting or touching at some point, or located across a street, alley or other right-of-way.

Adjacent property owner: An owner of record of any estate, right or interest in real property which is adjacent to the subject land.

Agriculture: The use of land for farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for harvesting, packing, treating or storing the produce, excluding forestry.

Airport: The land used by aircraft to take off and land, together with all facilities and adjacent land used in connection with the operation of aircraft.

Airport elevation: The highest point of an airport's usable runway, measured in feet above mean sea level.

Airport imaginary surfaces: Imaginary areas in space and on the ground, defined by FAR Part 77, which are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, approach surface, horizontal surface, conical surface and transitional surface.

1. **Primary surface:** A surface longitudinally centered on a runway with dimensions as specified by FAR Part 77.
2. **Approach surface:** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. Dimensions are defined by FAR Part 77. Sometimes designated as **approach zone**.
3. **Horizontal surface:** A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is defined by FAR Part 77.
4. **Conical surface:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000) feet.

5. **Transitional surface:** Those surfaces that extend upward and outward at ninety-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of the approach surface and at a ninety-degree angle to the extended runway centerline.

Anemometer: An instrument, usually located on a tower, that measures wind speed.

Antenna: Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omnidirectional antennas, such as whips, but not including satellite earth stations.

Applicant: Any person making application for a land use change or other action encompassed by these Regulations. (See also **Person**.)

A-weighted sound level (dba): A measurement of sound pressure level, which has been filtered or weighted to progressively de-emphasize the importance of frequency components below 1,000 Hz and above 5,000 Hz. This reflects the fact that human hearing is less sensitive at low frequencies and at extremely high frequencies, relative to the midrange of the frequency spectrum. This area of sensitivity also corresponds to the human speech band. This measurement is the most commonly used filter in both industrial noise applications (OSHA) and community noise regulations.

Block: An area of land within a subdivision or proposed subdivision and bounded entirely by streets, roads or other thoroughfares, except alleys, or the exterior boundaries of the subdivision.

Board of Adjustment: The body appointed by the Board of County Commissioners whose authority and procedures are described in Sections 30-28-117 and 30-28-118, C.R.S., and in Section 1.11 of these Regulations.

Board of County Commissioners: The Board of County Commissioners of Las Animas County, Colorado.

Building: Any structure with a roof supported by columns and/or walls or other structure and intended for enclosing, sheltering or protecting any use or occupancy. The term **building** shall include modular or prefabricated buildings that do not fall within the definition of manufactured housing or mobile homes.

Building height: The vertical distance as measured from the average finished grade to the point lying one-half the distance between the lowest and highest point on the roof of the building.

Building permit: A permit issued by the County Building Inspector for construction, alteration or reconstruction of a building or other structure upon compliance with these Regulations and all other applicable rules and regulations.

Camping: Any improved property used or to be used for the parking of camping units, and also referred to as a **campground**.

Camping unit: Any pick-up camper, motor home, recreational vehicle, travel trailer, tent trailer or similar mobile unit not exceeding either eight (8) feet in body width or forty (40) feet in body length and designed and used specifically for recreational purposes.

Camping unit space: A plot of ground within a campground designed for the accommodation of one (1) camping unit.

Certificate of designation: A document authorizing the operation of a facility for solid waste disposal.

Club: A membership organization, including lodges, catering exclusively to members and their guests and whose facilities are limited to meeting, eating and recreational or related uses and are not conducted principally for monetary gain.

Collector street: A street of limited continuity serving or intended to serve as a feeder of local traffic into one (1) or more major thoroughfares.

Common open space: As used in Chapter V of these Regulations, a parcel of land, an area of water or a combination of land and water within the site designed for a planned unit development, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development.

Communication facility: A structure or tower and accessory buildings, supporting antennas and microwave dishes that send and/or receive radio frequency signals. Individual or personal direct-to-home satellite services are not included in the definition of **Communication facility**.

Communication tower: A guyed, monopole or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, containing one (1) or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone or similar forms of electronic communication.

Confined animal feeding operations: Any animal feeding operation where animals are fed at the place of confinement and crop or forage growth in production is not sustained in the area of confinement, and the number of any type of animals held for that purpose exceeds thirty (30) animals.

Contiguous: Sharing an edge or boundary, touching.

Corrections facility: A use which provides housing, treatment or care for individuals legally confined or placed as a result of criminal charges and designed to incarcerate or rehabilitate individuals in either a secured or non-secured setting.

County: Las Animas County, Colorado.

C-weighted sound level (dbC): The measurement of sound pressure level which is designed to be more responsive to low-frequency noise. C-weighting is intended to represent how the ear perceives sound at high decibel levels and is also used for evaluating impact or impulse noise, such as demolition or mining blasting, artillery firing and bomb explosions using conventional explosives of less than approximately one (1) ton.

Decibel (db): The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level, often set as 0 db (A-weighted). In general, this means the quietest sound we can hear is near 0 db (A-weighted) and the loudest we can hear without pain is near 120 db (A-weighted). Most sounds in a typical environment range from 30 to 100 db (A-weighted). Normal speech at three (3) feet averages about 65 db (A-weighted).

Density: A unit of measurement, specific to development, to be interpreted as the number of dwelling units per acre of land.

Development: Any activity or construction, excluding normal agricultural activities, that changes the existing character or use of the land.

Development agreement: The agreement between the owner and the County which specifies the terms and conditions of the land use permit approval. This agreement implements the site specific development plan which establishes vested rights under Article 68 of Title 24, C.R.S.

Distribution system: A network of pipes and conduits through which water is piped to the public for human consumption.

Domestic water and sewage treatment system: A wastewater treatment plant, water treatment plant or water supply system and any system of pipes, structures and facilities through which wastewater is collected for treatment.

Dwelling: A building designed to be used or used as the living quarters for one (1) or more persons, families or housekeeping units, including manufactured homes but excluding mobile homes. (See **manufactured home** and **mobile home**.)

Dwelling unit: A building or portion thereof designed to be used or used as the living quarters for one (1) person, family or housekeeping unit, including manufactured homes but excluding mobile homes. (See **manufactured home** and **mobile home**.)

Easement: An acquired right of use, interest or privilege in land owned by another.

Electric power distribution lines and facilities: Structures, lines and appurtenant facilities used for the distribution of electric energy in voltages less than 69,000 volts.

Electric power generation facility: Any electric power generating facility and appurtenant facilities with generating capacity of ten (10) megawatts or more.

Electric power transmission line: Any power line designed for or capable of transmitting electric energy in voltages of 69,000 volts or more, and which emanates from an electrical power plant or electric substation and terminates at a substation.

Evidence: Any map, table, chart, contract or other document or testimony, prepared or certified by a qualified person to attest to a specific claim.

FAA: The Federal Aviation Administration.

Final plat: A map or maps and supporting materials for recording of real estate interests with the office of the County Clerk and Recorder and executed by a registered surveyor, such survey being marked on the ground so that the streets, blocks, lots and other divisions thereof can be identified and drawn in accordance with the provisions of these Regulations.

Garage, commercial: Any building or structure where motor vehicles are stored, restored, repaired, painted or serviced for payment.

Golf course: A regulation nine- or eighteen-hole course for the game of golf, which may or may not be accompanied by a country club, but not including freestanding miniature courses, putting courses or golf driving ranges.

Grade, finished: The final elevation of the ground surface after development.

Gross density: The average number of dwelling units per acre of a development or a proposed development.

Gross floor area: The total floor area of a structure as measured along the outside walls at floor level, and including all floors but excluding open balconies and porches or enclosed parking areas and related features.

Ground water: Subsurface water within and below the zone of continuous saturation.

Group home: A facility operated by a public, nonprofit, or private agency, which provides twenty-four-hour care or supervision of persons who are not related by blood, marriage or adoption to the facility's owner, operator or manager.

Hazard: A natural or manmade phenomenon or condition which is a significant source of risk, danger or peril.

Hazardous waste: Any material, alone or mixed with other materials, which has no commercial use or value, or which is discarded or is to be discarded if its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or to the environment when treated, stored, transported, disposed of or otherwise managed.

Heliport: A structure or area of land or water used or intended to be used by helicopters for takeoff and landing, and the appurtenant buildings and facilities, including: necessary passenger and cargo facilities, fueling and emergency service facilities.

Helistop: A minimally developed heliport for landing and discharging passengers or cargo, and not intended for refueling or maintaining itinerant helicopters.

Historic site: A structure or place of historical significance. Such structure or place may be designated a historic site by local, state or federal government and given official status and protection.

Home occupation: Any use within a dwelling and carried on by the inhabitants, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling.

Hotel, motel or lodge: A building or portion thereof with sleeping rooms used or design to be used, let or hired for occupancy by persons on a temporary basis and containing at least six (6) such guestrooms.

Impact: The direct or indirect effect or consequence resulting from a development upon land, the environment, the community or any part or segment thereof. The term shall include, but not be limited to, physical, environmental, economic, visual, auditory or social consequences or effects.

Improvements: Street surfacing, paths, bikeways, sedimentation control facilities, re-vegetation, curbs, gutters, sidewalks, water mains, sanitary and storm sewers, gas lines, electric and telephone lines and appurtenances, street signs, trees and lights, lot pin monuments, range point boxes and other such items as may be required for or provided in compliance with the provisions of these Regulations.

Individual Sewage Disposal System (ISDS): An absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing or disposing of sewage that is not part of or connected to a sewage treatment works as that term is defined in Section 25-10-103 (20), C.R.S., as amended.

Junkyard: A building, structure or parcel of land or combination thereof used for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material or for the collecting, dismantling, storage, salvaging or demolition of vehicles, machinery or other materials and including the sale of whole item or parts thereof.

Kennel: Any building, structure or open space devoted wholly or partially to the raising, boarding or harboring of six (6) or more animals that are over four (4) months old.

Landing strip: A minimally developed airport for landing and discharging passengers or cargo, and not intended for refueling or maintaining itinerant aircraft.

Land use change: Rezoning of property, subdivision of land, substantial clearing, grading, filling or excavation, construction, alteration or moving of buildings, or any action listed as an "approval requested" in the Review Process Chart. (See Section 2.03.)

Loading area: A parking space other than a public street or alley for the parking of commercial vehicles for the purpose of loading or unloading materials or merchandise.

Local street: A street serving individual lots within a subdivision.

Lot: A parcel or portion of land separated from other parcels or portions of land by specific description as in a subdivision plat or plan, record of survey or by metes and bounds description and used or intended to be used as a unit for transfer of ownership, record of ownership or development.

Lot area: The total horizontal area within the lot lines of a lot.

Lot depth: The average distance from a street or road right-of-way to the rear lot line, which is the lot line opposite and most distant from said right-of-way line.

Lot width: The average distance between the side lot lines.

Manufactured home: A single-family dwelling which is partially or entirely manufactured in a factory; is not less than twenty-four (24) feet in width and thirty-six (36) feet in length; is installed on an engineered permanent foundation; has brick, wood or cosmetically equivalent exterior siding and a pitched roof; is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. § 5401, et seq., as amended, and which meets or exceeds on an equivalent performance engineering basis standards established by the applicable building code. **Equivalent performance engineering basis** means that, by using engineering calculations or testing following commonly accepted engineering practices, all components and subsystems will perform to meet health, safety and functional requirements to the same extent as required for other single-family dwelling units.

Master plan: A plan developed by the Planning Commission in accordance with Section 30-28-106, Colorado Revised Statutes, and all portions of and amendments to such plan.

Meteorological (MET) Tower: Any tower together with associated instrumentation or devices used for assessment of wind energy.

Mineral interest: An interest in real property that may be severed from the surface estate of the subject real property; which if severed, is shown in the real estate records of Las Animas County; and which is not owned as part of the full fee title to the real property.

Mitigation: An action which will have one (1) or more of the following effects:

1. Avoiding an impact by not taking a certain action or parts of an action;
2. Minimizing an impact by limiting the degree or magnitude of the action or its implementation;
3. Rectifying an impact by repairing, rehabilitating or restoring the impact area, facility or service;
4. Reducing or eliminating an impact over time by preservation and maintenance operations; and
5. Compensating for an impact by replacing or providing suitable biological and physical conditions and by replacing or providing suitable services and facilities.

Mobile home: A structure designed to be transported after fabrication and exceeding either eight (8) feet in overall body width or thirty-two (32) feet in overall body length, excluding exterior appendages. Such structures, to qualify as mobile homes, shall bear a Federal Certification seal, as specified in 24 C.F.R. Chapter XX, stating that the unit is constructed in accordance with the Federal Manufactured Home Construction and Safety Standards in effect on the date of manufacture for the class of manufactured home specified, unless specifically exempted from such requirements by the provisions of 24 C.F.R. Chapter XX, it shall be suitable for safe human habitation on a year-round basis when equipped with the required plumbing, heating, electrical and related facilities, and it shall be free from apparent health hazards, as determined by the County Building Inspector. Structures not meeting these criteria shall not be deemed to be mobile homes, and the County Building Inspector shall, following inspection, cite in writing the deficiencies which prevent the structure from being defined as a mobile home.

Mobile home park: A parcel of land or continuous lots upon which more than one (1) mobile home or house trailer are located and used for or intended to be used for dwelling purposes.

Multi-family dwelling: A dwelling that was designed to house or houses more than two (2) families.

Municipality: An incorporated city or town.

Nonconforming building or use: Any pre-existing use of a structure, land or premises conflicting with one (1) or more provisions of these Regulations.

Open space: Any land or water area which serves the specific use of: providing park and recreation opportunities, conserving natural areas and environmental resources or protecting areas of agricultural, archeological or historical significance. **Open space** shall not be considered synonymous with vacant or unused land or yards as part of a platted lot.

Parking area: An open space or an enclosed structure or building used exclusively or principally for the storage of motor vehicles.

Parking, off-street: Any parking area located within the limits of one (1) or more lots and not situated on a public road, street or other thoroughfare.

Parking space: The part of a parking area, exclusive of drives, turning areas or loading spaces, devoted to parking for one (1) motor vehicle.

Person: Any individual, partnership, corporation, association, company or other public or corporate body, including the federal government and any political subdivision, agency, instrumentality or corporation of the State.

Pipeline: Any conduit and appurtenant facilities designed for, or capable of, transporting natural gas, other petroleum derivatives or other liquid.

Planned unit development: An area of land, controlled by one (1) or more landowners, to be developed or developed under unified control or a unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not necessarily correspond in lot size, bulk or type of

use, density, lot coverage, open space or other restriction to the provisions contained elsewhere in these Regulations.

Planning Commission: The Las Animas County Planning Commission.

Planning Department: The Las Animas County Planning and Land Use Office.

Planning Director: The Director of the Las Animas County Planning and Land Use Office.

Plat: A map and supporting materials of certain described land prepared in accordance with regulations contained in these Regulations as an instrument for the recording of real estate interests with the office of the County Clerk and Recorder.

Principal use or building: A building in which is conducted the main or principal use of the lot or land area on which said building is located.

Public building or use: Any building open to general use, participation or enjoyment by the public and owned or leased by a unit of government or by a public utility corporation or similar organization.

Public hearing: A meeting called by a public body, for which public notice has been given in compliance with the provisions of these Regulations and which is held in a place where the general public may attend, with the principal purpose of receiving testimony or public comment on a specific application or issue.

Public utility: An electric substation, a gas regulator station, a wire telephone service, a water or sewage pumping station, a water reservoir and similar public services. The term **public utility** does not include communication facilities.

Radioactive waste: A solid, liquid or gaseous material that contains radionuclides in excess of threshold quantities; giving off radiant energy in the form of particles or rays (Alpha Rays, Beta Rays or Gamma Rays).

Recreational vehicle (RV): A vehicle primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Examples of recreational vehicles include, but are not limited to: camping

trailer or tent trailer; motorized camper, motor home, recreational conversion van or bus; pick-up camper; tent; travel trailer.

1. **Camping trailer** or **tent trailer** means a folding structure constructed of canvas, plastic or similar water-repellent material, designed to be mounted on wheels and to be used as a temporary shelter for travel and recreation purposes.
2. **Motorized camper, motor home, recreational conversion van** or **bus** means a self-propelled vehicle consisting of a portable, temporary shelter to be used for travel and recreation purposes.
3. **Pick-up camper** means a structure designed to be mounted on or loaded into a pickup truck chassis for use as a temporary shelter for travel and recreation purposes.
4. **Tent** means a portable, temporary cover or shelter made of canvas, plastic or similar materials supported by poles, with or without side panels, used for travel and recreation purposes.
5. **Travel trailer** means a towed vehicle designed as a temporary shelter used for travel and recreation purposes.

Recyclable materials: Reusable materials, including but not limited to metals, glass, plastic, wood, and paper, which are intended for remanufacturing or reconstitution. Recyclable materials do not include junk, rubbish, refuse or hazardous waste.

Recycling collection center: A center for the acceptance and temporary storage of either recyclable or organic materials to be transferred to a processing or composting facility.

Recycling processing facility: A facility where recyclable and organic materials are collected and processed. Processing includes but is not limited to baling, briquetting, compacting, flattening, crushing, mechanical sorting, shredding and cleaning.

Referral agency: An agency, organization, unit or government, political subdivision, group of persons or individual to whom submittal materials and related text, map and graphic displays

are submitted for review, comment and/or recommendations to be returned to the Planning Commission or the Board of County Commissioners.

Reverse frontage lot: A lot which fronts on one (1) public street and backs on another.

Rural land use process: A process for approving a cluster subdivision.

Roadway: That portion of a street right-of-way designed for vehicular traffic.

Rooming or boarding house: A building or portion thereof with sleeping rooms used or designed to be used, let or hired for occupancy by persons on a temporary basis and containing between one (1) and five (5) such guest rooms.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Scenic corridor: An area adjacent to and extending beyond a state or federal highway in Las Animas County and areas of otherwise special scenic interest that offer mountain, canyon, plains and mountain-plains vistas of uncommon natural meadowlands, igneous rock formations and transitional foothills.

Semi-public building or use: Any building open to the general use, participation or enjoyment of the public and owned or leased by a public agency other than a municipality, county, state or federal government or public utility corporation.

Service building: A building housing toilet and bathing facilities for men and women with laundry facilities and other such facilities as may be required by the mobile home park and campground regulations contained herein.

Setback: The distance required by the provisions of these Regulations between the face of a building and the lot line opposite that building face, measured perpendicularly to the building. Where angled buildings or lots or curved streets or similar features exist, the setback shall be measured as a mean distance.

Sign: Any structure, poster, banner, insignia, billboard, trademark or other device used to indicate directions, advertise, provide information

or announce products, goods or services or attract attention, except that flags and banners of any county, state, municipality or nonprofit organization shall be exempt from this definition.

Sign area: The sum area of the surface of each plane of the sign, within the outermost edge or border of the plane. The sign area of freestanding letters not attached to a surface or plane shall be the area enclosed within the smallest geometric figure needed to completely encompass all of the letters, words, insignias or symbols.

Sign, off-premises: Any sign which contains a message unrelated to the business conducted or to a commodity, service or entertainment sold or offered on the premises upon which the sign is located.

Single-family dwelling: A dwelling designed for or occupied by a single family.

Site specific development plan: The approved plan which has been submitted to the County to establish a vested right pursuant to Title 24, Article 68, C.R.S., as amended, and set forth in Section 7.08 of these Regulations.

Small wind energy system: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than one hundred (100) kW and which is intended to primarily reduce on-site consumption of utility power.

Solar easement: The right of receiving sunlight across real property for any solar energy device. Such a right may be stated in any deed, will or other instrument executed by or on behalf of any owner of land or sky space.

Solar energy device: A solar collector or other device or a structural design feature of a structure which provides for the collection of sunlight and which comprises part of a system for the conversion of the sun's radiant energy into thermal, chemical, mechanical or electrical energy.

Solid waste: Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial or commercial operations or from

community activities. **Solid waste** in this Section will include any solid or dissolved materials in domestic sewage, or agricultural wastes, or solid or dissolved materials in irrigation return flows, or industrial discharge which are point sources subject to permits under the provisions of the "Colorado Water Quality Control Act," Title 25, Article 8, C.R.S. 1973, or materials covered under "Radiation Control Act" in Title 25, Article 2, C.R.S. 1973.

Stream: Any natural channel or depression through which water flows either continuously, intermittently or periodically, including any artificial modification of the natural channel or depression.

Street: A way for vehicular traffic, whether designated as or called a street, highway, thoroughfare, road, avenue, parkway or however else designated.

Structural alteration: Any addition to or subtraction of parts of a building, including walls, columns, beams, girders, foundations, doors, windows and other related parts.

Structure: Anything constructed or erected upon the ground except utility poles, flag poles or walls or fences less than six (6) feet high.

Subdivider: Any person, firm, company, partnership, joint venture or other group or association who shall participate as owner, promoter, developer, representative or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

Subdivision or subdivided land: Any parcel of land which is to be used for condominiums, apartments or any other dwelling units, unless such land when previously subdivided was accompanied by a filing which complied with the provisions of the State of Colorado subdivision law with substantially the same density, or which is divided into two (2) or more parcels, separate interests or interests in common, unless exempted by the Board of County Commissioners, as provided for in these Regulations. As used in this definition and elsewhere in these Regulations, **interests** includes any and all interests in the surface of land but excludes any and all subsurface interests.

The terms **subdivision** and **subdivided land** shall not apply to any subdivision of land which

creates parcels of land each of which comprises thirty-five (35) or more acres of land and none of which is intended for use by multiple owners.

Unless the method of disposition is adopted for the purpose of evading this definition and State of Colorado subdivision law, the terms **subdivision** and **subdivided land**, as defined herein, shall not apply to any division of land:

1. Which creates parcels of land such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five (35) or more acres per interest.
2. Which could be created by any court in this State pursuant to the law of eminent domain, or by operation of law or by order of any court in this State if the Board of County Commissioners of Las Animas County is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this definition and State of Colorado subdivision law prior to entry of the court order and, if the Board of County Commissioners does not file an appropriate pleading within twenty (20) days after receipt of such notice by the court, such action may proceed before the court.
3. Which is created by a lien, mortgage, deed of trust or any other security interest.
4. Which is created by a security or unit of interest in any investment trust regulated under the laws of the State of Colorado or any other interest in an investment entity.
5. Which creates cemetery lots.
6. Which creates an interest in oil, gas, minerals or water which is severed from the surface ownership of real property.
7. Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common and any such interest shall be deemed for the purposes of this definition as only one (1) interest.
8. Which is created by the combination of contiguous parcels of land into one (1) larger parcel. If the resulting parcel is less than

thirty-five (35) acres in land area, only one (1) interest in said land shall be allowed. If the resulting parcel is greater than thirty-five (35) acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five (35) or more acres per interest. Easements and rights-of-way shall not be considered interests for the purposes of this Item 8.

9. Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to these Regulations and any applicable County regulations, the land which he is to acquire pursuant to the contract.

Subdivision, cluster: Any division of land that creates parcels containing less than thirty-five (35) acres each, for single-family residential purposes only, where one (1) or more tracts is being divided pursuant to a rural land use process and where at least two-thirds ($\frac{2}{3}$) of the total area of the tract or tracts is reserved for the preservation of open space.

Subdivision, single transaction large lot: Any division of land done for the purpose of changing the form of ownership of a previously subdivided parcel, provided that the change does not alter the overall existing density of the parcel being subdivided.

Subdivision improvements agreement: One (1) or more security arrangements which may be accepted by Las Animas County to secure the construction of such public improvements as are required by the County subdivision regulations.

Tract: A parcel of land or contiguous combination thereof.

Transfer station: A facility at which refuse, awaiting transport to a disposal site, is transferred from one (1) type of containerized collection receptacle into another or is processed for compaction.

Two-family dwelling: A dwelling designed or used for occupancy by two (2) families.

Use: The purpose for which any land, structure or building is designed, constructed, maintained or occupied.

Vacation lodge: A building or group of buildings containing individual rooms for sleeping and

general occupancy and designed and used or intended to be used for more than short-term occupancy.

Vested property right: The right to undertake and complete the development and use of property under the terms and conditions of a County-approved site specific development plan, as defined in Section 24-68-102(5), C.R.S.

Wind farm: A single wind-driven machine or a collection of wind-driven machines or turbines that convert wind energy into electrical power for the primary purpose of sale, resale or offsite use.

Yard: The space on the same lot as a building or structure that is unoccupied and open to the sky.

Yard, front: That portion of a yard between the street line and the building and between the two (2) side lot lines, the depth of which shall be the least distance between the front lot line and the building.

Yard, rear: That portion of a yard between the rear of a building and the rear lot line and between the two (2) side lot lines, the depth of which shall be the least distance between the building and the rear lot line.

Yard, side: All the yard between the front and rear yards, the width of which shall be the least distance between the side lot line and the building.

CHAPTER II
DEVELOPMENT REVIEW

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CHAPTER II

DEVELOPMENT REVIEW

2.01 Generally

All land use changes within the County shall be required to follow the procedures and satisfy the requirements set out below prior to development. "Land use change," as used in these Regulations, is a general and inclusive term, and is defined at Section 1.13. The developer is required to attend in person or by authorized representative all meetings at which the project is considered, unless otherwise notified by the Planning Department. No land use change may be undertaken except in accordance with and pursuant to the appropriate approvals listed in the Review Process Chart, Section 2.03.

All land use changes must also obtain building and construction permits pursuant to the building, fire, plumbing, mechanical and other codes adopted by the County, and must comply with all other applicable sections contained within these Regulations.

2.02 Review Process

All land use changes must be reviewed and approved in accordance with the review process and standards set forth in this Chapter II. The following chart establishes the required review steps applicable to different forms of approval which may be requested. Applicants should refer to the chart to

determine which one (1) or more "APPROVAL REQUESTED" under the left-hand column of the chart applies to their proposed development. The required stages of review for each approval are shown on the lines to the right. Submission requirements and the specific review process for each stage are set out in detail in the balance of these Regulations under the appropriate headings. Unless otherwise indicated, amendment or modification of a prior approval follows the procedure for review of the original application.

In the event the Planning Commission or County department with jurisdiction under this section recommends denial of an application at any stage, the applicant may choose to proceed to the next stage of review or may resubmit the application at the first stage. In the event the review stage is before the Board of County Commissioners, the application may not be further processed following a denial. If, in the opinion of the Planning Director, a submittal at any stage of review is incomplete, the matter shall be removed from the agenda and not further processed until deemed complete.

The Planning Commission, Board of County Commissioners, Board of Adjustment or Planning Director may require at any stage of review of any land use change the submission of any plan, study, survey or other information, in addition to that specified in these Regulations, and at the applicant's expense, as such body may determine necessary to enable it to review and act upon the application in order to determine whether the application complies with the requirements of these Regulations.

2.03 Review Process Chart

| Approval Requested | Pre-Review | Preliminary | | Final | | | | Notes |
|--------------------------------|------------|-------------|------|-------|----|------|-----|-----------|
| | Staff | PC | BOCC | Staff | PC | BOCC | BOA | |
| Site Plan | X | | | X | | | | |
| Major Subdivision ¹ | X | H | H | X | X | H | | SIA Req'd |
| Cluster Subdivision | X | | | X | X | H | | |
| Minor Subdivision ¹ | X | | | X | | | | |
| Plat Amendment | X | | | X | | | | |
| Plat Vacation | X | | | X | H | H | | |
| Replat | X | | | X | H | H | | |
| PUD Subdivision | X | X | H | X | X | H | | SIA Req'd |
| PUD Non-subdivision | X | | | X | H | H | | |

| Approval Requested | Pre-Review | Preliminary | | Final | | | | Notes |
|----------------------|------------|-------------|------|-------|----|------|-----|-------|
| | Staff | PC | BOCC | Staff | PC | BOCC | BOA | |
| Rezoning | X | | | X | H | H | | |
| Special Use Permit | X | | | X | H | H | | |
| Sign Permit | X | | | X | - | - | | |
| Sign Permit (Appeal) | X | | | X | X | X | | |
| Variance | X | | | | | | H | |
| Temporary Use Permit | X | | | X | | | | |
| H.B. 1041 Permit | X | | X | X | | H | | |

¹ If five or fewer parcels, minor subdivision process applies. If six or more parcels, major subdivision process applies.

- Key:** PC Planning Commission
 BOCC Board of County Commissioners
 BOA Board of Adjustment
 X Meeting required
 H Public hearing required
 S/A Subdivision Improvement Agreement

2.04 Public Hearing Notices

2.04.01 Published Notice

At least fourteen (14) days prior to any public hearing for a land use change which requires approval by the Planning Commission, Board of County Commissioners or Board of Adjustment, the Planning Director shall cause to be published, in the legal section of a newspaper of general circulation within the County, a notice of public hearing. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of the hearing; and the location of the parcel under consideration, by both address and legal description. Publication of the notice is the responsibility of the applicant. Applicants shall be billed directly by the newspaper publisher and shall submit proof of publication of the notice with the hearing authority before the hearing may take place.

2.04.02 Posted Notice

At least fourteen (14) days prior to any public hearing which requires posted notice, the Planning Director shall cause to be prepared, and the applicant shall post, a sign (one [1] per street frontage) upon the parcel under consideration for approval which provides notice of the kind of

action requested; the hearing authority; the time, date and location of the hearing; and the location of the parcel under consideration by both address and legal description. The signs shall follow a form prescribed by the County and shall consist of at least one (1) sign facing each adjacent public right-of-way. Such signs shall measure at least three (3) feet by four (4) feet, the size of all letters shall be at least two (2) inches high and the signs shall be erected on posts not less than four (4) feet nor more than six (6) feet above ground level. The fact that a parcel was not continuously posted the full period may not, at the full discretion of the hearing authority, constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made.

2.04.03 Mailed Notice

Not less than twenty-one (21) days prior to any public hearing which requires notification by letter, the applicant shall provide to the Planning Director the following information, as applicable to the property under consideration:

1. A list of property owners within three hundred (300) feet of the perimeter of the property, as shown on the records of the Las Animas County Assessor; and

2. A list of owners of mineral interests that have been severed from the surface estate of the subject property, as shown on the records of the Las Animas County Clerk and Recorder, in accordance with Section 24-65.5-103, C.R.S.

At least fourteen (14) days prior to any public hearing which requires notification by letter, the applicant shall cause to be sent, by certified mail, a letter to the owners listed above.

The letter shall include a vicinity map, a short narrative describing the relief sought and an announcement of the date, time and location of the

scheduled hearing. The letters shall specify the kind of action requested; the hearing authority; the time, date and location of the hearing; and the location of the parcel under consideration by address or approximate address. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice.

2.04.04 Public Notice Requirements Chart

The following chart sets out the form of notice of public hearings for each land use change review process:

| Approval Requested | NOTICE REQUIRED | | | |
|---------------------|--------------------|-----------------|------------------|-------------------|
| | Published §2.04.01 | Posted §2.04.02 | Mailed §2.04.03 | |
| | | | Adjacent/300 ft. | Mineral Interests |
| Major Subdivision | X | | X | X |
| PUD | X | | X | X |
| Cluster Subdivision | X | X | | X |
| Replat | X | | X | |
| Plat Vacation | X | | | |
| Rezoning | X | X | X | X |
| Special Use | X | X | X | X |
| Variance | X | | X | X |

2.04.05 Public Notice Time Requirements

Unless otherwise provided in these Regulations, public notice time requirements include the day the notice is posted, appears in the newspaper, is mailed, and is received by a recipient, and shall also include the day of the public hearing.

The twelve-month time limitation contained herein shall commence on the date of any final determination of denial by the hearing authority or a court of record, whichever is later.

The twelve-month time limitation shall be strictly adhered to except upon a finding by the final hearing authority, after evidence presented by the applicant, that a major change in physical conditions and circumstances warrants an earlier hearing. *Major change in physical conditions and circumstances* shall mean a significant modification in the character and nature of the proposed development or use, and shall be reflected in the intensity of the use, the external effects on adjacent properties or such other factors as may be determined by the hearing authority.

2.05 Public Hearing Rules of Procedure

1. Rehearing requests: No application shall be submitted to or accepted by the Planning Commission, Board of Adjustment or Board of County Commissioners (whichever is the final hearing authority) if any previous application for the same or substantially similar request for the same property or portion of property has been denied during the preceding twelve (12) months.

An exception to the twelve-month limitation may be allowed where the applicant or a member of the final hearing authority who voted with the prevailing side requests a rehearing on the same application no later than at the next regular or special meeting. The granting of such a rehearing shall be by majority vote and shall be based upon the submittal of new evidence which could not have been, with due diligence, presented at the previous hearing.

- 2. Quasi-Judicial Matters. Any application which involves the use and/or development of a specific parcel of land, as opposed to a county-initiated large area or county-wide proposal, is considered a quasi-judicial matter. Applicants, opponents and proponents are prohibited from making ex parte contact (that is, contact outside of the public hearing forum) with any member of the decision-making authority.

2.06 Expiration of Development Approval

Any preliminary or final approval shall expire and become null and void if: (1) for preliminary or general approvals, an application for final approval is not filed within one (1) year of such approval; or (2) for final approvals, a building permit is not issued for the work authorized within one (1) year from the date of final approval or if the work is ceased for a period of one hundred twenty (120) days or more at any time after work is commenced. For rezoning, planned unit development and special use final approvals, a public hearing before the Board of County Commissioners in the manner required for final review shall be held to confirm whether the zoning and/or permitted use of the property shall revert to that in place prior to the (expired) approval. After approval has expired, no work shall be commenced until the developer has received new approval pursuant to the procedures set forth in these Regulations.

Any issued building permit shall expire if the work authorized is not commenced within one (1) year from the date of issuance.

On the effective date of the enactment of this Section (August 1, 2010), there exist within the County numerous preliminary, general and final development approvals of various types, including rezoning approvals, planned unit development approvals, special use permit approvals and issued building permits. The County hereby declares that each and

every one of said approvals shall be subject to the requirements of this Section; provided, however, that, for the purpose of measuring the time of expiration of such approvals, each and every such approval shall be deemed to have been issued on the effective date of this Section (January 1, 2009). It is the intent of this Section that such preexisting approvals, issued prior to the effective date of this Section, not be deprived of the full benefit of the periods of time granted prior to expiration, all as provided herein.

2.07 Review Fees

At the time an application for a land use change is first submitted to the County, and prior to any review, the applicant shall pay to the County the fee necessary to cover the administrative and review costs for each project requiring review, in the amount fixed by Chapter XII, prior to further processing of the application by the County. Review will be terminated until the account is brought current. If the County incurs costs beyond the amount deposited and the applicant does not pay those costs within thirty (30) days after written notice from the County, the County shall be entitled to a lien for those costs on the land being developed, which lien may be perfected and foreclosed in the same manner as provided for the collection of taxes or in any other manner permitted by law.

2.08 Stages of the Review Process

The stages of review are:

- 1. The pre-review conference.
- 2. The preliminary submission.
- 3. The general submission.
- 4. The final submission.

2.09 Pre-Review Conference

Prior to the formal submittal of any request for approval to proceed with a land use change, an informal pre-review conference shall be held between the applicant and the Planning Department staff. This conference will serve to acquaint the applicant with the requirements of these Regulations and to allow staff to become familiar with the applicant's development intent and design philosophy. A schematic site plan and building concept drawings

building permit length of time

will aid in discussion at this conference; however applicants are encouraged not to prepare detailed designs which might require extensive revision as a result of the pre-review conference. An applicant should bring the following information in a brief summary:

1. General project concept.
2. Specific uses proposed, and intensity of use proposed (floor area and parking demand).
3. Proposed construction timing.
4. General concepts concerning building size and exterior materials and site plan concepts:
5. An exterior materials package including roof material and color, wall treatment, glass and glazing.
6. Site plan concepts including site organization, landscaping, irrigation, grading, lighting and signs.

2.10 Procedures and Requirements for Preliminary Submission

Persons proposing land use changes to be reviewed and/or acted upon at the preliminary submission stage shall submit the required application forms, application fees and submittal materials to the Planning Department.

The materials shall be reviewed by the Planning Department, which shall determine whether the materials submitted meet the appropriate submittal requirements for the types of proposals to be reviewed, whether the required number of copies have been submitted (see Section 2.18) and whether the materials are sufficiently clear, neat and orderly. Incomplete or inadequate applications will not be scheduled for action until deemed complete.

When an application is deemed complete, the applicant shall be so informed and the preliminary submittal shall be scheduled for review by the Planning Commission. Preliminary submittals not requiring referral to outside review agencies and not requiring a public hearing shall be scheduled for review and/or action within not less than three (3) days nor more than thirty-five (35) days application is deemed to be complete.

Preliminary submittals requiring a public hearing and/or referral to outside review agencies shall be scheduled for review and/or action by the Planning Commission not before, nor more than thirty-five (35) days after, the completion of the thirty-day referral agency review period and the period required for notification of a public hearing.

The Planning Department shall determine which if any referral agencies (see Section 2.13) shall review the preliminary submission. In the case of a proposed rezoning, any municipality or County located within two (2) miles of the boundaries of the land proposed to be rezoned shall also become a referral agency.

Upon written request by a referral agency, the Planning Commission may extend the review period an additional fifteen (15) days upon written notice to the applicant.

In reviewing and acting upon the proposed land use actions submitted to the Planning Commission at the preliminary submission stage, the Planning Commission shall review and make recommendations to the Board of County Commissioners that the application be approved, conditionally approved or denied. If the Planning Commission continues the application, it shall be reconsidered by the Planning Commission when all conditions that were the cause to table further consideration have been complied with by the applicant.

If the Planning Commission recommends denial, said denial may be appealed to the Board of County Commissioners which may, at its discretion, approve, conditionally approve, continue or deny the application. Applications which are denied by the Board of County Commissioners shall not be reconsidered for one (1) year.

Upon recommendation by the Planning Commission on an application requiring action by the Board of County Commissioners, the Planning Director shall schedule the application for action by the Board. Preliminary submittals not requiring a public hearing shall be scheduled not more than thirty-five (35) days after action by the Planning Commission. Preliminary submittals requiring a public hearing shall be scheduled for consideration by the Board of County Commissioners not more than thirty-five (35) days after the completion of the required thirty-day notification period for a public hearing.

In reviewing and acting upon applications for land use changes brought before it at the preliminary submission stage, the Board of County Commissioners may approve, conditionally approve or deny an application or it may remand the submission to the applicant for further modification and amendment or table final action of the application if the Board finds there is insufficient evidence to take final action.

Approval of the preliminary submission by the Board of County Commissioners shall not constitute nor presume acceptance or approval of any required or other subsequent submissions and the Board may, at its discretion, require the fulfillment of such conditions as it sees fit to impose in a conditional approval, as a precondition for consideration by the Planning Commission or the Board of any subsequent submissions.

2.11 Procedures and Requirements for General Submission

Persons proposing land use changes to be reviewed and/or acted upon to the general submission stage review shall submit the required application forms, application fees and submittal materials to the Planning Department.

The Planning Department shall determine that any and all modifications, amendments and special conditions imposed at the preliminary submission stage as a condition for subsequent review and/or action have been complied with.

When an application is deemed complete, it shall be reviewed pursuant to the schedule for preliminary submissions, except as otherwise provided for.

Notice of public hearing shall be accomplished in the manner specified in Section 2.04.

In reviewing and acting upon the proposed land use actions submitted to the Planning Commission at the general submission stage, the Planning Commission shall recommend approval, conditional approval or denial.

Upon recommendation by the Planning Commission or upon the submittal of the appropriate materials for a direct action by the Board of County Commissioners, the Planning Director shall schedule the applications or other materials for action by the Board. General submittals not requiring a public hearing

shall be scheduled not more than thirty-five (35) days after action by the Planning Commission or, not requiring review by the Planning Commission, not more than thirty-five (35) days after acceptance of the required submittal materials.

In reviewing and acting upon proposed land use actions, the Board shall approve, conditionally approve or deny the application.

Approval of a general submission by the Board of County Commissioners shall not constitute nor presume acceptance or approval of any required or other subsequent submissions, and the Board may, at its discretion, require the fulfillment of such conditions as it sees fit to impose in a conditional approval, as a precondition for consideration by the Planning Commission or the Board of any subsequent submissions.

2.12 Procedures and Requirements for Final Submission

Persons proposing land use changes to be reviewed and/or acted upon at the final submission stage shall submit the required application forms, application fees and submittal materials to the Planning Department.

The Planning Department shall determine that all modifications, amendments and special conditions imposed at the general submission stage as a condition for subsequent review and/or action have been complied with.

When the application is deemed complete, it shall be reviewed pursuant to the schedule for preliminary submissions, except as otherwise provided for.

Notice of a public hearing shall be accomplished in the manner specified in Section 2.04.

Correction plats submitted at the final submission stage shall be exempt from the publication of notification of hearing, notification of property owners, mineral lessees, referral and review requirements, along with the final plat submission requirements, if the sole purpose of such correction plat is to correct one (1) or more technical errors in a plat previously approved by the Board of County Commissioners and when the correction plat is consistent with the preliminary plan previously approved by the Board of County Commissioners.

In reviewing and acting upon proposed land use actions submitted to the Planning Commission at the final submission stage, the Planning Commission shall recommend approval, conditional approval or denial.

Upon recommendation by the Planning Commission or upon the submittal of the appropriate materials for direct action by the Board of County Commissioners, the Planning Director shall schedule the applications or other materials for action by the Board. Final submittals not requiring a public hearing shall be scheduled not more than thirty-five (35) days after action by the Planning Commission. Final submittals not requiring a public hearing shall be scheduled not more than thirty-five (35) days after action by the Planning Commission or, not requiring review by the Planning Commission, not more than thirty-five (35) days after acceptance of the required submittal materials by the Planning Department.

Final submittals requiring a public hearing shall be scheduled for consideration by the Board not more than thirty-five (35) days after the completion of the required notification period for a public hearing.

In reviewing and acting upon proposed land use charges submitted to the Board of County Commissioners at the final submission stage, the Board shall act to approve, conditionally approve or deny.

In acting upon applications for approval of a final plat, the Board of County Commissioners shall not grant approval to a final plat unless and until all required approvals have been granted to subdivision improvements guarantees, covenants, easements, deeds, proposed financial security arrangements and all other requirements and preconditions for approval of a final plat contained in Chapter IV of these Regulations.

Applicants shall record approved final plats and all attendant covenants, easements, deeds and related documents, upon payment of the required recording fees, in the office of the Las Animas County Clerk and Recorder.

2.13 Referral Agencies

Referral of application materials to review agencies shall occur as follows:

1. Applications for rezoning and for non-subdivision PUD's shall be processed for referral in accordance with the procedures and provisions contained in Section 2.10.

2. Applications for special use permits, the vacating of plats and replats shall be subject to referral, at the discretion of the Planning Director, when the size, characteristics, including possible on- or off-site impacts, or other features of a proposed land use change would warrant review by one (1) or more local, regional, state or federal referral agencies.

Applications for the approval of a preliminary plan for the subdivision of land (whether or not as a PUD) shall be subject to referral to the following review agencies:

1. The school districts in which the land encompassed by the proposed subdivision is located.
2. Each County, other than Las Animas County, and municipality within a two-mile radius of any portion of the proposed subdivision.
3. All applicable local improvement and service districts, ditch companies and utilities.
4. The Colorado State Forest Service, when applicable.
5. Local conservation districts.
6. The Colorado Department of Public Health and Environment and/or such County, district or regional health departments as may exist.
7. The State Engineer/Colorado Division of Water Resources, when applicable.
9. The Colorado Geological Survey.
10. Other referral agencies and potentially affected parties as the Planning Director may, in the exercise of reasonable discretion determine to be reasonable and appropriate in order to provide the Planning Commission and the Board of County Commissioners with adequate information.

The referral agencies shall make comments and/or recommendations within thirty-five (35) days from the date of mailing of the preliminary plan materials, unless a necessary extension of not more than thirty (30) days has been consented to by both the applicant and the Board of County Commissioners. Failure of any referral agency to respond within

thirty-five (35) days or within the period of an extension shall, for the purposes of the hearing on the preliminary plan, be deemed a *de facto* approval of such plan except that, when such plan involves twenty (20) or more proposed dwelling units, a school district shall be required to submit within said time limit specific recommendations with respect to the adequacy of school sites and the adequacy of school structures.

Upon written request by a referral agency, the Planning Commission shall extend the review period an additional fifteen (15) days upon notice to the applicant. In the case of proposed rezonings, special use permits, PUDs, vacating of plats and replats in excess of one thousand (1,000) acres, the Planning Commission may, at its discretion, extend the review period up to an additional thirty (30) days upon written notification to the applicant.

Final submission application materials shall, unless the Planning Commission deems otherwise, be submitted for review only to those referral agencies expressing concerns or making negative recommendations at the general submission stage of review. The Planning Commission may waive any or all of the review agency referral agencies.

2.14 Site Plan Review

The requirements of this Section apply to development on property for which the use proposed is: (1) use by right; and (2) subdivision or planned unit development approval is not sought. This Section establishes application requirements only. The applicant shall submit the following information in a brief summary:

1. General project concept.
2. Specific uses proposed and intensity of use proposed (floor area and parking demand).
3. Proposed construction timing.
4. General concepts concerning building size and exterior materials and site plan concepts, including:
 - a. An exterior materials package including roof material, wall treatment, glass and glazing.
 - b. Site plan concepts including site organization, landscaping, irrigation, grading, lighting and signs.

5. The following additional data may be required by the Planning Department to accompany the application:

- a. A site plan showing location of structures, number of dwelling units per structure, existing contours at an interval of two (2) feet, location of open space to be retained, location of off-street parking spaces, location of common areas and their proposed usage.
- b. Evidence of availability of public water and sewer facilities, in the form of a written commitment by a municipal or quasi-municipal agency stating that such service will be available to the property.
- c. Other information required by the Planning Director.

2.15 Special Uses

2.15.01 Generally

Special uses may be allowed in an eligible zoning district upon review and recommendation by the Planning Commission and favorable action by the Board of County Commissioners. A public hearing before the Board of County Commissioners shall be conducted prior to approval or denial of the permit. Public notice of the hearing shall be given as set forth in Section 2.04.

Issuance of a special use permit shall be subject to such conditions and safeguards as the Board of County Commissioners may impose in order that the special use comply with the general intent and specific provisions of these Regulations and be in harmony with the character of the surrounding area. Each special use permit is subject to review yearly or otherwise as often as the Board or County Commissioners deems appropriate.

Special uses are discretionary uses which are clearly shown to be void or deficient in an area and which, if properly designed, developed, operated and maintained, may be approved for any specific location within a zone district wherein the special use is enumerated. In order to protect the public interest, the Board of County Commissioners shall have the right to approve, approve with conditions or deny a special use permit request and to revoke previously approved special use permits.

2.15.02 Submittal Requirements

Application for a special use permit shall include the following items:

1. An application on a form provided by the Planning Department.
2. A letter of intent.
3. A site plan.
4. The current zoning of the subject property and adjoining property.
5. Proof of ownership, deed or current title policy and, as appropriate, certification from the owner recognizing the owner's appointed representative.
6. Description of the current land uses on the property, the characteristics of the land within the property boundaries, and the current land use on all adjoining property.
7. Description of the proposed use of the property and project activities needed to bring about that use.
8. Statement of the impacts of the proposed use on items such as roads and fire protection services, and on the features of the neighboring environment such as flora, fauna and water resources.
9. Listing of additional local, state or federal permits required to bring about the proposed land use and notation of which permits have been applied for and which, if any, have been granted.
10. A noxious weed plan that conforms with the Integrated Weed Management Plan for Las Animas County and Section 35-5.5-101, et seq., C.R.S. Applicants are encouraged to contact NRCS and/or the Las Animas County Weed Coordinator for consultation.
11. A dust suppression plan during construction, if applicable.

The site plan shall include the following items:

1. A minimum sheet size of 8.5" by 11" to 24" by 36" drawn to an appropriate scale approved by the Planning Director and showing the location, height and dimensions of

- each existing and proposed structure in the proposed special use areas, the uses to be contained within the existing and/or proposed structures and the name, mailing address and phone number of the applicant.
2. The topography and drainage characteristics of the property and the location of any FEMA-designated floodplain areas on the site.
3. The existing and proposed building setbacks and the building area with reference to property lines, highway, street or road rights-of-way, watercourses and other natural and historic features of the site.
4. The location and surfacing of any existing or proposed parking areas and the number of existing and proposed parking spaces.
5. The location of any existing and proposed footpaths, traffic devices, driveways and curb cuts with an indication of how pedestrian and vehicular movement will be controlled.
6. The location, if any, and pertinent characteristics of existing or proposed signs, lighting fixtures and landscaping.
7. The location of any easements on the property.
8. A notation of the stages, if any, in which the project will be developed.
9. A vicinity map locating the proposed special use in relationship to the surrounding area within five hundred (500) feet of the boundaries of the proposed property and a description of any existing plats and improvements on this adjacent property.

The appropriate filing fees (see Chapter XII) shall accompany the site plan. At the discretion of the Planning Director, any but not all of the submission requirements may be waived in cases where provision of the specified items would prove unnecessarily burdensome or inappropriate. In special cases, additional submittal items may be required by the Planning Director.

2.15.03 Criteria for Action on a Special Use Application

All actions by the Planning Commission in reviewing and making recommendations and by the Board of County Commissioners in approving or disapproving special use permits shall be based in general upon these Regulations and specifically on whether the proposed special use:

1. Is consistent with the goals, objectives, policies and requirements of Las Animas County as contained in these Regulations and the Las Animas County Master Plan;
2. Is consistent with and in harmony with neighboring land uses and future intended land uses in the area;
3. Will not unnecessarily scar the land and be free from loose piles of soil or other materials and open, unprotected pits or holes;
4. Will not be likely to prove detrimental to the public health, safety or welfare of County residents nor cause hardship for neighboring persons;
5. Will meet a proven public need in that it will fill a void in necessary services, products or facilities especially appropriate at the location proposed, considering available alternatives;
6. Will not create or contribute to blight in the neighborhood by virtue of physical or operational characteristics of the proposed use;
7. Will not adversely affect adequate light and air, nor cause significant air, water or noise pollution;
8. Will not result in undue traffic congestion or traffic hazards, or unsafe parking, loading, service or internal traffic conflicts to the detriment of persons whether on or off the site;
9. Will be appropriately designed, including setbacks, heights, parking, bulk, buffering, screening and landscaping, so as to be in harmony and compatible with the character of the surrounding areas and neighborhood, especially with adjacent properties;

10. Will not overburden the capacities of the existing streets, utilities, parks, schools and other public facilities and services;
11. History of compliance by the applicant with these Regulations requirements and prior conditions, if any, regarding the subject property;
12. Ability of the applicant or any permitted successor-in-interest to continuously meet the conditions of the proposed permit;
13. Other factors relevant to the specific application.

2.15.04 Planning Commission Review

The Planning Commission shall hear and consider any evidence or statement presented by the applicant, County staff or any person in attendance at the hearing. The Planning Commission shall recommend that Board of County Commissioners approve, approve with conditions, or deny the application, basing its recommendation upon the facts presented in the public hearing in consideration of the criteria for review above. The Planning Commission may recommend conditions or stipulations, which may include physical design as well as operational and maintenance considerations in addition to standard development and use regulations which apply within a particular zone district or for a similar "permitted use." Such conditions or stipulations may be recommended in order to ensure compliance with the criteria for review, which, if not complied with, shall be grounds for revocation of the special use permit.

The Planning Commission shall specifically recommend, and the Board of County Commissioners shall specifically consider, whether the particular special use is dependent upon design, management or operational aspects such that it should be a personal grant of use to the owner of the special use and not a grant which transfers with the affected property, and, in that connection, the Planning Commission and Board of County Commissioners shall recommend and decide, respectively, whether the special use:

1. Runs with the land in perpetuity;
2. Is personal to the applicant and may or may not be inherited; and/or

3. Shall be granted only for a defined period, after which time the special use shall expire unless renewed subject to all of the requirements of this Section.

2.15.05 Board of County Commissioners Review

The Board of County Commissioners shall review and decide upon all requests for special uses upon recommendation of the Planning Commission for approval or upon appeal by an applicant of a recommendation for denial by the Planning Commission. Notice of public hearing shall be in the manner provided in Section 2.04. The Board of County Commissioners, in addition to consideration of the Planning Commission record, shall hear additional evidence and testimony presented, and either approve, approve with conditions or deny the application, its decision being based upon all evidence presented, with due consideration of the criteria for review.

2.15.06 Duration

A special use permit is valid so long as the conditions of approval are maintained by the applicant, unless a specific time limit is imposed as part of the permit approval. If an approved special use ceases operation for any reason for a period of one (1) year, the permit shall be deemed expired, unless otherwise provided in the permit itself. If the conditions of a special use permit become the responsibility of a person or entity other than the applicant, the Planning Department shall be notified in writing, identifying the new person or entity responsible for maintaining the conditions of the permit. Until such notice is received, the applicant shall remain responsible for maintaining those conditions. The notice shall be attached to the permit on file with the Planning Department.

2.16 Temporary Use Permit

Applications for temporary use permits are made to and approved or denied by the Planning Director. All applications for a temporary use permit shall be accompanied by the appropriate filing fee (see Chapter XII), an application on the appropriate form issued by the Planning Department and a plot plan showing at an appropriate scale and in legible fashion the location of the proposed structures where the temporary use would occur, the setbacks from the

property lines, the owners of the adjacent parcels, existing roadways on adjacent to the property, when the proposed temporary use would occur, the zoning districts within which the proposed temporary use and adjacent parcels lie and the current land uses on the property in question and adjacent parcels.

All requests for renewal of a temporary use permit shall be submitted in writing to the Planning Director at least fifteen (15) working days prior to the expiration date of the permit; the Planning Director may at his discretion, based on the goals, objectives, policies and other provisions of these Regulations, renew or deny the permit.

2.17 Rezoning

2.17.01 General Information

Applications to rezone or change the zoning classification of a parcel or parcels of land shall comply with the common procedures described in this Chapter II. Applications for rezoning shall be accompanied by an application form provided by the Planning Department, by the appropriate submittal materials (see Section 2.18) and by the necessary filing fees (see Chapter XII). The requirements of this Section also apply to the creation and amendment of Planned Unit Developments (PUDs). Rezoning applications may be initiated by:

1. The owner of the subject property.
2. The Board of County Commissioners.
3. The Las Animas County Planning Commission.

2.17.02 Submittal Requirements

Applications for rezoning shall include a letter of intent and a site plan providing the information required in Section 2.15.02 for special use review. In addition, applicants shall supply the following supplemental information and such additional information and documentary material as the Planning Director shall stipulate:

1. The source and quantity of water required for the proposed uses within the areas to be rezoned.
2. The method of wastewater treatment and anticipated quantity of wastewater generated.

3. When water or wastewater service would be provided by a municipality or a water, sanitation or water and sanitation district or other public entity, written confirmation that the public entity in question is willing and able to provide the service in question.
 4. A description of any natural or man-made hazard within or in the vicinity of the land proposed for rezoning and a statement describing how the anticipated impact of such hazards will be mitigated.
 5. A legal description of the property to be rezoned.
 6. A vicinity map showing to scale the proposed area to be rezoned in relationship to the surrounding areas within a distance of two (2) miles from the boundaries of the proposed rezoning.
 7. A graphic description of all natural and man-made water courses, retention areas, streams, lakes and known one-hundred-year floodplains on or adjacent to the property along with all areas in the proposed rezoning with a slope of twenty (20) percent or greater.
 8. A description of any unique features, such as historical sites, unique land forms or scenic vistas contained within the land proposed for rezoning.
- 2.17.03 Criteria for Action on a Rezoning Application**
- All actions by the Planning Commission in reviewing and making recommendations on a rezoning application and by the Board of County Commissioners in approving or disapproving such application shall be based in general upon the provisions of these Regulations, and on the following additional criteria:
1. That the existing zoning is inconsistent with the goals, objectives or policies of the Las Animas County Master Plan.
 2. That the land proposed for rezoning or adjacent land has changed or is changing to a degree such that it is in the public interest and consistent with the intent, purpose and provisions of these Regulations to encourage different densities or uses within the land in question.
 3. That the proposed rezoning is needed to provide land for a demonstrated community need or service and such rezoning will be consistent with the goals, objectives and policies contained within the Las Animas County Master Plan.
 4. That the existing zone classification currently recorded on the official zoning maps of Las Animas County is an error.
 5. That the change of zone is in conformance, or will bring the property into conformance, with the Las Animas County Master Plan goals, objectives and policies, comprehensive land use plan and other related policies or plans for the area.
 6. That the proposed change of zone is compatible with the surrounding area and there will be minimal adverse impacts considering the benefits to be derived.
 7. That there will be social, recreational, physical and/or economic benefits to the community derived by the change of zone.
 8. That adequate infrastructure/facilities are available to serve the type of uses allowed by the change of zone, or that the applicant will upgrade and provide such where they do not exist or are under capacity.
 9. That the proposed rezoning will not adversely affect public health, safety or welfare by creating excessive traffic congestion, creating drainage problems or seriously reducing light and air to adjacent properties.
 10. That the rezoning will not create an isolated or spot zone district unrelated to adjacent or nearby areas.

In any petition for rezoning, the applicant shall carry the burden of demonstrating that the land in question should be rezoned and that the advantages resulting from rezoning would outweigh any disadvantages that would result. Nothing contained herein shall, however, be construed as limiting in any way the authority of the Board of County Commissioners to rezone any land within unincorporated Las Animas County or otherwise amend the Zoning Regulation and Maps for any reason consistent with the health, welfare or safety of the residents of the

County. The final decision on a change of zone expressly rests in the exercise of the discretion of the Board of County Commissioners and all applicants are advised there is no right to a change of zone property.

2.18 General Submittal Copy Requirements

All submittal materials shall be neatly and clearly drawn, legible, clear, free of errors and inaccuracies and, when specified, capable of clean reproduction on conventional copying equipment. Failure to satisfy any of these conditions shall be sufficient reason for the Planning Director, the Planning Commission or the Board of County Commissioners to reject submittal materials and return them for appropriate modification or amendment.

The following number of submittal copies shall be required, except as otherwise provided for, as a precondition for the acceptance and the processing of applications for proposed land use changes and other related actions:

1. Site Plan: 5 copies.
2. Rezoning: 10 copies.
3. Special use permit: 20 copies.
4. Temporary use permit: 2 copies.
5. Variance: 5 copies.
6. Sign permit for administrative processing only: 2 copies.
7. Sign permit requiring Planning Commission and Board of County Commissioners review: 5 copies.
8. Sketch plan: 5 copies.
9. Preliminary plan: 20 copies.
10. Final plat/replat: 3 copies and 2 Mylars.
11. Plat amendment: 5 copies.
12. PUD application: 20 copies.
13. Vacating of plats, rights-of-way and easements: 5 copies.
14. H.B. 1041 development permit: 20 copies.
15. Building permit: 2 copies.

Mylars shall be reproducible and submitted for signature by the Planning Commission and the Board of County Commissioners. One (1) copy shall be submitted for recording and one (1) copy for the Planning Commission files.

2.19 Sufficient Water Supply for Land Use Approval

All development that requires a new water use shall provide, concurrently with the first application for any of the approvals listed on the Review Process Chart in Section 2.03, evidence that the water supply proposed to serve the development will be adequate in terms of quality, quantity, dependability and availability. The County's determination as to whether the proposed water supply is adequate to serve the proposed development shall be based upon:

1. Evidence that the development will be served by a public water supply entity currently providing treated water service within the County, which district has been operating within the County for no less than ten (10) years prior to the date of application for approval of the development;
2. If requested by the Planning Department, a letter from the state engineer commenting on such documentation;
3. Whether the applicant has paid to a water supply entity (as defined by Section 29-20-302, C.R.S.) a fee or charge for the purpose of acquiring water for or expanding or constructing the infrastructure to serve the proposed development; and
4. Any other information deemed relevant by the Planning Department, including without limitation any information required to be submitted by the applicant pursuant to these Regulations or state statutes.

The County shall not approve such development application unless it finds, in its sole discretion and after considering the application and all of the information provided, that the applicant has satisfactorily demonstrated that the proposed water supply will be adequate. The County shall make its determination concerning adequate water supply only once during the development approval process unless the water demands or supply of the specific project for which the development approval is sought are materially changed.

CHAPTER III

ZONING REGULATIONS AND MAPS

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CHAPTER III

ZONING REGULATIONS AND MAPS

3.01 General Provisions

3.01.01 Title

The title of this zoning resolution shall be the Las Animas County, Colorado Zoning Regulations and Maps, and may be so cited and pleaded. Hereinafter in these Regulations, it shall be referred to as the Las Animas County zoning regulations.

3.01.02 County Building Code

No building or other structure shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose except in conformity with the regulations prescribed herein for the zoning district in which such building or land is located. No building permit shall be issued by Las Animas County unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conforms to all zoning regulations then in effect.

3.01.03 Control Over Use

After the effective date of adoption of these Regulations and the zoning regulations herein, and subject to the appropriate sections of these Regulations dealing with nonconforming uses and buildings:

1. Any new building or other structure and any tract of land may be used;
2. The use of any existing building, other structure or tract of land may be changed or extended;
3. Any existing building or other structure may be enlarged, reconstructed, structurally altered, converted or relocated for any purpose permitted or required by the regulations for the district in which such building or other structure or tract of land is located, and for no other purpose. Such use, change, extension, structural alteration, conversion or relocation shall be subject to all other regulations set forth or referred to in the regulations for that district and to all other applicable regulations contained within these Regulations.

3.01.04 Incorporation of Maps

The location and boundaries of the districts established herein are shown on the Zoning District Maps of Las Animas County, which are hereby incorporated into these regulations and into these Regulations. The said zoning maps, together with everything shown thereon and all amendments thereto, shall be as much a part of these regulations and these Regulations as if they were fully set forth and described herein.

3.01.05 Location of the Zoning District Maps of Las Animas County

Upon the adoption of these Regulations, the Board of County Commissioners shall file a certified copy of the Zoning District Maps of Las Animas County in the office of the County Clerk and Recorder, which copy shall be available to the public, and in such other places as designated by the Board of County Commissioners.

3.01.06 Amendments to the Zoning District Maps of Las Animas County

All amendments made to the Zoning District Maps of Las Animas County in accordance with these Regulations shall be recorded on the Zoning District Maps on file in the office of the County Clerk and Recorder.

3.01.07 Interpretation of District Boundaries

Unless otherwise noted, all district boundary lines shall be construed to lie on the centerline of streets, roads, alleyways and rights-of-way, on lot lines of platted subdivisions, on section lines, on boundaries of the County and of special districts and on the corporate limit lines of incorporated municipalities. Disputes regarding the exact location of any district boundary line shall be decided by resolution of the Board of County Commissioners, acting upon recommendation of the Planning Director.

3.02 Zoning Districts

zoning districts
setbacks etc

3.02.01 Establishment of Zoning Districts

In order to carry out the purpose of these Regulations and implement the goals, objectives and policies of Las Animas County, as contained herein, the unincorporated areas of Las Animas

County is hereby divided, or by amendment shall become divided, into the following zoning districts:

- A Agricultural District
- RR Rural Residential District
- UR Urban Residential District
- RA Ranchette Zone

3.02.02 District Characteristics and Requirements

A—Agricultural District

This district is created for the purpose of protecting the productive agricultural lands of Las Animas County and preserving the visual and cultural values associated with agricultural lifestyles in rural, unincorporated areas of Las Animas County, mountains and plains.

- Minimum lot area: 35 acres
- Minimum lot width: 200 feet
- Minimum front yard setback: 60 feet
- Minimum side yard setback: 25 feet
- Minimum rear yard setback: 30 feet
- Maximum building height: 60 feet
- Minimum dwelling size: 600 square feet, except for mobile homes, where permitted
- Maximum lot coverage: 15 percent

For permitted and prohibited uses, see Section 3.03.

RR—Rural Residential District

This zone generally comprises those areas of the County along Highway 12 from the Stone-wall Valley to Trinidad and on the fringes of Trinidad which are more conducive to development because of the general availability of public services and facilities.

- Minimum lot area: 12,500 square feet
- Minimum lot width: 100 feet
- Minimum front yard setback: 30 feet
- Minimum side yard setback: 15 feet

- Minimum rear yard setback: 25 feet
- Maximum building height: 45 feet
- Minimum dwelling size: 600 square feet, except for mobile homes, where permitted
- Maximum lot coverage: 50 percent

For permitted and prohibited uses, see Section 3.03.

UR—Urban Residential District

This zone generally comprises those areas immediately adjacent to incorporated cities and towns and those unincorporated communities which are conducive to intense development because of the availability of utility systems.

- Minimum lot area: 7,500 square feet
- Minimum lot width: 50 feet
- Minimum front yard setback: 25 feet
- Minimum side yard setback: 5 feet
- Minimum rear yard setback: 25 feet
- Maximum building height: 42 feet
- Minimum dwelling size: 600 square feet, except for mobile homes, where permitted
- Maximum lot coverage: 50 percent

For permitted and prohibited uses, see Section 3.03.

RA—Ranchette District

The principal purpose of this zone is to allow rural residential development compatible with agricultural uses.

- Minimum lot area: 5 acres
- Minimum lot width: 200 feet
- Minimum front yard setback: 25 feet
- Minimum side yard setback: 25 feet
- Minimum rear yard setback: 20 feet
- Maximum building height: 60 feet
- Minimum dwelling size: 600 square feet, except for mobile homes, where permitted
- Maximum lot coverage: 15 percent

For permitted and prohibited uses, see Section 3.03.

PUD—Planned Unit Development District

All of the above standard districts may be developed in accordance with Planned Unit Development (PUD) concepts and procedures (detailed at Chapter V), which are intended to encourage creative planning consistent with the goals, objectives, policies and other provisions of these Regulations. The overall density of a PUD may exceed the density specified in the districts in which it is located and variances from the normal zoning and subdivision requirements, such

as those governing setbacks. They shall be permitted only when it can be demonstrated that such waivers would further the purpose of the PUD and be in compliance with intent of the provisions of these Regulations.

3.03 Permitted, Conditional and Prohibited Uses in Zoning Districts

The table on the following pages indicates which land uses are allowed by right, which are special uses and which are prohibited uses in each of the zoning districts. Uses not listed are considered to be special uses. See Section 2.15 on special uses.

Permitted, Conditional and Prohibited Uses by Zoning District

| | | <i>Zoning District —</i> | <i>A</i> | <i>RR</i> | <i>UR</i> | <i>RA</i> |
|-----|--|--------------------------|----------|-----------|-----------|-----------|
| .01 | Single-family dwelling | | R | R | R | R |
| .02 | Two single-family attached dwellings (duplex) | | S | R | R | S |
| .03 | Multiple-family dwelling | | S | S | S | S |
| .04 | Boarding and rooming houses | | S | S | S | S |
| .05 | Rest, nursing, convalescent and retirement homes | | P | S | S | S |
| .06 | Hospitals and clinics | | P | S | S | S |
| .07 | Hotels, motels and vacation lodges, including time sharing estates | | S | S | S | S |
| .08 | Restaurants and eating places, bars and lounges | | P | S | S | S |
| .09 | Public schools and educational institutions | | R | R | R | R |
| .10 | Private schools, educational institutions and training centers | | S | S | S | S |
| .11 | Day care, child care, nursery schools and homes | | S | S | S | S |
| .12 | Churches and religious institutions | | R | R | R | R |
| .13 | Public and private airports, landing strips, helistops and heliports (see also Section 3.07) | | S | S | S | S |
| .14 | Cemeteries | | S | S | S | S |
| .15 | Parks, playgrounds, golf courses or playing fields | | R | S | S | R |
| .16 | Essential public and government utility uses, facilities, services and buildings, excluding transmission and production facilities and accessory uses (see also Section 7.09) | | S | S | S | S |
| .17 | Other utility uses, facilities and services, including electric power transmission lines, electric power distribution lines, electric power generation facilities, and gas pipelines and all appurtenant facilities, uses and structures thereto (see also Section 7.09) | | S | S | S | S |
| .18 | Communication facilities (including radio and television transmitting and receiving stations and towers including microwave stations and cellular towers -see also Section 7.05) | | S | S | S | S |
| .19 | Individual Sewage Disposal Systems (ISDS), sewage treatment plants and water treatment plants and pipelines and all appurtenant facilities, uses and structures thereto, exempting the City of Trinidad. | | S | S | S | S |
| .20 | Waste from other states or counties buried, stored, transferred or incinerated in Las Animas County: solid, hazardous or radioactive (see also Section 7.04) | | P | P | P | P |
| .21 | Waste defined as "hazardous waste" buried, stored, transferred or incinerated in Las Animas County | | P | P | P | P |

| <i>Zoning District —</i> | | <i>A</i> | <i>RR</i> | <i>UR</i> | <i>RA</i> |
|--------------------------|--|----------|-----------|-----------|-----------|
| .22 | Waste having any radioactive association stored (permanent or interim), buried, transferred, or incinerated in the boundaries of Las Animas County | P | P | P | P |
| .23 | Sanitary landfill within the boundaries of Las Animas County | S | P | P | P |
| .24 | Radioactive sites: long term storage, interim storage, transfer station or incineration | P | P | P | P |
| .25 | Hazardous waste sites: interim or permanent storage, transfer station or incineration | P | P | P | P |
| .26 | Incineration of wastes | P | P | P | P |
| .27 | Landfills and disposal sites for toxic, radioactive and otherwise hazardous materials, including temporary or permanent hazardous storage facilities | P | P | P | P |
| .28 | Nuisance uses not otherwise listed | S | S | S | S |
| .29 | Agricultural crop production, including orchards and accessory uses and buildings | R | R | S | R |
| .30 | Animal production, including grazing, dairy farming and accessory uses and buildings but excluding commercial feedlots | R | R | S | R |
| .31 | Commercial tree farms and cutting storages and sales of commercial firewood | S | S | S | S |
| .32 | Confined animal feeding operations, commercial feedlots and sales yard | R | P | P | S |
| .33 | Stands for the sale of agricultural products | R | R | R | R |
| .34 | Commercial riding stables | S | S | P | S |
| .35 | Kennels and veterinary clinics | R | S | S | S |
| .36 | Guest ranches and vacation lodges | S | S | S | S |
| .37 | Camping areas and campgrounds | S | S | S | S |
| .38 | Individual mobile homes (see Section 7.11 for special regulations governing the placement of individual mobile homes regardless of zoning district) | R | R | R | R |
| .39 | Mobile home parks and mobile home subdivisions(see also Chapter VIII) | S | S | S | S |
| .40 | Ski lifts and accessory structures and uses | S | S | S | S |
| .41 | Outdoor amusement facilities and entertainment facilities | S | S | S | S |
| .42 | Membership clubs and lodges | S | S | S | S |
| .43 | Professional business offices | S | S | S | S |
| .44 | Personal service outlets such as beauty and barber shops, Laundromats, travel agencies, etc. | S | S | S | S |
| .45 | Retail or wholesale outlets | S | S | S | S |
| .46 | Shopping malls | P | S | S | S |
| .47 | Firearms - sales and services | S | S | S | S |
| .48 | Shooting ranges (indoor and outdoor) | S | S | S | S |
| .49 | Gasoline service stations | S | S | S | S |
| .50 | Vehicle repair facilities, including storage garages as a principal or an accessory use | S | S | S | S |
| .51 | Motor vehicle parking lots | S | S | S | S |
| .52 | Lumber yards and sawmills | S | P | P | S |
| .53 | Manufacture or storage of gases or aboveground storage of flammable liquids such as gasoline for other than residential or agricultural on-site use | S | S | S | S |
| .54 | Railroad facilities, including repair sheds and switch yards and trucking terminals, excluding trucks | S | S | S | S |
| .55 | Junk or wrecking yards when surrounded by an eight-foot-high solid fence or not visible from any public roads | S | P | P | S |
| .56 | Batch plants and hot mix plants and all appurtenant accessory uses thereto | S | P | P | S |

| <i>Zoning District —</i> | | <i>A</i> | <i>RR</i> | <i>UR</i> | <i>RA</i> |
|--------------------------|---|----------|-----------|-----------|-----------|
| .57 | Manufacture, fabrication or processing of all materials not otherwise listed and which will not cause excessive noise, heat, dust, fumes or other adverse consequences | S | S | S | S |
| .58 | Manufacturing, production and other uses not otherwise listed that will cause excess noise, heat dust, fumes or other adverse consequences | S | S | S | S |
| .59 | Rock quarries, sand and gravel excavation pits, oil wells and all appurtenances and accessory uses thereto, but excluding strip and underground coal mines and the prospecting, exploration for or extraction of uranium or other radioactive materials | S | S | S | S |
| .60 | Underground coal mines | S | S | S | S |
| .61 | Strip mines | S | P | P | P |
| .62 | Recycling collection centers | S | S | S | S |
| .63 | Recycling processing facilities | S | S | S | S |
| .64 | Group homes | S | S | S | S |
| .65 | Correctional facilities | S | P | P | S |
| .66 | Small wind energy systems | R | R | R | R |
| .67 | Commercial wind farms | S | P | P | S |

KEY

- R = Use Allowed by Right
- P = Use Prohibited
- S = Special Use
- A = Agricultural District
- RR = Rural Residential District
- UR = Urban Residential District
- RA = Ranchette District

3.04 Uses Not Itemized

Upon petition by any individual or organization or by its own initiative, the Board of County Commissioners may, by resolution, following review and recommendation by the Planning Commission, add to the itemized list of uses in Section 3.03, any additional uses which conform to the following criteria:

1. That the use by right, special use or prohibited use conforms to the basic characteristics and purpose of the district to which it would be added.
2. That, if there are zoning districts to which the additional use would be equally or more appropriate, such use shall also be added to those districts.

Before adopting any such resolution, the Board of County Commissioners shall hold a public hearing

upon the matter, giving at least thirty (30) days' notice of the time, place and subject matter of such hearing by at least one (1) publication in a newspaper of general circulation in the County.

3.05 Accessory Buildings and Uses

An accessory building or use is a subordinate use of a building, other structure or tract of land or a subordinate building or other structure: a) which is clearly incidental to the use of the principal building, other structure or use of land; b) which is customary in connection with the principal building, other structure or use of land; or c) which is ordinarily located on the same lot with the principal building, other structure or use of land.

The following uses are permitted in the following zoning districts, provided that they are incidental to and on the same premises as a permitted or special use:

ACCESSORY USES

| <i>USE</i> | <i>ZONE</i> |
|--|-------------|
| Garages for the storage of automobiles and/or commercial vehicles, including the maintenance of those vehicles. | A and RA |
| Garages for the storage and owner maintenance of automobiles, light trucks and recreational vehicles. | RR and UR |
| Vehicle parking and loading space. | All |
| Home occupations or professional offices, only when operated by residents living on the premises and not exceeding thirty (30) percent of three hundred (300) square feet of the gross floor areas, whichever is greater. Such use shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character thereof nor generate traffic which significantly or adversely affects the residential character of the area. | A and RA |
| Home occupations as permitted above, except that there shall be no exterior storage on the premises of material or equipment used as part of the home occupation and there shall be no noise, vibration, smoke, dust, odors, heat, glare or other effects noticeable at or beyond the property line and there shall be no exterior advertising other than identification of the home occupation. | RR and UR |
| Controlled burning units incidental to residential and agricultural use. | A |
| Household pets, private greenhouses, swimming pools and fallout shelters for personal uses so long as such accessory uses pose no threat to human health, safety and welfare to owners, users or adjacent residents and so long as they meet all applicable building, electrical and plumbing codes and have received all required local, regional and state permits. | All |
| Fences or walls which are not over six (6) feet in height. Taller fences are permitted upon inspection by the County Building Inspector, who shall issue a permit for such fences upon determination that they would not block light, sun, air, vision or otherwise pose a health or safety hazard or a nuisance. No fence, wall, shrubs, trees, signs or any other obstruction over three (3) feet in height, as measured from the surface of the lowest roadway of the intersection streets or roads, shall be permitted in any setback area if it obstructs the sight of drivers at any intersection. | All |
| Any accessory buildings, structures or uses required in addition to and in conjunction with any use by right or approved special use. | All |

fence

3.06 Temporary Uses

Upon application to the Planning Director, a temporary use permit may be issued for the following uses in the following zoning districts and for the following periods of time. Such permits shall be valid only for the period of time specified, and no more than two (2) renewals of the temporary permit shall be issued by the Planning Director. Such permits may be predicated upon a showing by the applicant that the temporary use will not adversely affect the health, safety and welfare of the occupant(s) or surrounding properties by providing information regarding the specifics of the structure, water sources, restroom facilities, electrical power and any other information the Planning Director deems necessary and relevant.

TEMPORARY USES

| <i>USE</i> | <i>ZONE</i> | <i>PERIOD</i> |
|---|-------------|-----------------|
| Anemometer or MET tower. These temporary structures shall comply with all applicable guidelines for locating a wind farm (Section 7.14.02), including compliance with FAA regulations and any additional safety provisions deemed appropriate by the Planning Director. | A and RA | 36 months |
| Residences, including mobile homes, but excluding tents, campers and recreational vehicles. A temporary residence permit shall be issued for utilizing a temporary structure on the premises only after obtaining a building permit for a permanent residence. | All | 6 months |
| Construction office and yards. These temporary structures for office space and the storage of construction materials and equipment shall be used for the management of construction projects so long as they are not used for living quarters. | All | Life of project |

| USE | ZONE | PERIOD |
|--|---------------|----------|
| Temporary sales offices. Temporary sales offices for the sale of residential, commercial, industrial or other units of space shall be located within the areas of a recorded final plat and sales shall be limited to those units within the platted subdivision in which the sales office is located. | All | 6 months |
| Carnivals, circuses, bazaars, fairs, tent meetings, firework stands, auctions and crusades. | A, UR, and RA | 1 month |
| Non-commercial batch plants. | A and RA | 6 months |
| Such other temporary uses as may arise from time to time and which, in the opinion of the Planning Director, furthers and contributes to the welfare of the people of the Las Animas County, Colorado. | All | 3 months |

3.06.01 Tents, Campers and Recreational Vehicles as Temporary Residences

Tents, campers and recreational vehicles, when employed as temporary residences for human occupation, are hereby declared to be a temporary use as defined within these Regulations, and shall be treated as temporary residences, as described in this Section 3.06. Tents, campers and recreational vehicles that are occupied more than seven (7) days (whether or not such days are consecutive) within any thirty-day period shall be presumed temporary residences, and such uses must receive a temporary use permit as required under this Section 3.06.01. Permits allowing for the use of tents, campers or recreational vehicles as temporary residences shall only be valid for thirty (30) days in A and RR districts and fifteen (15) days in UR districts. Such permits are subject to the renewal requirements set forth in this Section 3.06.

3.07 Airport Protection Overlay District Requirements and Provisions

3.07.01 Intent

The Airport Protection Overlay District is a supplemental district that may overlay any standard zoning district. Any use by right or special use permitted in the underlying district is also permitted in an APO district so long as that use meets the special conditions required in an APO district.

The APO district is established to minimize exposure of residential and other sensitive land uses to aircraft noise areas, to avoid danger from aircraft accidents, to reduce the possibility

for such accidents, to discourage traffic congestion within the area of the district and to restrict noncompatible land uses in proximity to and within airport influence areas.

This zoning district shall be applied in the vicinity of all general aviation airports and public heliports (see, however, Section 3.07.05) which would be significantly affected by air traffic, noise or any hazard related to the establishment, operation or maintenance of an airport or heliport facility. At a minimum, the APO District shall apply to the Perry Stokes Airport.

The degree of protection provided by this overlay district is considered reasonable and prudent for land use regulatory purposes and is based on established parameters on control.

Establishment of this district, however, does not imply that areas outside of the district will be totally free from airport- and aircraft-related hazards nor that all hazards within the district will be completely mitigated. Establishment of this district shall not create a liability on the part of or cause any action against Las Animas County or any officer, employee or contractor thereof for any damages that may result directly or indirectly from reliance on the provisions contained herein.

3.07.02 Permitted Uses Within an APO District

No building or land shall be used and no building or other structure shall hereafter be erected,

converted or structurally altered except as provided for herein, and the following use provisions shall apply within an APO district:

1. No use may be made of land within the district in such a manner as to create electrical interference with radio communication between an airport or heliport and aircraft or make it difficult for pilots to distinguish between airport or heliport lights and other lights, cause glare in the eyes of pilots using the airport or heliport, impair visibility in the vicinity of the airport or heliport or otherwise endanger the taking off or the maneuvering of aircraft in the vicinity of the airport or heliport. Noise attenuation in building design shall be encouraged and may be required for structures to be erected within the district.
2. Nothing contained within this district regulation shall be construed to require the removal, lowering or other change or alteration of any structure or object of natural growth not conforming to the provisions contained herein or otherwise interfere with the continuance of any nonconforming use, except as specifically stated.
3. Nothing contained within this district regulation shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of adoption of these Regulations and is diligently prosecuted; provided, however, that when the nonconforming structure or nonconforming use is destroyed or damaged to the extent of over fifty (50) percent of the appraised value of the nonconforming structure or use, any reuse, reconstruction or replacement shall be deemed a new use and shall be subject to the applicable provisions contained herein.
4. The owner of any nonconforming structure or object of natural growth is hereby required to permit the installation, operation or maintenance thereon of such markers or lights as shall be deemed necessary by the Board of County Commissioners or any other appropriate authority to indicate to the

operators of aircraft in the vicinity of the airport or heliport the presence of such nonconforming structures or objects of natural growth. Such markers and lights shall be installed, operated and maintained at the expense of the owners and/or operators.

5. Aviation easements may be required, at the discretion of the Board of County Commissioners, within a designated APO district.

3.07.03 Limitations Within an APO District

1. Height Limitations.

Height limitations within an APO district, except as otherwise provided for herein, are subject to the limitations of the district within which the property is located. No structure or object of natural growth shall be constructed, erected, altered, allowed to grow or to be maintained in excess of height limits and zones herein established.

A notice and approval from the Federal Aviation Administration shall be required for the construction or alteration of any structure two hundred (200) feet or higher located within twenty thousand (20,000) feet of the end of any runway.

2. Surface Limitations.

Surface limitations within an APO district include all land and air space within the district that would be hazardous to air navigation if infringed upon. Surface limitations include areas above imaginary surfaces and in the clear zone and are established to regulate the height of structures and natural objects in the vicinity of an airport or heliport. These surface limitations are set forth by the Federal Aviation Administration in the Federal Aviation Regulations, Part 77, which are hereby adopted by reference.

In addition, before any structure or natural object is permitted to be erected, altered, maintained or allowed to grow above the imaginary surfaces established herein, a Notice of Construction or Alteration shall be filed with the Federal Aviation Administration for a determination of hazardous or nonhazardous conditions and of effect on the airport

rules and regulations. The Board of County Commissioners shall not approve any such development until after receiving and considering the Federal Aviation Administration recommendation on the Matter.

Airport height zones, as determined by imaginary surfaces, shall include, but need not be limited to, the following zones:

- a. The utility runway visual approach zone, which slopes upward twenty (20) feet horizontally for each foot vertically, beginning at the end of and at the same elevation as the primary surface and extends to a horizontal distance of five thousand (5,000) feet along the extended runway center-line with a lateral width of one thousand two hundred fifty (1,250) feet.
- b. The utility runway nonprecision instrument approach zone, which exhibits the same configuration as the zone described immediately above in Item a above.
- c. The horizontal zone, which extends one hundred fifty (150) feet above the airport elevation above mean sea level.
- d. The STOL approach zone, which slopes upward fifteen (15) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a distance of ten thousand (10,000) feet along the extended runway centerline.
- e. The transitional zone, which slopes upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones and extending to a height one hundred fifty (150) feet above the airport elevation above mean sea level. In addition, there are hereby established height limits sloping upward and outward seven (7) feet horizontally for each foot vertically, beginning at the sides of and at the same elevation as the approach zones and extending to where they intersect with the conical surface.
- f. The STOL transitional zone, which slopes upward and outward four (4) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and a portion of the sides of the approach surface and extends to an elevation of one hundred (100) feet above the primary surface.
- g. The heliport VFR approach zone, which slopes upward eight (8) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a distance of four thousand (4,000) feet along the primary surface centerline.
- h. The heliport IFR approach zone, which slopes upward fifteen (15) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a distance of ten thousand (10,000) feet along the primary surface centerline.
- i. The heliport VFR transitional zone, which slopes upward and outward two (2) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach surfaces and extending a distance of one hundred fifty (150) feet measured horizontally from and at ninety-degree angles to the primary surface centerline and extended centerline.

3. Land Use Limitations

Within APO districts in the vicinity of airports and heliports, land use patterns will be encouraged that separate uncontrolled noise sources from residential and other noise-sensitive areas and that avoid danger to public health and safety or to property due to aircraft operations.

In areas subject to flight hazards, uses such as schools, churches, hospitals and libraries are not encouraged. Open space recreational and agricultural uses shall be encouraged and applicants proposing such uses may petition for waiver of the special submittal requirements (see Section 3.07.04). Any

other use proposed shall be accompanied by written evidence that the proposed development poses no significant threat to public health and safety or to property. Approval may be contingent on the applicant granting an aviation easement.

3.07.04 Submittal Requirements in an APO District

In addition to the submission requirements otherwise contained within these Regulations, the Planning Commission may, at its discretion, require additional materials regarding any proposed land use change or development project in an APO district. These additional materials may include, but not be limited to, any or all of the following items:

1. A map or graphic description of existing and proposed airport facilities including towers, lights, terminals, hangars, aprons, parking areas, taxiways and runways.
2. A map showing the height of all existing and proposed structures within the contemplated development and the relationship of these structures to adjacent land uses.
3. Evidence of the elevation and pattern of aircraft flights over the proposed site.
4. Information relating to noise levels on the proposed site and written statements regarding sound mitigation measures, if any, that will be used to attenuate existing or projected noise levels.

3.07.05 Private Landing Strips, Helistops and Heliports

Compliance with the provisions of an APO district is not required for private noncommercial landing strips, helistops and heliports, provided that they meet the following provisions and requirements.

1. The applicant shall apply for and be granted a special use for the propose use.
2. The applicant shall own a minimum of thirty-five (35) contiguous acres of land on which the landing strip would be located or five (5) contiguous acres of land on which the heli-stop or heliport site would be located.

3. No residential dwelling units, other than one (1) dwelling unit owned by the applicant or an immediate member of the applicant's family, shall be located, within one-half (½) mile of either end of any runway.
4. Runways will be so oriented that aircraft takeoffs and landings will not pass within one thousand (1,000) feet of any school, dwelling unit or place of public assembly.
5. The applicant shall provide evidence that the Federal Aviation Administration has been sent an application for approval of airspace.
6. The applicant shall, at the discretion of the Board of County Commissioners, grant an aviation easement to Las Animas County or other appropriate public body.

3.08 Mobile Home Park and Campground Regulations

Establishment of a mobile home park or campground in Las Animas County is procedurally treated as a rezoning; the mobile home park and campground regulations are contained in Chapter VIII.

3.09 Nonconforming Uses, Lots and Buildings

3.09.01. Meaning and Intent

A nonconforming use of lot or building shall be any use of lot or building that lawfully existed at the time of adoption of these zoning regulations, or zoning regulations previously adopted by Las Animas County, and has been prohibited by the provisions contained within these Regulations or earlier lawfully adopted zoning resolutions of Las Animas County.

It is the intent of these zoning regulations and these Regulations to allow for the continuation of such nonconforming uses of lots and buildings, so long as they meet the provisions contained herein, but not to encourage their enlargement nor to allow their continuation should they be discontinued for a reasonable period of time or substantially damaged by fire or other causes.

3.09.02. Abandonment of Use

If active and continuous operations are not carried on as a nonconforming use during a continuous period of two (2) years, the building,

other structure or land where such nonconforming use previously existed shall thereafter be used and occupied only for conforming uses. A nonconforming use of building or lot, if changed to be a conforming use, building or lot, shall not thereafter be changed back to a nonconforming state.

3.09.03. Restoration

Any nonconforming building or other structure may not be restored to the use of such structure unless such nonconforming structure is damaged or destroyed by fire or other cause to the extent of less than fifty (50) percent of its replacement cost at the time of the destruction. In cases, however, where the destruction was due to causes beyond the control of the owner and the destruction was less than total, the Board of Adjustment may allow restoration upon a finding of exceptional and undue hardship.

3.09.04. Enlargement of a Nonconforming Use or Building

No nonconforming building or use shall be structurally altered or expanded in any way that would increase the degree or area of nonconformance. In matters pertaining to the restoration of nonconforming buildings, the provisions of the building, fire, plumbing, mechanical and other codes as Las Animas County has adopted shall apply unless such provisions are in conflict with or inconsistent with provisions contained within these Regulations, in which case the provisions contained herein shall prevail.

3.09.05. Alteration of Nonconforming Buildings

Nonconforming buildings may be altered, however, upon the order of the County Building Inspector or other County official to make that building conform to established safety requirements, maintenance repairs may be undertaken to keep the building in sound condition and alterations are permitted which would reduce the degree of nonconformance or change the use to one of conformance.

3.09.06. Structures Under Construction

Any nonconforming use or structure for which a valid building permit has been issued before the use or structure became nonconforming may be completed and occupied in accordance with the provisions of the building permit that was previously issued, subject to the other provisions of this Section.

3.09.07. Title Default

If the title to any nonconforming lot or parcel shall change by reason of tax delinquency and such property is not redeemed as provided by law, the future use of such property shall be in conformity with the then adopted and amended zoning regulations of the County.

3.09.08. Conforming and Nonconforming Lots

Nonconforming lots of record at the time of adoption of this zoning regulation may be built upon or used provided that: the setback, floor areas and bulk requirements for the zoning district within which the lot is located are adhered to, the lot was not created by private conveyance or in violation of the County subdivision regulations and approval is granted by the Board of Adjustment.

No lot which is conforming in size at the time of adoption of this zoning regulation may be subdivided according to the subdivision procedures contained herein in such a manner that it would become nonconforming or cause any structure or use to become nonconforming.

The construction of single-family dwellings shall be a permitted use on any lot made substandard as to size by the adoption of this zoning regulation or previous Las Animas County zoning resolutions as long as the conditions contained in this Section are satisfied along with the other provisions of these Regulations, excepting the minimum lot size requirements.

3.09.09. Nonconforming Signs

For nonconforming signs, see Section 6.04.

3.10 Maximum Building Height and Yard Set-back Requirements

In computing the maximum height and minimum yard setback requirements, the following architectural features shall not be considered: unroofed terraces and patios, cornices, sills, cupolas, belt courses, eaves and similar features, open fire escapes projecting up to a distance of four (4) feet from the face of a building, walls, rails or fences up to a height of six (6) feet, and temporary awnings and other shade devices. In UR (urbanizing residential) zoning districts, such architectural features shall not, however, encroach upon the five-foot side yard setback requirements contained in Section 3.02.02.

CHAPTER IV

SUBDIVISION REGULATIONS

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CHAPTER IV

SUBDIVISION REGULATIONS

4.01 General Provisions

4.01.01 Title

The title of this Subdivision resolution shall be the Las Animas County, Colorado, Subdivision Regulations and may be so cited and pleaded. Hereinafter in these Regulations, it shall be referred to as the subdivision regulations.

4.01.02 Types of Subdivisions and Exempted Divisions of Land

These subdivision regulations make provision for three (3) types of subdivisions; namely, large lot subdivisions, regular subdivisions and mobile home subdivisions, and for divisions of land that are exempt from the provisions of this subdivision regulation. See Sections 4.09 on exemptions, 4.11 on large lot subdivisions, 4.09 on sketch plan exempted subdivisions and 4.08 on single transaction large lot.

4.01.03 Exemptions

The Board of County Commissioners may, pursuant to rules and regulations contained herein or by individual resolution, exempt from the definition of the terms "subdivision" or "subdivided land" any division of land if the Board of County Commissioners determines that such division is not within the purposes of these Regulations or the purposes of the subdivision laws of the State of Colorado. See Section 1.13, Definitions, for a listing of divisions of land exempted from the terms "subdivision" and "subdivided land."

4.01.04 Acceptance of a Subdivision

No preliminary plan or final plat of a subdivision nor any replat or plat vacating shall be recommended for approval by the Planning Commission or be approved by the Board of County Commissioners unless and until it conforms to the appropriate provisions contained within these subdivision regulations and elsewhere within these Regulations.

4.01.05 Sales Prohibition Prior to Platting

No person, firm, partnership or corporation with any interest in land located within a subdivision or proposed subdivision shall transfer, agree to sell, offer to sell or sell any land so located by reference to or exhibition of or by use of a plan or plat of that subdivision before such plan or plat has been approved by the Board of County Commissioners and recorded or filed in the Office of the County Clerk and Recorder.

4.01.06 Building Permits

No building or other structure shall be erected nor shall a building permit be issued within a subdivision or proposed subdivision before a final plat has been approved by the Board of County Commissioners and recorded or filed in the Office of the County Clerk and Recorder.

4.01.07 Zoning Compliance and Subdivision Location

Subdividers shall offer to the Planning Commission and the Board of County Commissioners satisfactory evidence that the zoning of the area in which a subdivision, plat, replat or vacating of a plat is proposed permits subdivision for the use and density proposed. If the area of the proposed land use change requires establishment of a new zoning district, approval of such rezoning shall be required before approval of a preliminary plan is considered by the Planning Commission or the Board of County Commissioners. Lands subject to natural hazards such as flooding, rockfalls, snowslides, wildfire, extreme erosion or other natural or man-made hazards shall not be platted for any use which might endanger the health, safety or welfare of the residents or users in the event that the hazards present in the area cannot be adequately or properly mitigated with acceptable control measures.

4.02 Dedication of Public Sites and Open Space

4.02.01 General Requirement

The Board of County Commissioners, upon consideration of the Master Plan, the necessity of public buildings and facilities in the area and the

particular type of subdivision proposed, shall require the dedication of areas or sites of a character, extent and location suitable for public use for schools, parks, greenbelts, open space, flood control, scenic areas or other necessary public purposes (other than subdivision streets) according to one (1) or more of the alternatives set forth in Section 4.02.03.4. The Board of County Commissioners may also require, at its discretion, easements along the banks of public streams or water courses in the subdivision for access and recreational use. Such easements, counting toward total required dedicated open space, shall be provided as dedicated open space and be governed and maintained in a manner acceptable to the Board.

4.02.02 Schedule for the Reservation and Dedication of Public Sites

Upon recommendation of the Planning Commission, the Board of County Commissioners shall determine the proportion of a proposed subdivision, if any, to be reserved or dedicated to Las Animas County for public or community uses. Such reservation or dedication shall not exceed twenty (20) percent of the gross area of a proposed subdivision, and the Board of County Commissioners shall make its determination upon request of an applicant in writing for such a determination; and in no case shall such determination be delayed more than thirty (30) days after submission of a sketch plan to the Planning Commission. In considering the proportion of land, if any, to be reserved or dedicated for public or community purposes, including but not limited to open space, the Planning Commission and the Board of County Commissioners shall take into account the size, location and characteristics of the proposed subdivision and the current and likely future uses of the surrounding area.

4.02.03 Procedure and Requirements for Reservation and Dedication

1. Areas proposed for reservation and dedication shall be, in the opinion of the Board of County Commissioners, suitable and usable for the purposes and uses intended. Factors to be considered by the Planning Commission and the Board of County Commissioners in determining the suitability and

usability of sites include, but are not limited to, the size, location and characteristics of the population to use the sites and the size, slope, drainage and other physical characteristics of the sites to be reserved or dedicated. The location of the sites to be reserved and dedicated shall be determined by the Board of County Commissioners upon recommendation by the Planning Commission and by other public agencies, such as a school district, with an interest in the development and serving of the proposed subdivision.

2. Dedication of sites to Las Animas County shall be achieved through deed or other legal transfer of the property at the time of final plat approval and before recording of the final plat. The Board of County Commissioners shall, at its discretion, determine the intended uses of land dedicated to Las Animas County. Any public or quasi-public body may petition the Board of County Commissioners for the use or ownership of County land so dedicated for public purposes or for use of the fees generated in lieu of such dedication, and such petitions shall be heard in a regular meeting of the Board of County Commissioners and shall illustrate the proposed facilities, intended uses of the dedicated land, justification for the proposed need and benefit to the public that would result. The decision of the Board of County Commissioners shall be conveyed in writing to the petitioner and recorded in the minutes of the meeting.
3. The sites reserved for community use shall be, in the opinion of the Planning Commission and the Board of County Commissioners, suitable and usable for their intended purposes and uses based on consideration of the factors described in this Section. The areas reserved for community uses shall be reserved through deed restriction, and the maintenance of said sites shall be ensured by specific obligations in the deed of each lot within the subdivision or by other suitable means acceptable to the Board of County Commissioners.

4. Prior to final plat approval, the developer shall:
 - a. Dedicate land, interests in land or improvements or arrange for the construction of public facilities made necessary as a consequence of the subdivision; or
 - b. Make a payment to the County of a sum of money, to be determined by the County in accordance with the criteria set out below, based upon either the fair market value of a percentage of the acreage, a flat fee per lot or tract or, in the case of any other method, such basis as may be agreed upon between the County and the developer; such in-lieu payment is to be applied against expenses incurred by the County in the provision of off-site services or facilities made necessary or desirable by the immediate or future increase in population caused by or attributable to the subdivision; or
 - c. Provide property by private covenant where such property will fulfill the needed recreational or amenity purposes.
 - d. Fulfill such other arrangements or conditions, memorialized in a subdivision improvement agreement or development agreement, as may be desirable or necessary to alleviate the effects of or increase the benefits caused by the subdivision and to promote the public health, safety and welfare of the present and future subdivision residents and inhabitants of the County as a whole.

4.02.04 Payment in Lieu of Dedication

Upon written request by an applicant, the Board of County Commissions may accept cash payment in Lieu of dedicated land, in whole or part, not to exceed the current market value of such land that would have been dedicated to the County. Current market value of the undeveloped land shall be determined mutually by the subdivider and by the Board of County Commissioners and, if they fail to reach a satisfactory

agreement, the current market value shall be determined by the subdivider obtaining an appraisal of the land by a competent appraiser of his choice and at his expense, the Board of County Commissioners obtaining an appraisal of the same property by an appraiser of its choice and at its expense. The average of these two (2) appraisals shall be deemed to be the current market value of the property in question. All moneys collected by the County under this Section shall be deposited in an interest-bearing account which clearly identifies the category, amount or fund of capital expenditure for which the moneys were collected. Each such category, account or fund shall be accounted for separately. Any interest or other income earned on such moneys shall be credited to the account.

4.02.05 Purpose

The purpose of the dedication and/or payment is to provide the public facilities and/or services made necessary as a consequence of the subdivision, in an amount roughly proportional to the impact of the subdivision upon such facilities and/or services or the increased need for them brought about by the subdivision. The developer shall have the option, in its sole discretion, to accept the County's calculation of the required dedication, or to perform such studies as are necessary to demonstrate the actual impact of the subdivision upon public services and facilities, and the resulting appropriate dedication or other contribution.

4.02.06 Reservation for Common Private Use

Reservation by covenant, in lieu of dedication, may be permitted where land is to be used for recreational or amenity purposes by the property owners. Such areas shall be restricted to their intended use by plats and recorded covenants which run with the land in favor of the future owners of property within the subdivision and which cannot be defeated or eliminated without the consent of the Board of County Commissioners. In the event of a reservation or dedication for the use of owners of lots within a subdivision, the subdivider shall provide for the creation of a homeowners' association or similar

organization with powers of assessment for maintenance, improvements and upkeep of such areas and the provisions contained within the homeowners association bylaws or similar governing document shall receive approval from the Board of County Commissioners prior to acceptance of a final plat.

4.02.07 Dedication and Acceptance

Final plat approval shall not constitute an acceptance of maintenance responsibility by Las Animas County for the roads, streets, alleys or other public lands indicated for dedication on such plat. The dedication of any of these lands for public use shall be accepted by resolution of the Board of County Commissioners and in no event until after inspection has shown that all specifications of the County have been met.

Acceptance of dedicated lands shall not constitute acceptance for maintenance responsibilities of any right-of-way unless and until the following conditions are met.

1. The Board of County Commissioners has received a petition submitted by the landowners within the subdivision alleging a need for County acceptance of responsibility for street maintenance.
2. The Board of County Commissioners determines that the annual number of residents or users of the roads in question justify such acceptance.
3. The Board of County Commissioners acts by resolution to formally accept maintenance responsibility for such rights-of-way.

The Board of County Commissioners shall withhold all public street improvements and maintenance from all rights-of-way which have not been accepted for maintenance purposes by the Board of County Commissioners. Roads accepted for maintenance purposes by the Colorado Department of Transportation will be similarly accepted by Las Animas County for maintenance.

The location of all public or quasi-public land intended to be conveyed or reserved in the deed for use of all property owners shall be shown on the preliminary and final plats or site plans, as appropriate, together with the proposed method

of ownership, management, maintenance and such other information as is necessary for the Planning Commission and Board of County Commissioners to evaluate the proposal.

At the time of presentation of the final plat for approval by the Planning Commission and Board of County Commissioners, a warranty deed shall be presented for all land to be conveyed to the County, school district or other governmental entity. The deed shall be accompanied by a title insurance policy or other evidence that the land is free and clear from all encumbrances.

4.03 Guarantee of Improvements

1. No final plat shall be approved by the Board of County Commissioners until the subdivider has submitted a subdivision improvements agreement or similar contract setting forth the plan, parties responsible and method for the construction of all required public improvements shown on the final plat documents. The agreement or contract shall adhere to design standards of the County or prevailing engineering practices and shall, in the judgment of the Board of County Commissioners, make reasonable provision for completing of the specified improvements in a specified time period, with appropriate phasing, as a condition for acceptance by the Board.
2. Suitable collateral in an amount stipulated in the subdivision improvements agreement shall accompany the final plat submission to ensure completion of the public improvements according to design and time specifications. Such collateral shall be in the form of a payment and performance bond.
3. If the improvements required to be installed are not constructed in accordance with the required specifications, the County shall notify the subdivider of the noncompliance and establish schedules for the correction of the noncompliance. If the Board of County Commissioners determines that any or all of the improvements will not be constructed in accordance with the specifications, the County shall have the power to annul the subdivision improvements agreement, either fully or in part, and withdraw from the deposit of collateral such funds as are necessary to construct the improvements in accordance with the specifications previously established.

4. Should a subdivider not provide suitable collateral to insure completion of the required public improvements, no final plat shall be accepted by the Office of County Clerk and Recorder until said improvements are constructed and approved by the Board of County Commissioners. As the required public improvements in a subdivision are completed, the subdivider may apply in writing to the Board of County Commissioners for a partial or full release of the collateral. The Board of County Commissioners or its appointed agent shall inspect the public improvements that have been completed. If the Board determines that the improvements have been made in accordance with the final plat and the subdivision improvement agreement, a portion of the collateral shall be released, provided that the Board of County Commissioners retains sufficient collateral to cover the cost of the incomplete improvements.
5. Concurrently with approval of the final plat, the developer shall furnish the County with, at the County's option, one (1) of the following: cash, certified funds, a certificate evidencing good and sufficient performance and payment bond or letter of credit to secure the performance and completion of the public improvements to be dedicated to the County, in an amount equal to one hundred fifty (150) percent of the estimated cost of said improvements.
6. No letter of credit or performance bond drawn upon a company, bank or financial institution having any relationship to the developer or any principal, director, officer or shareholder of the developer (other than the relationship of depositor or checking account holder) shall be acceptable. The County may reject any security for any reason.
7. From time to time, as work to be performed and improvements to be constructed progress to completion, the County may, upon its inspection of and satisfaction with the completion of improvements or work, cause or request that so much of the security required hereunder be released as corresponds to the completed improvements or work. Consent to release of funds or security shall not constitute acceptance by the County of such improvements or work for maintenance purposes.
8. Prior to any subdivision, the developer shall provide the County with a written warranty of work in a form acceptable to the Planning Department (which warranty may be part of the site improvements agreement) with respect to the improvements to be constructed, warranting that the work will be free of all defects in design, materials and construction, and will remain serviceable for a period of two (2) years after completion.
9. Except as may be provided in any subdivision improvements agreement, the County shall not accept responsibility for the operation or maintenance of any improvements until completion of the improvements and final acceptance thereof by the County. Upon written application by the developer for a certificate of completion, and provided that all payments and other performances herein agreed to be made and performed by the developer have been made and completed, the County shall issue a certificate of completion. Except for defects appearing within two (2) years after the date of the certificate, the County will release the developer from all further liability as to the completed improvements. Upon issuance of a certificate of completion, all improvements specified in the certificate shall be deemed approved and accepted by the County, whereupon the specified improvements shall be owned, operated and maintained by the County.
10. No certificate of occupancy shall be issued for any improvements within the development if such agreement is in default or until the remaining development improvements have been installed to serve the properties for which a certificate of occupancy is sought, unless funds or a performance bond sufficient to guarantee completion and satisfactory to the County have been provided by the developer. In the event such funds are insufficient to complete the improvements, the County, in addition to any other remedy, may revoke any or all certificates of occupancy relating to the development. No subdivision may be further processed which is owned, in whole or in part, by a developer who is in default of any site improvements agreement for any subdivision within the County, or who is in default of any agreement with the County for the payment of any fee or charge.

4.04 Ownership Records

So long as a subdivider continues to hold title to any lots in a subdivision, such subdivider shall file with the Las Animas County Assessor, no later than the fifteenth of January of each year, a schedule of the prior year's activity, listing the following information:

1. Name of the subdivision and date of filing of the final plats.
2. Identification by lot and block number of the buyer of all lots, with current buyer mailing address, contract price and payment, the total number of lots remaining unsold and the total number of lots redeemed.

4.05 Guarantee by Deed and Release in Escrow

No lots within a subdivision nor any subdivided land shall be sold or offered for sale without an absolute guarantee by deed and release in escrow by the land owners and lien holders, if there be any, that merchantable title to the land sold within a subdivision shall be delivered to a purchaser who has paid in full for said land regardless of the allocation of payments. All sales contracts for subdivided land and lots within a subdivision must be placed on record not later than three (3) working days after the expiration of any revocation period specified in the laws of the State of Colorado and the United States.

4.06 Withdrawal of Approval for Cause

The Board of County Commissioners may withdraw any approval previously granted to a preliminary plan, final plat or related document if the Board determines that any information provided by the subdivider to the Board or to the Planning Commission, upon which such approval had been based, was false or inaccurate.

In such cases, the Board of County Commissioners shall give written notice to the subdivider or other applicant stating the false or inaccurate information allegedly provided to the Board or the Planning Commission and directing the applicant to appear at a public hearing, which shall be scheduled not less than ten (10) nor more than thirty (30) days after notice is given. At the hearing, the Board shall determine the nature and extent of the alleged false or inaccurate information and it may, for good cause,

withdraw any approval or require corrective measures to be taken or direct its agents to enter upon the property to take the corrective measures it requires. The cost of such corrective measures shall be assessed against the applicant.

4.07 Family Transaction Exemption

Unless the method of disposition is adopted for the purpose of evading the provisions within these Regulations and the appropriate laws of the State of Colorado, the terms "subdivision" and "subdivided land" shall not apply to any division of land which is created by the gift, transfer or sale by a parent to a child or grandchild or by a child to a parent, so long as the parcel created fully conforms to the zoning and other provisions contained within these Regulations. Such gift, sale or transfer shall be specifically prohibited from creating nonconforming lots.

4.08 Single Transaction Large Lot Exempt Subdivisions and Correction Plat Exempt Subdivisions

Upon the recommendation of the Planning Commission, the Board of County Commissioners may, at its discretion and in accordance with the procedures described in Section 4.09, exempt from the definition of the terms "subdivision" and "subdivided land" any division of land which:

1. Is done for the purpose of changing the form of ownership of a previously subdivided parcel, provided that the change does not alter the overall existing density of the parcel being subdivided.
2. Is done for the purpose of revising lot lines from those shown on a recorded plat and which creates no more than the previously recorded number of parcels, provided that, first, any lot or parcel which is now conforming shall remain so; second, that any lot or parcel that is now nonconforming shall not have its degree of nonconformance increased; and, third, that the plat amendment and other appropriate provisions of these Regulations are satisfied.
3. Is done for the purpose of correcting an engineering or survey error in a recorded plat, provided that the corrections continue to meet the applicable provisions of these Regulations.

4.09 Exemption Procedures

Family transaction exemptions from these subdivision regulations require no approval; all other exemptions (see Section 4.01.02) shall adhere to the following procedures.

Applicants for such exemptions shall submit to the Planning Commission a written request for exemption, which shall include, at a minimum, the following information:

1. A description of the property in question, with a vicinity map, noting the location of all property lines, easements and rights-of-way and the location and current and proposed future uses of all structures on the property. The description shall also include the size of the property in question and the names and addresses of all adjacent property owners.
2. A statement describing what exemptions are requested, why they are being requested and why they should be granted.
3. Evidence of ownership of the property in question or clear authority from the owners to act as their appointed agent.

Exemption requests shall be considered by the Planning Commission, which may, at its discretion, request such additional information as it reasonably needs and may also submit the request to other organizations, agencies or private parties for review and comment. Following review of the request, the Planning Commission shall make a recommendation to the Board of County Commissioners. The Board of County Commissioners shall review the request and the recommendations and comments forwarded to it and either approve or disapprove the request. The Board will be deemed to have granted such request for exemption or request for variance if it fails to rule within thirty (30) days after the Planning Commission submits the request to it for action.

4.10 Minor Subdivisions

Proposed subdivisions which impose a condominium form of ownership upon existing built structures, and subdivisions which meet all of the following criteria, may be processed in accordance with the procedures outlined in this Section as minor subdivisions:

1. The subdivision results in no more than five (5) lots or interests in land.
2. All lots are adjacent to a dedicated and accepted public street.
3. All improvements contemplated by Sections 4.02 and 4.03 are already in existence and available to serve each lot.
4. Each lot will meet requirements of this Chapter. Notwithstanding the foregoing, a conveyance of land to the County for public dedication purposes, unless combined with another subdivision, shall constitute a minor subdivision.

Upon receipt of an application for approval of a minor subdivision, the Planning Director shall review the application to determine whether the conditions of this Section have been met and that the application is properly one for a minor subdivision.

Upon a determination by the Planning Director that the above conditions have been met, the applicant shall submit two (2) reproducible originals and five (5) copies of a subdivision plat in accordance with Section 4.17.03. The applicant shall also submit a certificate by a registered engineer that all required improvements are already installed, available and adequate to serve each lot of the subdivision. The plat shall be recorded following the Planning Director's approval.

4.11 Large Lot Subdivisions

All divisions of land which create parcels of land each of which comprises thirty-five (35) or more but less than one hundred sixty (160) acres and none of which is intended for use by multiple owners shall be exempt from these subdivision regulations. However, by virtue of the authority granted by Title 29, Article 20, Colorado Revised Statutes, as amended, the Board of County Commissioners hereby declares that the division or sale of such parcels shall be accompanied by the filing of a plan with the Las Animas County Clerk and Recorder containing the following information:

1. A plan, drawn in ink and to an appropriate scale, indicating the bearings, distances and curve data of all perimeter boundary lines and legal descriptions and dimensions of all parcels of land that have been so divided.

2. For all such parcels not situated adjoining a County-maintained public street or road, an access drive easement not less than thirty (30) feet in width shall be designated as such and bearings and dimensions given between the parcel and a public road or street.
3. The information on the plan shall include the name of the tract if any, the current date and the township, range and section in which it is located.

The Provisions contained within Section 4.03 shall run with the land and no building permits shall be issued for such parcels of land unless and until the parcels are in full conformance with the provisions of Section 4.05 and any other relevant provisions of these Regulations. Any person, firm or corporation violating Section 4.05 of these Regulations shall be subject to the penalties set forth in the laws of the State of Colorado and any other legal action provided by law. Divisions of land creating parcels of land of one hundred sixty (160) acres or more are, however, exempt from the provisions of this Section.

4.12 Cluster Subdivisions

4.12.01 Purpose

This section implements the authority granted by Section 30-28-401, et seq., C.R.S., and amendments to Section 37-92-601, et seq., C.R.S. It is intended that this Section provide a process for the development of parcels of land for residential purposes that will authorize the use of clustering, water augmentation, density bonuses, not to exceed two (2) units for each thirty-five-acre increment, or other incentives, and the transfer of development rights, and fulfill the goals of the County to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations.

4.12.02 Review Procedure

1. The applicant shall submit a site plan and subdivision plat containing the information required by Section 4.10:
2. The application shall be reviewed by the Planning Commission at a public hearing, notice of which shall be provided as required by Section 2.04.

3. The Board of County Commissioners shall review the application at a public hearing, notice of which shall be provided as required by Section 2.04.
4. After the hearing, the Board of County Commissioners shall act to approve, approve with conditions or deny the application. In the event the application is approved, with or without conditions, the cluster subdivision plat, when executed, shall be filed for record with the County Clerk and Recorder in the same manner as a final subdivision plat.
5. No later than ten (10) days after approval of a cluster subdivision, the Board of County Commissioners shall notify the state engineer of such approval and shall provide the state engineer with a copy of the approved rural land use plan that includes the cluster subdivision.

4.12.03 Standards for Review of Cluster Subdivisions

The Planning Commission and Board of County Commissioners shall be guided by the following criteria in reviewing cluster subdivision applications:

1. That the application meets all of the minimum requirements of this Section.
2. That the application fulfills the goals of the County to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations.
3. That at least two-thirds ($\frac{2}{3}$) of the total area of the tract is reserved for the preservation of contiguous open space.
4. That the application reduces the extension of roads and utilities to serve the proposed development.
5. That the proposed development will not exceed two (2) residential units for each thirty-five-acre increment.

6. That the application permits landowners to implement smart growth on land that is otherwise exempt from subdivision regulation.
7. That approval of the application would preserve existing agricultural uses.
8. That approval of the application would protect existing view sheds of benefit to present and future residents and visitors to the County.
9. That a water-court approved plan for augmentation shall be required and shall accompany any approved cluster subdivision when water usage in the development would exceed an annual withdrawal rate of one (1) acre-foot for each thirty-five (35) acres within the development; provided, however, that this requirement shall not apply in the event the development will be served by the use of treated domestic water provided by any public or private entity.

4.12.04 Permitted Incentives for Application and Approval of Cluster Subdivisions

The Planning Commission may recommend, and the Board of County Commissioners may consider, the following incentives which may be spent in connection with approval of the application:

1. Density bonuses, not to exceed a total built density of one (1) unit for each one-hundred-acre increment.
2. Transfer of development rights, to the extent permitted by the County in the future.

Within ten (10) days following approval, the County shall notify the state engineer of the approval, providing a copy of the approved plan, as required by Section 30-28-404(3), C.R.S.

4.12.05 Conditions of Approval

The Planning Commission may recommend, and the Board of County Commissioners may impose, any or all of the following conditions upon the approval of a cluster subdivision:

1. That the cluster subdivision development plan set aside land to preserve open space, wildlife habitat or critical areas.
2. That a conservation easement be recorded with the cluster subdivision plat that restricts development of any preserved open land, wildlife habitat or critical areas for not less than forty (40) years from the date the plan is approved.

4.13 Subdivision Design Standards and Specifications

The following design standards and specifications shall apply to all subdivisions to be proposed, reviewed, accepted or platted in Las Animas County following the adoption of these regulations, except as otherwise provided for within the provisions of these Regulations.

4.13.01 Subdivision Lots

All lots in any subdivision to be proposed, reviewed, accepted or platted in Las Animas County shall conform to the following specifications:

1. Lot dimensions and other characteristics shall conform to the applicable zoning district requirements and other appropriate provisions of these Regulations.
2. All lots shall have access to a street or road, and all streets and roads must be constructed to County standards.
3. Lots with double frontage shall be avoided except where essential and unavoidable to provide separation from major arterials, incompatible land uses or topographical or other environmental considerations.
4. Side lot lines shall be substantial at right angles or radial to street right-of-way lines.
5. Wedge-shaped lots or lots fronting on cul-de-sacs shall not be less than thirty (30) feet in width at the front property line.
6. No lots shall be divided by County or municipal boundaries, roads or other lots.

7. Delineation of areas for potential building sites; that is, building envelopes, shall be required for those lots significantly affected by any designated or known one-hundred-year floodplain, major drainage way, area of excessive slope of twenty (20) percent or greater or other identifiable natural or man-made hazards.
8. No building permit shall be issued for construction on building lots with twenty (20) percent or greater slope where construction would occur without an applicant submitting a special engineering study to the County Building Inspector prior to seeking the building permit. The study shall show the feasibility of the site to allow for construction of the intended structures, and it shall also describe the mitigation measures to be used to overcome excessive slope problems. Lots where there are no buildable sites with less than twenty (20) percent slope shall be so noted as excessive slope lots on the final plat.
9. No nonconforming lots shall be created.
5. Adequacy of block size for the location of domestic wells where individual septic disposal systems are used.
6. Block lengths shall not be longer than twelve hundred (1,200) feet, except where they enter main through-streets, nor be less than four hundred (400) feet in length, except in districts zoned agricultural, where the Planning Commission shall establish the maximum allowable length of blocks depending on the characteristics of the proposed subdivision and the terrain where it would be located.
7. When a tract is to be subdivided into larger parcels than ordinary building lots, such parcels shall be so arranged to allow the opening of future rights-of-way and logical further subdivision of the tract and adjoining lands.

4.13.03 Subdivision Streets and Roads

Streets and roads shall be constructed to the standards and specifications as set forth herein and in any other applicable regulations of Las Animas County or the State of Colorado.

4.13.02 Subdivision Blocks

Block lengths and widths shall be acceptable to the Board of County Commissioners and shall be appropriate to the types of land use anticipated in the subdivision, consistent with the zoning provisions within the districts in which the subdivision would be located and compatible with the terrain. The following criteria shall be used by the Planning Commission and the Board of County Commissioners for determining the suitability of block characteristics:

1. Adequacy of block size for the provision of building sites appropriate to the uses within the proposed subdivision.
2. Adequacy of block size for convenient access, vehicular and pedestrian circulation and control and safety of street traffic.
3. Relationship of block characteristics to the limitations and opportunities of topography.
4. Adequacy of block size for the placement of leaching fields where individual septic disposal systems are proposed.
1. The street system shall be devised for the most advantageous development of the entire area. Principal streets in adjoining subdivisions shall be continued and the street system shall provide for the future projection of principal streets into subdivided and unsubdivided adjoining property.
2. Except in the case of minor subdivisions, at least two (2) means of access to the subdivision shall be provided, so that all lots within the subdivision are provided with adequate ingress and egress in the event of an emergency. In the case of large subdivisions, the Planning Commission may, however, at its discretion, require more than two (2) entrances and, in other cases, on application and the demonstration of good cause, the Planning Commission may waive the requirement of two (2) means of access.
3. When a subdivision abuts or contains an existing or proposed major arterial street or highway, the Planning Commission may require service roads, reverse frontage lots

with screen planting in a reservation strip abutting the major arterial or other such treatment as may be necessary to protect adequately residential properties and separate local and through traffic serviced by a County road. The Planning Commission shall review the adequacy of the road to serve the proposed development. If the Planning Commission determines that the traffic generated by the subdivision will result in safety hazards for drivers, pedestrians or adjacent residents, or result in substantially increased County maintenance costs, then the Planning Commission shall report such findings to the Board of County Commissioners. The Board will then determine the improvements necessary to bring the road to acceptable standards for safe and adequate service for the present and future owners. The subdivider and the Board shall then agree upon a cost-sharing program and timetable of activities to bring the road to an acceptable condition, and such agreement shall be incorporated into the subdivision improvements agreement.

4. When a subdivision borders on or contains a railroad right-of-way or a limited access highway right-of-way, the Planning Commission may require construction of a street approximately parallel to and on each side of such right-of-way suitable for appropriate uses of the intervening land.
5. Upon recommendation of the Planning Commission, the Board of County Commissioners may require the paving of any street or road which, in the Board's opinion, would otherwise be hazardous to public health, safety, welfare or convenience. The cost of such paving, if it were to be required, shall be borne by the subdivider or the purchasers of lots within the subdivision, through a homeowners' association or similar organization.
6. Streets shall have the names of existing streets with which they are in alignment in the County, in adjoining counties or in adjoining municipalities. There shall be no duplication of streets within the subdivision or adjoining areas, and names of streets shall be subject to approval by the Board of County Commissioners. Subdividers shall be required to furnish and install street signs and all traffic control devices required in the proposed subdivision.
7. Street jogs with less centerline offset than one hundred twenty-five (125) feet shall be avoided wherever possible.
8. Cul-de-sacs shall not be longer than one thousand three hundred twenty (1,320) feet in length, nor service more than twenty (20) residential units. Every such street which serves as the sole frontage of any lot shall provide a turning space at its closed end at least one hundred (100) feet in useable diameter between property lines. Such streets will be allowed only in cases where it can be demonstrated that the street will be passable year-round by virtue of minimum grade and curvature, adequate parking provisions and allowance for snow removal and storage.
9. Dead-end streets (not including cul-de-sacs) shall be prohibited unless they are platted to the boundary of the subdivision and are so located to provide logical connection to future streets in adjoining undeveloped lands. All dead-end streets shall be provided with a temporary turnaround right-of-way easement having a diameter of at least one hundred (100) feet.
10. There shall be a minimum number of intersections of residential streets with state and federal highways. No more than two (2) streets or roads shall intersect at one (1) point. Streets shall not intersect at an angle of less than sixty (60) degrees nor more than one hundred twenty (120) degrees, except under unusual circumstances. Intersecting streets shall be connected with each other by a curve of at least twenty-five (25) feet in radius.
11. Minor streets shall be laid out in fashion that will discourage through traffic.
12. All horizontal and vertical curves shall be laid out so that, from a point five (5) feet above the surface, there shall be clear vision ahead and behind within the traveled way for a safe distance.

13. It shall be the responsibility of subdividers to construct, reconstruct or repair all bridges within a proposed subdivision to meet the following minimum requirements unless, upon application to the Board of County Commissioners and the showing that such standards are unnecessary or would cause undue hardship, the Board decides at its discretion to grant a waiver or modification of these standards.

- a. Sufficient strength to accommodate an AASHO (American Association of State Highway Officials) H-20 live load carrying capacity. It shall be the responsibility of the applicant to demonstrate that this standard shall be met.
- b. Adequate pedestrian facilities.
- c. Approach grades and curvatures adequate to ensure safe sight distance.
- d. Hydraulic capacity to pass the maximum one-hundred-year probable flood, as determined by the drainage study or other professionally prepared study.

14. Wherever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted or dedicated. This requirement may be waived at the discretion of the Planning Commission when the Planning Commission determines that it is in the public interest to vacate said adjacent half street or alleyway.

15. All subdivision streets and roads shall be designed and constructed in a manner that will reduce to the greatest extent practical snow accumulation on such streets and roads. The Planning Commission may, at its discretion, require structural means of mitigating snow accumulation on subdivision streets and roads when other proposed means are not shown to be adequate.

16. Street and road grades shall in general conform to the terrain and shall not, except as provided below, be constructed at grades of less than one (1) percent nor more than the following percent grades:

| | |
|----------------------|-----|
| County major highway | 6% |
| Major street | 8% |
| Collector street | 8% |
| Local street | 10% |

Where terrain, site design considerations or other special circumstances preclude the construction of roads or streets within the above grade limitations, an applicant may petition the Planning Commission in writing for the amendment of these standards. The Planning Commission may, at its discretion and upon the demonstration of sufficient cause, allow the construction of streets and roads with a grade that shall not be less than three-tenths (0.3) percent nor more than the following:

| | |
|----------------------|-----|
| County major highway | 8% |
| Major street | 10% |
| Collector street | 10% |
| Local street | 12% |

17. Street and road rights-of-way shall conform to the following minimum right-of-way widths, except as provided for below.

| | |
|-------------------------|----------|
| Major County road | 80 feet |
| Required frontage road | 50 feet |
| Major street | 80 feet |
| Collector street | 60 feet |
| Local street | 50 feet |
| Cul-de-sac diameter | 100 feet |
| Alleys (where required) | 12 feet |

Street and road roadway widths, as measured from shoulder edge to shoulder edge, shall conform to the following minimums, except as provided for below:

| | |
|-------------------------|---------|
| Major County road | 40 feet |
| Required frontage road | 30 feet |
| Major street | 40 feet |
| Collector street | 32 feet |
| Local street | 30 feet |
| Alleys (where required) | 12 feet |

Surfacing width requirements shall be supplied on request by the Planning Commission, based on established road construction practices in Las Animas County and special use and terrain circumstances, as appropriate. In cases where there exist special terrain considerations, upon application in writing to the Planning Commission and the showing of due cause, the Planning Commission may, at its discretion, allow a reduction of up to forty (40) percent in the required minimum right-of-way and roadway widths for frontage roads and residential streets within subdivisions, so long as such reductions would not compromise the safety of such roads for vehicle operators, pedestrians or residents and so long as adequate maintenance and snow removal operations could be provided.

18. Subdivision roads, where not paved, shall be constructed with an eight-inch base and a two-inch finish of a size and quality of construction material acceptable to the Board of County Commissioners. The Board may also, at its discretion, establish from time to time by resolution additional standards and specifications for the construction of streets and roads within proposed subdivisions and elsewhere in the County.
19. When a tract of land proposed for subdivision includes any part of an existing or planned state highway, it shall be the responsibility of the subdivider to cause the right-of-way for said state highway to be platted and reserved for purchase by the State of Colorado.
20. When a tract of land proposed for a subdivision includes any part of an existing or planned County road or highway, it shall be the responsibility of the subdivider to cause the right-of-way or an alternative access route acceptable to the Board of County Commissioners and the public agency managing such public domain lands to be provided in the design of the proposed subdivision.

4.13.04 Driveway Design

All driveways adjoining County roads must obtain a driveway permit from the Planning Department and shall be constructed under the following criteria:

1. All driveways must fall away from the shoulder of the County road at a two-percent slope for the first ten (10) feet or over the driveway culvert to prevent drainage into the County road. The driveway may incline or decline from this point. In no case shall the driveway slope exceed four (4) percent in the right-of-way.
2. All driveways shall be a minimum of sixteen (16) feet wide and a maximum of twenty-two (22) feet wide in the right-of-way or at the approach to the road. These dimensions include flares.
3. All driveways must approach the road at ninety (90) degrees or perpendicular to the roads with a sight distance of no less than three hundred (300) feet in each direction of the road being accessed.
4. The minimum culvert size to provide drainage underneath a driveway shall be eighteen (18) inches. A minimum of six (6) inches of cover is required between the top of the culvert and the driveway surface. If the driveway crosses a major drainage way, the County Road and Bridge Department may require an increase in the size of the culvert. Both sides of the culvert shall be armored with riprap or rocks.

4.13.05 Residential Mailboxes

All residential mailboxes in a County road right-of-way shall conform to the following specifications:

1. Mailboxes shall be mounted a minimum of forty six (46) inches above grade.
2. Mailbox posts shall be a minimum of twenty four (24) inches from the edge of the County road shoulder.
3. Mailbox posts may be constructed of stone, brick, large timbers or wood, etc.

4. Any dirt work required in association with a mailbox next to a County road shall be performed by the private land owner or his contractor.

Federal regulations shall override these residential mailbox provisions if there is a conflict.

4.13.06 Underground Utilities

All utilities, except major power transmission lines, transformers, switching and terminal boxes, meter cabinets and other facilities necessarily appurtenant to such utilities, shall be placed beneath the ground, buried to a depth specified in the design plan and acceptable to the Planning Commission, except in cases where, upon application in writing to the Board of County Commissioners and the showing of excessive hardship that would so result, the Board of County Commissioners may grant an exemption from this requirement of underground placement of utilities.

The construction, installation and repair of right-of-way openings for subsurface utilities require the issuance of a permit from Las Animas County Road and Bridge Department, the posting of an appropriate bond and evidence of adequate insurance.

4.13.07 Utility Easements

Utility easements shall measure twelve (12) feet on each side of rear lot lines and, on subdivision perimeter rear lot lines adjacent to unsubdivided property, utility easements shall measure fifteen (15) feet in width. Side lot easements, where necessary, shall measure ten (10) feet in width on either side of the property line. If the location of utility easements adjacent to rear property lines is unsuitable for use by utility companies due to drainage, irrigation or other obstructions, a subdivider shall provide like-width easements adjacent to said areas of obstruction. Utility easements shall be subject to approval by the applicable utility companies and, where required, additional easements shall be required for main switching stations and substation. Subdividers shall make the necessary arrangements with each serving utility for the installation of required utilities.

4.13.08 Drainage, Erosion, Sedimentation and Flood Control

Subdividers shall be responsible for the design and construction of all drainage and erosion, sedimentation and flood control facilities required to direct and control all permanent and seasonal water and for providing all necessary drainage easements. All facilities shall be designed by a registered professional engineer licensed to practice in the State of Colorado or other individual deemed competent by the Board of County Commissioners and qualified in the fields of hydrology, hydraulics and soils engineering. Such facilities shall be designed and constructed in a manner that will protect all roadways and lots, permit the unimpeded flow of natural water courses, ensure the adequate drainage of all low area and avoid stream degradation within and downstream from the proposed subdivision.

1. Drainage systems proposed as part of a proposed subdivision shall be based on consideration of the drainage basin as a whole and shall be capable of accommodating not only runoff from the proposed subdivision but also, where applicable, the runoff from areas adjacent to and upstream from the subdivision itself. Total runoff shall be calculated using standard engineering techniques, and drainage easements shall be provided as necessary to accommodate an expected flow in any twenty-five-year period.
2. Drainage structures shall be designed to prevent heavy sedimentation within or erosion or overtopping of channels or damage to structures. Drainage structures shall be designed in a manner that will not increase the magnitude, depth or velocity of flow at the point where channels cross the boundary line of the proposed subdivision or increase the stream channel energy gradient within or without the proposed subdivision.
3. All drainage facilities under roadways shall be designed and constructed to withstand an American Association of State Highway Officials (AASHO) recommended H₂O live loading, except as specifically exempted by the Planning Commission, and the minimum

accepted culvert size shall be eighteen (18) inches in diameter. Drop structures shall be installed as needed, as shall storm sewers with appropriate inlets and manholes.

4. The proposed subdivision shall be designed so as to cause minimal erosion problems. To that end, the design and execution of the proposal shall ensure that the proposed subdivision be constructed in a manner which will minimize disturbance of existing vegetation and soil cover. Adequate provision shall be made for revegetation, and for soil stabilization during and after development of the site, all cuts and fills shall be designed, engineered and landscaped to control erosion as well as provide stability for the entire mass, and natural drainage patterns shall be preserved and protected from increased water flows that could alter such patterns or subject existing channels and adjacent areas to increased erosion.
5. Natural vegetation shall be preserved adjacent to streams, rivers, lakes and reservoirs, and the planting of trees and bushes, where feasible, is encouraged along open areas. In addition, all road cuts and fills should be replanted or reseeded to grasses suited to the environment. Applicants should consult with the Las Animas County Soil Conservation District and any other appropriate agencies, including the Purgatoire River Water Conservancy District, in the development of drainage, sedimentation and erosion control measures.
6. Portions of a proposed subdivision located within a designated one-hundred-year floodplain or special flood hazard area shall be subject to the design limitations, standards and regulations contained in the "Flood Damage Prevention Regulations", and may be developed only in accordance with a Floodplain Development Permit (see Chapter X). If land within a proposed subdivision is currently not within a designated floodplain but is within a flood hazard area as identified by the Federal Emergency Management Agency (FEMA) or as identified by the floodplain studies within the submission requirements portion of this Section, an applicant may voluntarily apply for a Floodplain Development Permit for the identified flood hazard area. Alternately, the applicant may request that the requisite technical information for a floodplain study and the floodplain study shall be reviewed by the Colorado Water Conservation Board. Following this review, the Board of County Commissioners shall decide whether to designate the floodplain. Such designation, if made, shall then require issuance of a Floodplain Development Permit for development in the designation area.
7. The above conditions shall be satisfied before an applicant may submit a preliminary plan to the Planning Commission. All proposed development within a designated one-hundred-year floodplain located within a proposed subdivision shall comply with the provisions of Chapter X of these Regulations and all applicable provisions of the Federal Emergency Management Agency minimum standards and regulations for land use and construction in identified flood hazard areas.
8. Any activities which are planned to take place in or adjacent to a streambed of a proposed subdivision may require issuance of a dredge and fill permit pursuant to Section 404 of the Federal Clean Water Act, PL 92-500. If such a permit is required, evidence of its issuance must be provided to the Board of County Commissioners prior to approval of a final plat.
9. A fifty-foot strip of land measured horizontally from the mean identifiable high-water mark on each side of any running stream or creek located within the boundaries of a proposed subdivision shall be protected in its natural state with the exception that footpaths, bridges, irrigation structures, drainage and erosion control structures, flood control devices and outdoor recreation fixtures may be constructed thereon. If such stream is located along the outer boundaries of a proposed subdivision, this requirement shall apply to that part of such stream and strip which is located within the proposed subdivision.

10. In cases where the required setback would cause undue hardship or be inconsistent with a design plan or prove not in the interest of the public health, safety, welfare and convenience, and upon written application to the Planning Commission and demonstration of sufficient cause, the Planning Commission may, at its discretion, waive or modify this requirement. The Planning Commission may also recommend and the Board of County Commissioners determine that a setback in excess of fifty (50) feet and up to one hundred (100) feet is required along all or a portion of a setback when steep or highly unstable or erodible slopes are present along the stream bank or the proposed use of the land presents a special hazard to the water quality.

4.13.09 Sanitary Sewage Disposal Systems

No final plat shall be approved by the Board of County Commissioners unless or until an economical and practical method of sanitary sewage disposal is available for the lots within that subdivision. Sewage disposal facilities that are provided for all lots within a subdivision by a community or centralized sewage disposal system shall be favored where such systems are practical.

1. All lots in a proposed subdivision which cannot practically or economically be connected to a community or centralized sewage disposal system shall be provided with an on-lot Individual Sewage Disposal System (ISDS) prior to the occupancy or use of buildings constructed thereon. Whenever an ISDS is proposed, the subdivider shall either install such facilities or require by deed restriction or otherwise in a manner satisfactory to the Board of County Commissioners as a condition of sale of each lot within such subdivision that the ISDS be installed by the purchaser of said lot at the time that the principal building is constructed and before it be occupied. Such ISDS shall comply with the sewage disposal system requirements adopted by the County and with all applicable State of Colorado statutes governing the construction of such systems.
- In addition, applicants shall comply with all other regulations regarding the design and construction of sewage disposal systems, including the following provisions:
- a. Lands made, altered or filled with non-earth materials within the last ten (10) years shall not be divided into building sites to be served by soil absorption sewage disposal systems.
 - b. Each lot to be served by an ISDS shall have fifty (50) percent of its minimum required lot area or twenty thousand (20,000) square feet, whichever is less, in slopes of less than fifteen (15) percent.
 - c. Any subdivision lot to be served by an ISDS shall have a minimum distance of eight (8) feet from the surface of the ground to the ground water surface, based on the annual high water level.
 - d. Any ISDS must be at least one hundred (100) feet from any water supply well and at least fifty (50) feet from any stream or water course.
 - e. Soils having a percolation rate faster than five (5) minutes per inch or slower than sixty (60) minutes per inch shall not be divided into building sites to be served by an ISDS.
 - f. Land rated as having severe limitations for septic tank absorption fields by the U.S. Soil Conservation Service shall not be divided into lots to be used as building sites unless the applicant can demonstrate that such sites can be adequately serviced by an ISDS of a type and design approved by a local or state health department.
 - g. Applicants desiring to install an ISDS on soils alleged to have severe limitations for such use shall have an opportunity to present to the Planning Commission evidence contesting such classification and analysis. Applicants wishing to do so should present to the Planning Commission the evidence of additional on-site tests, including percolation tests,

- the certification of a soil scientist that specific areas lying within the land in question are suitable for an ISDS and any other appropriate evidence that the existing on-site limitations can be safely mitigated. After hearing the matter, the Planning Commission may, at its discretion, deem the land in question suitable for an ISDS.
2. Public sewage collection, treatment and disposal facilities will normally be required in subdivisions with a net density greater than one (1) dwelling unit per acre of residential land and may be required by the Board of County Commissioners in other subdivisions where percolation or other tests reveal soil or other conditions unsuitable for individual sewage disposal systems.
 3. Where County, municipal or special district plans indicate that the construction or extension of sewage collection lines may serve a proposed subdivision within a reasonable period of time, the Board of County Commissioners may require the installation of capped sanitary sewer mains and house connections in addition to the installation of temporary individual sewage disposal systems. It shall be the responsibility of Las Animas County for the design approval and supervision of the installation of all capped sewers, laterals and house connections or, if there be a water and sanitation or a sanitation district, that responsibility shall be assumed by the district if it is willing to do so.

4.13.10 Water Service

No final plat shall be approved by the Board of County Commissioners, unless or until a practical and reliable water supply system is available for the lots within that subdivision. Water service that is provided to every lot or parcel by a community or collective water supply and distribution system shall be favored where such systems are practical. Water supplies shall be treated, as necessary, by methods acceptable to the Colorado Department of Public Health and Environment. Any proposed water supply system for a proposed subdivision shall meet the following conditions and requirements:

1. Sufficient quantity, quality, dependability and pressure to provide an appropriate supply of water for the type of subdivision proposed, as determined by the review of an applicant's water supply plan and/or other documents submitted to the office of the state engineer.

In the case of centralized treatment and supply systems, fire supply needs shall be satisfactory to the firefighting agency within which jurisdiction the proposed subdivision would be located.
2. All lots in a proposed subdivision which cannot practically be provided with a community or centralized water treatment and distribution system shall be provided with individual on-lot water supply systems. The subdivider shall install such systems or shall require by deed restriction or otherwise in a manner satisfactory to the Board of County Commissioners, as a condition of sale of each lot within the proposed subdivision, that such on-site water supply systems shall be installed by the purchaser of the lot at the time of the construction of the principal building and before it is occupied.
3. Prior to approving a final plat for a proposed subdivision to be supplied with on-site water supply systems and as a condition for approval of that plat, the Board of County Commissioners reserves the right to determine that:
 - a. Underground aquifers are adequate to supply the projected future needs of the development.
 - b. Well permits are available from the Colorado Division of Water Resources.
 - c. Well usage would not interfere with vested water rights.
4. Centralized water treatment and distribution systems shall be sized hydraulically to meet the initial and future demands of the proposed subdivision and oversizing of lines may be required for likely extensions. Such systems shall be sized hydraulically for maximum day plus fire demands or peak

hour, whichever is greater. Maximum day demand shall be assumed to be equal to three (3) times average day demand, and maximum hour demand shall be assumed to be six (6) times average hour demand unless other specifications are specifically approved by the Planning Commission upon written application and the demonstration of good cause. In addition, new centralized water systems shall be designed with sufficient treatment and storage capacity to serve the specified maximum hour demand for a period of six (6) hours or maximum day demand plus hours or a maximum day demand plus the required fire demand for the specified duration. In addition, proposed centralized water supply systems shall be required to meet such other design and construction characteristics as the Board of County Commissioners may from time to time establish and as have been established by any water and sanitation district or water district in which the proposed subdivision would be located.

5. Fire hydrants shall be required, at the discretion of the Board of County Commissioners, in all subdivisions serviced by a centralized water treatment and distribution system. Hydrants shall be spaced not more than one thousand (1,000) feet apart and provided with adequate pressure, flow and duration, as determined by prevailing underwriter standards, for firefighting purposes.
6. Applicants proposing subdivisions which would utilize existing centralized water treatment and distribution systems shall provide, prior to approval of a preliminary plat, evidence in writing of the willingness of the owner of said system to provide potable water in a quantity, quality and pressure, on an uninterrupted basis, adequate to serve the present and future needs of the proposed subdivision.
7. Regardless of the source of the water supply for a proposed subdivision, applicants shall be required to provide evidence from a reputable laboratory that the water available to

the proposed subdivision meets all applicable state and federal drinking water standards or that it can and will be subject to established water treatment methods that will allow it to meet such standards.

4.13.11 Fire Safety and Protection

At the discretion of the Board of County Commissioners and upon a recommendation from the Planning Commission, proposed subdivisions may be required to include fire lanes where the forested portion of a proposed subdivision joins or parallels national forest boundaries. Such lanes shall be of sufficient width to allow the passage of tractors, trucks and other heavy firefighting equipment, and the lanes to be cleared shall be indicated on the preliminary plan. In cases where fire lanes are required, provision shall be made for them in the subdivision improvements agreement, including provision that all slash materials, vegetative residue, fallen trees, limbs, roots and related material shall be removed from the subdivision or cut for firewood and stacked at appropriate sites. The width and other characteristics of required fire lanes shall be established for each proposed subdivision by the Board of County Commissioners in consultation with the Planning Commission, the appropriate fire suppression agencies and the U.S. Forest Service.

Where fire hydrants are not required in a proposed subdivision, the Board of County Commissioners may, at its discretion and upon recommendation by the Planning Commission, require that a subdivider install cisterns, which shall be of solid construction, strategically placed and with a minimum capacity of five hundred (500) gallons per dwelling unit to be protected. The location of such cisterns as may be required shall be shown on the preliminary plan and provision for them shall be made in the subdivision improvements agreement.

Access to the cisterns and central water storage shall be guaranteed to Las Animas County and to the appropriate fire suppression agencies for firefighting and other emergency purposes.

All proposed subdivisions shall be in compliance with the adopted fire code.

4.13.12 Survey Monuments

Permanent survey monuments shall be set within all subdivisions pursuant to Title 38, Article 53, Colorado Revised Statutes, as amended. In addition, No. 5 steel rebars, twenty-four (24) inches or longer, shall be set at all lot corners prior to selling or advertising for sale such lots. All monuments, markers and benchmarks shall have fixed securely to the top thereof the registration number of the land surveyor responsible for the establishment of such monument, marker or benchmark. Benchmarks shall be stamped with the letters "B.M." and the elevation of the benchmark.

Monuments located within streets shall be of No. 5 rebar steel, thirty-six (36) inches or longer, placed so that their tops are six (6) inches below the final street surface. When a street is paved or otherwise surfaced, all such monuments within the paved or surfaced area shall be fitted with monument boxes of sturdy construction, and monuments set after paving or surfacing shall also be provided with sturdy monument boxes.

All monuments, markers and benchmarks shall be set or witnessed according to standard construction techniques and in a fashion that is satisfactory to the Board of County Commissioners.

4.13.13 Other Public Improvements

Other reasonable improvements, not specifically mentioned herein but found appropriate and necessary by the Board of County Commissioners, shall be required to be shown on the final plat and shall be constructed at the applicant's expense, or at an expense to be shared by the applicant and Las Animas County, within such reasonable time and to such reasonable specifications as the Board of County Commissioners deems necessary and appropriate.

4.13.14 Energy Conservation and Solar Access

Subdivision design, including the street configuration and the layout of lots, shall be undertaken in a manner calculated to provide for the conservation of energy by the future residents of the

proposed subdivision and allow for the maximum access to solar energy sources by those residents.

4.13.15 General Subdivision Design Standards and Specifications

In addition to the design standards and specifications listed above, all proposed subdivisions shall be designed to implement the goals, objectives, policies and other provisions of Chapter II of these Regulations and shall be so located and laid out as to protect the public health, safety, welfare and convenience of the residents of the proposed subdivision and to preserve and enhance the natural terrain, vegetation, soils, natural drainages, land forms and other positive characteristics of the site.

4.14 Wildlife Habitat Analysis

Where development of a subdivision may potentially create adverse wildlife impacts, in the reasonable determination of the Planning Director, the application procedure shall be as follows:

1. An application for development will include the applicant's analysis of the effect a proposed development will have on wildlife and wildlife habitat, if any, realizing that landowners and other local laypersons may be qualified as experts in their knowledge of wildlife activities on specific properties.
2. The applicant shall be provided with wildlife information, including maps and other data, assembled by the Planning Department for use in completing the application procedures.
3. The Planning Department shall provide the applicant with a checklist or other standards to be used by the Board of County Commissioners in its review of the proposal. Further, the Planning Department shall develop and make available to the applicant alternative measures for mitigating wildlife impact.
4. The Planning Commission shall submit an applicant's exhibit to the Colorado Division of Wildlife for review and comment prior to consideration of the preliminary plan by the County Planning Commission.

Wildlife habitat means:

1. **Buffer Zone.** Some species of wildlife are intolerant to disturbance from human activities during portions of the year. In order to protect these species, buffer zones with no, or limited, human-related disturbances are necessary during those seasons when these species occupy specific areas.
2. **Concentration Areas.** Areas where high density of wildlife species at certain times of the year makes them highly susceptible to developments and activities of man. Examples of concentration areas include staging areas for waterfowl and deer, roosting areas for a number of birds and colonies of such colonial species as swallows and beaver.
3. **Movement Corridors.** Many species of wildlife have daily and seasonal movement patterns along more or less established corridors. These may be between nesting, resting, roosting, feeding and watering areas. Concentrations of animals increase the likelihood of conflict between wildlife and humans. Many of these corridors offer the only means for wildlife movements, or their uses become so traditional that disruption of interference could be disastrous for the species involved.
4. **Principal Feeding Areas.** These include areas containing the natural foods for a wildlife species of sufficient quantity and quality and readily available to sustain a normal population.
5. **Production Areas.** These include areas necessary for pre-nuptial activities, breeding, young-rearing and rearing; i.e.; spawning beds, nursery streams and protected shoal areas for fish; permanent shallow water for amphibians; strutting, booming and dancing grounds for calling perches, nesting places; and protective young-rearing cover for birds breeding grounds, calving and fawning areas, den trees, burrows and young-rearing cover for animals.
6. **Shelter Areas.** Those physical or natural features in their habitats which provide escapement from their enemies and adverse weather conditions. Included therein are such things as rough terrain for many species of wildlife; and rocky bottoms and shorelines and aquatic vegetation in and adjacent to water for protection of fish, amphibians and aquatic-oriented species of terrestrial wildlife.
7. **Shoreline Vegetation.** Vegetation along stream banks and the shorelines of lakes is extremely important to aquatic-related forms of terrestrial wildlife. Such vegetation controls water temperatures, provides food and shelter and protects banks from excessive erosion which can damage or destroy wildlife habitats.
8. **Special Habitat Needs.** Some wildlife species have very specific needs without which they cannot survive. Therefore, reduction of such needs beyond certain limits, or a complete destruction of these habitat features, could cause a species to be reduced in number or perish. For example, sagebrush is essential to the survival of sage grouse.
9. **Summer Ranges.** Summer ranges relatively free of human disturbance are highly important to the survival of some species, especially those requiring extended periods of time for rearing the young.
10. **Water and Minerals.** A permanent water supply in sufficient quantity and quality is necessary to support most wildlife species. In addition, some species have special mineral needs. Continuous stream flows and conservation pools in reservoirs are essential to the survival of fish. Stable water levels in lakes and reservoirs are highly desirable for fish, amphibians and many birds, as well as to the food organisms upon which they depend.
11. **Winter Ranges.** Winter ranges of sufficient quality and quantity are critical for(2) two reasons: (1) they are frequently so restricted in area that they limit the size of an animal population over its entire range; and (2) these ranges are often in proximity to human populations and human activities so that the species involved are adversely affected, or the species may adversely affect real and personal property.

4.14.01 Procedure for High and Very High Impact Areas

If a development's potential impact has been determined by the Colorado Division of Wildlife to be high or very high, the following information must accompany the application for development.

1. Maps prepared at an easily readable scale, showing:
 - a. The location of the proposed development site, to include a certified boundary survey.
 - b. The relationship of the site to surrounding topographic and cultural features.
 - c. The nature and density of the proposed development or land use change.
 - d. Proposed building locations and arrangements.
 - e. A legend which includes:
 - 1) A complete and accurate legal description as prescribed by the development application form. The description shall include the total acreage of the parcel;
 - 2) Title, scale and north arrows;
 - 3) Date, including revision dates, if applicable; and
 - 4) Certificates, by a professional biologist as appropriate.
 - Existing structures and landscape features, including the name and location of all water courses, ponds and other bodies of water.
 - Such additional information as may be required by the Board of County Commissioners, in order to determine if the intent and purpose of Las Animas County has been fulfilled.

2. A report which contains:
 - a. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon identified wildlife habitat.
 - b. The applicant's analysis of the effect of the proposed development, activity or land use change upon those wildlife species identified by the Division of Wildlife of the Department of Natural Resources, within the identified wildlife habitat, utilizing the Potential Land Use/Wildlife Habitat Conflicts Checklist.
 - c. A plan by the applicant which shall explain how he will mitigate any adverse impacts to wildlife habitats created by the proposed development.
 - d. An evaluation to the Division of Wildlife or qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate.

4.14.02 Standards

Mitigating measures must be targeted to the specific wildlife impact brought about by a particular development. For example, destruction of deer winter range by development cannot be mitigated by constructing brush piles for rabbits; however, this impact might possibly be mitigated by placing the development in clusters near the periphery of the deer winter range - being careful not to isolate such habitat from the deer by encircling it with buildings. Similar techniques might be advisable to keep an elk or deer migration route open. Development impact on small habitat may be mitigated by constructing brush piles, leaving standing snags, planting shrubs, and other such measures in order to enhance the remaining habitat. Another mitigating measure that may be advisable in many cases would be to prohibit dogs in a new development.

4.15 Amendments to Approved and Recorded Plats

The resubdivision of land substantial changes to a recorded plat shall be subject to the subdivision and

other applicable provisions of these Regulations. Minor changes to an approved and recorded plat shall not be considered a subdivision of land within the intent and definitions of these Regulations so long as the minor changes are not undertaken for the purposes of circumventing these subdivision regulations and so long as the minor changes do not include modifications which significantly alter the intended land uses, density, number of lots, circulation system or dedicated land, or encompass more than twenty-five (25) percent of the land included within an overall site within an approved and recorded subdivision. Specifically included within the scope of minor changes are the following actions: the adjustment and revision of lot lines, the replatting of lots, the reconfiguration of dedicated streets and easements and reserved sites along with similar minor changes to an approved and recorded plat, so long as the minor changes create no nonconforming lots nor significantly alter street and road location, drainage easements or violate the subdivision design standards contained herein.

4.15.01 Procedures for Amendment

Applicants wishing to amend an approved recorded plat shall submit to the Planning Commission an application on a form supplied by the County, the appropriate submittal materials and the required filing fees (see Chapter XII). An application to amend an approved and recorded plat shall be reviewed by the Planning Commission following the submission of the required materials. The Planning Commission shall make a recommendation on the application for the amendment of an approved and recorded plat and transmit the application to the Board of County Commissioners for a decision. The Board of County Commissioners shall consider the application following, at its discretion, the submission of the application to any appropriate review agencies and interested parties, and the decision of the Board shall be recorded in the minutes of the meeting and transmitted in writing to the applicant. Applications that are denied by the Board of County Commissioners shall result in a statement to the applicant giving the reason for the denial.

4.15.02 Submission Requirements

Submission requirements for an application to amend an approved and recorded plat include a completed application, the appropriate filing fees and the following items:

1. Proof of ownership of the lots, parcels or subdivision plat to be amended and evidence that the applicant, if not the owner, has full legal authority to act on behalf of the owner.
2. A copy of the approved and recorded final plat, along with drawings done to the same scale as the recorded final plat, indicating the amendments proposed to be made to the approved and recorded plat. The drawings submitted with the recorded final plat shall meet all requirements for the preparation of a final plat and be suitable for recording in the office of the County Clerk and Recorder. The drawings shall also show the location of all structures, streets, rights-of-way and easements within the area of the proposed plat amendment, along with the boundary dimensions and angle of bearing of each lot line to be amended.
3. A narrative statement describing the proposed changes to the approved and recorded final plat and providing an explanation of why the proposed changes should be approved by the Planning Commission and the Board of County Commissioners. Included with the narrative statement shall be the acreage or square footage of all lots before and after adjustment, a legal description of each lot before and after adjustment and a statement of the current zoning of all portions of the plat to be amended.
4. Applications for amendment of an approved and recorded plat submitted to correct minor surveying or drafting errors shall be accompanied by an affidavit by a Colorado licensed land survey attesting to the approved and recorded final plat.

The Planning Commission may, at its discretion and upon written request by an applicant, waive any but not all of these submission items listed above and the Planning Commission may also, at its discretion, add such submission items as it deems necessary and appropriate to evaluate and recommend upon any application for a plat amendment submitted to it. The Planning Commission may also submit the application for review to such referral agencies and interested parties as it reasonably sees fit.

4.15.03 Criteria for Action on a Plat Amendment Application

All actions by the Planning Commission in reviewing and making recommendations on an application to amend an approved and recorded plat and by the Board of County Commissioners in approving or disapproving such applications shall be based in general upon the provisions of these Regulations and specifically on the following criteria:

1. That the proposed amendment meets the qualification stated herein for a minor change to an approved and recorded plat.
2. That the proposed amendment would be consistent with all other provisions of these Regulations and would not cause significant hardship or inconvenience for adjacent or neighboring land owners or tenants.
3. That the proposed amendment would not be likely to prove detrimental to the public health, safety or welfare of County residents.

4.15.04 Recording of Amended Plats

All amended plats shall be filed and recorded in the office of the Las Animas County Clerk and Recorder at the applicant's expense.

4.16 Vacating of Approved and Recorded Plats, Rights-of-Way or Easements

Applicants may apply for the vacating of any plat, right-of-way, easement or portion thereof so long as the plat, right-of-way, easement or portion thereof has been filed and recorded in the office of the Las Animas County Clerk and Recorder.

4.16.01 Procedure for Vacating Plats, Rights-of-Way and Easements

Applications to vacate approved and recorded plats, rights-of-way, easements or portions thereof shall be accompanied by an application form provided by Las Animas County, by the appropriate submittal materials and the necessary filing fees (see Chapter XII). Copies of the vacating submittal materials shall be submitted to the school district and any other special purpose districts in which the proposed vacating is located along with all utility companies and municipalities potentially affected by the proposed

vacating. Additional referral agencies may be contacted by the Planning Commission, at its discretion. The application shall be considered by the Planning Commission and Board of County Commissioners at public hearings, notified as provided in Section 2.04. The Planning Commission shall recommend and the Board of County Commissioners shall approve, approve with conditions or deny the application.

Applications for vacating may be initiated by:

1. The Board of County Commissioners.
2. The Las Animas County Planning Commission.
3. The owner of record or duly authorized agent of any owner of record of any approved and recorded plat right-of-way or easement.

4.16.02 Submittal Requirements

Submission requirements for an application to vacate an approved and recorded plat, right-of-way or easement shall include a complete application, the appropriate filing fees and the following items:

1. Proof of ownership of the property to be vacated and evidence that the applicant, if not the owner, has full legal authority to act on behalf of the owner.
2. A copy of the approved and recorded plat, right-of-way or easement and a vacating plat. Said plat shall be prepared as a final plat and shall be prepared by and have the seal of a registered land surveyor, duly registered to practice in the State of Colorado.
3. A narrative statement describing the proposed vacating action and providing an explanation of why the proposed vacating should be approved by the Planning Commission and the Board of County Commissioners. Included within the narrative should be a legal description of the land to be vacated and the area, in acreage or square feet, of the land in question.

The Planning Commission may, at its discretion and upon written request by an applicant, waive any but not all of the submission requirements

listed above and the Planning Commission may also, at its discretion, add such submission items as it deems necessary and appropriate to evaluate and recommend upon any application for the vacating of a plat, right-of-way or easement.

4.16.03 Criteria for Action on a Vacation Application

All actions by the Planning Commission in reviewing and making recommendations on an application to vacate an approved and recorded plat, right-of-way or easement and by the Board of County Commissioners in approving or disapproving such applications shall be based in general upon the provisions of these Regulations and specifically upon the following criteria:

1. That the proposed vacating would not interfere with development of or deny access via a public thoroughfare to existing structures within the recorded plat, adjoining properties, utility structures, facilities or sites located beyond the plat, right-of-way or easement to be vacated.
2. That the proposed vacating would not cause undue hardship or inconvenience for any utility company, special district, neighboring landowner or tenant.
3. That the proposed vacating would not be likely to prove detrimental to the public health, safety or welfare of County residents.
4. That the proposed vacating would be consistent with all other provisions of these Regulations.
5. That the proposed vacating would not cause undue financial hardship to Las Animas County nor deprive it of needed tax base.

4.16.04 Vacating of Roads, Streets and Highways

Any provisions contained within these Regulations notwithstanding, the procedures of vacating roads, streets and highways shall conform to the provisions contained in Section 43-2-301, et seq., Colorado Revised Statutes, 1973, as amended.

4.17 Submittal Requirements for Proposed Subdivisions

Applications for approval of a subdivision shall include, in addition to a complete application on a form provided by Las Animas County and the appropriate filing fees, the following items. The Planning Commission may, at its discretion and upon written application by an applicant, waive any of these items not required by the laws of the State of Colorado, and the Planning Commission may also, at its discretion, add such submission items as it deems necessary and appropriate to evaluate and recommend upon any application for approval of a subdivision.

4.17.01 Sketch Plan/Preliminary Submission

Applicants should note that some subdivision proposals may be exempted from the sketch plan submittal requirements. In addition, upon written request by an applicant and at the discretion of the Planning Commission, proposed subdivisions that are not to be phased in various stages and which do not require a PUD permit, may simultaneously submit a sketch plan and a preliminary plan at the general submission stage of the review process. All other applications for approval of a subdivision shall comply with the sketch plan/initial submission requirements contained herein.

The sketch plan and associated documents are submitted as a conceptual proposal that provides an overview of a proposed subdivision and allows generalized discussion of the apparent merits and perceived problems of a particular subdivision configuration. Sketch plans shall be prepared by appropriately qualified persons, such as a landscape architect, engineer or draftsman, in a clear and legible manner acceptable to the Planning Director and at a scale of one (1) inch to one hundred (100) or two hundred (200) feet or another scale approved by the Planning Director. In the case of large proposed subdivisions requiring more than one (1) sheet at such scale, a total area plan showing the total area at an appropriate scale shall also be submitted.

Sketch plans shall remain valid for one (1) year after initially presented to the Planning Commission or until another sketch plan for the site is

presented, whichever occurs first. Any sketch plan submitted to replace a sketch plan previously submitted to the Planning Commission shall require a new application and filing fee if it is a significantly revised sketch plan in the opinion of the Planning Commission.

A sketch plan shall include the following information:

1. The names, addresses and telephone numbers of the property owners and of the applicants, if other than the owners, and the names of the persons preparing the submittal.
2. The name of the proposal.
3. The date of preparation of the sketch plan, a north arrow and a written and a graphic scale.
4. An accurate legal description of the property included within the proposal and all adjacent land owned or under option by the applicant.
5. Enumeration of the approximate acreage of the proposed subdivision.
6. A vicinity map showing the proposed subdivision in relationship to the surrounding area with the names of adjacent subdivisions and property owners along with the current land uses and zoning districts within one (1) mile of the boundaries of the proposed subdivision.
7. The current zoning on the site and any zoning changes to be requested.
8. Any unique historical, archaeological, scenic or other noteworthy features on or in close proximity to the site.
9. A delineation of existing easements of the site, their uses and the easement owners.
10. The existing and any proposed new means of public access to the proposed subdivision.
11. A graphic description of all the natural and man-made watercourses, retention areas, streams and lakes, including any known, identified or designated one-hundred-year floodplains and other natural hazards, if any.
12. Evidence of all existing structures on the site, their current uses and their future status within the proposed subdivision.
13. The topography of the site at an appropriate contour interval, noting all areas with slope in excess of twenty (20) percent.
14. The average lot size, proposed density and all public and private sources of utility facilities and services.
15. The location of all existing and proposed streets, drives and roads and the names of existing streets within the site.
16. The approximate location of land to be reserved and land to be dedicated to the County.
17. A lot and street layout, indicating general scaled dimensions of lots and blocks.
18. The location of off-street parking areas, areas for landscaping, the location of any commercial, service, industrial, recreational or community facilities or buildings and the future land uses within the various portions of the proposed subdivision.
19. Documentation concerning the suitability of the types of soil for the uses proposed within the site, and in areas with a known or suspected potential radiation hazard, this hazard shall be evaluated. Soils suitability data should be compiled in accordance with the National Cooperative Soil Survey and be accompanied by a table of interpretation for the soil types shown on the soil map.
20. A description of the proposed systems for the supply of portable water and the disposal of sewage, along with adequate evidence that a water supply system capable of dependably delivering an adequate quality and quantity of water for the proposed subdivision will be provided.
21. Evidence of any drainage, retention or watercourse diversion structures proposed for the site.

The sketch plan shall be accompanied by a brief narrative description of the proposal. Include all submission information appropriately presented in narrative form, describing briefly the scope

and concept of the proposed subdivision and its anticipated impact on adjoining land uses, on water quality and supply in the area and on the circulation system in the area. The narrative shall also describe whether and to what extent the proposed subdivision is consistent with and fosters the intent of Chapter II of these Regulations and particularly the goals, objectives, policies and the future land use plan contained therein.

Included on the sketch plan and in the narrative should be information on the phasing, if any, that will be used in the development of the proposed subdivision.

In preparing material for sketch plan submission, applicants are urged to confer with staff from the Soil Conservation Service, the Division of Wildlife, utility companies, special districts and other local, regional and state agencies, as appropriate.

4.17.02 Preliminary Plan/General Submission

The preliminary plan which may be submitted upon approval of the sketch plan shall incorporate all modifications of and changes to the sketch plan agreed to by the applicant, the Planning Commission and the Board of County Commissioners. The purpose of a preliminary plan is to review the proposed subdivision in the context of the technical requirements, design standards and improvement requirements of Las Animas County and the various other terms and provisions of these Regulations to ensure the compatibility of the proposed subdivision with these considerations and with the current and anticipated or desired future land use patterns within and in the vicinity of the proposed subdivision. Detailed review of a preliminary plan at the general submission stage provides further evidence of compliance or lack of compliance of the proposed subdivision with the Master Plan and other provisions of these Regulations, along with the policies and plans of other public and quasi-public agencies in Las Animas County.

Preliminary plans shall be prepared by appropriately qualified persons in a clear and legible manner on reproducible stock in a manner acceptable to the Planning Commission and at a scale of one (1) inch to one hundred (100) or

two hundred (200) feet or another scale approved by the Planning Director. In the case of large proposed subdivisions requiring more than one (1) sheet at such scale, a reproducible composite measuring not more than twenty-four (24) inches by thirty-six (36) inches and showing the total area at an appropriate scale shall also be submitted.

Preliminary plans approved by the Board of County Commissioners shall remain valid for one (1) year following the date of their approval unless an extension of up to one (1) additional year is granted by the Board of County Commissioners upon submission of a written request for such extension by the applicant prior to the expiration of the initial preliminary plan. Any preliminary plan submitted for a proposed subdivision for which a previous preliminary plan approval has expired shall be considered a new preliminary plan and shall require a new application and filing fee.

A preliminary plan shall require the following information:

1. The names and addresses of the property owners and of the applicants, if other than the owners, and the persons preparing the preliminary plan submittal materials.
2. In the case of a corporate property owner or corporate applicant, evidence of registration or incorporation in the State of Colorado.
3. A copy of a certificate from a title insurance company or an attorney licensed to practice law in the State of Colorado setting forth the names of all owners of property included within the proposed subdivision and a list of all mortgages, judgments, liens, easements, contracts and agreements of record which shall affect the property within the proposed subdivision.
4. The name or identifying title of the proposed subdivision.
5. The date of preparation of the preliminary plan, a north arrow and a written and graphic scale.
6. An accurate legal description of the property included within the proposed subdivision and the total acreage of the proposed subdivision.

7. The location of the proposed subdivision as a part of a larger subdivision, if any, and with reference to permanent survey monuments with a tie to a section or a quarter-section corner.
8. A location map showing the relationship of the proposed subdivision to the characteristics of the surrounding area, along with the names of adjacent subdivisions and the current land uses and zoning districts within one (1) mile of the boundaries of the proposed subdivision.
9. A list from the County Assessor's office of current property owners of record and their complete mailing address for property within five hundred (500) feet of the boundaries of the proposed subdivision. This distance provision may be expanded up to two thousand five hundred (2,500) feet at the discretion of the Planning Commission in the case of large subdivisions and other special circumstances that so warrant.
10. A list of the owners of subsurface mineral interests and their lessees, if any, on the proposed site and their complete mailing addresses.
11. Site data in chart form presenting the total number of proposed residential lots, the net size of the average (mean) lot, minimum lot size, maximum lot size, the types of land use proposed and the area of land proposed for each such land use.
12. The proposed sites, if any, for multifamily residential use, business use, commercial and industrial areas and other public and non-public uses exclusive of single-family residential areas within the proposed subdivision.
13. The total number of projected square feet of nonresidential floor space to be included within the proposed subdivision.
14. The current zoning districts on the site and any zoning changes to be requested.
15. The location and principal dimensions of all existing and proposed streets, alleys, roads, easements, off-street parking areas, watercourses, streams, ponds and other significant features of the natural and man-made landscape within and adjacent to the proposed subdivision. Such features should be labeled by their proper names, when such names exist or are known, and the use of all should be clearly shown.
16. The location and current and proposed future uses of all buildings and other structures in and within one hundred (100) feet of the boundaries of the proposed subdivision.
17. A lot and street layout with lots and blocks numbered consecutively, with the dimensions of all lots to the nearest foot and the acreage in each lot displayed.
18. The location of any existing or proposed sewers, water mains, culverts, storm drains, sidewalks, gutters, fire hydrants and the sizes and types thereof, along with the width and depth of pavement or sub-grading to be provided, the depth of burial of all underground lines, pipes and tubing and typical cross-sections of the proposed grading of roadways and sidewalks.
19. The preliminary design for any bridges, culverts or other drainage structures to be constructed.
20. The topography of the proposed subdivision at two-foot contour intervals for predominant ground slopes up to five (5) percent grade and five-foot contours for predominant ground slopes within the site that are over five (5) percent grade. Upon request of and at the discretion of the Planning Director, alternate contour intervals can be used for all or part of a site where special slope or other conditions prevail. Elevations shall be National Geodetic Survey sea level data.
21. The delineation of any known, identified or designated one-hundred-year floodplains and localized areas subject to periodic flooding. Mitigation measures, if any, proposed to overcome the consequences of periodic inundation shall also be included in the submission. The distance between the mean identifiable high water mark of any creeks, streams or rivers and the nearest proposed development within the site shall also be shown.

22. The delineation of the geological characteristics of the area with evidence regarding the extent and intensity of any geological, radiological, seismic or other related hazards within or in close proximity to the proposed subdivision to overcome such geological, radiological, seismic or other hazards shall also be included in the submission.
 23. Soil suitability and interpretation information, as required in Section 4.17.01.19, and a narrative description of the mitigating measures, if any, proposed to overcome soils limitations present on the site of the proposed subdivision.
 24. Preliminary drainage, erosion and sedimentation control plans, as required.
 25. Delineation of the type and extent of vegetative cover on the site.
 26. All areas to be reserved for community or public uses and all areas to be dedicated to Las Animas County, along with any other areas to be used for open space and a statement describing how such reserved, dedicated and open space lands shall be maintained.
 27. Preliminary copies of the protective covenants to be filed with the final plat.
 28. Evidence that the proposed system for the disposal of sewage will comply with State of Colorado and Las Animas County statutes, regulations and design requirements and that the proposed method is both technically feasible and environmentally sound. The peak capacity of the sewage treatment system shall be provided if a centralized collection and treatment system is proposed.
 29. Evidence that the proposed system for the supply of potable water would be sufficient in terms of quantity, quality, dependability and pressure to provide adequate water supply to the proposed subdivision. The peak capacity of the proposed water supply system shall be provided if a centralized distribution system is proposed.
- Evidence that a proposed system for the supply of water is adequate shall include but need not be limited to the following items:
- a. Evidence of ownership or right of acquisition of or use of existing and/or proposed water rights.
 - b. Historic use and estimated yield of claimed water rights.
 - c. Probability of existing rights to a change in use.
 - d. Evidence that public or private water users can and will supply water to the proposed subdivision and a statement of the amount of water available for use within the subdivision and the feasibility of extending service to the site.
 - e. Evidence demonstrating that the potability and overall quality of the proposed supply will meet or exceed State of Colorado and federal water quality standards for drinking water. Where the water supply is to be provided through individual on-lot wells, the cumulative effect of such proposed use on vested water rights shall be discussed.
 - f. Where water supply or sewage collection and treatment is to be provided by an already existing centralized system, a letter of preliminary commitment from the owners of that system or their duly authorized agents, stating that there exists or will exist sufficient system capacity to supply the needs of the proposed subdivision and that the owners of the system are willing and able to provide the proposed water supply or sewage collection and treatment services.
 - g. A preliminary development schedule for required and proposed improvements, including the estimated construction cost and the proposed methods of financing.
 - h. A discussion of any special districts that would be created wholly or partly within the proposed subdivision, listing the proposed boundaries of the service district and what services it would provide.

- i. A preliminary phasing plan when the proposed subdivision would be developed in more than one phase.
- j. Other such information and submittal items as the Planning Commission or the Board of County Commissioners may reasonably request to review and act upon the preliminary plan.

4.17.03 Final Plat/Final Submission

Submission and review of a final plat is the last stage in the subdivision review process. The purpose of this review is to ensure that the detailed plans of development are in keeping with previous approvals granted, to incorporate changes decided upon or mandated at the preliminary plan general submission review stage and to provide the final technical and legal documents that are a condition for approval and recording of a final plat and associated materials.

The design of a final plat shall conform to the preliminary plan, with appropriate modifications and amendments. Applicants wishing to phase final platting rather than provide a final plat for an entire development may do so in accordance with an approved preliminary phasing plan submitted under the general submission stage of review and resubmitted and approved, with appropriate modifications, as a final phasing plan.

Final plats shall be prepared by appropriately qualified persons in a clear and legible manner in black ink on Mylar and in a manner acceptable to the Planning Commission. Final plats shall be prepared at the same scale as preliminary plans unless the Planning Commission, at its discretion, deems otherwise. Final plats exhibiting outer dimensions of twenty-four (24) inches by thirty-six (36) inches and showing the total area at an appropriate scale shall also be submitted.

Final plats submitted for a portion of a proposed development in accordance with an approved final phasing plan shall include a map at an appropriate scale showing which portions of the total development are being submitted for final platting and the relationship of the portions so submitted to the remainder of the proposed development.

Final plats shall be submitted to the Planning Commission for action within eighteen (18) months after the date that a preliminary plan for the same proposed development was granted approval by the Board of County Commissioners, except that one (1) extension of up to an additional eighteen (18) months may be granted by the Board of County Commissioners upon the submission of a written request for such extension by the applicant prior to the expiration of the initial eighteen-month period. Failure to submit an acceptable final plat within this allowable time period or extension period, if granted, shall require that an applicant resubmit a preliminary plan with the appropriate filing fees and associated materials.

The final plat shall contain the following information:

1. The names and addresses of the owners of record of the land being platted and the same information for the applicants, if other than the owners, along with the name, address and seal of the certifying registered land surveyor and other preparers of the final plat.
2. A copy of a certificate from a title insurance company or an attorney licensed to practice law in the State of Colorado attesting to the accuracy and validity of the title to the property being platted and stating that the applicant is the land owner or is duly authorized by the land owner to plat such land.

The certificate or certification shall also list all mortgages, liens, judgments, easements, contracts and agreements of record regarding the land to be platted, and the Board of County Commissioners may require, at its discretion, that the holders of such mortgages, liens, judgments, easements, contracts or agreements shall be required to join in and approve the application for final plat approval before such final plat is accepted for review.
3. The name or identifying title of the proposed subdivision.
4. The date of preparation of the final plat, a north arrow and a written and graphic scale.

5. A complete and accurate legal description of the property being platted and the total acreage and number of lots being platted.
6. The township, range, section and quarter section showing the location and full description of all monuments as required by Section 4.13.12 of these Regulations and by Title 38, Article 53, Colorado Revised Statutes, as amended.
7. A lot and street layout with all lots and blocks numbered consecutively, the dimensions of all lots, the acreage of each lot shown to two (2) decimal places and all street and road names.
8. All plat boundary lines with the lengths of courses to hundredths of a foot and bearing to the nearest second.
9. The lengths of all arcs, radii and tangents.
10. The names and widths of all existing or recorded streets and roads intersecting the plat boundaries or paralleling them within two hundred (200) feet, the names and map numbers of all bordering subdivisions and any municipal limits within two hundred (200) of the boundaries of the plat.
11. The boundary lines and dimensions, shown accurately, of all easements, alleyways, sidewalks and similar features, including all other rights-of-way not otherwise or explicitly mentioned.
12. The purpose and owners of all easements and statements from all utility companies, as applicable, that the stated services will be provided to the proposed development after platting.
13. The boundary lines and dimensions, shown accurately, of all property to be reserved and dedicated, with the means of access to such property clearly shown and its intended uses noted.
14. A legally acceptable statement by the applicant dedicating streets, rights-of-way, public sites and other such features; the transfer of County-dedicated land taking place by a legally acceptable instrument prior to or concurrent with final plat acceptance, but before recording.
15. Identification of lots with slope in excess of twenty (20) percent and any other lots where special studies are required prior to obtaining a building permit.
16. Delineation of all known, identified or designated one-hundred-year floodplains and localized areas subject to periodic inundation, along with required stream setback lines, if any.
17. Final drainage, erosion and sedimentation control plans along with a grading plan and a revegetation plan. The grading plan shall be indicated by solid line contours superimposed on dashed line contours of the existing topography of the area to be platted. Provision for the contour intervals of the grading plan shall be as specified in Section 4.17.02.20. The final drainage, erosion, sedimentation and revegetation plans shall be required at the discretion of the Planning Commission, which shall set whatever reasonable standards for such plans as the conditions of the site require.
18. Certification of approval blocks for the Planning Commission and Board of County Commissioners.
19. The final plat submission shall be accompanied by a subdivision improvements agreement, as provided for in Section 4.03 of these Regulations and by copies of the deed restrictions and/or covenants to govern the future use of all lots and common land with regard to water and sewer systems, resubdivision and any other changes which could significantly alter the proposed subdivision as reviewed and approved by the Board of County Commissioners. Deed restrictions shall be in conformance with or more restrictive than the zoning regulations, subdivision regulations and other provisions of these Regulations and must be approved by the Board of County Commissioners prior to or concurrent with the granting of approval of a final plat.
20. In cases where a Section 404 dredge and fill permit from the U.S. Army Corps of Engineers is required pursuant to Public Law 92-500, evidence of an approved permit shall be submitted as a condition for final plat approval.

22. When a street, road or other thoroughfare to be constructed as a part of the proposed subdivision or to provide public access to the proposed subdivision intersects with a State of Colorado or U.S. Highway, a copy of the Colorado Department of Transportation authorizing permit or other such legal instrument as the Colorado Department of Transportation shall issue must be submitted as a condition for final plat approval.
23. The final plat submittal shall also be accompanied by a summary description of the proposal stating:
 - a. Total area to be platted, the total number of proposed dwelling units, the number of single-family units and the number of multi-family units, and the size of the largest lot, the smallest lot and the average (mean) size lot.
 - b. The total number of square feet of non-residential floor space.
 - c. The total number of off-street parking spaces, excluding those provided for single-family residential use.
 - d. The estimated peak capacity of the proposed water supply system, if a centralized distribution system is proposed.
 - e. The estimated peak capacity of the sewage treatment system, if a centralized collection and treatment system is proposed.
 - f. The estimated construction cost and intended methods of financing of all public improvements and facilities, by category of improvement or facility. For improvements not completed prior to final plat approval, the cost estimates provided herein shall be identical to those included in the subdivision improvements agreement.
 - g. The names of the applicants and the name or identifying title of the proposed subdivision.
24. A list of the owners of subsurface mineral interests and their lessees, if any, and their complete mailing addresses.

25. Other plat notes and submittal items as the Planning Commission or the Board of County Commissioners may reasonably request in order to review and act upon the final plat.

4.17.04 Plan and Plat Acceptance Provisions

Sketch plans, preliminary plans and final plats which are not in compliance with the design standards, submittal requirements or other technical provisions of this Chapter IV shall not be acted upon by the Planning Commission or by the Board of County Commissioners.

No plat or replat of land laid out in a subdivision or lots shall be accepted an approved subdivision by the County Clerk and Recorder of Las Animas County unless and until such plat or replat shall bear thereon, by endorsement or otherwise, the approval of the Board of County Commissioners.

CHAPTER V

PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS

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CHAPTER V

PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS

5.01 Planned Unit Development (PUD) Regulation

The authority, purpose and legal standing of this planned unit development resolution is included within Chapter I of these Regulations and reference is hereby explicitly made to the authorizing authority for such resolutions contained in Section 24-67-101, et seq., Colorado Revised Statutes, 1973, as amended.

5.02 Objectives of PUD Development

These PUD regulations are intended to allow flexibility in development in a manner varying from the constraints upon innovative design and creative land use that might otherwise be imposed by zoning and subdivision regulations when narrowly construed. These PUD regulations are provided in order to promote the unified and integrated development and use of land at its highest feasible economic value while protecting the natural physical environment of Las Animas County and fostering development that groups various land uses in appropriate relationship to each other, to commonly shared open-space and to common facilities.

5.03 General Provisions

5.03.01 Title

The title of this planned unit development resolution shall be the Las Animas County, Colorado Planned Unit Development Regulations and may be so cited and pleaded. Hereinafter in these Regulations, it shall be referred to as the planned unit development regulations or the PUD regulations.

5.03.02 Repeal

Adoption of this regulation shall not modify or otherwise compromise planned unit developments approved by the Board of County Commissioners prior to the adoption of this regulation. Such prior planned unit developments shall be considered to be in conformity and compliance with the provisions of these

regulations. Planned unit developments created by issuance of the PUD permit before the adoption of these Regulations shall be considered to have met the provisions and requirements of this Chapter as PUD zoning districts.

5.03.03 PUD Application

Applications wishing to create a PUD shall be required to make application for a rezoning, which rezoning shall be required in addition to subdivision and/or any other permits and approvals required herein before a planned unit development may be constructed. A PUD application shall be on an appropriate form provided by Las Animas County, payment of the required filing fees and submittal of the required information.

5.03.04 Relationship of These Regulations to the Subdivision Regulations

In the case of a proposed subdivision to be developed as a PUD, the provisions contained herein are in addition to those contained within the subdivision regulations and shall be construed in conformity therewith. Where any regulations or other provisions contained within this PUD regulation overlap with or are incompatible or inconsistent with any regulation or provision of the subdivision regulations, the Planning Commission shall, at its discretion, determine which standard, requirement or other provision shall apply to an applicant. In making such decisions, the Planning Commission shall take into consideration the current and proposed uses of the land, the size, location and characteristics of the proposed PUD subdivision and all other relevant provisions of these Regulations.

5.03.05 Relationship of These Regulations to the Zoning Regulations

Planned unit developments are permitted in any zoning district within Las Animas County. Planned unit developments may include all uses allowed by right and any special uses allowed by the zoning regulations in the districts in which the PUD would be located. Approval of a PUD application by the Board of County Commissioners and the granting of a PUD shall be considered de facto approval of the proposed

special uses, and the applicant shall not be required to apply for or receive a special use permit for a special use, as specified in Section 2.15, when such proposed special uses are contained within a PUD proposal.

5.03.06 Building Permits

No building or other structure shall be erected nor shall a building permit be issued within a planned unit development or proposed planned unit development before a PUD rezoning, subdivision and/or any other additional permits and approvals have been granted by Las Animas County, except, however, that temporary uses as provided for in Section 3.06 shall be allowed if they meet the requirements and provisions contained therein.

5.03.07 Master Plan Compliance

All planned unit development application materials, site design characteristics and other PUD characteristics shall be in compliance with the goals, objectives, policies and other provisions of the Las Animas County Master Plan.

5.03.08 Permitted Uses Within a PUD

Any use that is not specifically prohibited within the zoning districts in which a PUD is to be located (see Section 3.03 on permitted, conditional and prohibited uses within zoning districts) may be an allowed use within a PUD. As long as these uses are not specifically prohibited in a zoning district that underlies a proposed PUD, they may include, but need not be limited to:

1. Single- and multi-family residences.
2. Sale and rental of commercial goods or services.
3. Recreational facilities and open space.
4. Offices.
5. Convention and meeting facilities.
6. Lodging facilities of all types.
7. Eating and drinking facilities.

8. Schools, churches and other institutional uses.
9. Additional commercial and industrial uses.

5.03.09 Sales Restriction

No developer, subdivider, applicant or other person shall transfer, or sell, any lot, tract, parcel or other piece of property which is within a proposed PUD until such PUD has been granted the required rezoning, subdivision and/or any other required permits and approvals by Las Animas County.

5.03.10 PUD Revocation for Nonperformance or Other Cause

When proposed new construction or a new use of the land was the basis for the approval of a PUD, the Board of County Commissioners shall declare such PUD approval to be revoked and invalid if a building permit has not been applied for and granted for a substantial part of said new construction within one (1) year of the date the PUD was approved or, if final platting is required, one (1) year from the date that a final plat of the area encompassed within the PUD was approved by the Board of County Commissioners.

Said building permits shall not be issued by the County Building Inspector unless and until he finds that said new construction or new use is substantially in accord with the descriptive material, drawings and other materials submitted by the PUD applicant to and approved by the Board of County Commissioners.

Following a recommendation by the Planning Commission, the Board of County Commissioners may not grant more than one (1) extension of up to one (1) year duration before the required revocation of a PUD permit rezoning for nonperformance. Application for such extension must be made in writing to the Board of County Commissioners prior to the expiration of the initial one-year time period.

Failure to conform to a development plan submitted as part of a PUD permit application shall also be considered adequate reason for revocation of a PUD approval, but such revocation

shall not occur except upon recommendation by the Planning Commission and following a hearing before the Board of County Commissioners.

5.03.11 Amendments to an Approved PUD

Any change in the size, type, location or uses or other significant characteristics of an approved PUD shall be considered a proposed amendment to the previously approved PUD. Proposed amendments shall require review and recommendation by the Planning Commission, review at public hearing and the granting of approval by the Board of County Commissioners before such changes may be authorized and implemented.

The conditions of any waiver or modification authorized by the Board of County Commissioners shall be stated in writing in the minutes of the Board, along with the justification for the granting or denial of such waiver or modification.

5.04 PUD Design Standards and Specifications

5.04.01 General Design Standards and Specifications

Planned unit developments shall be designed in such manner that wherever possible they protect and enhance the environmental assets of the site and the surrounding area. Such assets shall include but need not be limited to vegetation, wildlife, watercourses, scenic vistas, prominent physical landmarks and features of agricultural production.

The design and layout of a PUD shall include adequate, safe and convenient arrangements for pedestrian circulation, roadways, driveways, access for the purpose of egress and ingress, off-street parking and load space and related features. Setbacks and lot widths and other such dimensions shall be as required in the zoning regulations (see Chapter III of these Regulations) unless provided for otherwise by the applicant in the PUD design and with the approval of the Planning Commission and the Board of County Commissioners.

The PUD design shall bear a carefully thought-out relationship to the surrounding area in order to avoid adverse affects to the proposed development caused by natural or man-made effects.

The minimum land area of a PUD shall not be less than ten (10) acres, and a minimum land area of five (5) acres shall be required for any single construction phase of a PUD. These minimum size requirements shall be calculated on the total land area of the proposed PUD, including all rights of ways and easements.

Visual screening and buffers of an appropriate height and construction shall be provided to separate incompatible uses and to block from view unattractive features of the man-made and natural environment.

The right-of-way, roadway width and other design features of the circulation system shall be as specified in the subdivision regulations (see Chapter IV), except as allowed for otherwise in the design of the PUD and with the approval of the Planning Commission and the Board of County Commissioners.

Parking and off-street loading spaces shall be provided in connection with every residential, commercial, recreational, industrial and other use within a PUD concurrent with the completion of said PUD element.

The underground placement of utilities and the requirements and specifications regarding the supply of potable water and the disposal of sewage shall be as specified in the subdivision regulations (see Chapter IV), except as otherwise allowed for in the design of the PUD and approved by the Planning Commission and the Board of County Commissioners.

5.04.02 Density Requirements

1. Common Open Space

A minimum of twenty (20) percent of the area within a PUD shall be devoted to useable public open space, which shall be defined as open areas designed and developed for use by the residents of the proposed development or by other persons for uses including but not limited to recreation, parks, gardens, bodies of water, greenbelts and walkways. The terms shall not include private institutional uses nor space devoted to streets, roads, loading areas or land dedicated to the County or other public or quasi-public entities for schools, fire or police facilities or

other related institutional needs. Land required to be dedicated under Section 4.02 of these Regulations for parks, open space, scenic easements and water and erosion control facilities may be used to satisfy this useable public open space requirement so long as such lands are so designed and developed that they provide adequate access and adequate opportunity for open space use.

2. Residential Density

The overall net residential density in a PUD shall be the density allowable in the zoning districts in which the PUD is to be located, plus an additional twenty-percent density bonus for the establishment of a PUD.

Residential density within a PUD shall be calculated by dividing the number of proposed residential units into the land area of the PUD excluding: (1) all property to be used for nonresidential uses; (2) all land to be used for streets, right-of-way, parking and loading facilities; and (3) open space areas associated with nonresidential uses.

3. Density of Other Uses

The overall average net density of that portion of the PUD devoted to uses other than residential shall not be less than a land-to-floor area ratio of two to one (2:1). The land-to-floor area ratio shall be calculated by dividing the proposed floor area of all nonresidential uses into the land area of the PUD excluding: (1) all property to be used for residential purposes; (2) land to be used for streets and rights-of-way; and (3) parking and open space areas associated with residential uses.

4. Parking and Loading Requirements

The parking and loading space requirements for a PUD shall be the same as those required for various uses under the zoning regulation (see Section 7.01) contained in these Regulations, except where the Planning Commission, at its discretion and upon written request by an applicant, has authorized other standards and requirements.

5.05 Maintenance of Public Open Spaces and Common Areas

Public open spaces and common areas, including those spaces used or to be used as public or private recreation sites, shall be protected by adequate covenants running with the land, or by conveyances or dedications or other appropriate legal instruments acceptable in form and content to the Board of County Commissioners. Approval of such legal instruments, granted in writing by the Board of County Commissioners, shall be a prior condition to issuance of a PUD.

The applicant for a PUD shall provide for and shall establish or provide for the establishment of an organization for the ownership and maintenance of the common open space and the construction of improvements, if any, thereon for the benefit of the residents, occupants and owners of the PUD. Such organization shall not be dissolved and shall not dispose of the common open space by sale or otherwise, except to an organization conceived and established to own and maintain the common open space for the benefit of the PUD; and thereafter, such organization shall not be dissolved or dispose of the common open space without first offering to dedicate the common open space to Las Animas County.

In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the PUD fail to maintain the common open space or any portion thereof, in reasonable order and condition or fail to establish or maintain said common open space in accordance with the PUD plan or other application materials, the Board of County Commissioners may serve written notice upon such organization or upon the residents or owners of the PUD. Such written notice shall set forth the manner in which the organization has failed to maintain the common open space in reasonable condition or failed to comply with the PUD plan or other application materials. Said notice shall include a demand that the deficiencies of maintenance or improvements be remedied within sixty (60) days thereof and shall state the date and place of a hearing thereon, which shall be held within fifteen (15) days of the notice. At such hearing, the Board of County Commissioners may, at its discretion, modify the terms of the original notice as to the deficiencies

previously described and may grant an extension of time up to an additional one hundred twenty (120) days within which time the deficiencies shall be corrected.

If the deficiencies set forth in the original notice or in the modification thereto are not corrected within the original sixty-day time period or any extensions granted thereto, the Board of County Commissioners or its duly appointed agents, in order to preserve the taxable value of the properties contained within the PUD, and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain it for a period of up to one (1) year or take such measures as are necessary to bring it into compliance with the PUD plan and other submittal materials. Said entry, improvement or maintenance shall not vest in the public any right to use the common open space except when the commercial open space has been voluntarily dedicated to the public by the owners of the PUD or their duly established association or by the original applicant.

Before the expiration of the one-year period, the Board of County Commissioners shall, upon its own initiative or upon the written request of the organization responsible for the maintenance of the common open space, call a public hearing upon fifteen (15) days' written notice to such organization or to the residents, occupants and owners of the PUD. At this hearing, to be held by the Board of County Commissioners, such organization or the residents and/or owners of the PUD shall show cause why such maintenance by Las Animas County shall not, at the discretion of the County, continue for a succeeding year. If the Board of County Commissioners determines that such organization or a successor organization is ready and able to maintain the common open space in reasonable condition, the Board of County Commissioners shall cease to maintain said open space at the end of said year. If the Board of County Commissioners determines that such organization or its successors is not ready and able to maintain said common open space in reasonable condition, the Board of County Commissioners may, at its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

The cost of such maintenance or improvements by Las Animas County shall be assessed ratably against the properties within the PUD that have a

right of enjoyment of the common open space, and shall become a tax lien on said properties. The Board of County Commissioners, at the time of entering upon said common open space for the purpose of maintenance or improvements, shall file a notice of such lien in the office of the County Clerk and Recorder upon the properties affected by such lien within the PUD, and the lien shall be discharged by the County upon payment, as with other liens.

5.06 Submittal Requirements

Application for a PUD shall include, in addition to a complete application on a form provided by Las Animas County and the appropriate filing fees, the following items. The Planning Commission may, at its discretion and upon written application by an applicant, waive any but not all of these items and the Planning Commission may also, at its discretion, add such submission items as it deems necessary and appropriate to evaluate and recommend approval of a PUD permit.

5.06.01 Non-Subdivision PUDs/Development Plan

The following submittal requirements shall be required of applicants proposing developments with multi-family dwellings when no subdivision of the site into individual lots or parcels will take place and when the proposed development is exempt from the provisions of Chapter IV, the subdivision regulations or has already complied with the final plat provisions of the subdivision regulations.

A development plan for a non-subdivision PUD shall include the following information:

1. The information enumerated in Items 1 through 6, inclusive, of the preliminary plan/general submission requirements of the subdivision regulations (see Section 4.17.02 for a listing of these items).
2. The zoning, present land uses and location of structures, including all improvements, located within one (1) mile of the proposed PUD.
3. The proposed residential density, expressed in dwelling units per net acre, within the PUD and the density, expressed as the ratio of floor area to land area, of all nonresidential development within the proposed PUD.

4. The location, width, surfacing and other relevant features of all existing and proposed streets, roads, easements and other rights-of-way, including streets and roads to be used for access to and from the proposed PUD.
5. The location, dimensions and size of all proposed off-street parking and loading facilities.
6. A description of the location and characteristics of all land to be dedicated or reserved for parks, parkways, recreation areas and common open space with evidence that the land to be set aside for common open space meets or exceeds the common open space provisions contained within this regulation.
7. Copies of all agreements, provisions, covenants and related legal instruments that would be used to govern the use, maintenance, improvement and continued protection of all public lands within the PUD, including but not necessarily limited to common open space.
8. A grading plan, drainage plan and landscaping plan, showing existing and proposed grading, drainage and landscaping and conforming to the requirements for such plans contained within Chapter IV, the subdivision regulations.
9. The location, height and dimensions of each proposed structure within the PUD, with building footprint sites on plan, drawn to scale and dimensionalized.
10. Description of how the structures within the proposed PUD would be provided with potable water supply and sewage collection and treatment in a manner meeting the standards and requirements for water supply and sewage disposal contained within Chapter IV of these Regulations.
11. Description of any additional public improvements to be included within the proposed PUD, along with adequate provision for the dedication of any or all public right-of-way.
12. A detailed analysis of the soil types on the site, their characteristics and their development limitations, if any.
13. Drawings to scale of all signs that would be erected within the development.
14. A statement by the landowners whose property is included within the proposed development, giving written consent for the development and the names and addresses of all adjoining landowners.

Applicants for a permit for a non-subdivision PUD shall be required to provide suitable collateral to ensure the completion of the construction of the proposed public improvements. The procedures and other provisions governing the collection and management of this collateral shall be as specified in Section 4.03.

All maps provided to meet these development plan submittal requirements shall conform to the preliminary plan/general submission requirements for maps contained in Section 4.17.02.

Dimensionalized site plans shall be filed with the Office of County Clerk and Recorder within five (5) working days of their approval by the Board of County Commissioners. All dimensionalized site plans and other map materials submitted by an applicant shall contain signature approval blocks for the Planning Commission and the Board of County Commissioners. Any proposed changes from a previously approved site plan shall be resubmitted to the Planning Commission for review and recommendation and to the Board of County Commissioners for final action prior to the start of construction.

Compliance with the provisions contained herein does not exempt an applicant from compliance with the provisions of Title 38, Article 53 of the Colorado Revised Statutes, 1973, as amended.

5.06.02 PUD Subdivisions/Sketch Plan Requirements

In addition to the submittal requirements for subdivision sketch plans listed in Section 4.17.01, the following additional information shall be submitted at the sketch plan/initial submission stage for PUD's that also require subdivision:

1. Proposed land uses within the PUD, including the locations, size and densities of areas to be devoted to specific uses.
2. Areas which would be conveyed, dedicated or reserved as common open space and as sites for public facilities and services.
3. The internal traffic circulation system, off-street parking and loading areas and points of access to public rights-of-way.
4. The proportion of land to be left in a natural or semi-natural condition as common open space within the various parts of the PUD.
5. Proposed building heights, size and location.
6. A vicinity map and descriptive material showing the relationship of the proposed PUD to the land to be subdivided if the boundaries of the PUD and the proposed subdivision are not coterminous, and an explanation of the phasing, if any, of the overall PUD design.
7. Any additional information deemed pertinent by the Planning Commission or by the applicant to aid in evaluating the proposed PUD.
8. A statement by the landowners whose property is included within the proposed development giving written consent for the development and the names and addresses of adjoining landowners.
3. A description of proposed methods of snow removal and disposal or storage of snow accumulated during peak precipitation periods along with alternate emergency off-street parking provisions for periods of high snow-fall.
4. A complete description of the proposed methods of providing for the permanent maintenance of all public or common buildings, facilities, areas and thoroughfares.
5. Copies of all special agreements, conveyances, restrictions, covenants and related legal instruments that will govern the use, maintenance and perpetual protection of the PUD and its common and public areas.
6. Building plans including but not necessarily limited to general dimensions, floor plans, elevations and general types of construction, including materials and exterior color schemes.
7. Landscape and site improvement plans including but not necessarily limited to detailed planting plans, the location and size of signs, exterior lighting, irrigation systems and recreation and service areas and facilities.
8. Detailed utility plans including but not necessarily limited to line location plans, transformer and terminal box locations, sewer profiles and fire hydrant and manhole locations with the proposed depth of burial of all underground lines.
9. Any additional information deemed pertinent by the Planning Commission or by the applicant to aid in evaluating the proposed PUD.

5.06.03 PUD Subdivisions/Preliminary Plan Requirements

In addition to the submittal requirements for preliminary plans listed in Section 4.17.02, the following additional information shall be submitted at the preliminary plan/general submission stage of review for PUD's that also require subdivision.

1. A description of the objectives to be achieved by the PUD, including descriptions of the buildings and sketches and elevations as may be required to illustrate how these objectives will be accomplished.
2. A development schedule indicating the approximate date when construction of the PUD or individual phases of the PUD can be expected to start and to be completed.

5.06.04 PUD Subdivisions/Final Plat Requirements

In accordance with the common procedures provisions of these Regulations, final PUD approval decisions will be made at the final submission stage of proposal review (see Chapter II), concurrent with final plat approval. Proposed subdivisions for which a PUD approval has already been granted or for which a PUD approval is pending, whether for a portion or for all of the

subdivision, shall be required to submit the following additional material in addition to the final plat submittal requirements for proposed subdivisions contained in Section 4.17.03.

1. A notation prominently shown on the cover sheet of the final plat that the proposed subdivision is a PUD subdivision.
2. Inclusion of the approved phasing plan for the construction of improvements.
3. A final draft of the approved legal instruments for the preservation in perpetuity and the maintenance of all common open space along with the location and exact dimensions of such open space shown on the final plat.
4. A description on the final plat of the uses to which each portion or each lot within the PUD will be devoted. This information shall be made a part of the final plat and recorded therewith and may be shown by reference to lot and block numbers or other convenient means.

5.06.05 Development in a PUD and PUD Modifications

Building permits for construction within a PUD shall be issued only on the basis of approved plans and plats. Any change in an approved plan or plat shall be submitted to the Board of County Commissioners, which may, upon consultation with the review by the Planning Commission, approve or deny the proposed change.

No substantial modification, amendment, removal or release of the approved design and provisions of the PUD shall be permitted by the Board of County Commissioners except upon a finding by the Board, following a properly noticed public hearing, that the modification, amendment, removal or release is consistent with the efficient development and preservation of the PUD, that it does not adversely effect either the PUD as it currently exists or neighboring residents and that it is consistent with the purpose, intent and various provisions of these Regulations.

CHAPTER VI
SIGN CODE REGULATIONS

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CHAPTER VI

SIGN CODE REGULATIONS

6.01 General Provisions

6.01.01 Title and Application

The title of this regulation shall be the Las Animas County Sign Code and may be so cited and pleaded. Hereinafter in these Regulations, it shall be referred to as the sign code. This code shall apply to applications for a permit to erect, alter or move signs and outdoor advertising devices in unincorporated Las Animas County. No sign or outdoor advertising device shall hereafter be erected, altered or moved unless or until such sign conforms to the regulations contained within this code and unless or until a permit for such sign has been issued by Las Animas County unless said sign is expressly exempted herein from the provisions of this code.

6.01.02 Relationship to Other Regulations

Nothing in this code shall be construed as exempting an applicant for a sign permit from any other requirements of Las Animas County or from other State of Colorado or federal laws, regulations or requirements, including but not limited to those contained within Section 43-1-401, et seq., Colorado Revised Statutes, as amended and the *Rules and Regulations Pertaining to Outdoor Advertising* promulgated by the Colorado Department of Transportation as amended.

The provisions of this code are hereby declared to be supplemental to and in addition to the provisions contained within Chapter IV of these Regulations and within the *Rules and Regulations Pertaining to Outdoor Advertising* promulgated by the Colorado Department of Transportation as amended. To the extent that the requirements of this code differ from or are not in accordance with any other applicable requirements of these Regulations or with the Colorado Department of Transportation rules and regulations cited above, the more restrictive requirements, as determined by the Planning Commission, shall apply, unless an applicant for a sign permit petitions otherwise to the Planning Commission and the Planning Commission, at its discretion, so determines that the less restrictive requirement shall apply.

6.01.03 Exemptions

No signs of any nature shall be allowed, constructed, erected or maintained, except as herein specifically provided. The following signs shall be exempt from the requirements of this Chapter:

1. Signs with a surface area of six (6) square feet or less, provided, however, that only one (1) such exempt sign may be located on any individual lot, tract or parcel of land.
2. Civic signs used by churches, synagogues or other civic organizations. Such signs may be erected not earlier than two (2) weeks prior to the opening of the event and shall be removed not later than one (1) week after the activity is over.
3. Holiday signs and decorations.
4. Political signs of eight (8) square feet or less.
5. Signs showing underground or public utilities.
6. Interior window signs.
7. Private warning signs (no hunting, etc.).
8. Vending machine signs, including ATM signs.
9. Public informational service signs of less than twelve (12) square feet.
10. Real estate signs not to exceed six (6) square feet in sign area, and located on the ground floor level of the property which is being advertised. One (1) sign is allowed on each street frontage. Real estate signs may not be affixed to live trees. Such signs shall be removed seven (7) days following closing. Real estate parcels one (1) acre or larger may have a real estate sign not in excess of sixteen (16) square feet and ten (10) feet high.
11. Garage sale signs. Signs shall not be placed in the County rights-of-way.
12. Gravestones, commemorative signs, cornerstones and plaques not exceeding four (4) square feet.

13. Signs required or specifically authorized for public purpose by any city, county or state law, statute or ordinance (e.g., directional signs).
14. Flags of any state, nation, government or corporation if the latter is flown in conjunction with any of the preceding flags. Flags may not exceed fifty (50) square feet in size and no flagpole may be higher than thirty-five (35) feet in all zone districts except residential zones, in which the maximum height shall be twenty-five (25) feet.
15. Barber poles. Barber poles may not exceed eight (8) feet in height and shall be used in conjunction with a barber shop.
16. Scoreboards, including any advertising.
17. Not more than one (1) sign identifying a home occupation or cottage industry, attached to the building and not in excess of six (6) square feet in area.
18. Not more than two (2) signs identifying the house number and the names of the occupants, not to exceed one-half (½) square foot each.
19. Ranch gateway or brand signs, not to exceed one hundred twenty-eight (128) square feet.
4. Any sign designed to emit sounds.
5. Signs located in a public right-of-way.
6. Signs located so as to conflict with the clear and obvious appearance and meaning of public signs and devices controlling traffic movement.
7. Roof-mounted signs or signs which project above the highest point of a roof line or fascia of a building.
8. Archway signs across any public right-of-way unless such archway signs indicate clearly in lettering highly visible to motor vehicle operators that the roadway is a public right-of-way and, if a County road, stating the County road number.
9. Signs attached to a building and projecting a perpendicular distance of more than three (3) feet from the wall of the building.
10. Signs attached to a building and projecting in parallel a distance of more than three (3) feet from the wall of the building.
11. Signs announcing a proposed development prior to the granting of final approval for such development or zoning.
12. Signs intended to be read by passing motor vehicle operators but which are difficult or impossible to read due to insufficient size or deteriorated condition.

6.02 Sign Standards and Requirements

6.02.01 Prohibited Signs

The following types of signs shall be prohibited in all zoning districts:

1. Signs that are not securely affixed to any structure or securely mounted.
2. Signs mounted, attached or painted on motor vehicles, trailers, boats or other mobile fixtures when such signs are used as additional advertising devices on or near a business premises.
3. Signs with revolving beacons, flashing lights or with any type of animation or intermittent lighting effects, except for uses approved as a part of a special use permit so long as such signs do not, in the judgment of the Planning Commission, represent a potential safety threat.

6.02.02 Setback Requirements

The minimum yard setback for signs on all state highway systems and paved County roads shall not be less than twenty-five (25) feet from the property line. Where this requirement may conflict with a yard setback otherwise required in a given zoning district, the larger yard setback requirement shall prevail. Temporary "for sale," "for lease" or "for rent" signs advertising land, buildings and personal possessions shall be exempt from this provision.

6.02.03 Illumination

Signs with exterior illumination shall have the illumination shielded from public rights-of-way and from residential uses and lodging facilities.

6.02.04 Signs Within Planned Unit Development

Signs located or to be located within a PUD shall conform with the provisions of this Chapter except when differing sign provisions are incorporated in the development plan for the PUD and approved as a part of the development plan by the Board of County Commissioners.

6.02.05 Construction and Maintenance

All signs and sign structures shall be well constructed from materials of sufficient strength and quality to withstand premature weathering or deterioration by wind, moisture and other natural elements, and they shall be maintained at all times in a state of good repair with all braces, bolts, clips, supporting framework, fastenings and lettering and design work free from deterioration, insect damage, rot, rust, loosening or excess peeling. The County Planning Director shall have the authority to order the repair, alteration or removal of a sign or structure which constitutes a hazard to health, safety or property. In the event that such a sign has not been removed, altered or repaired within thirty (30) days after written notification by the County Planning Director, the Board of County Commissioners shall have the authority to remove said sign or structure at the expense of the owner of the property on which the sign is located.

6.02.06 On-Site Signs

The following on-site signs shall be permitted:

1. Temporary "for sale", "for rent" and "for lease" signs advertising vacant land, provided that the total surface area of all such signs on a property so advertised shall not exceed one hundred (100) square feet nor shall the total face area of any one (1) sign exceed fifty (50) square feet. All such signs shall maintain a twenty-five-foot setback from all property lines.
2. One (1) identification sign per use by right or approved special use, provided that the surface area of such sign does not exceed thirty-two (32) square feet, except that home occupation signs shall remain limited to size of no more than six (6) square feet.
3. Signs advertising the sale of products produced or raised on the premises, provided that the total number of signs does not exceed four (4), that they are not illuminated and that the total surface area of such signs does not exceed forty (40) square feet nor the surface area of any one (1) sign exceed twenty (20) square feet.
4. Identification signs for residential developments, provided that only one (1) sign shall be allowed for each subdivision entrance, the surface area of such sign shall not exceed forty-eight (48) square feet, the maximum height of such signs shall not, except for archway signs, exceed eight (8) feet in height, and that such signs shall not be located closer than twenty-five (25) feet from rights-of-way.
5. Temporary advertising signs for the sale, rental or lease of dwelling units under construction or approved for construction, provided that no more than one (1) sign is erected adjacent to each access street to the subdivision and provided that the surface area of each sign does not exceed forty-eight (48) square feet and its height does not exceed eight (8) feet.
6. One (1) identification sign per model home within an approved subdivision, provided that the surface area of each sign does not exceed twenty-four (24) square feet and such signs shall be required to meet the minimum yard setback requirements of the zoning district in which they are located.
7. Directional signs are allowed and not counted as part of the total sign area allowed per individual use or per shopping center, business, commercial or industrial park, provided that the total number of signs shall not exceed four (4) and provided that the surface area of each sign does not exceed eighteen (18) square feet. Directional signs shall not be required to meet minimum yard setback requirements of the district in which they are located, but they shall be placed to avoid impairing traffic visibility.
8. One (1) temporary "for sale," "for rent" or "for lease" sign per each street frontage shall not be counted as part of the total sign

area allowed per individual use or per shopping center, business, commercial or industrial park, provided that such signs shall be required to meet a twenty-five-foot setback from all property lines, provided that the total surface area of each sign does not exceed one hundred (100) square feet per each sign and provided that the sign does not restrict traffic visibility.

9. Individual businesses located on a corner lot shall be allowed one (1) sign per each frontage abutting a public street at the rate of one (1) square foot of sign area per one (1) linear foot of street frontage up to a maximum of one hundred (100) square feet.
10. Each use shall be entitled to a facial sign area of fifty (50) square feet at a minimum. Such facial sign area may be increased at the rate of one (1) square foot of sign area per each linear foot of street frontage in excess of fifty (50) linear feet up to a maximum of one hundred (100) square feet of facial sign area. Uses with a lease or rental area in excess of one hundred thousand (100,000) square feet shall be permitted a maximum of two hundred (200) square feet of facial sign area per wall area visible to a public right-of-way.
11. One (1) freestanding identification sign per street frontage shall be allowed to identify individual uses, shopping centers or business, commercial or industrial parks, provided that the top of such signs do not extend more than fifteen (15) feet above ground level and provided that the surface area of such signs does not exceed one (1) square foot of sign area per each three (3) feet of linear street frontage to a maximum of two hundred (200) square feet per sign.
12. One (1) directory sign shall be allowed identifying individual businesses within a shopping center or business, commercial or industrial park per entrance, provided that the surface area of such sign does not exceed seventy-five (75) percent of the area of the identification sign for the center or park.

6.02.07 Off-Premise Signs

Off-premise signs are permitted in all zoning districts to identify uses or services oriented to highway travelers, to provide directional signs

for emergency services and as advertising signs, provided that such signs meet the following criteria:

1. The uses or services for highway travelers, emergency services or advertising must be located in Las Animas County.
2. Each use or service shall be limited to one (1) off-premise sign per highway approach.
3. The off-premise sign shall not be more than ten (10) feet high nor extend more than twenty (20) feet above ground level nor be more than fifty (50) square feet in sign area.
4. The minimum distance between off-premise signs shall not be less than six hundred sixty (660) linear feet.

6.02.08 Signs Located in Airport Protection Overlay Districts

All signs to be located in an established airport protection overlay district shall conform to the special height and other requirements and provisions of that district.

6.03 Sign Permit Procedures

Applications for sign permits shall be made to the County Planning Director who shall, except as specified otherwise herein, administer this sign code. Upon payment of the required application fee (see Chapter XII) and the submission of the required application materials, the County Planning Director shall decide, on the basis of the provisions contained herein, whether to issue a sign permit, whether to deny the permit or whether to refer the permit application to the Board of County Commissioners.

6.03.01 Submittal Requirements

Applications for a sign permit shall include, in addition to the application fee and an application on a form supplied by Las Animas County, a legibly done rendering, in ink, fully dimensioned, showing the sign message and a site plan showing the location, setbacks, height, construction materials and sign area of all proposed signs and sign alterations. The Planning Commission may, at its discretion, require additional information for sign applications submitted to it for review.

6.03.02 Permit Issuance by the Planning Director

Sign permit applications meeting the requirements contained herein shall be approved by the Planning Director so long as such applications do not expressly require Board of County Commissioner approval. Sign permit applications failing to meet the requirements contained herein shall be denied by the Planning Director.

6.03.03 Permit Review and Issuance by the Board of County Commissioners

Any person denied a sign permit by the Planning Director may appeal that decision to the Board of County Commissioners within sixty (60) days of the denial. The Board of County Commissioners and the Planning Commission shall base their actions on the following criteria:

1. That there exists a clear and reasonable need for the sign at the proposed location.
2. That the type, style, size and other characteristics of the proposed sign are consistent with the character of the proposed location.
3. That the benefits that the sign would provide to residents of Las Animas County and the motoring public outweigh any esthetic or other negative impacts of the proposed sign.
4. That the location, character and other features of the proposed sign are consistent with the applicable provisions of these Regulations.

The Planning Commission shall review and make recommendations to the Board of County Commissioners on all sign permit applications denied by the Planning Director and appealed to the Board of County Commissioners. The Planning Director shall promptly issue such sign permits as the Board of County Commissioners authorizes.

6.04 Nonconforming Signs

All signs that are or that become nonconforming at the time of adoption of this Chapter may be maintained so long as they are kept in a state of good repair as specified in Section 3.09 and so long as they are not relocated, replaced, structurally altered,

abandoned for a period of more than six (6) months or damaged by wind, fire or other cause to the extent that fifty (50) percent or more of their value has been destroyed. Such abandoned or damaged signs shall not be allowed to continue as nonconforming uses.

6.05 Measurement

In measuring the area of signs, the structure or bracing of the sign shall be omitted from the measurement unless such structure or bracing is made part of the message or face of the sign. Where a sign has two (2) or more display faces, the area of all faces shall be included in determining the area of the sign. In determining the surface area of a sign, the County Planning Director shall measure the smallest single continuous perimeter enclosing the extreme limits of the display surfaces of the sign including borders and nonstructural trim.

CHAPTER VII

SUPPLEMENTARY REGULATIONS

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CHAPTER VII

SUPPLEMENTARY REGULATIONS

7.01 General Requirements for Off-Street Parking

For every building hereafter erected or structurally altered, off-street parking spaces shall be provided. Each space shall measure at least eight (8) feet by eighteen (18) feet and shall be paved or gravel-surfaced.

Areas included in driveways or otherwise required to move cars in and out of parking spaces shall not be considered to meet off-street parking space requirements. Parking spaces shall be arranged in such a manner that vehicles will not back directly from an off-street parking space into a public right-of-way.

Each off-street parking area containing more than fifty (50) parking spaces shall provide one (1) or more landscaped areas dispersed within the parking areas and which shall be a portion of the overall site landscaping requirement and shown on an appropriate landscaping plan.

Residential off-street parking spaces shall be located on the same lot as the dwellings they serve. All other required parking spaces located more than two hundred (200) feet from the building or structure they serve, measured in a straight line from the nearest corner of the building, must first be approved by the Board of Adjustment as a variance.

Off-street parking in a planned unit development shall comply with the requirements of this Section except when a separate development plan incorporating alternate off-street parking provisions is reviewed by the Planning Commission and approved by the Board of County Commissioners.

Parking requirements shall apply to all zoning districts. When more than one (1) use is conducted on a single lot or parcel, parking shall be required for all uses, even though one is accessory to another.

7.01.01 Specific Off-Street Parking Requirements

The following types of uses shall require the following number of off-street parking spaces, as a minimum requirement, for both principal and accessory uses.

| Use | | No. of Spaces |
|-----|--|---------------|
| 1. | Single-family dwellings | 2 |
| 2. | Multiple-family dwellings, studio or one-bedroom | 1 |
| 3. | Multiple-family dwellings, more than one bedroom | 2 |
| 4. | Lodgings, space per rental unit | 1 |
| 5. | Retail and service facilities per thousand square feet of GLA (Gross Leasable Area) | 5 |
| 6. | Shopping centers per thousand square feet of GLA | 5 |
| 7. | General and professional offices per thousand square feet of GLA | 4 |
| 8. | Restaurants and taverns per every three persons designed seating capacity, plus employee parking | 1 |
| 9. | Auditoriums and public assembly facilities per hundred square feet of floor areas used for assembly or seating | 1 |
| 10. | Bowling alleys, per alley, plus employee parking | 5 |
| 11. | Industrial facilities per thousand square feet of manufacturing floor area | 1.5 |
| 12. | Industrial facilities per thousand square feet of floor area for a wholesale establishment, warehouse or rail and truck terminal | .5 |

Requirements for types of buildings and uses not specifically enumerated herein shall be determined by the Board of County Commissioners upon review and recommendation from the Planning Commissions, based upon the requirements of comparable uses listed above.

In adding to, deleting from or otherwise amending the above enumeration of off-street parking space requirements, the Planning Commission and the Board of County Commissioners shall follow the procedures described in Section 3.04, Uses Not Itemized.

7.01.02 Off-Street Loading Requirements

For the purpose of providing off-the-street loading and unloading of goods, buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by truck shall provide and maintain off-street loading berths in sufficient number and size to accommodate the needs of the particular use.

The minimum number of berths required, if the gross floor areas of the building is less than ten thousand (10,000) square feet, shall be one (1) berth; if greater than ten thousand (10,000) square feet, the number of berths provided shall be one (1) for each additional fifteen thousand (15,000) square feet, or fraction thereof, of gross floor areas over and above the first ten thousand (10,000) square feet.

A loading berth shall contain, at a minimum, a space ten (10) feet wide and thirty-five (35) feet in length and maintain a vertical clearance of at least fourteen (14) feet. Where the vehicles routinely used for loading or unloading exceed these dimensions, the Planning Commission may increase the required size of loading berths correspondingly.

7.02 Scenic Corridor Setbacks

The purpose of the establishment of scenic corridors is the preservation of the County's major scenic vistas. Designation of these corridors does not preclude development thereon; but the Planning Commission and the Board of County Commissioners may require that the development be sited, constructed and finished in a manner that is compatible with, in harmony with and does not intrude upon the existing scenic vistas or the wildlife.

1. In addition to the other setback provisions contained within these Regulations, and except as otherwise allowed herein, all buildings constructed along a State of Colorado or U.S. designated highway must maintain a setback from the highway right-of-way of at least one hundred (100) feet.
2. Where a State of Colorado or U.S. highway is located within a scenic corridor, the minimum setback distance from the highway right-of-way shall be increased to two hundred (200) feet.
3. All buildings constructed along County maintained roads must maintain a setback from the roadway right-of-way of at least fifty (50) feet.
4. Where a County maintained road is located within a scenic corridor, that minimum setback distance from the roadway right-of-way shall be increased to one hundred (100) feet.

7.03 Requirements for Solar Energy Access

When considering whether to approve, recommend approval of or issue a permit for the construction, reconstruction or alteration of any structure, the Board of County Commissioners, the Planning Commission and the County Planning Director shall take into consideration whether the location, height, yard setbacks, bulk or other characteristics of the proposed structure or proposed structural alterations would significantly reduce access to sunlight for any solar energy device installed on or in or under construction on or in any neighboring buildings or other structures. Evidence that the proposed structure or structural alteration would in fact significantly reduce or limit access to sunlight for such solar energy devices is hereby declared to be sufficient reason to disapprove, to recommend the disapproval of or to deny the issuance of a permit for the proposed structure or structural alteration.

No plan, plat, plot map or other instrument requiring a written or graphic description of the location of easements on a given lot, parcel or property shall be submitted to Las Animas County for consideration in any land use changes or other actions enabled by these Regulations unless the instrument in question notes relocation and terms, conditions, provisions and restrictions of any solar easements established on or adjacent to that lot, parcel or property.

In addition, any covenant, restriction or condition contained in any deed, contract, security instrument or other instrument affecting the transfer or sale of, or any interest in, real property solely on the basis of aesthetic considerations which effectively prohibits or restricts the installation or use of a solar energy device is hereby declared to be void and unenforceable.

In determining whether difficulties to, or hardship upon, the owner of a lot, parcel or other property exists, the Board of Adjustment shall properly consider the adequacy of access to sunlight for solar energy devices installed on or after January 1, 1980. See also Section 1.11 on the Board of Adjustment. Moreover, the addition of a solar energy device to a building or other structure shall not necessarily be considered a structural alteration for the purpose of determining whether that building or other structure represents a nonconforming use (see Section 3.09).

7.04 Solid Waste Disposal Sites (Landfills)

Any person proposing to operate a facility for solid waste disposal within the boundaries of Las Animas County shall apply to the Las Animas County Planning Commission for a certificate of designation.

The certificate of designation application shall consist of an engineering design and operation report, which establishes the site, design, construction and operational suitability of a proposed type of solid waste disposal, and demonstrates that the implementation of proposed designs will result in compliance with these Regulations and all other applicable regulations during construction, operations and post-closure.

The certificate of designation application shall include additional copies as needed of data as defined by the Colorado Department of Public Health and Environment and/ or Subtitle D.

Pre-established sites shall meet existing standards already set by the Colorado Department of Public Health and Environment. The existing City of Trinidad landfill is exempt from County permitting requirements associated with the provisions of this Section 7.04.

Should any change of ownership of an established site occur, the procedure established in Section 2.15 shall apply.

7.05 Communication Facilities

All proposed communication facilities shall be reviewed pursuant to the following procedures:

1. Building and roof-mounted communication facilities shall be reviewed by the Planning Department for compliance with the requirements of these Regulations.
2. Communication towers must receive a special use permit.

7.05.01 Co-Location

A proposal for a new communication facility shall not be approved unless it can be shown by the applicant that the telecommunication equipment planned for the proposed communication facility cannot be accommodated:

1. On an existing or approved communication facility that is within the following minimum distance requirements between communication facilities:

- a. Within a one-mile radius of another structure over one hundred ninety-nine (199) feet tall;
- b. Within a one-half-mile radius for structures under one hundred ninety-nine (199) feet; or
- c. Within one-quarter ($\frac{1}{4}$) mile for structures under eighty (80) feet, due to the following reasons:
 - 1) The planned equipment would exceed the structural capacity of the existing or approved communication tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - 2) The planned equipment would cause interference, materially impacting the usability of other existing or planned equipment at the structure as documented by a qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
 - 3) Existing structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified engineer, regardless of whether its location is regulated by the County or adjacent municipality.
 - 4) In spite of its best efforts, the applicant was unable to obtain approval within sixty (60) days, to co-locate on an existing or approved structure. The applicant's efforts must be documented in writing and sent by certified mail.
 - 5) Other reasons that make it impractical to locate the planned telecommunication equipment upon an existing or approved structure.

7.05.02 Building and Roof-Mounted Communication Facilities

Such facilities shall be architecturally compatible with and colored to match the building to which they are attached.

The maximum protrusion of building-mounted communication facilities from the building face to which they are attached shall be two (2) feet.

Building-mounted whip antennas shall extend no more than ten (10) feet above the highest point of the building to which they are attached.

The visual impact of such facilities from adjacent property and public rights-of-way shall be mitigated to the degree practicable.

Roof-mounted communication facility accessory structures shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

7.05.03 Communication Towers

The maximum height of a new communication tower shall be one hundred ninety-nine (199) feet, unless:

1. US Fish and Wildlife Service guidelines are addressed, as appropriate to the site;
2. Determination of no hazard to air navigation is provided by the FAA; and
3. Co-location on an existing freestanding communication facility is not possible (see Section 7.05.01)

A communication tower shall be setback from the facility's base of at least 1.5 times the structures height to a public or private road and at least 1.5 times the structure's height to the nearest property line.

The visual impact of communication towers from adjacent property and public rights-of-way shall be mitigated to the degree practicable.

Screening, landscaping and/or exterior finishes and color coding for a communication tower shall be compatible with the existing character of the site and adjacent properties and shall be determined as part of the special use permit review process.

7.05.04 General Communication Facility Requirements

All communication facilities shall be in compliance with all federal, state and local building, electrical and other relevant codes and regulations. Evidence of compliance with all regulatory requirements shall be provided to the Planning Department as appropriate.

The construction and use of a communication facility shall not cause interference to other adjacent communication facilities. The County shall be held harmless if interference occurs.

Communication facilities which are abandoned by disconnection of power service, equipment removal or loss of lease for greater than six (6) months shall be removed by the Communication facility owner or operator. Should the owner or operator fail to remove the facilities, the County may do so at its option, and the costs thereof shall be a charge against the owner. Applicants shall provide, at the time of application, a copy of the lease or other instrument obligating them to remove the communication facility upon cessation of operations at the site.

No commercial messages nor any other signs beyond safety warnings and an identification sign of not greater than six (6) square feet shall be placed on any communication facility.

Communication facilities located within ten (10) miles from the external boundaries of the Airport Protection Overlay District (APO) or an FAA-approved airstrip (if such airstrip is located outside of an APO), whichever is greater, shall provide evidence of FAA consent.

7.06 Maintenance of Structures and Sites

All structures, and all elements and features of any site (including, without limitation, buildings, fences, walls, parking areas, driveways, sidewalks, signs, landscaping, utility lines and irrigation systems) for which the owner thereof or his or her predecessor-in-interest obtained approval from the County for the construction or establishment, shall be maintained in good repair and in substantially the form, condition and nature which was represented at the time they were constructed. It is the intention of this Section that such structures, elements and features of sites within the County, having once been approved for construction or development, shall not be allowed to

deteriorate to a condition which is in any respect inferior to the condition or state upon which the original approval for construction or development was based. For purposes of this Section, the owner or tenant of the structure or real property shall be considered the responsible party. The County, after notice to the property owner, may enter upon the property and correct the condition in the event the owner fails to do so. The cost of such correction may be assessed against the property and collected by the County in any manner permitted by law.

7.07 Performance Bonds

The Board of County Commissioners may, at its discretion, require an applicant to furnish a performance bond to secure site improvement, repair or restoration. If required, such improvement guarantee shall be made in accordance with the provisions of Section 4.03.

7.08 Vested Property Rights

For all land use changes, the final approval step, irrespective of its title, which occurs prior to building permit shall be considered the "site specific development plan" for purposes of Article 68 of Title 24, C.R.S.

In the event an applicant for approval of a land use change wishes said approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., the applicant must so request, in writing, at least thirty (30) days prior to the date said approval is to be considered. Failure to so request renders the approval not a "site specific development plan," and no vested rights shall be deemed to have been created thereby.

In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the Board of County Commissioners specifically finds to the contrary and incorporates such finding in its approval of the amendment.

The Board of County Commissioners may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior

to taking action to revoke a vested property right, the Board of County Commissioners shall provide a hearing to the affected landowner and shall provide at least fourteen (14) days' prior written notice mailed to the property address of record in the County Assessor's office, as well as provide notice in the same manner as the posting or publishing of ordinances and resolutions. The mailed notice to the landowner shall specifically identify the terms and conditions which are not in compliance with the site specific development plan approval. During the period of determining compliance with the terms and conditions of a site specific development plan approval, the County may administratively withhold any building, utility, excavation, road cut or other County permit, and may withhold acceptance of additional development applications or processing of existing development applications for the property subject to the site specific development plan.

A pending site specific development plan application will be governed by the duly adopted laws and regulations in effect at the time the application is submitted, with the exception that the County reserves the right pursuant to Section 24-68-102.5(2), C.R.S., to enforce new or amended laws or regulations to pending applications when such law or regulation is necessary for the immediate preservation of public health and safety, including temporary development restrictions duly adopted by resolution for the purposes of preparing planning studies and considering land use regulations related to public health and safety or for the purpose of promoting concurrency of essential public infrastructure, equipment or services with increased demand.

Nothing in this Section is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Section shall be deemed to be repealed and the provisions hereof no longer effective.

7.09 H.B. 1041 Regulations

Areas and Activities of Local Concern and State Interest (H.B. 1041 Regulations) have been adopted by the Board of County Commissioners pursuant to the authority vested in it by Section 24-65.1-101, et seq., C.R.S. A copy of the H.B. 1041 regulations are included as Chapter XI of these Regulations.

7.10 Oil and Gas Development

Oil and gas development activity is regulated by the "Oil and Gas Regulations for Las Animas County," (Oil and Gas Regulations) adopted by the Board of County Commissioners on April 2, 2002. A copy of the Oil and Gas Regulations are included as Chapter IX of these Regulations.

7.11 Individual Mobile Home Placement

Individual mobile homes (see Chapter VIII for mobile home parks) are permitted in unincorporated Las Animas County as a permitted use subject to an applicant adhering to the following requirements:

1. Make application on a form provided by Las Animas County.
2. Provide a site plan drawn to an appropriate scale and in legible form showing the location of the proposed mobile home, setbacks from property lines, the location of roadways on the tract and on neighboring parcels and the current land use on the tract and on neighboring parcels.
3. Included with the application shall be evidence that a water supply source of adequate quantity and quality can and will be provided on the tract.
4. Included with the application shall be evidence that an effective and environmentally sound individual sewage disposal system, as approved by the County Health Department, will be provided.
5. Submit the appropriate application fees (see Chapter XII).

Required site improvements shall include the following:

1. A graveled or paved driveway at least eight (8) feet in width connecting to designated public road or street and two (2) graveled or paved off-street parking spaces of the minimum size specified in Chapter VIII. The mobile home site shall have a minimum of four (4) tie-down stirrups and concrete pads located at stress points pursuant to the manufacturer's specifications or, in place of pads, it shall be attached to a permanent foundation with the wheels and axles removed. Mobile homes attached to pads shall be equipped

with skirting of a rigid material which shall be installed, if required, within thirty (30) days after the mobile home has been moved to its site.

2. The mobile home shall be sited within the minimum setback requirements of the zone in which it is located and located so that its exposure to view from nearby public roadways and adjoining property is kept to a minimum; evidence that these requirements will be met shall be included with the application.

7.12 Storage of Inoperable Motor Vehicles

It is illegal to store, keep or maintain on any residential premises a motor vehicle which is unlicensed or is being junked, dismantled or wrecked, unless such vehicle is located within an enclosed building or otherwise fully screened from view of any member of the general public. However, this regulation does not apply to unlicensed vehicles being actively maintained for racing or competitive purposes nor to vehicles defined as collector's items by Section 42-12-101, et seq., Colorado Revised Statutes, as amended, nor to vehicles used for farming or ranching purposes in agricultural districts.

7.13 Small Wind Energy Systems

Small wind energy systems shall be a permitted use in all zoning classifications. Applicants for a small wind energy system shall:

1. Make application on a form provided by Las Animas County.
2. Comply with the following requirements:
 - a. The minimum lot size for a small wind energy system shall be one-half ($\frac{1}{2}$) acre.
 - b. For property sizes between one-half ($\frac{1}{2}$) acre and one (1) acre, the tower height shall be limited to eighty (80) feet above the grade of the fixed portion of the tower, excluding the wind turbine itself. For lot sizes of one (1) acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
 - c. Small wind energy systems shall be set back from property lines a minimum of 1.5 times the tower height. No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to a property line.

- d. Small wind energy systems shall maintain a circular clear zone that has a radius which is equivalent to 1.5 times the tower height plus the length to the tip of the blade. This clear zone shall be maintained free of any occupied structures, tanks containing combustible or flammable liquids and aboveground telephone or electrical lines.
- e. Small wind energy systems shall not exceed state standards for maximum noise levels.
- f. Applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base and footings. An engineering analysis of the tower showing compliance with the County Building Code and certified by a licensed professional engineer shall also be submitted.
- g. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations within ten (10) miles of an airport, measured from the external boundary of an APO District or an FAA-approved airstrip (if such airstrip is located outside of an APO), whichever is greater.
- h. Applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- i. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- j. No signs beyond safety warnings of not greater than six (6) square feet shall be placed on any small wind energy system.
- k. Small wind energy systems which are abandoned by disconnection of utility service for greater than six (6) months shall be removed by the owner. Should the owner fail to remove the structure, the County may do so at its option, and the costs thereof shall be a charge against the owner.

7.14 Wind Farms

Wind farms shall be a special use in the Agricultural (A) and Ranchette (RA) zoning districts.

7.14.01 Application Requirements

All applications for a wind farm shall be on a form provided by Las Animas County and accompanied by the following information:

1. Evidence that the applicant is the owner of the property or has written permission of the owner to make such application;
2. Name, address and phone number of the applicant and owner and the applicant's contact person for the project.
3. Relevant background information on the project, including timeframe and project life, phases of development, likely markets for the electricity produced and the possibilities for future expansion.
4. A conceptual development plan of the proposed wind farm drawn to scale and in sufficient detail to provide a clear description of the project and accompanied by sufficient data to support the conceptual plan.
5. An estimated economic cost/benefit analysis describing the impact of the project on the local and state economy with respect to the following:
 - a. The amount of property taxes to be generated by the project.
 - b. The amount of sales taxes to be generated by the project.
 - c. The amount of other applicable taxes to be generated by the project.
 - d. The construction dollars to be spent locally.
 - e. The number of construction jobs and estimated construction payroll.
 - f. The number of permanent jobs and estimated continuing payroll.

- g. Costs associated with the impact on roads or other County infrastructure in the project area.
6. In the absence of a required environmental analysis by a state or federal agency which encompasses the entire project area, provide a project impact review and a proposed impact mitigation plan. The project impact review and mitigation plan shall address all of the following:
- a. Wildlife and wildlife habitat on the site and in a biologically significant area surrounding the site.
 - b. Any endangered or threatened species on the site and in a biologically significant area surrounding the site.
 - c. Avian population, including migratory birds.
 - d. Flora on the site.
 - e. Soil erosion and drainage, to be coordinated with the local soil conservation district.
 - f. Water quality and water supply in the area.
 - g. Historic, cultural or archaeological resources within wind farm project area.
 - h. Dust from project activities, and dust mitigation.
 - i. Distance from residential dwellings and vacant platted subdivision lots within two (2) miles of any proposed wind turbine in the project boundary.
 - j. A-weighted and C-weighted noise levels at the residence nearest to the project boundary and at the property line of such residence nearest to the project boundary.
 - k. Any wastes, either municipal solid waste or hazardous waste, generated by the project.
- l. Electromagnetic fields and communications interference, including interference with radar, generated by the project.
 - m. Public safety in regard to the potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created.
 - n. A general discussion of any potential changes to the above assessment items that could be anticipated when considering the cumulative impacts of other adjacent wind energy projects.
7. A statement of the useful life of the project, a general description of the decommissioning, and the final land reclamation plan in the event the project is abandoned or terminated. Evidence, acceptable to the Board of County Commissioners, shall be presented demonstrating that the applicant has entered into an agreement with the property owner that ensures proper final reclamation of the wind farm project. If the applicant does not have a reclamation agreement with the land owner that is suitable to the Board of County Commissioners, the applicant shall comply with all the provisions of Section 7.14.04 of these Regulations.
8. A conceptual transportation plan that shows the following:
- a. Anticipated locations of the project's service road ingress and egress access points onto State or County roads. Any proposed access onto the State or County road system must meet state or County requirements, as applicable.
 - b. The general layout of the proposed wind farm service road system and the extent to which roads are planned to be upgraded. All roads servicing manned or occupied accessory buildings need to be constructed to the standards of the International Fire Code.
 - c. The plan for utilizing existing roadways to service the project area. To the greatest extent possible, the applicant must make use of existing roadways.

- d. The anticipated volume and designated route for traffic, including routes for oversized and heavy equipment needed for construction, maintenance and repairs.
- e. The proposed methodology of assuring to the public entities responsible for the roads that repairs and on-going maintenance of roads and bridges to be used in both the construction and operation phases will be carried out.

7.14.02 Guidelines for Locating a Wind Farm

The following guidelines shall be considered by the Planning Commission and the Board of County Commissioners in evaluating the appropriateness of a proposed wind farm location:

1. A wind farm should not be located in large impact areas such as wilderness study areas, areas of critical environmental concern, County and state parks, historic trails and special management areas.
2. A wind farm should not significantly impact important wildlife habitat.
3. A wind farm should avoid those visual corridors that are designated as scenic corridors.
4. A wind farm should maintain visual unity among clusters of turbines. To promote visual uniformity, the towers of all turbines in an array should appear similar.
5. To avoid visual clutter, intra-project power lines having a voltage of 34,500 volts or less should be buried unless the applicant can sufficiently demonstrate that burying the lines will violate other guidelines/standards, violate applicable law, render the project economically infeasible, or be hidden from public view. Transformers and other electric equipment should be hidden from view or otherwise constructed in harmony with the surrounding landscape.
6. A wind farm should avoid erosion. Disturbance and construction on erodible slopes should be minimized.

7. The number of improved roads and construction staging areas should be kept to a minimum. The grading width of roads should be minimized. One-lane roadways with turn-outs are recommended. The number and size of staging areas and crane pad sites should be minimized.
8. A wind farm should avoid sites with known sensitive historical, cultural or archeological resources.
9. The health and safety of any person that may reside within two (2) miles of a proposed wind energy turbine.

7.14.03 Performance Standards

A wind farm shall be developed in a manner that utilizes sound engineering practices and considers public safety in regard to the potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created. The following standards are to be achieved by each wind farm project:

1. Design, construction, operation, maintenance and decommissioning of all wind farm facilities and infrastructure in compliance with County, state and federal laws and regulations. This shall include compliance with all applicable industry standards, including the American National Standards Institute and the National Electrical Commission.
2. Certification by a Professional Engineer prior to construction that the design of the foundations and towers is within accepted professional standards, given soil and climate conditions on the wind farm site.
3. The noise level caused by the operation of the project shall not exceed state standards for maximum noise levels.
4. Wind farms towers shall not use lattice-type construction or other designs that provide perches for avian predators.
5. To provide visual order to a wind farm project, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction in relation to the wind. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground.

6. Except during construction, reconstruction or removal, outdoor storage is not permitted within the project boundary except at locations that are screened from view.
7. To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure.
8. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers.
9. Aircraft obstruction markings of the turbines by use of alternating red and white bands shall be prohibited.
10. No billboards or advertising signs of any kind shall be located on the turbines.
11. Individual wind turbines shall be set back from all property lines coincident with or outside of the project boundary a distance equal to 1.5 times the tower height.
12. Individual wind turbines shall be set back from all public roads a distance equal to at least 1.5 times the tower height.
13. Individual wind turbine heights and markings shall comply with Federal Aviation Administration (FAA) regulations. If lighting of turbines or other structures is required, "daytime white-nighttime red" shall be the only type of lighting allowed unless prohibited by law.
14. All turbines and towers shall be a shade of white or light grey in color.

7.14.04 Project Reclamation

If, in the assessment of the Board of County Commissioners, the applicant cannot provide acceptable evidence demonstrating that the applicant has entered into an agreement with the property owner that ensures proper final reclamation of the wind farm project, the applicant shall comply with the following requirements:

1. A reclamation bond shall be furnished to the County not later than thirty (30) days before commencement of project construction that

will be used to restore the site surface to a condition consistent with the preconstruction environment.

2. The reclamation bond shall be in an amount equal to one hundred (100) percent of such costs, where such amount is determined by the Board of County Commissioners based upon estimates from knowledgeable contractors, except that the landowner should be given the option to maintain access roads for demonstrated ranching or farming purposes as approved by the Board of County Commissioners.
3. The reclamation bond shall not be cancelled, released or in any way terminated without prior written approval from the County, and shall continue as long as such turbines or other above-ground improvements exist.
4. The reclamation bond shall be written so as to survive any sale or other form of transfer of ownership of such turbines and other improvements.
5. The company providing the reclamation bond shall be authorized to provide bonds in the State of Colorado and be acceptable to the Board of County Commissioners.
6. All underground equipment and foundation systems of a wind farm shall be removed.

7.15 Regulations for Crossing Over or Under a County Road

7.15.01 Overhead Wires Crossing a County Road

Any proposed crossing of a County road with overhead wires must be cleared with the Road and Bridge Supervisor prior to installation of the material crossing the road. Las Animas County requires a minimum height of eighteen (18) feet.

7.15.02 Underground Pipes or Wires Crossing a County Road

Las Animas County requires a minimum depth of forty-eight (48) inches for the installation of pipes or wires crossing County roads.

7.15.03 Permit Applications

The permit regulating the overhead or underground crossing of a County road shall be obtained from the Road and Bridge Supervisor.

7.16 Regulations for Burning of Trash**7.16.01 Non-Commercial Burning**

Burning of tree limbs can legally take place if it is not within a landfill boundary and a burning permit is obtained from the Sheriff's Department or the fire district, as applicable.

7.16.02 Authorization

No permit shall be issued which will allow the County to exceed primary and secondary ambient air quality standards as proscribed by federal laws and regulations adopted by the Colorado Department of Public Health and Environment Air Pollution Control.

7.16.03 Commercial Sites

The development or establishment of a commercial burning site must comply with federal, state and County regulations.

7.17 Reserved

Reserved.

CHAPTER VIII

MOBILE HOME PARK AND CAMPGROUND REGULATIONS

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CHAPTER VIII

MOBILE HOME PARK AND CAMPGROUND REGULATIONS

8.01 Purpose and Intent

The specific purpose and intent of these Regulations shall be to:

1. Establish, maintain and enforce minimum standards governing the site selection, development, alteration, maintenance and operation of mobile home parks and campgrounds.
2. Establish, maintain and enforce minimum standards governing the provision of utilities, physical facilities and other conditions needed to make mobile home parks and campgrounds safe, sanitary and fit for human habitation.
3. Establish, maintain and enforce the minimum responsibilities of owners and operators of mobile home parks and campgrounds.

8.01.01 Building Permit Required

No person shall engage in the construction, development or alteration of a mobile home park or campground unless or until that person has been issued a special use permit to do so by the Board of County Commissioners in compliance with the provisions of this regulation and other applicable provisions contained within these Regulations.

8.01.02 Occupancy

No mobile home or mobile home unit or campsite or camping unit shall be occupied on any site until or unless all improvements have been completed as shown on approved submittal materials and as required by this regulation and until complete and proper inspection of such improvements have been undertaken by the County Building Inspector.

8.02 Special Use Permits for Mobile Home Parks and Campgrounds

The site selection, development or alteration of a mobile home park or campground is only allowed as a special use in an allowable zoning district upon review and recommendation by the Planning Commission and favorable action by the Board of County Commissioners.

8.03 Mobile Home Park and Campground Design Standards and Specifications

The following design standards and specifications shall apply to all mobile home parks and campgrounds to be proposed, reviewed, accepted or issued a special use permit for site selection, development or alteration:

8.03.01 Site Selection Criteria

Existing zoning, building and construction, master plan, health and other rules, resolutions, regulations and laws of Las Animas County, the State of Colorado and the United States shall be taken into consideration and adhered to as an integral part of the site selection process for a mobile home park or campground. Sparsely to moderately wooded sites providing shade trees and natural buffering from the environment and from public view are preferred. Mobile home parks and campgrounds shall be situated on well drained sites that will not cause adverse drainage or other environmental consequences on surrounding property. Existing streams and other natural amenities shall be preserved. Mobile home parks and campgrounds shall not be sited in areas subject to flooding, fire or other safety hazards nor shall be located in proximity to chronic nuisances such as noise, smoke, fumes or odors. The topography of the proposed site shall be favorable to minor grading, free from natural hazards and subject to ready access and ease of maintenance.

8.03.02 Size and Density Restrictions

The gross density of a mobile home park shall not exceed eight (8) mobile home units per acre.

The gross density of campgrounds shall not exceed twenty-five (25) camping units per acre.

A mobile home park shall contain a minimum of ten (10) acres and a campground site shall contain a minimum of five (5) acres.

8.03.03 Mobile Home Tie Down and Skirting Requirements

All mobile homes shall be tied down and skirted in accordance with the requirements contained in Section 7.11.

8.03.04 Setback Requirements

All mobile home parks and campgrounds shall set aside along the perimeter of the site the following minimum setbacks, which shall be landscaped with suitable flora, except for roadways and walkways:

1. Fifty (50) feet abutting a state or federally designed highway or municipally designed major arterial.
2. Twenty-five (25) feet abutting any other type or category of public right-of-way or alley.
3. Fifteen (15) feet abutting any other exterior boundary.
4. Five (5) feet abutting any interior street, alley or walkway.

All mobile homes and camping units shall be situated so that there remains a minimum of fifteen (15) feet between units. Mobile homes or camping units parked end-to-end shall maintain an end-to-end clearance of no less than ten (10) feet. Enclosed additions to a mobile home unit and extensions to a camping unit shall be considered a part of the respective unit in establishing and measuring minimum required yard distances.

Mobile home units and camping units shall not be parked in any manner that any part of the unit would obstruct or block any portion of a roadway or walkway.

Only mobile home and camping units for which there are available spaces conforming to this Chapter shall be occupied and all such occupied units shall be located in available spaces.

8.03.05 Mobile Home Space Requirements

The minimum size of a mobile home space shall be three thousand five hundred (3,500) square feet.

Groups or clusters of mobile homes may be placed on a combined space if the size of the combined space is equal to or greater than the minimum area for an equal number of mobile homes on standard spaces and where the minimum setback requirements contained herein are honored on the perimeter line of the combined

space. The application submittal requirements for such clustered sites may be expanded by the Planning Commission, at its discretion, to include any or all of the submittal requirements contained within the planned unit development regulations (Chapter V).

8.03.06 Access and Interior Roadways

All mobile home and campground spaces shall have direct access to a public street or roadway, which shall conform, at a minimum, to the frontage road requirements contained in Section 4.13.03. Access roads shall be provided to mobile home or camping unit spaces. Interior roadways shall conform, at a minimum, to the residential, local and collector street requirements contained in Section 4.13.03. All surfacing shall meet the road construction standards adopted by or in prevailing use by Las Animas County. Mobile home parks and campgrounds shall be designed and constructed so that all spaces for units and all accessory uses shall abut an interior roadway.

8.03.07 Walkways, Paving and Lighting

All park walkways and campground walkways shall be gravel or hard surfaced. Walkway widths shall not be less than four (4) feet. All mobile home park and campground walkways and roadways shall be provided with illumination of not less than twenty-five-watt lamps at intervals of not more than one hundred (100) feet.

8.03.08 Public Sites, Recreation and Open Space

Mobile home parks and campgrounds shall dedicate or reserve areas or sites of a character, extent and location suitable for public use for arterial streets, schools, parks, floodways, historic sites, scenic areas and/or other necessary or convenient public uses according to one (1) of the following options acceptable to the applicant and the Planning Commission:

1. Up to five (5) percent of the total gross area of mobile home park or campground shall be dedicated to a public agency for one (1) or more public purposes. The proportion of land, if any, so dedicated shall be determined by the Board of County Commissioners upon recommendation by the Planning Commission.

2. Ten (10) percent of the total gross area of the mobile home park or campground shall be dedicated as a private park or recreational areas for the use of the residents or users of the facility.

Applicants shall submit a warranty deed or file a plat of the site to assure the dedication of all easements and public or private park lands prior to the issuance of a special use permit for such mobile home park or campground.

Land to be provided for public and/or private recreational use and/or open space shall not include any area dedicated as a roadway, mobile home or campground space, storage area nor any area required for setbacks as specified in Section 8.03.04.

8.03.09 Parking Requirements

A minimum of two (2) off-street parking spaces shall be provided for each mobile home space and each campground space, the minimum size of each such off-street parking space being eight (8) feet by twenty (20) feet. The second campground space shall be the space for camping purposes or for the camping unit.

Upon application to the Planning Commission and at the Commission's discretion, on-street parking in mobile home parks may be permitted in place of the required off-street parking by constructing wider roadways. In such cases, on-street parking shall be equal to the minimum area required for an equal number of off-street parking spaces, calculated at a minimum on-street parking space width of eight (8) feet.

8.03.10 Storage Areas

An outdoor storage area or areas surfaced with gravel, asphalt, concrete or similar surface shall be provided for boats, trailers, camping units, horse trailers and similar items in an amount equal to one hundred (100) square feet per mobile home space. Area beneath mobile homes shall not be used to fulfill this requirement.

8.03.11 Service Buildings

Every mobile home park with more than twenty-five (25) units shall provide sanitary facilities for emergency use in a service building or office

building. These facilities shall consist of at least one (1) flush toilet, one (1) lavatory and one (1) shower.

Every campground shall provide one (1) or more service buildings adequately equipped with flush toilets, lavatories, showers and laundry facilities meeting Colorado Department of Public Health and Environment standards and subject to Colorado Department of Public Health and Environment approval, along with compliance with all applicable Las Animas County codes.

Service buildings shall be well-lighted, equipped with appropriate signs and shall be well-ventilated with screened openings.

Business sales outlets in mobile home park are subject to all applicable Las Animas County zoning regulations.

8.03.12 Utilities

An accessible, adequate, safe, reliable portable water supply meeting all applicable water supply standards shall be provided in each mobile home park or campground and the system shall be capable of furnishing an adequate supply, as determined by the Planning Commission upon due deliberation of the matter, per day per mobile home or camping space. The number of spaces to be occupied shall be limited to the quantity of water available to supply each such space with the minimum requirements. Where a public supply of water is available, connection shall be made thereto and its supply shall be used exclusively. The development of an independent water supply to serve a mobile home park or campground shall be made only after plans and specifications for such system have received the required and appropriate approvals from the Colorado Department of Public Health and Environment.

Mobile home parks and campgrounds shall be served by a public sewage collection and treatment system or by a private central collection and treatment system. The development of a private central collection and treatment system shall be undertaken only after plans and specifications for the proposed system have been approved by the Colorado Department of Public

Health and Environment and the Colorado Water Pollution Control Commission; the granting of such required approvals shall be a precondition for the issuance of a special use permit.

All sewage disposal facilities, including all appurtenances thereto, shall be constructed, maintained and operated so as not to create a nuisance or a health hazard. Each mobile home space shall be provided with at least a four-inch sewer connection. The sewer connection shall be securely closed when not linked to a mobile home and shall emit no odors. The mobile home drain shall be watertight and self-draining and constructed of material in compliance with local plumbing codes and applicable State of Colorado rules and regulations.

All campgrounds shall provide sufficient facilities at sanitary stations for the sole purpose of removing and disposing of wastes from all camping unit holding tanks in a clean, efficient and convenient manner.

1. Each sanitary station shall consist of a drainage basin constructed of impervious material, containing a disposal hatch and self-closing cover and related washing facilities.
2. The disposal hatch of sanitary station units shall connect to campground sewage disposal systems. The related facilities required to wash holding tanks and the general area of the sanitary station shall be connected to the campground water supply system.
3. Sanitary stations shall meet requirements of and be approved by the Colorado Department of Public Health and Environment.

Electrical outlets supplying 110 volts AC or 110/120 volts AC shall be provided for each mobile home space but are not required for campground spaces. Such installations shall comply with all County electrical and other codes requirements.

The storage, collection and disposal of refuse in a mobile home park or campground shall be so managed as to create no health hazards, rodent harboring, insect-breeding areas, accident hazards or air or water pollution. All refuse shall be

stored in containers resistant to water, insects and rodents and shall be provided in sufficient numbers, capacity and various locations as to prevent any refuse from overflowing or blowing away.

In mobile home parks, such containers shall be provided in permanent locations screened by appropriate flora and/or fencing. Methods of storage, collection and disposal of refuse in all mobile home parks and campgrounds shall comply with all applicable County and State of Colorado rules, regulations and laws.

Consideration shall be given to the provision of other services such as natural gas, propane, telephone and cable television.

All mobile home parks and campgrounds shall be equipped at all times with fire-extinguishing equipment in good working order and of such type, size and number and so located as prescribed by the County Building Inspector.

8.04 Waiver of Mobile Home Park and Campground Design Standards and Specifications

The mobile home park and campground design standards and specifications contained in Section 8.03 may be waived or amended in accordance with the procedures and criteria contained within Section 1.11.

8.05 Submittal Requirements

Application for a special use permit for a mobile home park or campground as a special use shall require: (1) submission of an application on a form provided by Las Animas County; (2) submission of a letter of intent; and (3) submission of the special application materials specified within this regulation. The appropriate filing fees (see Chapter XII) shall accompany submission of these materials.

At the discretion of the Planning Commission, and upon written request of the applicant, any but not all of these submission requirements may be waived in cases where the applicant demonstrates that provision of the specific items would prove unnecessarily burdensome or inappropriate. In special cases, the Planning Commission may require, at its discretion, the submission of additional technical information and plans not specified herein.

The specific submittal materials to be submitted to the Planning Commission, in addition to a completed application form and the required filing fees, shall include:

1. A letter of intent including the items required by Section 2.15.02.
2. A site plan at a scale of not less than one (1) inch equaling fifty (50) feet or other scale acceptable to the Planning Commission. Such site plan shall include, at a minimum, the following information and other such additional items as the applicant shall wish to include:
 - a. The applicant's name, legal mailing address and telephone number and, if different, the same information for the proposed operator/managers.
 - b. The name, legal mailing address and telephone number of the persons and/or organizations preparing the site plan.
 - c. A north arrow, scale and scale bar required on all maps submitted in conformance.
 - d. Township, range and section numbers.
3. Typical plot plans for individual mobile home and/or camping unit spaces at a scale of one (1) inch equaling ten (10) feet.
4. Typical street and walkway sections.
5. The number, location and size of all mobile home and/or campground spaces and the gross density of such spaces.
6. The location and width of roadways, sidewalks and pedestrian ways including details on all additions to the public roadway system and written approvals, as required, from the Colorado Department of Transportation and all other appropriate agencies for construction of the proposed roadway system, including access roads and highway access.
7. The location, size and surfacing of motor vehicle parking lots and recreation and open space and all other dedicated and reserved land and all easements.
8. The location or service buildings and all other proposed structures.

9. Grading and drainage plans including:
 - a. A drainage plan showing existing and proposed installations and structures, including but not limited to channels, culverts and inlets and volumes of discharge calculated in CFS that may affect the site and adjacent public or private lands.
 - b. An overlay grading plan shall be furnished, at the discretion of the Planning Commission, when proposed grading would significantly modify the existing drainage.
 - c. A portrayal of areas subject to periodic flooding within the site and proposed structural and nonstructural mitigation measures proposed to address problems of periodic flooding on and adjacent to the site.
10. The proposed source of water supply, electrical and other services and sewage and rubbish disposal.
11. Plans and specifications for all buildings, utilities and other improvements to be constructed or altered within the mobile home park or campground.
12. The location and type of flora to be planted and areas to be seeded or sodded as part of the overall landscaping program.
13. A plat of the proposed development site showing the location of all existing and proposed utilities and all land to be dedicated to the public prior to the issuance of a special use permit. This item may be included on the site plan described in Paragraph 2. above.
14. The type, size and location of all screening and fencing.
15. Such additional information and data as may be reasonably specified by the Planning Commission.

8.06 Criteria for Action on a Special Use Permit for a Mobile Home Park or Campground as a Special Use

All actions by the Planning Commission in reviewing and making recommendations on a special use permit for the site selection, development or alteration of a mobile home park or campground as a

special use and by the Board of County Commissioners in approving or disapproving such applications shall be based in general upon the provisions of these Regulations and specifically on the following criteria:

1. The criteria contained in Section 2.15.03.
2. That a demonstrated need exists for the proposed development and that its proposed site is consistent with all County and other local and regional master plans and service plans.
3. That all required application materials have been properly prepared and submitted to Las Animas County that all filing fees have been paid and that the proposed mobile home park or campground development plan will meet the design standards and specifications contained in Section 4.03.

8.07 Guarantee of Performance

Prior to the issuance of said special use permit, the applicant shall surrender to Las Animas County suitable collateral in an amount mutually satisfactory to the applicant and to the Board of County Commissioners. Said collateral shall be in the form of a payment and performance bond to cover in full the cost of all proposed and required site improvements. As such site improvements are completed, the collateral shall be released by the Board of County Commissioners in accordance with the procedures specified in Section 8.03.

8.08 Permit Conditions: Occupant Registration and Residency

No special use permit for a mobile home park or campground shall be issued by the Board of County Commissioners unless and until the following conditions are made a part of the permit and are agreed to by the applicant:

8.08.01 Registration of Occupants

It shall be the duty of each permittee or operator of a mobile home park or campground if other than the permittee to maintain a register of all mobile home or camping unit owners and occupants within the park or campground. The register shall contain the following information:

1. The name and address of the owners or occupants of each mobile home or camping unit.

2. The make, model, year of manufacture and license number of each mobile home or camping unit and motor vehicle.
3. The jurisdiction issuing such licenses.
4. The date of arrival and the date of departure of each mobile home or camping unit.

The mobile home park or campground shall keep the register available for inspection at all times by law enforcement personnel, public health officials and agents and employees of Las Animas County whose duties require use of the information contained therein. The register record shall be maintained and kept on file for a previous twelve-month period.

8.08.02 Maximum Residency

No camping unit shall be allowed to occupy space within a campground for a period exceeding six (6) months.

8.08.03 Management and Maintenance

The permittee or, if other than the permittee, the operator of a mobile home park or campground shall operate such mobile home park or campground in compliance with this regulation and the other applicable provisions of these Regulations and all additional rules, regulations and laws of Las Animas County and provide adequate supervision to maintain the park or campground together with its facilities and equipment in good repair and in clean and sanitary condition at all times.

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.

CHAPTER X

FLOOD DAMAGE PREVENTION REGULATIONS

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CHAPTER X

FLOOD DAMAGE PREVENTION REGULATIONS

10.01 Statutory Authorization

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

10.02 Findings of Fact

1. The flood hazard areas of Las Animas County are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

10.03 Statement of Purpose

It is the purpose of this Chapter to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;

6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
7. Ensure that potential buyers are notified that property is located in a flood hazard area.

10.04 Methods of Reducing Flood Losses

In order to accomplish its purposes, this Chapter uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

10.05 Definitions

100-year flood: A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms *one-hundred-year flood* and *one percent chance flood* are synonymous with the term *100-year flood*. The term does not imply that the flood will necessarily happen once every one hundred years.

100-year floodplain: The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-year flood: A flood having a recurrence interval that has a 0.2 percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-year floodplain: The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Alluvial fan flooding: A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding: A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood Elevation (BFE): The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.

Basement: Any area of a building having its floor sub-grade (below ground level) on all sides.

Channel: The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization: The artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR): The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into fifty (50) titles that represent broad areas subject to Federal regulation.

Community: Any political subdivision in the State of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

Conditional Letter of Map Revision (CLOMR): FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility: A structure or related infrastructure, but not the land on which it is situated, as specified in Section 10.24, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Development: Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM database: Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital Flood Insurance Rate Map (DFIRM): FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

Elevated building: A non-basement building: (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, *elevated building* also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Existing manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is

completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

Federal register: The official daily publication for Rules, proposed Rules and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA: Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood control structure: A physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS): The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map, as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

Floodplain or flood-prone area: Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain Administrator: The community official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit: A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this Chapter.

Floodplain management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations: Zoning resolutions, subdivision regulations, building codes, health regulations and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing: Any combination of structural and/or non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway): The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half (½) foot (six [6] inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Freeboard: The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Revision (LOMR): FEMA's official revision of an effective Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the

implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs) or the Special Flood Hazard Area (SFHA).

Letter of Map Revision Based on Fill (LOMR-F): FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee: A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

Levee system: A flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

Material Safety Data Sheet (MSDS): A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

Mean sea level: For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

National Flood Insurance Program (NFIP): FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

New manufactured home park or subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

No-rise certification: A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Physical Map Revision (PMR): FEMA's action whereby one (1) or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations and/or plan features.

Special flood hazard area: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year; i.e., the 100-year floodplain.

Start of construction: The date the building permit was issued, including substantial improvements, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The *actual start*

means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure just prior to when the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before *Start of Construction* of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred *Substantial Damage*, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
2. Any alteration of a *historic structure*, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.

Threshold Planning Quantity (TPQ): A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

Variance: A grant of relief to a person from the requirement of this Chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Chapter.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided.

Water surface elevation: The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in floodplains.

10.06 Basis for Establishing the Special Flood Hazard Area

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Las Animas County," dated September 1977, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Chapter. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this Chapter and may be supplemented by studies designated and approved by Las Animas County. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

10.07 Lands to Which This Chapter Applies

This Chapter shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of Las Animas County, Colorado.

10.08 Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Chapter.

10.09 Compliance

No structure or land shall hereafter be located, altered or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this Chapter and other applicable regulations. Nothing herein shall prevent Las Animas County from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

10.10 Abrogation and Greater Restrictions

This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter and another regulation, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

10.11 Interpretation

In the interpretation and application of this Chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

10.12 Warning and Disclaimer of Liability

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the County or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made there under.

10.13 Designation of the Floodplain Administrator

The Planning Director is hereby appointed as Floodplain Administrator to administer, implement and

enforce the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

10.14 Duties and Responsibilities of the Floodplain Administrator

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Section 10.15.
2. Review, approve or deny all applications for Floodplain Development Permits required by adoption of this Chapter.
3. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Chapter, including proper elevation of the structure.
6. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
7. When Base Flood Elevation data has not been provided in accordance with Section 10.07, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State or other source, in order to administer the provisions of this Chapter.

8. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half ($\frac{1}{2}$) foot at any point within the community.
9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one-half ($\frac{1}{2}$) foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
11. Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

10.15 Permit Procedures

Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to the Special Flood Hazard Area. Additionally, the following information is required:

1. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 10.18;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information in accordance with Section 10.14.

Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

10.16 Variance Procedures

1. The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this Chapter.
2. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the relevant factors in Section 10.15 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter as stated in Section 10.03.
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - 1) Showing a good and sufficient cause;
 - 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or regulations.
 - c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use, provided that:
 - a. The criteria outlined in Paragraphs 1. through 9. are met, and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

10.17 General Standards

In all Special Flood Hazard Areas, the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.
8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

10.18 Specific Standards

In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in this Chapter, the following provisions are required:

1. Residential construction

New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), elevated to one (1) foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. Nonresidential construction

With the exception of Critical Facilities, outlined in Section 10.24, new construction and Substantial Improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that, at one (1) foot above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the Floodplain Administrator.

3. Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding,

shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one (1) foot above grade.
- c. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured homes

All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred *substantial damage* as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), are elevated to one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above Paragraph shall be elevated so that either:

- a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork), are one (1) foot above the base flood elevation; or

- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

5. Recreational vehicles

All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM either:

- a. Be on the site for fewer than one hundred eighty (180) consecutive days;
- b. Be fully licensed and ready for highway use; or
- c. Meet the permit requirements of Section 10.15, and the elevation and anchoring requirements for *manufactured homes* in Paragraph 4. of this Section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

6. Prior approved activities

Any activity for which a Floodplain Development Permit was issued by Las Animas County or a CLOMR was issued by FEMA prior to {date of adoption} may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this Chapter if it meets such standards.

10.19 Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the Special Flood Hazard Area established in Section 10.07 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. Residential construction

All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least three [3] feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. Nonresidential construction

With the exception of Critical Facilities, outlined in Section 10.24, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least three [3] feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Chapter are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

10.20 Floodways

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Section

10.05). Located within Special Flood Hazard Areas established in this Chapter are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
2. If Paragraph 1. above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Chapter.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

10.21 Alteration of a Watercourse

For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and resolutions.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Las Animas County floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway (otherwise known as a No-Rise Certification) resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section 10.20.
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

10.22 Properties Removed From the Floodplain by Fill

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

1. Residential construction

The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) foot above the Base Flood Elevation that existed prior to the placement of fill.

2. Nonresidential construction

The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) foot above the Base Flood Elevation that existed prior to the placement of fill or, together with attendant utility and sanitary facilities, be designed so that the structure or addition is watertight to at least one (1) foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

10.23 Standards for Subdivision Proposals

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of this Chapter.
3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to this Chapter.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

10.24 Standards for Critical Facilities

A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for

Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. Classification of critical facilities

It is the responsibility of Las Animas County to identify and confirm that specific structures in their community meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

- a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and transportation lifelines.

These facilities consist of:

- 1) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers);
- 2) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures, but excluding clinics, doctors' offices and non-urgent care medical structures that do not provide these functions);
- 3) Designated emergency shelters;
- 4) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio and other emergency warning systems, but excluding towers, poles, lines, cables and conduits);
- 5) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines); and

- 6) Air Transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions, and associated infrastructure [aviation control towers, air traffic control centers, and emergency equipment aircraft hangars]).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems and hydroelectric power-generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of Las Animas County that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Chapter, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to Las Animas County on an as-needed basis upon request.

- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- 1) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- 2) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- 3) Refineries;
- 4) Hazardous waste storage and disposal sites; and
- 5) Aboveground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this Chapter, but exclude later amendments to or editions of the regulations

Specific exemptions to this category include:

- 1) Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- 2) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.

- 3) Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Chapter.

- c. At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- 1) Elder care (nursing homes).
- 2) Congregate care serving twelve (12) or more individuals (day care and assisted living).
- 3) Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving twelve (12) or more children).

- d. Facilities vital to restoring normal services, including government operations.

These facilities consist of:

- 1) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers).
- 2) Essential structures for public colleges and universities (dormitories, offices and classrooms only).

These facilities may be exempted if it is demonstrated to Las Animas County that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Chapter, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to Las Animas County on an as-needed basis upon request.

- 2. Protection for critical facilities

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Chapter, protection shall include one (1) of the following:

- a. Location outside the Special Flood Hazard Area; or
- b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two (2) feet above the Base Flood Elevation.

- 3. Ingress and egress for new critical facilities

New Critical Facilities shall, when practicable as determined by Las Animas County, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

CHAPTER XI

**REGULATIONS FOR AREAS AND ACTIVITIES OF LOCAL CONCERN AND
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CHAPTER XI

REGULATIONS FOR AREAS AND ACTIVITIES OF LOCAL CONCERN AND STATE INTEREST (H.B. 1041 REGULATIONS)

11.01 Introduction

The authority, scope, purpose and legal standing of these H.B. 1041 regulations for areas and activities of local concern and state interest are included with Chapter I of these Regulations and reference is hereby made that these H.B. 1041 regulations are specifically authorized by Section 24-65.1-101, et seq., Colorado Revised Statutes, as amended, and inter alia, Sections 29-20-101, et seq., and 24-32-111, Colorado Revised Statutes, as amended.

The common procedures used to review applications for a permit pursuant to these H.B. 1041 regulations are contained in Section 11.07, the relevant fee structure for applications is contained in Chapter XII, enforcement provisions for these H.B. 1041 regulations are contained in Section 11.13, submittal copy requirements are contained in Section 11.19 and definitions are included in Section 11.32 of these Regulations.

11.02 General Provisions

11.02.01 Title

The title of this Chapter shall be the *Las Animas County Regulations for Areas and Activities of Local Concern and State Interest* and may be so cited and pleaded. Hereinafter it shall be referred to as the H.B. 1041 regulations.

11.02.02 Reasons for Designation

The reasons for the designation of the areas and activities of local concern and state interest contained herein, the dangers that would result from uncontrolled conduct of the designated activities and the advantages of conducting the designated activities in a coordinated manner are as stated in the following resolutions of the Board of County Commissioners: June 30, 1976; October 4, 1977; October 19, 1993; September 15, 1998; September 5, 2000; and July 27, 2010.

11.02.03 Purpose and Findings

The purpose of these H.B. 1041 regulations are to facilitate identification, designation and administration of matters of local concern and state

interest consistent with the statutory requirements and criteria set forth in Section 24-65.1-101, et seq., Colorado Revised Statutes, as amended, as well as to provide certain inclusions in the Las Animas County Master Plan pursuant to Section 24-32-111, Colorado Revised Statutes, as amended.

The Board of County Commissioners hereby finds that:

1. The notice and public hearing requirements of Section 24-65.1-404, Colorado Revised Statutes, as amended, have been followed.
2. These H.B. 1041 regulations are necessary because of the intensity of current and foreseeable future development pressures on and within the jurisdiction.
3. These H.B. 1041 regulations apply to the entire unincorporated area of Las Animas County.
4. These H.B. 1041 regulations interpret and apply any regulations adopted for specific areas and activities of local concern and state interest which have been or may be designated by the Board of County Commissioners.

11.02.04 Applicability

These H.B. 1041 Regulations shall apply to all proceedings concerning identification and designation of and developments in any area of local concern and state interest or any activity of local concern and state interest which has been or may hereafter be designated by the Board of County Commissioners. Designated matters of local concern and state interest include the following matters:

1. Flood hazard areas.
2. Site selection and development of new communities.
3. Sites selection and construction of major new domestic water and sewage treatment systems.
4. Major extensions of existing domestic water and sewage treatment systems.
5. Site selection and construction of major facilities of a public utility.

6. Efficient utilization of municipal and industrial water projects.

Proposed designations and amendments or revocations of designations of matters of local concern and state interest to conduct a designated activity of local concern and state interest shall require compliance with the publication and distribution of notice of public hearing, scheduling, record keeping and all other provisions and requirements of Section 2.04. In the event of inconsistencies between the procedures and other provisions contained therein and those contained herein, the procedures and other provisions contained therein shall prevail.

11.02.05 Repeal

All regulations, resolutions and amendments to regulations and resolutions of Las Animas County pertaining to the designation and regulation of areas and activities of state interest adopted pursuant to Section 24-65.1-101, et seq., Colorado Revised Statutes, as amended, are hereby repealed only to the extent such regulations are inconsistent herewith. It is the intent of this Section to restate, with amendments, all H.B. 1041 regulations of Las Animas County previously adopted by resolutions of the Board of County Commissioners, as such resolutions are listed in Section 11.02.02 hereof. The repeal of any of these prior regulations or resolutions does not revive any other regulations or resolution or portion thereof. This repeal shall not affect nor prevent the prosecution or punishment for the violation of any resolution or regulation or portion thereof repealed, for any offense committed prior to the repeal.

11.02.06 Boundaries of Designated Areas

The location and boundaries of any area designated and regulated pursuant to this Chapter XI shall be as they appear on the maps adopted by this Chapter and referred to in Section 11.02.07. The boundary lines shall be determined by use of the scale appearing on the maps. Where interpretation is needed as to the exact location of a boundary line or where there appears to be a conflict between a mapped boundary and actual field conditions, the Planning Director shall make such determinations.

11.02.07 Maps

Each map referred to in designations and regulations for any particular matter of local concern and state interest adopted by Las Animas County is deemed adopted therein as if set out in full.

Maps referred to in any such designation and regulation shall be filed with and available for inspection in the office of the Las Animas County Clerk and Recorder.

11.02.08 Mapping and Boundary Disputes

Any person contesting the location of an adopted boundary line or the existence of designated conditions within such area shall be provided with a reasonable opportunity to present his case to the Planning Commission and the Board of County Commissioners. The Board of County Commissioners may, at its discretion and upon the showing of good cause, exclude the property in question from the designated area.

Applicants wishing to so contest the location of an adopted boundary line or the existence of designated conditions within an area shall submit sufficient technical information from reliable sources in support of their case. Such information shall be submitted to the Planning Commission for review and recommendation and the recommendation, along with the supporting information, shall be forwarded to the Board of County Commissioners for a determination.

The Board of County Commissioners shall not grant an exclusion unless the technical evidence presented clearly and conclusively establishes that the map location of the line is incorrect or inappropriate or that, in a designated hazard area, hazard conditions do not in fact present a significant hazard to the public health, safety or welfare or to property at the specific location within the hazard area boundary for the particular proposed uses.

If the Board of County Commissioners grants an exclusion, the Board shall cause such exclusion to be noted on the official designation maps and shall, without further cost or delay to the applicant, undertake any necessary proceedings to redesignate or amend the area to reflect the amendment of the official designation map.

11.02.09 Duties of the Board of County Commissioners

Unless otherwise specifically provided for, it shall be the duty of the Board of County Commissioners to perform all functions set forth in all provisions of these H.B. 1041 regulations regarding areas and activities of local concern and state interest, including serving as the Permit Authority.

11.02.10 Warning and Disclaimer

The provisions of these H.B. 1041 regulations do not in any way assure or imply that areas outside any hazard areas designated herein will be free from any natural or manmade hazards.

11.03 Exemptions

These H.B. 1041 regulations shall not apply to any development in an area of local concern and state interest or to any activity of local concern and state interest if, on May 17, 1974:

1. The specific development or activity was covered by a current building permit issued by Las Animas County.
2. The specific development or activity was directly approved by the electorate of the State of Colorado or Las Animas County, provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity.
3. The specific development or activity is on land which has been finally approved, with or without conditions, for planned unit development or for a use other than a subdivision substantially the same as planned unit development.
4. The specific development activity is on land which was zoned or rezoned in response to an application, which specifically contemplated said specific development or activity.
5. The specific development or activity is on land with respect to which a final plat for a subdivision had been approved, pursuant to the provisions of Sections 30-28-101, 30-28-110, 30-28-133, 30-28-136 and 30-28-137, Colorado Revised Statutes, as amended.

11.04 Identification of Matters of Local Concern and State Interest

The technical step in identification in any matter of local concern and state interest shall be made by report and must be completed for the appropriate matter of local concern and state interest before identification be adopted.

After completion of the technical step, identification by the Planning Commission is completed when adopted as part of the Las Animas County Master Plan or when a designation or regulation based thereon is adopted by the Board of County Commissioners.

Adoption of identification shall be accomplished under the same procedures followed for adoption of a master plan, as well as the following additional procedures:

1. The "careful and comprehensive surveys" upon which the master plan must be based according to Sections 30-28-107 and 31-23-107, Colorado Revised Statutes, as amended, shall include the technical step as described above.
2. At least thirty (30) days before adoption of official identification as part of the master plan, a summary of the proposed official identification shall be submitted to the division of local government, Colorado Department of Local Affairs, or its successor, for review and advisory recommendations. If any other local governmental jurisdiction would be directly or indirectly affected, the proposed identification similarly shall be submitted to such governments.
3. The Planning Commission's adoption of the identification as part of the master plan shall be made by resolution.
4. Before adoption, the Planning Commission shall hold at least one (1) public hearing thereon, with notice of the hearing given by publication in a newspaper of general circulation in Las Animas County and with the notice of the hearing being given to all members of the news media in the County as determined to be appropriate by the Planning Commission.

5. Adoption shall refer to all maps and descriptive matter intended to be part of the identification. The action taken shall be recorded on any such map or descriptive matter by the signature of the chairman, or in the chairman's absence, the secretary of the Planning Commission.
6. Once the identification is adopted as part of the master plan, the Planning Commission shall certify a copy of the identification to the division of local government, Colorado Department of Local Affairs, or its successor.

11.05 Designation of Matters of Local Concern and State Interest

Designations and amendments or revocations of designations of matters of local concern and state interest may be initiated in any of the following ways:

1. After a matter of local concern and state interest has been identified, as provided for in these H.B. 1041 regulations, the Board of County Commissioners may designate such matter in accordance with the provisions contained herein.
2. If the Board of County Commissioners finds that it would be inappropriate to await identification of any matter of local concern and state interest by the Planning Commission, the Board of County Commissioners may designate such matter prior to the adoption of identification.
3. If the Board of County Commissioners receives a petition signed by a number of qualified voters equal to at least eight (8) percent of the total number of votes cast for all candidates for governor in the last general election in Las Animas County requesting designation of any matter of local concern and state interest, the Board of County Commissioners shall begin designation proceedings on the matter of local concern and state interest as set forth below.

11.05.01 Moratorium on Development

After the Board of County Commissioners has elected to consider designation of a matter of local concern and state interest within the jurisdiction of Las Animas County, no person shall engage in development in the area or conduct the activities under consideration until the Board of County Commissioners has held its hearing and issued its order relating thereto.

11.06 Public Hearing Requirement and Provisions for Designation

The Board of County Commissioners shall hold a public hearing before designating any matter of local concern and state interest and adopting regulations for the administration thereof. Said hearing shall be held not less than thirty (30) nor more than sixty (60) days after notice of the same pursuant to Section 11.06.01.

11.06.01 Publication and Distribution of Notice of Public Hearing

When a public hearing on designation is to be held, the Planning Director shall prepare a notice of the designation hearing which shall include:

1. The time and place of the hearing.
2. The place at which materials relating to the matter to be considered for designation and any guidelines and regulations for the administration thereof may be examined.
3. A telephone number where inquiries may be answered.
4. A description of the area or activity to be designated, the description being in sufficient detail to provide reasonable notice as to property which would be included. The notice shall include, when practical, both the legal description of the property as well as any general or popular names of the property.

The Planning Director shall maintain a mailing list of the names of those persons requesting that their names addresses be placed on the list and paying an annual fee, the amount of which shall be determined from time to time by the Board of County Commissioners. In order to have a name and address retained on said mailing list, persons shall resubmit their names and addresses and pay such fee before January 31 of each year.

At least thirty (30) days but not more than sixty (60) days before the public hearing, the Planning Director shall publish the notice in a newspaper

of general circulation in Las Animas County and shall mail the notice by first-class mail to the following parties:

1. State and federal agencies as deemed appropriate at the discretion of the Planning Director.
2. Persons on the mailing list maintained by the Planning Director.
3. Any other persons, at the discretion of the Planning Director, considered likely to be affected by the proposed designation.
4. At the discretion of the Planning Director, members of the news media.
5. If, in the option of the Planning Director, any other local government jurisdiction would be directly or indirectly affected by the proposed designation, notice similarly shall be mailed to such governmental jurisdictions.

11.06.02 Matters to be Considered at Designation Hearings

At the public hearing described above, the Board of County Commissioners shall consider such evidence as may appear appropriate, including but not necessarily limited to:

1. The intensity of current and foreseeable development pressures.
2. The matters and considerations set forth in and applicable guidelines for identification any designation.
3. The boundaries of the proposed area.
4. Reasons why the particular area or activity is of local concern and state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.
5. Any master plan pertaining to or affected by the area or activity under consideration.

The Board of County Commissioners may hear testimony and receive evidence including:

1. Recommendations submitted by the Planning Commission upon prior review of the matter.
2. Relevant testimony and documents presented.

11.06.03 Record of the Designation Proceeding

The Planning Director will collect and preserve a record of the public hearing including, at a minimum:

1. Notice of the hearing.
2. Certification of publication of the notice.
3. Names and addresses of persons who presented written and oral statements.
4. Evidence of the identification of the matter of local concern and state interest proposed to be designed.
5. Written findings regarding each of the matters referred to in Section 6.06.02.
6. A written or electronic record of all testimony and evidence presented.

Any person may, at that person's expense, provide for the recording of the hearing and transcription thereof; provided, however, that a copy of the recording or transcript shall be furnished free of charge to the Planning Director and shall become part of the record of the hearing.

11.06.04 Adoption of Designation and Regulations

At the conclusion of such hearing, the Board of County Commissioners may adopt, adopt with modification or reject the proposed designation that was the subject of the public hearing. If designation and regulation under Section 24-65.1-101, et seq., Colorado Revised 1973, as amended, is rejected, the Board of County Commissioners may regulate the matter under any other available land use control authority or it may, at its discretion, reject regulation of the matter entirely.

Such action as the Board of County Commissioners may take shall be taken by resolution.

In the event that the Board of County Commissioners finally determines that any matter is a matter of local concern and state interest, it shall be the duty of the Board to designate such matter and adopt regulations for the administration thereof.

Each designation order adopted by the Board of County Commissioners shall, at a minimum:

1. Specify the boundaries of the designated area of local concern and state interest or the boundary of the area in which an activity of local concern and state interest has been designated.
2. State reasons why the particular area or activity is of local concern and state interest, the dangers that would result from uncontrolled development of such area or the uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.
3. Specify the H.B. 1041 regulations applicable to the designated matter of local concern and state interest.

11.06.05 Reserved

11.06.06 Recording of Notice of Designation

A notice of the designation shall be certified by the Board of County Commissioners to the office of the County Clerk and Recorder for filing in the same manner as any document affecting real property.

11.06.07 Effect of Designation: Moratorium Until Final Determination

After a matter of local concern is designated pursuant to these H.B. 1041 regulations, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined as required by Section 24-65.1-404(4), Colorado Revised Statutes, as amended.

11.07 Development Permit Provisions and Requirements

Any person desiring to engage in development in a designated area of local concern and state interest or to conduct a designated activity of local concern and state interest must obtain a permit from the Board of County Commissioners prior to undertaking such development.

An application for development under these H.B. 1041 regulations shall not be accepted for review and decision until and unless the application is complete. If the Board of County Commissioners determines that an application is incomplete, the Board of County Commissioners shall specify to an applicant what additional information is required and, when a completed application is submitted to the Board of County Commissioners, the Board of County Commissioners or its duly appointed representative shall note upon the face of the application the date and hour of its receipt.

When an applicant seeks to obtain a permit to engage in development in more than one (1) area of local concern and state interest and/or to conduct more than one (1) activity of local concern and state interest and/or engage in development in one (1) area of local concern and state interest and to conduct one (1) activity of local concern and state interest, a single application may, upon request of the applicant and at the discretion of the Board of County Commissioners, be completed for all such activities or developments and may be reviewed by the Board of County Commissioners in one (1) consolidated public hearing.

Applications for a permit require, in addition to the application form and such additional materials as may be specified by the Board of County Commissioners, an application fee; see Chapter XII for the fee structure.

11.07.01 Notice of Permit Hearing

Not later than thirty (30) days after receipt of a completed application for a permit, the Board of County Commissioners shall set and publish notice of a date, time and place for a hearing on said application. Such notice shall be published once in a newspaper of general circulation in Las Animas County, not less than thirty (30)

days nor more than sixty (60) days before the date set for the hearing, and said notice shall also be given to other persons and entities in the same manner as set forth above for the notice of designation hearing in Section 11.06.01 of these H.B. 1041 regulations.

11.07.02 Conduct of Permit Hearing

The Board of County Commissioners shall conduct the public hearing in such a manner as to afford due process to the applicant as well as to any person opposing the issuance of the requested permit. The public hearing regarding the issuance of a H.B. 1041 development permit shall be considered a general submission action by the Board of County Commissioners. In its capacity as the Permit Authority, the Board of County Commissioners shall hear testimony and receive evidence, including but not necessarily limited to staff recommendations, relevant testimony presented in person or by written communication and documents submitted as evidence.

Although the Colorado Rules of Civil Procedure do not govern the conduct of the hearing, all persons present at the hearing in person or by counsel shall be afforded the right of cross-examination, at the discretion of the Board of County Commissioners, as well as reasonable opportunity to offer evidence in rebuttal.

Any person may, at that person's own expense, provide for the recording of the hearing and transcription thereof; provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Board of County Commissioners and shall become a part of the record.

The Planning Director shall collect and preserve the following record of the public hearing:

1. The permit application.
2. Any written statements or documents presented in support of or in opposition to the permit application.
3. The names and addresses of all persons making oral or written statements, appearing as witnesses or offering documentary evidence.

4. Any recording or transcript of the hearing, as provided in this Section.
5. Written minutes of the Board of County Commissioners relating to the public hearing.
6. The resolution of the Board of County Commissioners granting or denying the permit application.
7. A copy of the permit, if issued.

11.07.03 Approval or Denial of the Permit Application

If the Board of County Commissioners finds that there is not sufficient information concerning any material feature of a proposed development of activity, the Board of County Commissioners may deny the application or it may continue the hearing until the additional information has been received. However, no such continuance may exceed sixty (60) days unless agreed to by the applicant.

The Board of County Commissioners shall approve an application for a permit to engage in development in an area of local concern and state interest or for the conduct of an activity of local concern and state interest if the proposed development or activity complies with the provisions of the regulations governing such area or activity. If the proposed development does not comply with such regulations and with the Las Animas County Master Plan, the permit shall be denied.

Upon reaching a decision, the Board of County Commissioners, when conducting a hearing pursuant to this Section, shall state in writing the reasons for its decision and its findings and conclusions.

The Board of County Commissioners shall reach a decision on a permit application within one hundred twenty (120) days after the completion of the permit hearing or the permit application shall be deemed approved.

11.07.04 Combined Designation and Permit Hearing

If a person proposes to engage in development in an area of local concern and state interest or to conduct an activity of local concern and state interest not previously identified, designated or for which regulations have not been adopted, the Board of County Commissioners alone may hold one (1) hearing for determination of identification, designation and regulation, as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing shall be authority to engage in development or to conduct an activity until the identification, designation and regulations are finally determined.

11.07.05 Issuance of Permits

Permits issued under the provisions of these H.B. 1041 regulations shall be issued on a form adopted by and provided by Las Animas County.

Such permits may be issued for an indefinite term or for a specified period of time.

Copies or notice of the permit shall be sent to any person or organization requesting a copy thereof on payment of the cost of reproduction.

A copy of the permit shall be certified by the Board of County Commissioners to the office of the County Clerk and Recorder of Las Animas County for recording in the same manner as any other document relating to real property, and the certified copy of the permit shall be presented by the Board of County Commissioners to the Clerk and Recorder for recording at the expense of the applicant.

11.08 Financial Security

Before any permit is issued under the provisions of these H.B. 1041 regulations, the Board of County Commissioners may, at its discretion, require the applicant to file a performance bond deemed adequate by the Board of County Commissioners and payable to Las Animas County.

The purpose of said financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements and stipulations of the permit or applicable regulations adopted by Las Animas County.

The amount of said financial guarantee shall be established by the Board of County Commissioners upon consideration of the following applicable criteria:

1. The estimated cost of returning the site of the permitted development or activity to its original condition or to a condition acceptable to Las Animas County in accordance with standards adopted by Las Animas County for the matter of local concern and state interest for which the permit is being or was granted.
2. The estimated cost of completing the permitted development or activity.
3. The estimated cost of complying with any condition of the permit.

Estimated cost shall be based on the applicant's submitted cost estimate plus the Board of County Commissioners estimate of the additional cost to Las Animas County of bringing in personnel and equipment to accomplish any unperformed provisions of the financial guarantee. The Board of County Commissioners will consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Board of County Commissioners may require as a condition of the permit that the financial security shall be adjusted upon receipt of bids.

At least ten (10) percent of the amount of the financial guarantee shall be in cash deposited with Las Animas County's Treasurer and shall be placed in an earmarked escrow account mutually agreeable to the Board of County Commissioners and to the applicant.

The financial guarantee shall be released only when:

1. The permit has been surrendered to Las Animas County before commencement of any physical activity on the site of the permitted development or activity; or
2. The development or activity has been abandoned and the site thereof has been returned to the original condition or to a condition acceptable to the Board of County Commissioners in accordance with standards adopted by Las Animas County for the matter of local concern and state interest for which the permit is being or has been issued; or

3. The project has been satisfactorily completed; or
4. The applicable guarantee conditions have been satisfied.

Any security may be canceled by a surety only upon receipt of the Board of County Commissioners' written consent, which may be granted only when such cancellation will not detract from the purposes of the security.

If the license to do business in Colorado of any surety upon a security filed pursuant to this regulation is suspended or revoked by any state authority, then the applicant or permittee, within sixty (60) days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the State of Colorado. Upon failure of the permittee to make substitution of surety within the time allowed, the Board of County Commissioners shall suspend the permit until proper substitution has been made.

If the Board of County Commissioners determines that a financial guarantee should be forfeited because of any violation of the permit or any applicable regulations adopted by the Board of County Commissioners, it shall provide written notice to the surety and to the permittee that the financial guarantee will be forfeited unless the permittee makes written demand to the Board of County Commissioners within thirty (30) days after the permittee's receipt of notice, requesting a hearing before the Board of County Commissioners. If no demand is made by the permittee within the said period, the Board of County Commissioners shall order the financial guarantee forfeited.

The Board of County Commissioners shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present for consideration of the Board of County Commissioners statements, documents and other information with respect to the alleged violation. At the conclusion of the hearing, the Board of County Commissioners shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.

The cash deposit described in this Section 11.08 may be used by the Board of County Commissioners in the event of the default or alleged default of the permit holder only for the purpose of recovering on

the surety or for fulfilling the permit obligations of the permit holder. In the event that the ultimate reviewing court determines that there has been no default by the permit holder, that portion of any monies expended by Las Animas County from the escrow funds relating to such default shall be replaced in the escrow account by Las Animas County immediately following such determination.

Las Animas County may arrange with a lending institution, which provides money for the permit holder, that said institution may hold in escrow any funds required for said cash deposit. Funds shall be distributed out of escrow by the institution to Las Animas County upon the County's demand for the purposes specified in this Section.

If the forfeiture results in inadequate revenues to cover the costs of accomplishing the purposes of the financial guarantee, legal representatives and agents of Las Animas County shall take such steps as are proper and necessary to recover such costs where recovery is deemed possible.

11.09 Reserved

11.10 Revocation or Suspension of Permits

11.10.01 Violation of Permits

When it comes to the attention of the Board of County Commissioners that the provisions of any permit or the terms of any regulation for administration under these H.B. 1041 regulations have been violated by a holder of a permit, the Board of County Commissioners may temporarily suspend the permit for a period of thirty (30) days.

Before making such a temporary suspension, the Board of County Commissioners shall give the permit holder written notice of the specific violation and shall allow the permit holder a period of at least fifteen (15) days to correct the violation. If the permit holder does not concur that violations have occurred, the permittee shall, within fifteen (15) days of receipt of said notice, show cause to the Board of County Commissioners why temporary suspension shall not be ordered. A hearing shall then be held within said thirty-day period.

11.10.02 Public Hearing and Revocation or Suspension

Either prior to or subsequent to a temporary suspension, the Board of County Commissioners may permanently revoke or suspend the permit after conducting a public hearing in substantially the same manner and after substantially the same notice as if required for permit hearings under the provisions of these H.B. 1041 regulations if the Board of County Commissioners finds:

1. A violation of the provisions of the permit or any applicable regulation for administration which may have been adopted by the Board of County Commissioners; or
2. That the applicant has failed to take substantial steps to initiate the permitted development or activity within twelve (12) months from the date of issuance of the permit or, if such steps have been taken, the applicant has failed to complete the development or activity with reasonable diligence.

11.11 Inspection and Enforcement

The use, occupation or development of or activity in each and every area or activities subject to these H.B. 1041 regulations, are subject to the inspection and enforcement provisions of Chapter XIII of these H.B. 1041 regulations.

If a violation shall be found to exist, the Planning Commission or its authorized representative shall by written order direct that such remedial action be taken forthwith as will result in full compliance with the applicable regulations. The issuance of such order, however, shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in these H.B. 1041 regulations, and compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of this or any other applicable regulations of Las Animas County in any court action instituted seeking full compliance therewith.

11.12 Building Permits

No building or other structure shall be erected nor shall a building permit be issued within an area of local concern and state interest or for an activity of

local concern and state interest unless and until all applicable identification, designation, administration and permit provisions of these H.B. 1041 regulations have been met.

11.13 Relationship to Other Regulations and Requirements

Nothing in these H.B. 1041 regulations shall be construed as exempting an applicant for a permit from any other requirements of Las Animas County or other State of Colorado or federal laws, regulations or requirements provided, however, that in the event a special use permit under Section 2.15 of these Regulations is required for a proposed activity which is also governed by these HB 1041 Regulations, review of the required permit under these HB 1041 Regulations may be combined with review of the special use permit application pursuant to the following procedure:

1. The submission requirements for a special use permit set forth in Section 2.15.02 may be combined with those for the relevant permit under these HB 1041 Regulations and duplication eliminated.
2. The Planning Commission hearing required by Section 2.15.04 for a special use permit must precede the Board of County Commissioners hearing on the relevant permit under these HB 1041 Regulations.
3. The Board of County Commissioners hearing on the special use permit may be combined with the Board of County Commissioners hearing on the relevant permit under these HB 1041 Regulations.
4. At the close of the combined hearing, the Board of County Commissioners shall act first on the special use permit application, and either approve, approve with conditions or deny the same as contemplated by Section 2.15.05.
5. In the event the special use permit is denied, the Board of County Commissioners shall not act upon the application for the relevant permit under these HB 1041 Regulations, in recognition of the fact that no permit under these HB 1041 Regulations may be issued if another required County permit is not obtained or is denied.

6. In the event the special use permit application is approved, with or without conditions, the Board of County Commissioners shall proceed to take action on the application for the relevant permit under these HB 1041 Regulations. Subsequent to approval of a special use permit under this combined procedure, the permit holder shall, if required by the terms of the special use permit, apply for renewals of the same in the manner prescribed by Section 2.15.04.

To the extent that the requirements of these H.B. 1041 regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

11.14 Complaints

Any person aggrieved by a violation or alleged violation of any provision of these H.B. 1041 regulations may file a written complaint with the Planning Director, who shall promptly investigate such complaint and report his or her findings to the Board of County Commissioners.

11.15 Definitions

Appurtenant facilities means any buildings, structures or other property which are clearly incidental to, and customarily found in connection with, major facilities of public utilities and are operated and maintained for the benefit or convenience of the occupants, employees, customers or visitors of such major facilities.

Aquifer recharge area means any area where surface waters may infiltrate to a water-bearing stratum of permeable rock, sand or gravel. This definition will also include wells used for disposal of wastewater or other toxic pollutants.

Efficient use of water means the employment of methods, procedures, techniques and controls to ensure that the amount of water and the purpose for which water is used will yield the greatest possible benefit to the greatest number of people. Such benefits will consider, but not be limited to, economic, social, aesthetic, environmental; agricultural, aquicultural and recreational.

Major facilities of a public utility means:

1. Transmission lines, power plants and substations of electrical utilities;
2. Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives; and
3. Other appurtenant facilities of a public utility which in the opinion of the Board of County Commissioners, either by itself or in conjunction with other major facilities of a public utility, are likely to cause a major impact on the health, welfare or safety of the citizens of Las Animas County, or upon the physical, social or economic environment of Las Animas County or this region. As used in these H.B. 1041 Regulations, **major facilities of a public utility** shall not include small wind energy systems as defined in Section 7.13 of these Regulations or wind farms as defined in Section 7.14 of these Regulations.

Major extension of an existing domestic water treatment system: The expansion of existing domestic water treatment plants or any extension of existing domestic water service lines to serve an additional population equivalent of twenty-five (25) single-family dwellings or the equivalent thereof in other areas.

Major extension of an existing sewage treatment system: Any modification of an existing sewage treatment system to increase hydraulic capacity or to upgrade treatment capability or any extension of existing main collector sewer lines or any extensions to service a population of twenty (20) or more people or the equivalent thereof in other uses.

Major new domestic sewage treatment system: A new sewage treatment system and collector system capable of treating the wastewater generated by twenty (20) or more people through domestic uses or the equivalent thereof in commercial and/or industrial needs.

Major new domestic water system: A system for provision to the public of piped water for human consumption if such system is proposed to serve a population equivalent of twenty-five (25) or more single-family dwelling units or the equivalent thereof in other uses.

Matter of local concern and state interest: An area or an activity of local concern and state interest or both. The meaning is also identical to "matter of state interest," "area of state interest" and "activity of state interest" as these terms are used in Section 24-65.1-101, et seq., Colorado Revised Statutes, as amended.

Municipal and industrial water project means a system and all integrated components thereof through which a municipality and/or industry derives its water supply from either surface or sub-surface sources. This includes a system and all integrated components thereof through which a municipality or industry derives water exchanged or traded for water it uses for its own needs. This term also includes stormwater and wastewater disposal systems of a municipality and/or industry.

New community or new communities:

1. The establishment of urbanized growth centers in the unincorporated territory of Las Animas County.
2. Any activity within the unincorporated territory of Las Animas County which falls within one (1) or more of the following criteria is defined as "site selection and development of new communities" and requires application to the Planning Commission for a permit to conduct such activity:
 - a. Is planned for a population or work force of five hundred (500) persons or two hundred fifty (250) dwelling units within five (5) years of implementation of the activity or for an ultimate population or labor force of two thousand five hundred (2,500) persons or one thousand two hundred fifty (1,250) dwelling units.
 - b. Is planned for or requires the expansion and/or extension of any existing water and/or sewer district or association within any twenty-four-month period which is equal to or greater than fifty (50) percent of the population or land area served by the district or association at the beginning of said period.
 - c. Is planned for or requires a change in existing zoning that provides for a one-hundred-percent or greater increase in allowable density on more than six hundred forty (640) acres of land.

- d. Is planned for or requires an ultimate contiguous zoning district or conditional use permit for commercial, industrial and/or public use on three hundred twenty (320) or more acres of land.

Pipelines mean any pipeline and appurtenant facilities designed for, or capable of, transporting natural gas or other petroleum derivatives of ten (10) inches diameter or larger which creates a hoop stress of twenty (20) percent or more at their specified minimum yield strength.

Power plant means any electrical energy generating facility with a generating capacity of fifty (50) megawatts or more, and any facilities appurtenant thereto, or any addition thereto increasing the existing design capacity of the facility by fifty (50) megawatts or more. As used in these H.B. 1041 regulations, **power plant** shall not include small wind energy systems as defined in Section 7.13 of these Regulations or wind farms as defined in Section 7.14 of these Regulations.

Proposed development: A major new domestic water or sewage treatment system, and includes any proposed land development directly related to such system if such development is to be located within Las Animas County and if such development specifically generates the need for the system. The term **development area**, as used herein, is included within the meaning of **proposed development**.

Public utilities, as used in these H.B. 1041 regulations, means that term as defined in Section 40-1-103, C.R.S., as amended.

Recycling means the treatment of wastewater in a manner that will replenish its quality to the standard established by the Colorado Department of Public Health and Environment where permissible by Colorado water law.

Site selection means the process for determining the location of major facilities of a public utility or the expansion of existing major facilities of a public utility.

Source development area means that geographic area or region wholly or partially within the unincorporated territory of the County which will be developed or altered in connection with the development of a municipal or industrial water project, as these terms are defined hereinabove.

Storage area means any facility, including appurtenant facilities, designed to store fifty million (50,000,000) cubic feet or more of natural gas or thirty-five thousand (35,000) barrels or more of petroleum derivatives, or any expansion of any existing storage facilities to accommodate an additional fifty million (50,000,000) cubic feet or more of natural gas or thirty-five thousand (35,000) barrels or more of petroleum derivatives.

Substation means any facility designed to provide switching, voltage transformation or voltage control required for the transmission of electricity at 115 kilovolts or greater.

Transmission lines means those electrical lines and appurtenant facilities which meet all the following criteria:

1. Either a series of three (3) or more structures and appurtenant facilities erected above ground which support one (1) or more conductors or a power line placed underground; and
2. Which lines emanate from a power plant or a substation/transition site and terminate at a substation/transition site; and
3. Which are designed to transmit electrical voltages of 115 kV or greater.

11.16 Reserved

11.17 Reserved

11.18 Reserved

11.19 Reserved

11.20 Regulations for Site Selection and Development of New Communities

11.20.01 Purpose and Intent

The purpose and intent of the H.B. 1041 new communities regulations contained herein shall be:

1. To provide for transportation, waste disposal, schools and other government services in a manner that will not overload facilities of existing communities of the region.

2. To provide for the development of total communities which provide for commercial and industrial activity as well as residences and for internal transportation and circulation patterns.
3. To achieve planned and orderly land use development.
4. To promote efficient and economical use of public resources.
5. To encourage the provision of transportation, commercial, recreational and educational facilities conveniently located to housing of all types and designs.
6. To encourage innovations in residential, commercial and industrial development and renewal so that the growing demands of population may be met by a greater variety in type, design and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings.
7. To encourage the planning and building of new communities which incorporate the best features of design and planning.
8. To ensure minimal adverse environmental, social and economic impacts in such sites and in such impact areas.
9. To encourage the review of new communities at the earliest possible point in the planning process.

11.20.02 Applicability

These regulations apply to applications for permits to engage in the development of new communities within unincorporated Las Animas County.

11.20.03 Relationship to Other Regulations and Requirements

The relationship of this regulation to other regulations and requirements shall be exactly as the relationship provisions contained in Section 11.13 of these H.B. 1041 regulations.

11.21 Designation of Site Selection and Development of New Communities

Having considered the intensity of current and foreseeable development pressures, it is the order of the Board of County Commissioners that site selection and development of new commu-

nities be designed a matter of local concern and state interest pursuant to the provisions of this regulation.

11.21.01 Boundaries of Area Covered by the Designation

The site selection and development of any new communities within the unincorporated boundaries of Las Animas County, except as otherwise prohibited by law, shall be subject to this designation and regulation.

11.21.02 Reasons for Designation

Site selection and designation of any new community is hereby designated a matter of local concern and state interest for the reasons stated in Section 11.20.01 of these H.B. 1041 regulations.

11.22 Permit Program for Site Selection and Development of New Communities

11.22.01 Permit Requirement

No person may locate a new community in unincorporated Las Animas County without first obtaining a permit pursuant to these H.B. 1041 regulations.

11.22.02 Procedural Requirements

The procedures concerning permit applications, notice and conduct of permit hearings, review of Board of County Commissioners decisions and the issuance and content of permits to engage in development of a designated new community shall comply with the provisions set for in Sections 11.07 through 11.10 of these H.B. 1041 regulations adopted by Las Animas County.

11.22.03 Application Fees

See Chapter XII on application fees for a permit to engage in the development of a new community.

11.22.04 Submittal Requirements

An application for a permit to locate or develop a new community shall be accompanied by the following items:

1. An abstract of the proposal indicating the scope, timing and need for the development.
2. A general plan for the development of the new community, to include the following information:
 - a. A statement of goals and objectives.
 - b. A site location analysis of the total area proposed for the new community. This site analysis should include:
 - 1) The criteria, data assumptions, and conditions used in determining the site location.
 - 2) The natural and man-made features, conditions, trends and hazards which affected the selection of the site.
 - 3) A comparison of alternative potential sites and the feasibility of each, including any sites which may be suggested by the Planning Director.
 - c. A description, including maps at a scale acceptable to the Planning Director, of the characteristics of the natural environment of the site and impact area, including the following items:
 - 1) Topography.
 - 2) Climatological conditions.
 - 3) Geomorphology, geology and soils by type and suitability.
 - 4) Potential natural hazards.
 - 5) Plant communities.
 - 6) Terrestrial and aquatic wildlife communities.
 - 7) All water bodies including all major surficial waters, groundwater aquifers and groundwater recharge areas.
- d. A description, including maps at a scale acceptable to the Planning Director, of existing and proposed features of the man-made environment of the new community site and impact area, including the following items:
 - 1) Housing of all types for all income groups.
 - 2) Industrial facilities and sites.
 - 3) Commercial establishments and sites.
 - 4) Recreational facilities and sites and open spaces.
 - 5) Transportation systems and facilities and parking facilities.
 - 6) Agricultural uses by classification.
 - 7) Services and utilities, including water supply systems, sewage systems, storm drainage systems, solid waste disposal systems, gas and electrical utilities and communication utilities.
 - 8) Public institutions and structures, including schools, government buildings and other community facilities.
 - 9) Public lands and open space.
- e. An analysis of the environmental impacts of the new community, as delineated in Paragraph d. above, based on the following considerations:
 - 1) Water quality, including surficial water, groundwater aquifers and groundwater aquifer recharge areas.
 - 2) Ambient air quality, including indirect sources.
 - 3) Plant communities.
 - 4) Aquatic and terrestrial wildlife communities.

8) Air quality.

9) Archaeological and historical sites.

10) Scenic qualities.

d. A description, including maps at a scale acceptable to the Planning Director, of existing and proposed features of the man-made environment of the new community site and impact area, including the following items:

1) Housing of all types for all income groups.

2) Industrial facilities and sites.

3) Commercial establishments and sites.

4) Recreational facilities and sites and open spaces.

5) Transportation systems and facilities and parking facilities.

6) Agricultural uses by classification.

7) Services and utilities, including water supply systems, sewage systems, storm drainage systems, solid waste disposal systems, gas and electrical utilities and communication utilities.

8) Public institutions and structures, including schools, government buildings and other community facilities.

9) Public lands and open space.

e. An analysis of the environmental impacts of the new community, as delineated in Paragraph d. above, based on the following considerations:

1) Water quality, including surficial water, groundwater aquifers and groundwater aquifer recharge areas.

2) Ambient air quality, including indirect sources.

3) Plant communities.

4) Aquatic and terrestrial wildlife communities.

- 5) Geomorphology, geology and soils.
 - 6) Climate.
 - 7) Scenic quality.
 - 8) Noise.
 - 9) Historical and archaeological resources.
- f. A description, including maps at a scale acceptable to the Planning Director, of the proposed social environment of the new community and analyses of the impacts of the social environment of the new community on the existing social environment in the new community site and the impact area, including the following items:
- 1) Current population.
 - 2) Proposed population.
 - 3) Past population trends.
 - 4) Population forecasts.
 - 5) Existing housing.
 - 6) Types of housing proposed to meet the needs of the new population, including low and moderate income housing.
 - 7) Price range of the proposed housing types.
 - 8) Residential density.
 - 9) Housing market conditions.
 - 10) Existing community facilities.
 - 11) Planned community programs.
 - 12) Diversity of facilities and programs to meet the needs of the population.
 - 13) Cultural services to be available.
 - 14) Expected school enrollment.
 - 15) Distances of schools from neighborhoods.
 - 16) Transportation of students.
 - 17) New school facilities required.
 - 18) Existing facilities at the site and in the impact area.
 - 19) Existing and proposed hospitals and medical clinics.
 - 20) Existing and proposed emergency health services.
 - 21) Existing and proposed medical personnel.
 - 22) Police services.
 - 23) Fire services.
 - 23) Rescue services.
 - 25) Social services.
 - 26) Recreational facilities including present and future adequacy and need, present and future open space acquisitions and accessibility to open space.
- g. A description of governmental infrastructure within the new community site and the impact area.
- 1) A map at a scale acceptable to the Planning Director and a description of existing and proposed local government institutions, special districts or other jurisdictions, the types of services to be provided by each and the proposed method of governance of each.
 - 2) Proposed methods of generating public revenue through existing and proposed government jurisdictions.
 - 3) Estimated revenue-generating capacity of each method described in Item 2) above and identification of any new sources of revenue created by the community.
 - 4) Estimated operating revenue and expenditures of proposed new public and publicly funded services and facilities.

- 5) Estimated public debt expected as a result of development of new public and publicly funded services and facilities.
 - 6) Evaluation of the capacity of existing services to meet needs.
- h. A description of the economic profile of the planned new community and impact area, including:
- 1) Type of industry, commerce and other private enterprises contributing to the economic base of the new community.
 - 2) An analysis of employment characteristics and the labor market of the new community and the impact area.
 - 3) A description of the potential economic effects of the new community on the impact area.
- i. A description of the proposed public improvements, including:
- 1) A list of the proposed public improvements and to which jurisdictions they would be dedicated.
 - 2) The proposed terms of the performance guarantees.
 - 3) A description of the proposed maintenance programs.
 - 4) The proposed phasing of the dedications.
- j. A description of area-wide planning and development, including:
- 1) The relationship of the new community development plan with local master plans, regional and state plans and federal plans and programs of jurisdictions in the impact area.
 - 2) The relationship of the new communities development plan with approved and proposed public projects and capital improvements programs in the impact area.
- k. A description of the likely impacts of the proposed land uses in the new community on existing land use patterns in the impact area.
- l. A description of the proposed development schedule, including:
- 1) A detailed schedule of development and plan for its implementation.
 - 2) The proposed phasing, if any, of the development schedule, with a table showing the relationship of the public facilities construction schedule to the expected population base of the new community.
- m. Evidence demonstrating the technical and administrative capability of the applicant to plan and develop a new community on the scale proposed, including past experience of the applicant and other principal participants and previous projects undertaken.
- n. Evidence demonstrating the financial capability of the applicant, including:
- 1) All anticipated costs of development public and privately financed services and facilities.
 - 2) How and from where development costs will be met, including a schedule showing anticipated revenues from the development, the financial resources of the applicant and other principal participants, borrowing capacity with letters of credit, if available, and special district revenues anticipated.
 - 3) Written procedures to allow for periodic updating of the financial plan and implementation program to account for changes in costs, revenues, market conditions and other relevant changes affecting the development.
 - 4) The proposed marketing strategy for residential, commercial and industrial property.

11.22.05 Waiver of Submittal Requirements

The submittal requirements for permit applications for site selection and development of new communities may be waived by the Board of County Commissioners as allowed for in Section 11.19.03. In addition, the submittal requirements contained in Paragraphs 10.22.04.2.i, and j. may be waived by the Board of County Commissioners, at its discretion, upon submission by the applicant of a final environmental impact statement prepared in compliance with the requirements of the National Environmental Policy Act (NEPA), as amended.

11.22.06 Approval of a Permit Application

The Board of County Commissioners shall approve an application for a permit for site selection and construction of a new community only if the proposed site selection and development complies with these regulations and other relevant guidelines and regulations and meets all of the following criteria:

1. All required information has been submitted.
2. There is a clear and defined need for the new community as proposed.
3. The public health, safety and welfare of the residents of Las Animas County will be served by the new community.
4. The natural and socioeconomic environments of Las Animas County and the impact area will be protected and enhanced.
5. All reasonable alternatives to the proposed action have been adequately assessed and the proposed action represents the best alternative for satisfying all requirements of this regulation.
6. A program to minimize and mitigate all likely adverse impacts has been presented.
7. The characteristics and location of the proposed new community satisfies all applicable provisions of Chapter II of these Regulations and other regional, state and federal plans affecting Las Animas County.
8. The characteristics and location of the proposed new community complement the existing and reasonably foreseeable needs of the jurisdictions in the impact area.
9. The new community design, at a minimum, provides for adequate and necessary transportation, waste disposal, schools and other governmental services in a manner that will not overload the facilities of existing communities in the impact area.
10. Priority is given to the development of a total community which provides for commercial and industrial activity as well as residences and for internal transportation patterns.
11. The characteristics and location of the new community will not create increases in the demand for services beyond the reasonable capacity of the new community and surrounding jurisdictions affected to provide such services, as determined by the Board of County Commissioners.
12. The characteristics and location of the new community will not unduly interfere with any existing easements for or rights-of-way for other utilities, canals, mineral claims or roads.
13. Adequate electric, gas, telephone, water, sewage and other utilities exist or can and shall be developed to service the new community.
14. The characteristics and location of the new community will not interfere with any significant wildlife habitat or adversely affect any threatened wildlife species, unique natural resource or historical or archaeological landmark within the new community and the impact area.
15. The characteristics and location of the new community, including expected growth and development related to the new community, will not significantly deteriorate air quality in the new community site or the impact area.
16. The existing water quality of affected waters will not be adversely affected, unless and to the degree permitted by law.

17. The sites for the proposed uses in the proposed new community are suitable considering location, size, topography, micro-climate and soil characteristics and the harmonious relationship of these uses with surrounding jurisdictions.
18. The land use and transportation circulation plans and the population density and distribution pattern are planned in such a way as to promote harmonious human relationships and optimum internal accessibility.
19. Provision has been made to preserve such natural features as water bodies and steep slopes and to establish and maintain an accessible open space network for conservation, visual satisfaction and recreation.
20. Measures have been taken to prevent environmental pollution, reduce potential natural hazards and minimize noise problems.
21. The development plan utilizes current design concepts and technology for energy conservation with respect to land utilization, materials and methods of construction and the provision of community facilities and services, and it encourages innovations in meeting social and economic problems of the new community and the impact area.
22. The development provides housing for all income groups and age groups, unless specifically exempted from doing so by the Board of County Commissioners.
23. The proposed new community appears to be economically feasible as determined by the Board of County Commissioners on the basis of the information provided in the application.
24. The applicant had demonstrated the technical and financial capability to plan and develop completely the new community within a reasonable period of time.
25. The existing and proposed governmental jurisdictions will be able to govern adequately the new community.

11.22.07 Denial of a Permit Application

A permit application shall be denied if a proposed development does not meet all of the applicable criteria listed in Section 11.19.06.

11.23 Regulations for Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems

11.23.01 Purpose and Intent

The purpose and intent of the H.B. 1041 major new domestic water and sewage treatment system regulations contained herein shall be:

1. To ensure that new domestic water and sewage treatment systems are constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage systems of adjacent communities.
2. To ensure that site selection and construction of major new domestic water and sewage treatment systems are conducted in such a manner as to minimize environmental impacts associated with such development.
3. To ensure that site selection and construction of major new domestic water and sewage treatment systems are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities.

11.23.02 Applicability

These H.B. 1041 major new domestic water and sewage treatment system regulations shall apply to the site selection for all major new domestic water and sewage treatment systems and the construction thereof. They shall not apply to the expansion of existing domestic water or sewage treatment systems.

11.23.03 Nonconforming Uses

The provisions of these H.B. 1041 regulations shall not apply to any nonconforming use existing on the date the area is initially designated or subjected to regulation; provided that, when a

nonconforming use shall be discontinued for six (6) months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any re-use, reconstruction or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these regulations.

Any alteration, addition or repair to any nonconforming structure or significant change in land use permitted pursuant to these regulations shall be designed and conducted so as to minimize, mitigate or avoid the significant adverse impact by or to mineral resource utilization. For the purpose of this H.B. 1041 regulation for site selection and construction of major new domestic water and sewage treatment systems, seasonal use shall include but not be limited to irrigation systems and recreational areas that operate less than six (6) months per year.

11.23.04 Relationship to Other Regulations and Requirements

The relationship of this regulation to other regulations and requirements shall be exactly as the relationship provisions contained in Section 11.13 of these H.B. 1041 regulations with the exception of the addition that permit requirements included in this regulation shall be in addition to and in conformance with all applicable state and federal water quality laws, rules and regulations, including but not limited to the following:

1. Section 25-8-701, et seq., C.R.S, as amended, "Domestic Wastewater Treatment Works," which requires approval from the Colorado Water Quality Control Division for site location and design of construction or enlargement in capacity of existing domestic wastewater treatment works.
2. Section 25-8-501, Colorado Revised Statutes, as amended, point source pollutant discharge permit.
3. Section 208 (33 U.S.C. § 1288) area-wide waste water treatment management planning.
4. Section 303 (33 U.S.C. § 1313) river basic water quality management planning.

5. Disposal of sewage sludge (33 U.S.C. § 1345.)
6. Section 32-1-201, Colorado Revised Statutes, 1973, as amended, Special District Control Act.

11.24 Designation of Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems

Having considered the intensity of current and foreseeable development pressures, it is the order of the Board of County Commissioners that site selection and construction of major new domestic water and sewage treatment systems be designated a matter of local concern and state interest and be regulated pursuant to the provisions of these H.B. 1041 regulations.

11.24.01 Boundaries of Area Covered by the Designation

The site selection and construction of any major new domestic water and sewage treatment systems within the unincorporated boundaries of Las Animas County, except as otherwise prohibited by law, shall be subject to this designation and regulation.

11.24.02 Reasons for Designation

Site selection and construction of any major new domestic water and sewage treatment systems is hereby designated as a matter of local concern and state interest for the reasons stated in Section 11.23.01.

11.25 Permit Applications and Permits

11.25.01 Application Procedures

The procedures concerning permit applications, notice and conduct of permit hearings, review of Planning Commission decisions and the issuance and content of permits to engage in site selection and development of major new domestic water and sewage treatment systems shall comply with the provisions set forth in Sections 11.07 through 11.10 of these H.B. 1041 regulations adopted by Las Animas County.

11.25.02 Prohibition on the Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems

No person may locate a major new domestic water or sewage treatment system in Las Animas County without first obtaining a permit pursuant to these H.B. 1041 regulations.

No local authority shall issue a building permit for purposes of selecting a site for or constructing a major new domestic water or sewage treatment system without the applicant first having obtained a permit pursuant to these H.B. 1041 regulations.

11.25.03 Application for a Permit

Any person seeking to locate or construct a major new domestic water or sewage treatment system in Las Animas County shall apply for a permit from Las Animas County. For sewage systems, the site application form used by the Colorado Water Quality Control Commission shall be completed and attached to the application form for a permit from Las Animas County.

Applications for a permit to locate or construct a major new domestic water or sewage treatment system shall be accompanied by an application fee. See Chapter XII of these Regulations on application fees.

Applications for a permit to locate or construct a major new domestic water or sewage treatment system shall be accompanied by the following documents and information:

1. An abstract of the proposal indicating the scope and need for the development.
2. Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and the Colorado Department of Public Health and Environment within sixty (60) days of the date of submittal of the proposal for review.
3. Alternative potential site locations and the degree of feasibility of each.
4. For each alternative site or expansion area under consideration by the applicant, the submittal requirements specified in Section 11.25.03.

Any demographic data needed to satisfy the requirements of this regulation shall be consistent with those used or required by or for the federally established Section 208 area-wide waste treatment management planning.

11.25.04 Submittal Requirements

1. Proponents of Proposal

- a. Names, addresses and business of all local interests proposing site selection and construction of a major new water or sewage treatment system.
- b. Name and qualifications of the person responding to the requirements contained within this regulation.

2. Scope of Proposal

- a. Provide detailed plans of the proposal, including proposed system capacity and service area plans mapped at a scale acceptable to the Planning Commission.
- b. Provide a description of all existing or approved proposed domestic water or sewage treatment systems within the development area.
- c. Describe the design capacity of each domestic water or sewage treatment system facility proposed and the distribution or collection network proposed in the development area.
- d. Describe the excess capacity of each treatment system and distribution or collection network in the community or development area.
- e. Provide an inventory of total commitments already made for current water or sewage services.
- f. Describe the operational efficiency of each existing system in the area, including the age, state of repair and level of treatment.
- g. Describe the source, rights and quality of the existing water supply.
- h. Describe the existing water utilization, including the historic yield from rights and use by category such as agricultural, municipal and industrial supply obligations to other systems.

3. Demonstrate the Need for a New Water or Sewage Treatment System.
 - a. Provide population trends for the development area, including present population, population growth and growth rates, documenting the sources used.
 - b. Specify the predominant types of developments to be served by the proposed new water and/or sewage systems.
 - c. Specify at what percentage of the design capacity the current system is now operating:
 - 1) Water treatment system.
 - 2) Wastewater treatment system.
 - d. Specify whether or not present facilities can be upgraded to accommodate adequately the ten-year projected increase needed in treatment and/or hydraulic capacity.
4. Land Use.
 - a. Provide a map at a scale acceptable to the Planning Commission describing existing land uses of the proposed development and the project service area, including peripheral lands which may be impacted. The land use map shall include but need not necessarily be limited to the following categories: residential, commercial, industrial, extractive transportation, communication and utility, institutional, open space, outdoor recreation, agricultural, forest land and water bodies.
 - b. All immediately affected public land boundaries should be indicated on the map. Potential impacts of the proposed development upon public lands will be visually illustrated on the map as well as described in the text.
 - c. Specify whether the proposed project conforms to the Las Animas County Master Plan.
 - d. Specify whether the proposed project conforms to regional and state planning policies.
 - e. Specify whether the proposed project conforms to federal land management policies.
 - f. Describe the present use of the land in the development area.
 - g. Describe the present zoning in the development area.
 - h. Describe the agricultural productivity capability of the land in the development area, using SCS soils classification data.
 - i. Specify how the proposed development will use existing easements or rights-of-way for new associated distribution or collector networks.
 - j. Describe the probability that the system may be significantly affected by earthquakes, floods, fires, snow, slides, avalanches, rockslides or landslides and any measures taken to reduce the impact of such events upon the system.
 - k. Specify if excess service capabilities created by the proposed development will prove likely to generate sprawl or strip development.
 - l. Specify whether the demand for this project is associated with development within or contiguous to existing service areas.
5. Water Resources.
 - a. Describe and indicate on a map at a scale acceptable to the Planning Commission relevant surface water bodies, including streams, lakes, reservoirs and groundwater aquifers in the area and their uses. Describe the potential effects of the proposed project on the above detailed water features, including the effects on present water quality and current uses.
 - b. On the same or another map, indicate any floodplains associated with the proposed development, including documentation of historical flooding activity.

- c. Describe the potential adverse effects of the proposed development on plant and animal life dependent on the water resources in question.
- d. Describe potential effects of the proposed development on eutrophication, waste load allocations and water quality of rivers, streams, aquifers and/or any existing or proposed reservoirs in Las Animas County.
- e. Describe potential effects of the proposed development project on above-described water features in the development area, including the effects on present water quality and current uses. Include a detailed statement of impacts on the proposed project on federal and State water quality standards.

6. Air Quality.

Detail the impact, both direct and indirect, of the proposed development on ambient air quality in the vicinity of the development.

7. Environmentally Sensitive Factors.

Identify and locate on a map at a scale appropriate to the Planning Commission the spatial relationship of any of the following features present in the proposed development and its environs and describe the potential impact of the proposed development on each relevant feature:

- a. Marshlands and wetlands.
- b. Groundwater recharge areas.
- c. Potential natural hazards.
- d. Forests and woodlands.
- e. Critical wildlife habitat.
- f. Public outdoor recreation.
- g. Unique areas of archaeological, geological and historical importance.
- h. Critical aquatic life habitat.
- i. Agricultural areas.

8. Aesthetics and Nuisance Factors.

Identify any significant deterioration of existing natural aesthetics, creation of visual blight, noise pollution or obnoxious odors which may result from the development.

9. Describe what impact the development will have on transportation impacts in the area.

10. The financial impact analysis of site selection and construction of major new water and sewage treatment facilities shall include but need not be limited to the following items:

- a. A review and summary of any existing engineering and/or financial feasibility studies, assessed taxable property valuations and all other matters of financial aid and resources in determining the feasibility of the proposed new facility, including:
 - 1) Service area and/or boundaries.
 - 2) Applicable methods of transmitting, storing, treating and delivering water and collecting, transmitting, treating and discharging sewage, including effluent and/or sludge disposal.
 - 3) Estimated construction costs and period of construction of each new facility component.
 - 4) Assessed valuation of the property to be included within the service area boundaries.
 - 5) Revenues and operating expenses of the proposed new facility, including but not limited to historical and estimated property taxation, service charges and rates, assessments, connection and tap fees, standby charges and all other anticipated revenues of the proposed new facility.
 - 6) Amount and security of the proposed debt and method and estimated cost of debt service.

- 7) Provide the details of any substantial contract or agreement for revenues or for services to be paid, furnished or used by or with any person, association, corporation or governmental body.
11. Provide a debt retirement schedule based on anticipated service fees and the tax base.
12. Identify the person, association, corporation and government bodies that will benefit by, use and pay any or all of the revenues.
13. If the new water or sewage treatment system exceeds the proposed ten-year population growth needs as described by the appropriate region's Section 208 planning demographic projections, then describe the reasons for the proposed excess service capacity and the cost of such excess capacity to the community.
4. Adequate water supplies, as determined by the Colorado Department of Public Health and Environment, are available for efficient operation.
5. Existing domestic water treatment systems servicing the area must be at or greater than eighty (80) percent of operational capacity.
6. Existing domestic sewage treatment systems servicing the area must be at or greater than eighty (80) percent of operational capacity.
7. The scope and nature of the proposed development will not compete with existing water and sewage services or create duplicate services.
8. The age of existing water and sewage systems, operational efficiency, state or repair or level of treatment is such that replacement is warranted.

11.25.05 Waiver of Submittal Requirements

The submittal requirements for permit applications for site selection and development of new communities may be waived by the Board of County Commissioners as allowed for in Section 11.19.03.

11.25.06 Approval of a Permit Application

A permit application for site selection and construction of a major new domestic water or sewage treatment system shall be approved if the proposed development complies with the following criteria:

1. New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.
2. The proposed development does not conflict with an approved local master plan or master plan or other applicable regional, state or federal land use or water plan.
3. The proposed development does not adversely affect either surface or subsurface water rights of upstream or downstream users.
9. Area and community development and population trends clearly demonstrate a need for such development.
10. Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Quality Control Division.
11. Appropriate easements can be obtained for any associated collector or distribution system that will serve existing and proposed needs.
12. Such development will not encourage strip or leapfrog development.
13. The benefits of the proposed development outweigh the losses of any natural resources or agricultural lands rendered unavailable as a result of the proposed development.
14. The proposed development will not decrease the quality of peripheral or downstream surface or subsurface water resources below that designated by the Colorado Water Quality Control Commission.
15. The proposed development or its associated collector or distribution system or new service areas will not violate federal or state air quality standards.

16. The proposed development or its associated collector or distribution system will not significantly deteriorate aquatic habitats, marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodland, critical wildlife habitat, big game migratory routes, calving grounds, migratory ponds, nesting areas and the habitats of rare and endangered species, public outdoor recreation areas and unique areas of geological, historical or archaeological significance.
17. The proposed development or its associated collector or distribution system will not significantly degrade existing natural scenic characteristics, create blight or cause other nuisances such as excessive noise or obnoxious odors.
18. The proposed development or its associated collector or distribution system will not create an undue financial burden on existing or future residents of the area or community.
19. The development site of a major new domestic water or sewage treatment system is not subject to a significant risk from earthquakes floods, fires or other disasters or hazards which could cause a system operational breakdown.

11.25.07 Denial of a Permit Application

A permit application shall be denied if an applicant's application fails to meet all the relevant criteria described in Section 11.25.06.

11.26 Regulations for Major Extension of Existing Domestic Water and Sewage Treatment Systems

11.26.01 Purpose and Intent

The purpose and intent of the H.B. 1041 major extension of existing domestic water and sewage treatment system regulations contained herein are to ensure that anticipated growth and development that may occur as a result of major extensions of domestic water and sewage treatment systems can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

11.26.02 Applicability

These H.B. 1041 major extension of existing domestic water and sewage treatment system regulations shall apply to the site selection and construction of all major extensions of existing domestic water and sewage treatment systems.

11.26.03 Nonconforming Uses

The provisions of this regulation governing nonconforming uses shall be exactly as the nonconforming use provisions contained in Section 11.23.03 of these H.B. 1041 regulations.

11.26.04 Relationship to Other Regulations and Requirements

The relationship of this regulation to other regulations and requirements shall be exactly as the relationship provisions that are contained in Section 11.13 of these H.B. 1041 regulations, with the addition of the supplemental requirements requiring conformance with the applicable state and federal water quality laws, rules and regulation contained in Section 11.23.04.

11.27 Designation of Major Extension of Existing Domestic Water and Sewage Treatment Systems

Having considered the intensity of current and foreseeable development pressures, it is the order of the Board of County Commissioners that major extensions of existing domestic water and sewage treatment systems be designated as a matter of local concern and state interest and be regulated pursuant to the provisions of Section 11.27.

11.27.01 Boundaries of the Area Covered by the Designation

Major extensions of existing domestic water and sewage treatment systems within the unincorporated boundaries of Las Animas County, except as otherwise prohibited from law, shall be subject to this designation and regulation.

11.27.02 Reasons for Designation

Major extension of existing domestic water and sewage treatment systems are hereby designated as a matter of local concern and state interest for the reasons stated in Section 11.26.01.

11.28 Permit Applications and Permits

11.28.01 Application Procedures

The procedures concerning permit applications, notice and conduct of permit hearing, review of Planning Commission decisions and the issuance and content of permits to engage in major extensions of existing domestic water and sewage treatment systems shall comply with the provisions set forth in Sections 11.07 through 11.10 of these H.B. 1041 regulations adopted by Las Animas County.

11.28.02 Prohibition on Major Extensions of Existing Domestic Water and Sewage Treatment Systems

No person may engage in a major extension of a domestic water or sewage treatment system in Las Animas County without first obtaining a permit pursuant to these H.B. 1041 regulations.

No local authority shall issue a building permit for purposes of a major extension of a domestic water or sewage treatment system without the applicant first having obtained a permit pursuant to these H.B. 1041 regulations.

11.28.03 Application for a Permit

Any person seeking to develop a major extension of a domestic water or sewage treatment system in Las Animas County shall apply for a permit from the Board of County Commissioners. For sewage systems, the site application form used by the Colorado Water Quality Control Commission shall be completed and attached to the application form for a permit form Las Animas County.

Any application for a permit to construct a major extension of an existing domestic water or sewage treatment system shall be accompanied by an application fee. See Chapter XII of these Regulations on application fees.

An application for a permit to develop a major extension of an existing domestic water or sewage treatment system shall be accompanied by the documents and information required in Sections 11.25.03. and 11.25.04.

11.28.04 Submittal Requirements

Applicants shall comply with the submittal requirements contained in Section 11.25.03 of these regulations including, unless exempted under Section 11.28.05, all items required within Section 11.25.04.

11.28.05 Waiver of Submittal Requirements

The submittal requirements for permit applications for major extensions of domestic water and sewage treatment systems may be waived by the Board of County Commissioners as allowed for in Section 11.19.03.

11.28.06 Approval of a Permit Application

A permit application for a major extension of existing domestic water or sewage treatment systems shall be approved if the proposed development complies with the following criteria:

1. Major extensions of domestic water and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
2. The development site of a proposed major extension of an existing domestic water or sewage treatment system is not subject to significant risk from earthquakes, floods, fires or other disasters or hazards which could cause a system operational breakdown.
3. Any proposed domestic water treatment and distribution system is capable of providing water meeting the requirements and specifications of the Colorado Department of Public Health and Environment.
4. The proposed development complies with all the criteria contained in Section 11.25.06, Paragraphs 2. through 20., inclusive.

11.28.07 Denial of a Permit Application

A permit application shall be denied if an applicant's application fails to meet all the relevant criteria described directly or by reference in Section 11.28.06.

11.29 Reserved**11.30 Reserved****11.31 Reserved****11.32 Regulations for Efficient Utilization of Municipal and Industrial Water Projects****11.32.01 Title and Citation**

This Section 11.32 may be cited as the "Regulations for Efficient Utilization of Municipal and Industrial Water Projects, and may be referred to in such Sections as "these H.B. 1041 Regulations."

11.32.02 Purpose and Intent

The purpose and intent of the regulations contained in this Section 11.32 are:

1. To ensure that municipal and industrial water projects are developed in a manner so as to emphasize the most efficient use of water, including, to the extent permissible under law, the recycling and reuse of water;
2. To ensure that urban development, population densities and site layout and design of stormwater and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas;
3. To ensure that municipal and industrial water projects are developed in such a manner so as not to pollute rivers, streams, lakes reservoirs, ponds and aquifer recharge areas within the source development area; and
4. To ensure that the off-site impacts of municipal and industrial water projects are effectively mitigated.

11.32.03 Applicability

1. These H.B. 1041 Regulations shall apply to the development of municipal and industrial

water projects wholly or partially within the unincorporated territory of the County.

2. A permit under these H.B. 1041 Regulations shall be required prior to or in conjunction with subdivision, PUD or preliminary plan approval, but in every case must be obtained prior to commencement of construction of the project.

11.32.04 Relationship to Other Regulations and Requirements

The relationship of this regulation to other regulations and requirements shall be exactly as the relationship provisions contained in Section 10.13 of these HB 1041 Regulations.

11.32.05 Designation of Municipal and Industrial Water Projects

Having considered the intensity of current and foreseeable development pressures, it is the order of the Board of County Commissioners that efficient use of municipal and industrial water projects be designated a matter of state interest and regulated pursuant to these H.B. 1041 Regulations. Development of municipal and industrial water projects wholly or partially within the unincorporated territory of the County shall be subject to this designation and these H.B. 1041 Regulations.

11.32.06 Reasons for Designation

Development of municipal and industrial water projects is hereby designated as a matter of state interest for the reasons stated in Section 11.35.02 of these H.B. 1041 Regulations.

11.32.07 Application Procedure

The procedures concerning permit applications, notice and conduct of permit hearings, review of the Board of County Commissioners decisions, and the issuance and content of permits to engage in development of a municipal or industrial water project shall comply with the provisions set forth in Sections 11.07 through 11.15 of these H.B. 1041 Regulations.

11.32.08 Prohibition on Development of Municipal and Industrial Water Projects

1. No person may engage in development of a municipal or industrial water project in the County without first obtaining a permit pursuant to these H.B. 1041 Regulations.
2. No local authority shall issue a building permit for purposes of development or construction of a municipal or industrial water project without the applicant first having obtained a permit pursuant to these H.B. 1041 Regulations.

11.32.09 Application for a Permit

1. Any person seeking to engage in development of a municipal or industrial water project in the County shall apply for a permit from the County.
2. Applications for a permit to engage in development of a municipal or industrial water project shall be accompanied by appropriate application fees. See Chapter XII of these Regulations.
3. Applications for a permit to engage in development of a municipal or industrial water project shall be accompanied by the following documents and information:
 - a. An abstract of the proposal indicating the scope and need for the development.
 - b. Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and the Colorado Department of Public Health and Environment within sixty (60) days of the date of submittal of the proposal for review.
 - c. Alternative potential site locations and the degree of feasibility of each.
 - d. For each alternative site or expansion area under consideration by the applicant, the submittal requirements specified in Section 11.35.10 of these H.B. 1041 Regulations.

4. Any demographic data needed to satisfy the requirements of these H.B. 1041 Regulations shall be consistent with those used or required by or for the federally established Section 208 area-wide waste treatment management planning.

11.32.10 Submittal Requirements

1. Proponents of Proposal:
 - a. Names, addresses and business of all local interests proposing the development of a municipal or industrial water project.
 - b. Name and qualifications of the persons responding to the requirements contained within these H.B. 1041 Regulations.
2. Scope of Proposal:
 - a. Location and scope of the proposed project.
 - b. Current and future needs for such development.
 - c. Inventory of existing water projects presently serving the municipality or area in question and excess service capacity of each project.
 - d. Population trends, projections and growth rates (if a municipal project).
 - e. Primary source of proposed water resources.
3. Verification that the proposed water project will not conflict with federal, state, regional or County planning policies or regulations applicable to land or water resources.
4. Detail proposed methods of ensuring efficient and beneficial use of water resources within the municipality or industrial area and the source development area. Such methods should consider metering of all users, examination of rate structure to discourage waste and recycling of water for reuse where permissible by Colorado water law.

5. Provide a description and detailed engineering plans and specifications of the proposed construction of structures, buildings and improvements associated with the project and the financial and environmental impacts thereof on the community or surrounding areas within the development area and source development area.
6. In instances where municipal or industrial wastewater or stormwater disposal methods are not subject to and regulated by other state and/or federal statutes or regulations, describe the proposed methods by which stormwater or wastewater will be prevented from contaminating aquifers.
7. Provide assurance that the proposed municipal or industrial water project is capable of supplying water of a quality determined by the Colorado Department of Public Health and Environment.
8. Identify and locate on a map, at a scale appropriate to the Board of County Commissioners, the spatial relationship of any of the following features present in the proposed development and its environs and describe the potential impact of the proposed development on each relevant feature:
 - a. Marshlands and wetlands.
 - b. Groundwater recharge areas.
 - c. Potential natural hazards.
 - d. Forests and woodlands.
 - e. Critical wildlife habitat or other wildlife protection areas.
 - f. Public, outdoor recreation areas.
 - g. Unique areas of geological, historical and archaeological importance.
 - h. Critical aquatic life habitat.
 - i. Agricultural areas.
9. Describe the potential adverse effects of the diversions of water from the source development area upon plant and animal life dependent upon the water resources in question.
10. Provide a map, at a scale appropriate to the Board of County Commissioners, describing surface water bodies (streams, lakes and existing or proposed reservoirs, etc.) and groundwater aquifers in the source development area and their uses. Describe the effects of the diversion of water for the municipal or industrial water project on the above-described water features, including the effects on present water quality, current and foreseeable uses. Include a detailed statement of impacts of the proposed project upon federal and state water quality standards.
11. Describe the present zoning of the land in the source development area.
12. Describe the agricultural productivity capability of the land in the source development area, using SCS soils classification data, and describe the potential effects of the diversion of water for the municipal or industrial water project on that agricultural productivity capability.
13. Describe the potential effects of the proposed development on eutrophication, wasteload allocations and water quality of the rivers, streams, aquifers and/or any existing or proposed reservoirs in the County.
14. Increased domestic and/or municipal water treatment costs and/or wastewater treatment costs. The applicant shall submit a plan to offset increased domestic and/or municipal water treatment and/or wastewater treatment necessary to meet water quality standards and determined to be a direct result of flow modification through changes in the transport of nutrients, total dissolved solids, hardness, minerals or other pollutants due to the operation of any project facilities proposed by the applicant. This may be accomplished either by construction and operation of additional domestic and/or municipal water treatment facilities made necessary by the reduction in flow, or the applicant may elect to pay a fee in lieu of those mitigation measures. This fee will be based upon the additional costs of domestic and/or municipal treatment and/or wastewater treatment (capital, operation and maintenance); and it will be used exclusively for

meeting the costs of such additional domestic and/or municipal treatment and/or waste water treatment.

11.32.11 Waiver of Submission Requirements

The Planning Director may waive submission requirements pursuant to the provisions of Section 11.19.03.

11.32.12 Approval of a Permit Application

A permit application for development of a municipal or industrial water project shall be approved (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed development complies with all of the following criteria:

1. The need for the proposed water project can be substantiated.
2. Assurances of compatibility of the proposed water project with federal, state, regional and County planning policies regarding land use and water resources.
3. Municipal and industrial water projects shall emphasize the most efficient use of water, including to the extent permissible under existing law, the recycling and reuse of water. Urban development, population densities and site layout and design of stormwater and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.
4. Provisions to ensure that the proposed water project will not contaminate surface water resources.
5. The proposed water project is capable of providing water pursuant to standards of the Colorado Department of Public Health and Environment.
6. Such proposed water project will not encourage strip or leapfrog development.
7. The proposed diversion of water from the source development area will not decrease the quality of peripheral or downstream surface or subsurface water resources below that designated by the Colorado Water Quality Control Commission.

8. The proposed development and the potential diversions of water from the source development area will not significantly deteriorate aquatic habitats, marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodlands, critical wildlife habitat or other wildlife protection areas, big game migratory routes, calving grounds, migratory ponds, nesting areas and the habitats of rare and endangered species, public outdoor recreation areas, and unique areas of geologic, historic or archaeological importance.
9. Water treatment offset plans required by Section 11.32.11(14) have been approved by the Board of County Commissioners and required fees associated therewith, if any, have been paid.
10. The construction of structures, buildings and improvements associated with the proposed development will not significantly impact existing or proposed communities within the development area and source development area.

11.32.13 Denial of a Permit Application

A permit application shall be denied if the applicant fails to satisfy all the criteria outlined in Section 11.32.12.

11.32.14 Administration, Enforcement and Penalties

The provisions of these H.B. 1041 Regulations and any permits issued hereunder shall be administered and enforced according to the provisions of Sections 11.07 through 11.15 of these H.B. 1041 Regulations.

11.33 Designation of Site Selection and Construction of Major Facilities of a Public Utility

Having considered the intensity of current and foreseeable development pressures, it is the order of the Board of County Commissioners that site selection and construction of major facilities of a public utility be designated a matter of local concern and state interest and be regulated pursuant to the provisions of these H.B. 1041 regulations.

11.33.01 Purpose and Intent

The purpose and intent of the regulations contained in this Section 11.33 are:

1. To encourage planned and orderly land use development;
2. To provide for the needs of agriculture, forestry, industry, business, residential communities and recreation in future growth;
3. To encourage uses of land and other natural resources which are in accordance with their character and adaptability;
4. To conserve soil, water, forest and agricultural resources and to protect vested water rights;
5. To protect the beauty of the landscape;
6. To promote the efficient and economic use of public resources;
7. To regulate the site selection and construction of major facilities of a public utility to prevent significant deterioration or degradation of existing air and water quality in Las Animas County;
8. To avoid or reduce direct conflicts with adopted local government, regional and state master plans; and
9. To regulate the site selection and construction of major facilities of a public utility to preserve the health and welfare of the citizens of Las Animas County.

11.33.02 Applicability

This Section 11.33 shall apply to the site selection and construction of all major facilities of a public utility wholly or partially within the unincorporated territory of Las Animas County.

A permit under this Section 11.33 shall be required prior to or in conjunction with subdivision, PUD or preliminary plan approval, but in every case must be obtained prior to commencement of construction of the project.

11.33.03 Relationship of Regulations to Other County, State and Federal Requirements Affecting Major Facilities of a Public Utility

Nothing in these H.B. 1041 regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state or federal laws and regulations.

To the extent that the requirements of these H.B. 1041 regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

Nothing in these H.B. 1041 regulations shall be construed as enhancing or diminishing the power and authority of municipalities, counties or the Public Utilities Commission. Any order, rule or directive issued by any governmental agency pursuant to these H.B. 1041 regulations shall not be inconsistent with or in contravention of any decision, order or finding of the Public Utilities Commission with respect to public convenience and necessity. The Public Utilities Commission and public utilities shall take into consideration and, when feasible, foster compliance with adopted master plans of local governments, regions and the State.

Nothing in these H.B. 1041 regulations shall be construed as enhancing or diminishing the rights and procedures with respect to the power of a public utility to acquire property and rights-of-way by eminent domain to serve public need in the most economical and expedient manner.

11.33.04 Boundaries of Area Covered by Designation

The site selection and construction of any major facility of a public utility wholly or partially within the unincorporated territory of Las Animas County shall be subject to this designation and these H.B. 1041 regulations.

11.33.05 Reasons for Designation

Site selection and construction of any major facility of a public utility is hereby designated as a matter of state interest for the reasons stated in Section 11.33.01.

11.33.06 Restriction to Corridors

The projects that applicants propose shall be restricted to corridors unless such route is not economically or practically feasible or unless the placement of the facilities overburdens any piece of land.

The applicant and the property owner shall negotiate in good faith regarding the issue of what path the utility will take over the owner's land.

There are several generally recognized corridors within Las Animas County. The Planning Commission shall identify said corridors, which identification shall later be recognized by the Board of County Commissioners with the understanding that the Board of County Commissioners may adjust the corridors as submitted to it by the Planning Commission. Said corridors shall then be recognized in the regulations by an amendment to it complete with maps showing said corridors.

Until the Planning Commission formally identifies said corridors and submits that information to the Board of County Commissioners, the Planning Commission and the Board of County Commissioners shall utilize their general knowledge as to where existing corridors are with the advice and counsel of the Planning Director.

11.33.07 Prohibition of Site Selection and Construction of a Major Facility of a Public Utility Without Permit

No person may locate or construct a major facility of a public utility wholly or partially in this County without first obtaining a permit pursuant to these H.B. 1041 regulations.

No local authority, including Las Animas County, may issue a building permit for purposes of selecting a site for or constructing a major facility of a public utility wholly or partially in this County without the applicant first having obtained a permit pursuant to these H.B. 1041 regulations.

11.33.08 Prohibition on Placement of Compressor Stations or Power Plants Within a One-Mile Radius of any Residence

No compressor station or power plant shall be situated within a one-mile radius of any residence unless:

1. That compressor station or power plant meets the noise level requirements of Section 11.33.09; and
2. The applicant demonstrates that situation of that compressor station or power plant as required by this Section is unduly burdensome and/or not physically or economically feasible.

11.33.09 Noise Level Requirements for Major Facilities of a Public Utility

No compressor station, power plant or other major facility of a public utility shall exceed the following noise limitations within Las Animas County: 50 db(A) from 7:00 a.m. to 7:00 p.m. and 45 db(A) from 7:00 p.m. to 7:00 a.m. During the hours between 7:00 a.m. and 7:00 p.m., the above noise levels may be increased by 10 db(A) for a period not to exceed fifteen (15) minutes in any one-hour period. The above noise level shall be monitored at a distance of twenty-five (25) feet from the property line where the compressor station, power plant or other major facility of a public utility site.

11.33.10 Procedural Requirements

The procedures concerning permit applications, notice and conduct of permit hearings, review of Board of County Commissioners decisions and issuance and content of permits for selecting a site and constructing any major facility of a public utility shall comply with the provisions set forth in Sections 11.07 through 11.15, inclusive, of this Chapter, together with the additional regulations set forth herein.

With regard to applications for site selection and construction of major facilities of a public utility, the procedures outlined in Sections 11.07 through 11.15 are modified as follows:

1. No later than thirty (30) days after receipt of a completed application for a permit, the Board of County Commissioners shall set and publish notices of the dates, times and places for hearings before the Board of County Commissioners on said application. The hearing before the Planning Commission may be set fourteen (14) days before the hearing before the Board of County Commissioners.

Prior to the preapplication conference, the applicant may meet with both the Planning Director and Board of County Commissioners to discuss and outline the project. The purpose of the meeting is to discuss general information pertinent to the project, identify any major problems and define issues in order to direct the data gathering and assessment that are to accompany the future application. No record shall be maintained of this meeting and neither party shall be bound by plans, statements or positions discussed at the meeting.

1. If, as a result of the meeting, the Planning Director or Board of County Commissioners determines that the nature or extent of the proposal involves the potential for significant environmental damage or warrants examination of specific, less environmentally damaging alternatives, the Planning Director may request that the applicant evaluate and present information on such alternatives as part of the application. This shall not preclude a similar request following the preapplication conference.
2. Required information on alternatives may include, but shall not necessarily be limited to, information on the environmental impacts and cost-effectiveness of the alternatives in relationship to the proposal presented.

To minimize expenditures of time and money by all concerned, an application for a permit to locate and construct a major facility of a public utility must begin with a preapplication conference with the Planning Director. Within ten (10) days following the preapplication conference or within a reasonable time after consultation with the Board of County Commissioners, the Planning Director, in consultation with the Board of County Commissioners, shall determine whether or not the application shall be commenced with a preliminary application which shall be reviewed by the Planning Director and the Board of County Commissioners without public hearing prior to the receipt of the final application. The purposes of the preliminary application are to assess the general feasibility of the application, identify any major problems and define issues in order to direct the data gathering and assessment that are to accompany the final application. The procedures and submission requirements for each stage of the application are set forth in more detail below.

The requirements of these H.B. 1041 regulations shall not be deemed to waive the requirements of Section 40-5-101, et seq., C.R.S., if applicable, that a public utility obtain a certificate of public convenience and necessity.

Available documents, studies or reviews by applicant or regulatory agencies will be utilized whenever possible by the Board of County Commissioners in its review in order to minimize duplication and promote the timely review of the permit application.

11.33.11 Preapplication Conference

Prior to formal filing of the application, the applicant shall confer with the Planning Director to obtain information and guidance. The purpose of such a conference is to permit the applicant and the staff to review the proposal informally before substantial commitments of time and money are made.

Topics of discussion shall include, but not be limited to:

1. Characteristics of the activity, including its location or potential locations, significant natural and man-made features, with particular attention to natural hazard, resource or other special areas; the size and accessibility of the site; surrounding development and land uses; and its potential impact on surrounding areas, including potential environmental effects and planned mitigation strategies.
2. The nature of the development proposed, including land use types and their densities; placement of proposed buildings and maintenance of common open space or treatment of public use areas; the preservation of natural features; proposed parking areas and internal circulation system, including trails, the total ground coverage of paved areas and structures; and types of water and sewage treatment systems proposed.
3. Community policy considerations, including the review process and likely conformity of the proposed development with the policies and requirements of these H.B. 1041 regulations.

4. Applicable regulations, review procedures and submission requirements.
5. Other regulatory reviews or procedures to which the applicant is subject, the applicant's time frame for the project, whether the applicant requests waiver of the preliminary application, and other concerns of the applicant.

Any comments or commitments made by any member of the County administration during this preapplication conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments can not be made by staff until after the application is submitted and property owners and referral agencies within a one-mile circumference have had an opportunity to respond, if applicable.

County staff will make available to the applicant any public information concerning the application which is in the County's possession.

If the project is not set for a preliminary application, the Planning Director shall consult with the Board of County Commissioners concerning the County's application requirements for the project, and shall notify the applicant in writing either at the preapplication conference, within ten (10) days thereafter or as soon as feasible after consulting with the Board of County Commissioners in writing of such requirements, including but not limited to the identity of those to receive notification of the project under the applicable sections, the extent of the project area to be considered, the submittal requirements that will be waived by the Planning Director, and any particular submittal requirements in addition to those specified in these Regulations.

11.33.12 Preliminary Application

Following the preapplication conference, the Planning Director shall consult with the Board of County Commissioners and, on the basis of the information provided by the applicant at the preapplication conference, it shall determine, in its sole discretion, whether to require the applicant to submit a preliminary application. This decision shall be communicated by the Planning Director to the applicant within ten (10) days after the preapplication conference, or as soon as feasible thereafter. A preliminary process will be

required only for substantial facilities of a size or potential impact on the community to justify additional study. If the applicant objects to undergoing the preliminary application process, the applicant may appeal this decision to the Board of County Commissioners, which shall meet with the applicant and the Planning Director as soon as feasible thereafter to consider the basis for the applicant's appeal, and shall then determine whether or not the preliminary application shall be waived for good cause shown.

The submission requirements for the preliminary application shall be five (5) copies of the following:

1. Completed application form in the format approved by the Planning Director.
2. Description of proposed facility and site.
3. Description of the present use and zoning.
4. Vicinity map showing the proposed site and the surrounding area. The project area to be shown shall be defined as follows:
 - a. If a power plant is proposed, the area within fifty (50) miles from the site;
 - b. If new transmission lines or pipelines are proposed, provide a map showing all existing transmission lines and pipelines for a distance of two (2) miles beyond any reasonable alternative studied.
 - c. For upgrades of existing transmission lines or gas pipelines, provide a map showing all existing transmission lines and pipelines within one (1) mile on either side of the proposed alignment.
 - d. For all other major facilities of a public utility, the area within ten (10) miles of the site if another major facility is proposed.
5. Type of facility - specify where applicable:
 - a. Approximate floor space of office building.
 - b. The voltages and lengths of transmission lines.

- c. Power source and generating capacity.
 - d. The functions and sizes of substations.
 - e. The diameters and lengths of pipelines.
 - r. The capacities of the storage tanks and types of petroleum derivative to be stored.
 - g. Corridor locations.
 - h. Service area.
 - i. Resource area (e.g., source of power being generated or transmitted, source of petroleum derivative being transported).
6. Projected development schedule:
- a. Estimate maximum number of employees, number of shifts and employees per shift during the construction, operation and maintenance phases of the project.
 - b. Specify any future phases or extensions of the facility and relationship of the facility (if currently foreseen) to larger programs and plans.
 - c. Specify timetable for planning (e.g., federal permits other State permits, local zoning, etc.).
 - d. Estimate beginning and completion of construction and beginning of operation of facility.
 - e. Describe support facilities (e.g., pollution control, parking areas, landscaping, etc.) to be provided.
 - f. Describe any feasible "non-structural" alternatives to meet the objectives of the proposed site selection and construction.
7. Hazards and emergency procedures:
- a. Describe hazards, if any, of fire, explosion and other dangers to the health, safety and welfare of employees and the general public.

- b. Describe hazards, if any, of environmental damage and contamination due to materials used at or activities taking place at the proposed facility.
- c. Describe emergency procedures to be used in the event of fire, explosion or other event which may endanger the public health, safety and welfare.
- d. Describe any prevalent natural hazards that will affect or be affected by development, and describe mitigating measures to be taken to reduce danger due to such natural hazards.

Upon receipt of complete preliminary application submission requirements, the Planning Director shall issue a receipt indicating that preliminary application requirements have been satisfied.

Within thirty (30) days of issuing receipt of the preliminary application, the Board of County Commissioners, in consultation with the Planning Director, shall provide the applicant with a written review concerning the general feasibility of the application. Major problems and concerns shall be outlined in this review.

If the applicant, after receiving the written review, decides to proceed with the permit application, then the applicant shall notify the Planning Director in writing within forty-five (45) days. The Board of County Commissioners shall then arrange a meeting at a mutually agreeable time and place among the Board, the Planning Director and the applicant. This meeting may be attended by interested parties and members of the public, but they shall not be parties to the meeting and shall be permitted to comment only in the discretion of the Chair of the Board of County Commissioners.

At such meeting, the preliminary review shall be discussed and clarified, where necessary, and submission requirements for the final application shall be determined, means of coordinating this study with others shall be considered, referral agencies for the application shall be designated, and the parties shall establish study format, methodology, map scales, work schedules in gathering and analyzing data for the final application, and a time frame for the final application.

11.33.13 Application Submittal Requirements

These application submittal requirements shall apply to all applications for a development permit for a major facility of a public utility, except for requirements which have been waived by the Planning Director, whether or not a preliminary application is required. Fifteen (15) copies of the application shall be submitted by the applicant when the application is filed.

Submittal requirements for all applications for a development permit for a major facility of a public utility, where applicable:

1. The following are general requirements for any map or plan required hereunder. Minimum requirements include:
 - a. The name of the proposed development or use and total number of acres under consideration.
 - b. Since all maps and plans may be used for public presentations, the map scale and size should be large enough for effective presentation and should accurately illustrate the application.
 - c. Name, address, and telephone number of the applicant, designer, engineer, surveyor and any other consultants of the applicant.
 - d. Date of preparation, revision box, written scale, graphic scale and north arrow for each map.
2. The applicant must provide the following information concerning the title of the project site, which shall be the entire proposed alignment or corridor under consideration at the time of the application for transmission line and pipeline projects:
 - a. The names and addresses of all surface property owners of the project site, all adjacent landowners and all landowners within two thousand six hundred forty (2,640) feet of the boundaries of the property proposed to be physically disturbed, except for transmission line or pipeline projects, for which the names and addresses of all surface property

owners for five hundred (500) feet on either side of the centerline of the proposed alignment and all landowners adjacent to the property on which the transmission line or pipeline will sit shall be provided;

- b. The planned access to the project site and the means that the applicant intends to use to obtain a legal right to utilize such access, including copies of any access or right-of-way agreements entered into by the date of the application for such access;
- c. The names and addresses of mineral interest holders with an interest in any real property proposed to be physically disturbed or crossed by the activity or development which is the subject of the application in the case of projects to be constructed more than ten (10) feet below the surface, excluding foundation structures for above-ground transmission lines, at least to the extent shown in the records of the County Clerk and Recorder and Assessor.

In addition, the applicant shall provide a certificate stating the process by which the applicant compiled such information, when such information was compiled and the steps which were taken to ensure the accuracy of the information. The Planning Director will require that the information be compiled and verified in a manner reasonably designed to ensure the accuracy of such information, but shall not require the use of title insurance or attorney's title opinions.

3. The applicant shall provide the following maps:
 - a. Map delineating study area and describing how the study area was determined.
 - b. Map showing all special districts (school, fire, water, sanitation, etc.) within the study area.
 - c. Map or narrative delineating the area within the study area where the physical and socioeconomic environment is likely to be affected, beneficially or adversely, by the site selection and construction of the proposed facility.

4. The applicant shall supply information as per the preliminary application requirements set forth at 10.33.12, if the preliminary application was not required.
 5. The applicant shall supply a summarization of major natural and socioeconomic environmental constraints as they affect the site selection and construction of the facility as proposed.
 6. The applicant shall supply a summarization of the effects of the proposed site selection and construction upon the natural and socioeconomic environment of the impact area as applicable to submission requirements. Included should be an analysis of impacts upon agricultural productivity and agricultural resources and upon vested water rights.
 7. The applicant shall supply an analysis of the long-term effects of the proposed site selection and construction upon the physical and socioeconomic development of the impact area.
 8. The applicant shall supply a description of a program to minimize and mitigate adverse impacts and to maximize the positive impacts of the proposed site selection and construction.
 9. The applicant shall supply an analysis of non-structural alternatives to the project, such as conservation of energy use, no development or management (different scheduling, conservation programs, facility design, land trades etc.), if applicable.
 10. The applicant shall supply an analysis of structural alternatives to the project, such as alternate locations and routes, alternative types of facilities, use of existing rights-of-way, joint use of rights-of-way with other utilities and upgrading of existing facilities.
 11. The applicant shall supply an analysis of air and water pollution impacts and control alternatives.
 12. The applicant shall supply an analysis of design alternatives concerning access, landscaping, architectural controls and so forth.
 13. The applicant shall supply a proposed form of development agreement to meet costs of affected political subdivisions in the project area of providing new or upgraded services and facilities necessary to serve the proposed project.
 14. The applicant shall supply an analysis of hydrologic, atmospheric, geologic, pedologic, biotic, visual and noise impacts.
 15. The applicant shall supply a surface and subsurface drainage analysis.
 16. The applicant shall supply any other information required by the Board of County Commissioners or the Planning Director and communicated to the applicant at the preapplication conference or within ten (10) days thereafter, if the project is proceeding without a preliminary application, or no later than the preliminary review meeting described at 10.35.05.6 hereof, if the application is proceeding with a preliminary application. This limitation shall not preclude the Board of County Commissioners from requesting the applicant to provide additional information during the public hearing on the application. The applicant shall be granted reasonable continuances to provide such information if the applicant so requests.
- Specific submittal requirements. These additional requirements shall be imposed on the applicant by the Planning Director, in such Administrator's sole discretion, if the Planning Director determines that the need for the additional information is warranted by the size and scope of the proposed project in order for the Board of County Commissioners to make an informed decision on the application. It is the intention of these H.B. 1041 regulations that the following information shall be required only if the proposed project is of such size and scope that it is reasonably likely to have significant environmental or social impacts on Las Animas County residents or lands.
1. Detailed description of the need for the proposed development or activity, including but not limited to:
 - a. The present population of the area to be served and the total population to be served when the project is operating at full capacity.

- b. The predominant type of users or communities to be served by the proposal.
 - c. The percentage of the design capacity at which the current system is now operating.
 - d. If the proposal is for construction of a new facility and the capacity of that facility exceeds a ten-year projected increase in demand, a detailed explanation of the excess service capacity and the cost of the excess capacity.
 - e. The relationship of the proposal to the applicant's long-range planning and capital improvement programs.
 - f. A description of why public convenience and necessity require a facility of the size and nature proposed.
 - g. A description of the user needs and user patterns to be fulfilled by the proposed project.
 - h. A description of the relationship of the project to other existing and planned utility facilities of a similar nature, other communication or energy generation and transmission facilities, local government capital improvement programs and special district expansion programs.
2. Environmental impact analysis.
- a. Land use:
 - 1) Describe the relationship of the project to local land use policies and comprehensive plans and to policies and plans adopted or under preparation by federal, state, regional or other affected local governmental agencies.
 - 2) Detail the agricultural productivity capability of the land affected by the proposal (NRCS classification).
 - 3) Specify how the proposed development will utilize existing easements or rights-of-way for any associated distribution or collector networks.
 - b. Information regarding other utility facilities:
 - 1) A map showing each existing major facility of a public utility within the County of the type proposed for development.
 - 2) The design capacity of each such facility, the excess capacity of each such facility and the percentage of capacity at which each such facility operates.
 - 3) Whether present facilities can be upgraded to adequately accommodate a ten-year projected increase in demand for services to be offered by the proposed project.
 - c. Water resources:
 - 1) On the map of the base area, or another appropriate map, indicate any floodplain associated with the proposal. Documentation of the historical flooding activity should be included. Detail potential, adverse impacts related to the associated floodplain.
 - 2) Describe the potential adverse effects of the proposal upon plant and animal life dependent upon the water resources in question.
 - 3) Describe proposed sewage treatment facilities and nonpoint source controls.
 - 4) Describe pollutant loads (point and non-point sources) expected directly from the development. Specify seasonal variation.
 - 5) Describe the proposed water system, including:
 - a) Source of supply, volume and rate of flow at full development.
 - b) Water rights owned or utilized.
 - c) Proposed points of diversion and changes of points of diversion.

- d) Volume of stream flow to remain unused between points of diversion.
- e) Dependability of supply (physical and legal).
- f) Effects on downstream users.
- d. Air quality.
 - 1) Detail how many average daily trips will be generated by the proposal.
 - 2) Describe atmospheric and meteorologic conditions in the impact area, and the background ambient air quality (TSP, S02, CO, HC, NOx, O3, etc.).
 - 3) Describe pollutant outputs anticipated from the development and mitigation strategies.
- e. Significant environmentally sensitive factors.

Identify and locate on a map of appropriate scale the juxtaposition of any of the following features present in the proposed development or activity and its vicinity, and detail the potential impact of the proposal upon each feature.

 - 1) Marshlands and wetlands.
 - 2) Ground water recharge areas.
 - 3) Potential natural hazards.
 - 4) Forests and woodlands.
 - 5) Critical wildlife habitat.
 - 6) Public outdoor recreation areas.
 - 7) Unique areas of geologic, historic or archeological importance.
- f. Visual aesthetics and nuisance factors:
 - 1) Identify any significant deterioration of natural aesthetics, creation of visual blight, noise and obnoxious odors which stem from the proposal.
- 2) Where significant, map or describe the area within view of the project.
- 3) Describe the proposed mitigation strategy.
- g. Transportation impacts:
 - 1) Describe what impacts the proposal will have upon transportation patterns in the area intended to be served or affected by the proposal.
 - 2) Describe the potential impact on roads within the County.
 - 3) Identify improvements required to any roads within the County in order to serve the project adequately.
- h) Less damaging alternatives:
 - 1) If the Planning Director determines that the nature or extent of the proposal involves the potential for significant environmental damage or warrants examination of specific, less environmentally damaging alternatives, the Planning Director may request that the Board of County Commissioners require that the applicant evaluate and present information on such alternatives as part of the application.
 - 2) Required information on alternatives may include, but shall not necessarily be limited to, information on the environmental impacts and cost-effectiveness of the alternatives in relationship to the proposal presented.
- 3. Community impact analysis.
 - a. Public support facilities and pacts:
 - 1) Describe community or public support facilities needed for the project, including but not limited to police and fire protection, public road maintenance and educational and health services, and identify needs for improvement or construction of new facilities or programs required for the success of the project.

- 2) Describe how these needs are proposed to be accomplished or financed.
- b. Impact on public finances:
 - 1) Describe capital investment in facility.
 - 2) Estimate anticipated revenues to local, state and federal governments and special districts.
4. Applicants seeking a permit for the site selection and construction of pipelines or storage areas shall submit the following additional documents and information:
 - a. Description of hydrologic conditions – surface (impact area).
 - 1) Provide a map of all surface water.
 - 2) Describe expected monthly stream flows for typical year, wet year, dry year (include seven-day – ten-year low flows where sufficient data exists)
 - 3) Describe physical stream features (gradient, velocity, depth, etc.).
 - 4) Provide data on chemical and biological quality, including BOD, dissolved O₂, free CO₂, pH, TDS, ph-th alkalinity, MO alkalinity, NH₃, heavy metals and other toxic or deleterious substances.
 - b. Description of hydrologic conditions – subsurface (impact area).
 - 1) Map all aquifers that may be affected by the project.
 - 2) Provide tables, graphs and maps showing permeability, transmissibility, thickness, volume, depth of aquifers.
 - 3) Describe geology of strata overlying aquifers including percolation rates, travel time to ground water surface.
 - 4) Map of all wells using aquifers, including diameter and flow rates.
5. Applicants seeking a permit for the site selection and construction of a power plant shall submit, in addition to those requirements set forth above, a map locating and describing resource areas to be utilized as sources of energy.
6. Applicants seeking a permit for the site selection and construction of transmission lines or substations shall submit the following additional documents and information:
 - a. Computer modeled electromagnetic field measurement within the proposed transmission line easement for that portion of the transmission line between substations or transition sites; and
 - b. Measures taken to comply with the concept of prudent avoidance with respect to planning, siting, construction and operation of transmission lines, which may be those steps taken to comply with the Colorado Public Utilities Commission's Rule 18(i)1 or similar authority, for projects where other similar authority is applicable.

11.33.14 Approval of Permit Application

The Board of County Commissioners shall approve an application for a permit for site selection and construction of a major facility of a public utility (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed site selection and construction complies with the following to the extent applicable:

1. The health, welfare and safety of the citizens of this County will be protected and served.
2. The natural and socioeconomic environment of this County will be protected and enhanced.
3. All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the people of this County and presents the best utilization of resources in the impact area.

4. A satisfactory program to mitigate and minimize adverse impacts has been presented.
5. The nature and location or expansion of the facility complies with all applicable provisions of the Master Plan of this County, and other applicable regional, metropolitan, state and national plans.
6. The nature and location or expansion of the facility complements the existing and reasonably foreseeable needs of the service area and of the area immediately affected by the facility.
7. The nature and location or expansion of the facility does not unduly or unreasonably impact existing community services.
8. The nature and location or expansion of the facility will not create an expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services, as determined by the Board of County Commissioners.
9. The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance.
10. The nature and location of the facility or expansion will not adversely affect the water rights of any upstream, downstream or agricultural users, adjacent communities or other water users.
11. Adequate water supplies are available for facility needs.
12. The nature and location of the facility or expansion will not unduly interfere with any existing easements for or rights-of-way, for other utilities, canals, mineral claims or roads.
13. Adequate electric, gas, telephone, water, sewage and other utilities exist or shall be developed to service the site.
14. The nature and location for expansion of the facility will not interfere with any significant wildlife habitat or adversely affect any endangered wildlife species, unique natural resource or historic landmark within the impact area;
15. The nature and location or expansion of the facility, including expected growth and development related to the operation and provision of service, will not significantly deteriorate water or air quality in the impact area.
16. The geological and topographic features of the site are adequate for all construction, clearing, grading, drainage, vegetation and other needs of the facility construction or expansion.
17. The existing water quality of affected state waters will not be degraded below state and federal standards or established baseline levels.
18. The proposed project will not have a significantly adverse net effect on the capacities or functioning of streams, lakes and reservoirs in the impact area, nor on the permeability, volume, recharge capability and depth of aquifers in the impact area.
19. The benefits of the proposed developments outweigh the losses of any natural resources or reduction of productivity of agricultural lands as a result of the proposed development.
20. The applicant has obtained or will obtain all property rights, permits and approvals necessary for the proposed project, including surface, mineral and water rights and easements for drainage, disposal, utilities, access, etc. If the applicant has not obtained all necessary property rights, permits and approvals, the Board of County Commissioners may, at its discretion, grant the permit conditioned upon completion of the acquisition of such rights prior to issuance of a zoning or building permit by the County.

The Board of County Commissioners shall deny the permit if the proposed development does not comply with the applicable criteria of this Section.

The Board of County Commissioners may impose additional mitigation requirements and conditions on an applicant as follows if it complies with each of the following steps:

1. The Board of County Commissioners shall make written findings that each such requirement and condition is necessary to ensure that the proposed project will not result in significant adverse net effect on the resources, values and conditions referenced above.
2. The Board of County Commissioners shall also find in writing that each such requirement and condition is necessitated by the proposed project.
3. All such findings shall be based on material in the administrative record.
4. The Board of County Commissioners shall base the additional requirements and conditions on applicable design standards as adopted by the County to the extent that such standards then exists.

CHAPTER XII

FEES

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CHAPTER XII

FEES

12.01 Conditions of Fee Payment

No applications for land use changes requiring a fee as established by this Chapter will be accepted without payment of the required application fees. All fees are payable to the order of Las Animas County in the form of cash, check or money order. Fee payments that do not clear due to insufficient funds shall cause all processing and review of an application to be halted immediately until proper payment has been made.

All fees paid are nonrefundable except to applicants who provide written notification to the Planning Director of a withdrawal of an application prior to its initial consideration by the Planning Commission or, if no Planning Commission review is required, its initial hearing before the Board of County Commissioners, Board of Adjustment or Planning Director, as shown on the Review Process Chart, Section 2.03.

12.02 Fee Requirement and Exemptions

The fees included in this Chapter shall be paid by all applicants requesting or proposing land use changes requiring payment of an application fee as listed herein, with the following exceptions:

1. All Las Animas County departments, agencies, boards and commissioners are hereby declared to be exempt from the payment of fees otherwise required herein.
2. Upon written request of a public agency or a not-for-profit applicant to the Board of County Commissioners requesting an adjustment to or an exemption from any of the fees contained herein and a statement of the reasons why such fee change or waiver should be granted, the Board of County Commissioners shall consider the matter at a regularly scheduled meeting and only grant such requests in cases where the characteristics of the application would cause the establishment application fees to represent an unreasonable burden upon the applicant.

12.03 Amendments to Fee Structure

Acting upon the recommendation of the Planning Director, the Board of County Commissioners may at its discretion modify, eliminate or add to the fees listed herein by resolution.

12.04 Negotiated Fees

Applications for large-scale developments listed below as requiring negotiation of fees shall be negotiated between the applicant and the Planning Commission. Following such negotiations, the additional fees agreed upon by the applicant and the Planning Commission shall be submitted to the Board of County Commissioners for approval of the Board.

12.05 Assessment of Supplemental Fees

Applications for proposed land use changes of large scale or complexity, or likely to produce substantial on- or off-site physical, social or economic impacts may require special review by engineering, technical, scientific and other expert personnel not normally employed on a regular basis by Las Animas County. When, in the judgment of the Planning Commission or the Board of County Commissioners, such independent expert review and analysis of an application is required, the direct cost of such expert review and analysis shall be added to the application fees contained herein and charged to the applicant. Payment of such supplemental fees by the applicant to Las Animas County shall be a precondition for the granting of all permits or approvals requested by the applicant and requiring independent expert review or analysis.

Applications for proposed land use changes requiring legally mandated State of Colorado agency reviews by agencies charging fees for such review services shall be assessed supplemental fees in the amount of such charges incurred by Las Animas County. Such supplemental fees shall be paid by the applicant to Las Animas County as a precondition for the granting on all required permits or approvals.

12.06 Fee Structure

12.06.01 Zoning-Related Applications

- 1. Rezoning: \$500.00
 - a. Over 1,000 acres: \$1.00/acre
- 2. Special use permit: \$300.00
- 3. Special use permit/mining & extraction: \$500.00
- 4. Special use permit/mobile home park or campground: \$1,000.00
- 5. Special use permit landfill: \$1,000.00
- 6. Variance application: \$150.00
- 7. Sign permit:
 - a. Administrative approval under 50 square feet: \$25.00
 - b. Board of County Commissioners approval, 50 square feet and above: \$150.00

12.06.02 Subdivision and Plat-Related Applications (including Replats)

- 1. Sketch plan: \$250.00
- 2. Preliminary plan: \$500.00
- 3. Final plat (excludes recording fees): \$250.00
- 4. Plat amendment: \$250.00
- 5. Plat corrections: \$100.00
- 6. Vacating of plats, rights-of-way and easements: \$150.00
- 7. Subdivision exemptions: \$500.00
- 8. Development plan applications: \$200.00
- 9. PUD permits: \$1,000.00

12.06.03 Matters of Local Concern and State Interest

- 1. H.B. 1041 development permits: \$5,000.00

12.06.04 Other Actions

- 1. Extractive Operation Performance Bonds: \$50.00
- 2. Temporary Use Permits: \$75.00
- 3. Mobile Home Permits:
 - Double Wide: \$290.00
 - Single Wide (16-foot and less in width): \$165.00
- 4. Appeals Procedure: \$75.00
- 5. Minor Oil and Gas Facility: \$1,000.00
- 6. Major Oil and Gas Facility: \$4,000.00
- 7. Certificate of Designation: \$1,000.00

CHAPTER XIII

ENFORCEMENT, VIOLATIONS AND PENALTIES

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CHAPTER XIII

ENFORCEMENT, VIOLATIONS AND PENALTIES

13.01 Enforcement Authority

Provisions of these Regulations shall be enforced by the Board of County Commissioners and the County Attorney through their authority granted by Colorado law, as follows:

1. The Subdivision and Subdivision Exemption regulations of these Regulations, set forth in Chapter IV, Subdivision Regulations, shall be enforced in accordance with remedies specified under Sections 30-28-110, C.R.S., and 30-28-137, C.R.S.
2. The Planned Unit Development regulations of these Regulations, set forth in Chapter V, Planned Unit Development (PUD) Regulations, shall be enforced in accordance with Section 24-67-101, et seq., C.R.S., the Planned Unit Development Act, in addition to applicable zoning and subdivision regulation remedies.
3. All other provisions shall be enforced as a violation of zoning regulations in accordance with Section 30-28-114, C.R.S.

13.02 Unlawful to Violate These Regulations

It shall be unlawful to develop or use any building, structure or land in unincorporated Las Animas County in violation of these Regulations.

13.03 Remedies

13.03.01 Withholding Permits

The County shall not issue any building permit unless the proposed erection, construction, reconstruction, alteration or use fully conforms to all provisions of these Regulations and complies with all other state and local regulations.

The County may withdraw or deny land use change permits, including plat approvals, and any other applicable permits issued under these Regulations, on any land for which a notice of violation has been issued and the violation has not been corrected in a timely manner. The County may require correction of the violation as a condition of any future approvals.

13.03.02 Cease and Desist Orders

After notice of a violation and an opportunity to correct the violation, the County may halt work on any land where there is a violation of a provision of these Regulations or of a permit issued hereunder, through issuance of a cease and desist order. All work shall immediately halt upon issuance of such order. If work continues, the unlawful erection, construction, reconstruction, alteration, maintenance or use shall be in violation of these Regulations.

13.03.03 Injunction

If any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, maintained or used in violation of the provisions of these Regulations, the Board of County Commissioners or the County Attorney, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

13.03.04 Specific Performance

The County may seek specific performance of the terms or conditions of any agreement or permit issued under these Regulations.

13.03.05 Judicial Action

At the request of the Board of County Commissioners, the County Attorney shall be empowered to bring either a civil or a criminal (or both) action against the owner of any premises or property on which a violation of these Regulations is alleged and, following investigation, has been confirmed or is reasonably believed to exist.

1. Civil remedies against violations of these Regulations may include injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove the violation. Fines assessed pursuant to these enforcement provisions may be recovered in that same civil action wherein such injunction, mandamus and/or abatement is sought, or separate and

district proceedings may be instituted seeking varying forms of relief, as may be allowed by law.

2. Criminal violations of these Regulations shall be punished by a fine in an amount not to exceed one hundred dollars (\$100.00) for each violation or by imprisonment in the County jail for not more than ten (10) days, or by both a fine and imprisonment, and payment of all costs and expenses involved in prosecuting the offense, or by such other remedy as may be specified by law. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense.

13.03.06 Cumulative Remedies

All remedies provided for in this Section are cumulative, are not exclusive and shall be in addition to any other remedies provided by law. To the extent that Colorado law may limit the availability of a particular remedy for a particular violation or a part of a violation, such remedy shall remain available for other violations of other parts of the same violation, and all other remedies shall remain available for the same violations or part of a violation.

13.04 Enforcement Process

13.04.01 Complaint and Verification of Violation

Upon complaint made or filed by a member of the public or by a County official or employee, the Planning Director shall verify the complaint as a violation of these Regulations.

13.04.02 Authority to Enter and Inspect

The Planning Director is empowered to inspect and examine any building, other structure or parcel or other area of land where there is reasonable cause to believe that a use exists or construction, reconstruction, alteration or maintenance is being performed or has been performed in violation of these Regulations.

Consent to enter or an administrative entry and seizure warrant shall not be required in the following circumstances:

1. To conduct inspections within the scope of another official document.
2. To make observations of the premises in plain view from public property or from portions of the premises which are open or accessible to the public, or in which the owner or occupant otherwise lacks a reasonable expectation of privacy.
3. In emergency situations in which the Planning Director has reason to believe that the public health or safety is in imminent danger and could be jeopardized by delay.

The following documents shall be required for the court to issue an administrative entry and seizure warrant.

1. The applicable regulatory provisions of these Regulations.
2. An affidavit stating the factual basis for the warrant.
3. Evidence that the property owner has received notice of the violation and has failed to abate the violation within the prescribed time.
4. A general description of the location of the subject property.
5. A general description of the violation.
6. The proposed method and extent of abatement by the County, including proposed disposal or temporary impoundment of property.

13.04.03 Notice of Violation and Response

If a violation exists, the County shall send written notice of a violation of these Regulations to the property owner of record, as identified in the County tax records.

13.04.04 Notice Requirements

The notice of violation shall be sent by certified mail, return receipt, to both the address in the tax records and the property address, if different.

The notice of violation shall contain the following information.

1. A list and description of all violations with references to the section or sections of the Regulations violated.
2. An order requiring correction of the violations.
3. The date by which compliance shall be attained.
4. The appeal process, if applicable for the violations.

13.04.05 Response

Unless otherwise provided by these Regulations, a period of thirty (30) calendar days after the date of notice shall be allowed for response to a notice of violation:

1. The alleged violator shall respond by providing evidence satisfactory to the Planning Director to show that the determination is in error; or
2. The alleged violator shall restore the site, structure or use of the property to compliance. An inspection by the County shall be required to confirm compliance; or
3. The alleged violator shall obtain approval from the County for an extension of time to attain compliance, showing good cause for extension, with such extension limited to sixty (60) days unless a longer period is approved due to extenuating circumstances ending with an inspection of the property by the County to confirm compliance.

13.05 Abatement by the County

13.05.01 Authorization for Abatement by County

If the alleged violator fails to comply with the County's requirements for abatement of the violation, the Planning Director may request that the Board of County Commissioners, at a public meeting, authorize the County to arrange for abatement of the violation. (NOTE: A public hearing is not required.)

At least fourteen (14) calendar days prior to the date of the meeting, the Planning Director shall provide notice of the meeting to the alleged violator by certified mail, return receipt requested to both the address in the County tax records and the property address, if different.

13.05.02 Execution of Warrant and Abatement of Violation

Upon authorization by the Board of County Commissioners for abatement by the County, the Planning Director shall seek an administrative entry and seizure warrant from the County Court or District Court having jurisdiction over the subject property.

1. Within ten (10) calendar days following the date of issuance of an administrative warrant, the County shall abate the violation in accordance with the direction of the court. A copy of the issued warrant shall be provided to the property owner. Proof of the execution of the warrant, including a written inventory of any property impounded by the County, shall be submitted to the court.
2. The proposed method of abatement by the County may be accomplished through the use of County staff or by contract with a private party.

13.05.03 Cost of Abatement Billed to Property Owner

A bill for the reasonable costs of abatement, plus an inspection fee of five (5) percent of that cost, shall be mailed to the property owner of record, at both the address in the tax records and the property address, if different. Payment of the bill shall be due within sixty (60) days of the date of the bill.

13.05.04 Collection of Unpaid Bill for Cost of Abatement by County

If the bill is unpaid after sixty (60) calendar days, the Planning Director through the County Clerk shall certify the bill to the County Treasurer, who shall collect the assessment, together with a ten-percent penalty for the cost of collection, in the same manner as other taxes are collected.

13.06 Enforcement of Subdivision Regulations

13.06.01 Requirement for County Subdivision Approval

No plans, plats, plots and replats of land laid out in subdivision or building lots or of the streets, highways or alleys, or other portions thereof, intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be recorded in any public office unless first approved in compliance with these Regulations.

Any subdivider or agent of a subdivider who transfers or sells land before the final plat has been approved pursuant to these Regulations and recorded or filed in the office of the County Clerk and Recorder shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) nor less than five hundred dollars (\$500.00) for each parcel or interest in subdivided land which is sold or offered for sale. All fines collected shall be credited to the General Fund of the County. (Section 30-28-110(4)(a), C.R.S.)

The Board of County Commissioners shall have the power to bring an action to enjoin any subdivider from selling proposed subdivided land before the final plat has been approved by the Board of County Commissioners and filed for recording in the office of the County Clerk and Recorder. (Section 30-28-110(4)(b), C.R.S.)

In addition to any other enforcement action specified in these Regulations, the Planning Director is authorized to withhold or demand withholding the issuance of any permits under these Regulations sought or requested for property which is determined to have been divided without the required County approval. (Section 30-28-110(4)(a), C.R.S.)

Properties that were divided in violation of the County's land use regulations in effect at the time of such division shall be further subdivided only if the proposal includes provisions which bring the entire original parcel, including the area previously divided in violation of County regulations, into compliance with the provisions of these Regulations.

13.06.02 Enforcement of Subdivision Process and Platting Requirements

The Board of County Commissioners or the purchaser of any lot or other subdivided land subject to a plat restriction which is the security portion of an improvements agreement shall have the authority to bring an action in district court to compel enforcement of the improvements agreement on the sale, conveyance or transfer of any such subdivided land, or enforcement of other applicable provisions for subdivision of land under Colorado law. Such authority shall include the right to compel rescission of sale, conveyance or transfer of title of any lot or other subdivided land contrary to the restrictions set forth on the plat or in any separate recorded instrument. Any such action shall be commenced prior to issuance of a building permit by the County or otherwise prior to commencement of construction on any such lot or other subdivided land. (Section 30-28-137(3), C.R.S.)

In addition to any other remedy provided by Colorado law, the Board of County Commissioners or the purchaser of any lot or other subdivided land shall have the authority to bring an action for injunctive relief to enforce any plat restriction (including all obligations contained in documents required to be executed and recorded as part of the final plat approval and all commitments of record of the subdivider related to the County's approval of the final plat), plat note, plat map or provision of a subdivision improvements agreement, and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map or provision of a subdivision improvements agreement pursuant to Section 30-28-137, C.R.S.

13.07 Acceleration of Enforcement Process to Protect Public Health, Safety and Environment

The enforcement process set forth in this Chapter may be accelerated if the Planning Director makes a written finding that the public health, safety, welfare, or the environment could be endangered by a continuing violation. After such finding is made, the County Attorney shall take immediate action to end the threat to the public health, safety, welfare or the environment through, but not limited to, ex parte restraining orders as authorized under the Colorado Rules of Civil Procedure and/or action by local law enforcement or public safety agencies as deemed appropriate and necessary.

