

Chapter 15 OIL AND GAS WELLS

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Chapter 15 OIL AND GAS WELLS

ARTICLE I. IN GENERAL

Sec. 15.1. Purpose of Chapter.

This article is enacted to protect and promote the health, safety, convenience, order, prosperity or general welfare of the present and future residents of the city. It is the city's intent by enacting this article to facilitate the development of oil and gas resources within the incorporated area of the city while mitigating potential land use conflicts between development and existing or planned land uses and minimize environmental pollution. It is recognized that under state 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 article and any other applicable state and/or federal statutory or regulatory requirements. It is further the intent of this ordinance to strongly encourage the owners of subsurface mineral interests to co-locate wells and pads, use directional drilling and share the use of rights-of-way wherever and whenever feasible, appropriate and reasonable. 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 from such development of the mineral estate, mitigated through compliance with this article.

(Code 2007, 15-1)

Sec. 15-2. Jurisdiction of Chapter.

This article shall apply to lands within the incorporated area of the city with the exception of those lands where the city's jurisdiction is preempted by federal or state law.

(Code 2007, 15-2)

Sec. 15-3. Penalty.

Violations of this chapter are punishable as provided in Section 1-8 of this Code.

(Code 2007, 15-3)

Sec. 15.4. Compliance.

All uses begun or expanded after the effective date of enactment of the performance requirements contained in this chapter, shall comply with such requirements. All existing uses (or uses on lands subsequently annexed by the city) which are in substantial nonconformance with respect to the one or more of the performance requirements contained in this chapter, shall have two (2) years from the effective date of enactment of this chapter (or from the date of annexation) in which to bring the site into compliance with the performance requirements contained in this chapter. Extensions for compliance to these requirements may be granted by the commission.

1. **Conditions.** In approving variances, exceptions, or waivers of conditions, the Commission may require such conditions as will, in its judgment, secure substantially the purposes described in Section 23-3-3 of the Aztec Code.
2. **Procedures.** An application, and appropriate fees, for a permit, variance, exception, or waiver of conditions shall be submitted in writing by the applicant. The application shall state fully the grounds for all requests.
(Code 2007, 15-4)

Sec. 15-5. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 15-5)

Abandonment

The presumption of permanent abandonment of a well shall be based on the operator's filing with the State of New Mexico's Energy and Minerals Department, Oil Conservation Division (OCD). Presumption of permanent abandonment of a major facility shall be based upon nonuse or operation for one year without notification to the community development department of the intent to resume operations under specified conditions, or as otherwise defined by the OCD

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.

Change of permit

If a minor or major oil and gas facility is to undergo significant modifications, such as the addition of a compressor, the applicant must apply for a change to the original permit and repeat the procedures set forth in the application process.

City

The City of Aztec, New Mexico.

Commission

The elected governing body of the City of Aztec.

Compressor station

An installation consisting of one or more individual compressors, located on a gathering or transmission line, or both.

Easement

Authorization by a property owner for the use of a designated portion of their property by another, for a specified purpose.

Gas well

A well having a pressure and volume of natural gas; specifically, producing methane, often in combination with a variety of other substances such as butane, propane and carbon dioxide.

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 or transmission line.

Injection well

A well or Underground Injection Control (UIC) program administered by the Environmental Protection Agency (EPA), State of New Mexico, or Native American Tribe under the Safe Drinking Water Act to ensure that sub-surface injection does not endanger underground sources of drinking water.

Lessee

An individual or other legal entity leasing mineral rights for development purposes from the mineral owner. The lessee may also be the applicant, for the purposes of this article.

Major oil and gas facilities

One or a combination of the following:

- Compressor stations and associated facilities which serve multiple wells employing engines and/or motors with a cumulative horsepower rating of five hundred (500) brake horse power (bhp) or more.
- Water injection stations and associated facilities.
- Storage yards and construction staging yards which occupy an area of one or more acre.
- Any facility related to the production of oil and/or gas which contains engines and/or motors with a cumulative horsepower rating of five hundred (500) bhp or more.
- Gas treating facilities which serve multiple wells or gathering systems.
- Pipelines for which the power of eminent domain is available.

Minor oil and gas facilities:

One of the following:

- An individual well site built and operated to produce petroleum and/or natural gas (methane), 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 five hundred (500) bhp, provided it complies with all applicable standards and requirements.
- 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, provided it complies with all applicable standards and requirements.

- Facilities 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 less than five hundred (500) bhp, provided it complies with all applicable standards and requirements.
- An individual well head compression and multiple well compression facility powered by motors or engines with a cumulative horsepower rating of less than five hundred (500) bhp, provided it complies with all applicable standards and requirements.
- Storage yards or construction staging areas occupying one acre or less, provided it complies with all applicable standards and requirements.

Minor oil and gas facilities requiring a variance and/or special mitigation measures

1. An individual well site built and operated to produce petroleum and/or natural gas (methane) and associated equipment (as defined above) which, in order to comply with the applicable spacing regulations, requirements and orders of the New Mexico Energy and Minerals Department Oil Conservation Division (OCD), does not meet the minimum setback and other requirements specified in this article for minor facilities.
2. Any of the facilities specified under sub-section (1) of this definition which do not comply with all applicable standards and requirements, as set forth in this article, and which are not classified as major facilities.

Nuisance

A facility which is not being constructed, operated or installed in substantial compliance with the regulations of this article and any applicable conditions of approval and as to which the applicant has failed or refused to abate, correct or discontinue any violation of this article after being ordered to do so by the commission.

Operator

An 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.

Permitee or licensee

Any person, corporation or other legal entity that has successfully completed the application/permit process and upon Commission approval has acquired a permit or license to construct and/or operate a minor or major oil and gas facility.

Platted subdivision lot

Any lot created pursuant to state law, which has received subdivision approval by the commission.

Pollution

The contamination or other degradation of the physical, chemical or biological properties of water, air or soil, including change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance into water, air or soil or is likely to create a nuisance or render such water, air or soil harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock or wildlife.

Producing (in production)

The 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.

Reserve pit (evaporation pit)

An excavated, lined and temporary pit used for storing drill cuttings and evaporating wastewater produced in degasification activities, during drilling or production activities.

Right-of-way (oil and gas)

A tract or strip of land described by a legal document which has been acquired by agreement, reservation, dedication, prescription, or condemnation and is intended to be occupied by an oil, gas and/or water pipeline, or access road.

Spacing

Subsurface acreage dedicated to each well producing from a specific geologic formation. Spacing regulations are established and regulated by the State of New Mexico Energy and Minerals Department - Oil Conservation Division (OCD)

Structure (for the purposes of this chapter)

That which is built or constructed, an edifice or building, found primarily on a permanent foundation, intended for human habitation. (Specifically defined to exclude tents, teepees, sheds, barns, trailers, fences, platform, decks, and/or similar type uses.)

Transmission line

A pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the department of transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

Temporary (for the purposes of this chapter)

A period of time not to exceed one hundred twenty (120) days (commencing from the first introduction of drilling fluids into the pit).

Water collection line

A pipeline designed to collect water, produced from a well, and transport it to a central disposal area (evaporation pit or injection well).

Secs. 15-6 to 15-10. Reserved.

ARTICLE II. PERMIT PROCESS

Sec. 15-11. Permit Required.

1. Commission Approval Required. No minor or major oil and gas facility shall be constructed, dug or drilled, plugged or abandoned, nor shall any work in preparation for such facilities/activities be allowed within the boundaries of the municipality until the application and permitting process has been completed and approved by the City Commission. Further, no major maintenance work shall be allowed within the boundaries of the municipality until the application and permitting process has been completed and approved by the City Commission; major maintenance work is defined as any maintenance involving the use of a drilling rig, the addition of a new compressor or the upgrade to a larger horsepower compressor, and/or the addition of a pump jack. All codes and ordinances, adopted by the city, including but not limited to, Uniform Building Code, Uniform Fire Code, land use development and subdivision regulations, along with federal and/or state regulations shall be applied accordingly. In emergency situations threatening the health and safety of the public or the environment, the City Manager is authorized to permit major maintenance work in lieu of Commission approval.
(Ord. 2013-430, eff. 2013-Sept-04)
2. Duration. The issuance and continued validity of a permit and the authorization for the construction of any minor or major oil and gas facility shall be conditioned upon compliance by the applicant with the following rules and regulations set forth in the following sections. Any departure (excluding an approved variance) shall constitute a violation of this chapter.
(Code 2007, 15-11)

Sec. 15-12. Permit Process.

1. Application. An application to drill, maintain, re-complete, and/or abandon a minor or major oil and gas facility shall be submitted to the city community development office and shall contain, but is not limited to, the following:
 - (1) Application;
 - (2) Name and address of the impacted off-set leasees/owner(s) in accordance with O.C.D Regulations;
 - (3) Name and address of the operator and/or applicant desiring to construct and/or operate a major or minor oil and gas facility;
 - (4) Name and address of all property owners within four hundred (400) feet of the well head location, as well as proof of notification (fifteen (15) days prior to hearing date);
 - (5) Site plan (prepared by a state licensed and registered surveyor), will include:
 - (a) North arrow and scale;
 - (b) Existing improvements;
 - (c) Utility easements, right-of-ways;

- (d) On and off-site drainage plan;
 - (e) Proposed facility, including access roads and pipeline right-of-way;
 - (f) Current land ownership
- (6) Vicinity maps (of county assessor or United States Geological Survey (U.S.G.S) Quad map quality) shall include:
- (a) Section, township, and range;
 - (b) Site boundary;
 - (c) North arrow and scale;
 - (d) Major topographic features;
 - (e) Current surface ownership of parcels four hundred (400) feet from the well head location adjacent to the proposed site;
 - (f) Existing and proposed access;
 - (g) Pipeline routes
- (7) Weed and disturbance plan;
- (8) Visual mitigation plan;
- (9) Wildlife mitigation plan (threatened or endangered (T&E) species survey);
- (10) Noise mitigation plan;
- (11) Dust mitigation plan;
- (12) Performance standards check list;
- (13) Copy of original oil and gas lease;
- (14) Certificate of insurance which certifies that the operator and all persons who may be engaged in the construction of the facility and the drilling or operation of such well are insured to the public for any operation in the sum of five hundred thousand dollars (\$500,000.00) for damages to anyone (1) person, and one million dollars (\$1,000,000.00) for damages to more than one (1) person, from anyone (1) accident; also, for the sum of five hundred thousand dollars (\$500,000.00) for damages to property.
- (15) A copy of the bureau of land management (BLM or OCD) application permit drill (APD) or Sundry Notice 3160-5.
- (16) One of the following:
- (a) Surface damage/right-of-way agreement;
 - (b) Verified statement of confidentiality;
 - (c) Court order or judgment; or
 - (d) Evidence of "reasonable" effort to arrive at an agreement
- (17) Any other information requested by the city deemed necessary to process the application.

2. Publication. Upon receipt and processing of the above requirements, and the recommendation of the Community Development Department the city clerk shall establish a hearing date when the application is to be considered by the commission. Public notice of the hearing will follow the standard guidelines for public notification as set forth by resolution. In addition, the Planning Department will mail letters of notice to all property (surface) owners within four hundred (400) feet of the well head (excluding public right-of-way).
(Ord. 2010-393, eff. 2011-Jan-14)
3. Fees. A non-refundable fee as adopted in the city fee schedule will be charged, regardless of whether the application is approved or denied.
4. Approval or denial. The community development department shall issue a written recommendation of approval or denial to the commission. A permit may be denied based upon the following circumstances:
 - (1) Failure to provide the proper documentation;
 - (2) Presentation of written protest which demonstrates a legitimate public concern signed by the owners of fifty (50) percent or more of lands (surface) within four hundred (400) feet of the area.
 - (3) The commission determines that the oil and gas facility could be detrimental to the surrounding area, or may have significant impact on the general health, safety, and/or welfare of property owners in the general area.
 - (4) Failure to pay the proper fee.
5. Duration. Once approved, the application will be followed by the issuance of a permit to be valid for the life of the well, or until re-permit is required by state, or until revoked by commission due to violation. Any significant change in the oil and gas facility (i.e., addition of a compressor) or in the event of filing of sundry notice to the state (addressing a substantial change), the permittee will be required to request a "change in permit". The change of permit will follow the same process as the initial application and permit process. The filing of a "change in permit" is applicable to all abandoned, existing, and future oil and gas facilities or wells.
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 15-12)

Sec. 15-13. Revocation of Permits, Licenses or Other Authorizations.

Upon any substantial misrepresentation or violation of the conditions of any permit, authorization or any provisions of this chapter, the commission may, upon a hearing after five (5) days written notice by mail or personal service, to the permittee or licensee, or if the address of the permittee or licensee is unknown and the permittee or licensee cannot be found in the city, after the expiration of five (5) days from the date of publication of notice of any such hearing in a newspaper authorized to publish legal notices in the city, revoke such permit, license or authorization; provided, however, that if in the judgment of the city commission restitution is made for any damage occasioned by such violation together with adequate

provisions to prevent any further violations by such permittee or licensee, the commission may waive revocation of any permit or license, but the same shall not affect any penalty otherwise provided or the violation of this chapter.

(Code 2007, 15-13)

Secs. 15-14 to 15-20. Reserved.

ARTICLE III. PERFORMANCE STANDARDS

Sec. 15-21. Standards.

Unless otherwise set forth specifically by city ordinance, all minor and major oil and gas facilities shall be spaced, located, drilled, operated, and maintained in accordance with applicable state or federal laws and regulations. Any applicant that completes an oil or gas facility or modifies or upgrades an existing oil and gas facility within the limits of the city shall operate in accord with the following sections.

(Code 2007, 15-21)

Sec. 15-22. Area.

The area to be occupied by the producing equipment located within the city shall be confined to an area not to exceed one hundred (100) feet by one hundred fifty (150) feet.

(Code 2007, 15-22)

Sec. 15-23. Minimum Setback Required.

1. Minor Oil and Gas Facility. A minimum setback of four hundred (400) feet shall be required between the well head location and any existing residential, office, institutional, commercial or industrial structure or one hundred (100) feet from a public right-of-way (highway, street or alley), unless the applicant has secured a variance (section 15-13) from the commission for a setback less than four hundred (400) feet.
2. Major Oil and Gas Facility. The minimum setback for a major oil and gas facility shall be determined on a site specific basis.

(Code 2007, 15-23)

Sec. 15-24. Safety.

Appropriate safety precautions, as mandated by state and federal regulations, shall be observed in the construction, maintenance and operation of all minor and/or major oil and gas facilities.

(Code 2007, 15-24)

Sec. 15-25. Sound Emissions.

All operations during the construction, maintenance, and operation of the minor and/or major oil and gas facility shall be conducted in such a manner so as to make the least noise possible. Intermittent operations (e.g., mobile vehicles or equipment, drilling and work-over rigs, etc.) will conduct their operations in a manner that does not create a noise nuisance to surrounding residents or public gathering areas. Continuous operations (e.g., well site compression, pump-jacks, etc.) shall use the following noise mitigation measures, as required, to minimize disturbance to nearby residential or public gathering areas. Mitigation measures may include, but are not limited to:

1. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented away from the closest existing residences unless otherwise specified by New Mexico Environmental Department permit restrictions.
2. All facilities with engines or motors not electrically operated shall be equipped with hospital grade mufflers that achieve at least a 25 dB noise reduction. Such equipment shall be installed and maintained in proper working condition.
3. All mechanized equipment associated with the oil and gas facility shall be anchored or mounted on vibration dampeners so as to minimize transmission of vibration through the ground.
4. All facilities within the city limits that have compressors, engines or motors which generate sound and located within four hundred (400) feet of an existing residential, office, institutional, commercial or industrial structure will be placed behind a maintained, acoustically designed barrier or be contained within a maintained, acoustically insulated structure to further reduce sound and to provide less of a visual impact.

Under certain circumstances, additional noise abatement measures may be required and may include, but are not limited to, the following:

5. Installation of electric engines and/or motors.
6. Vegetative screening consisting of trees and shrubs placed within the fenced enclosure.
7. Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
8. Sound management plan identifying hours of maximum sound emissions, type, frequency and level of noise to be emitted and proposed mitigation measures.

(Code 2007, 15-25)

Sec. 15-26. Environmental Health Standards (Air and Water Quality).

All operations during the construction, maintenance, and operation of any minor and/or major oil and gas facility shall not be conducted in such a manner that create an odor nuisance nor exceed applicable local, state or federal air quality standards. All facilities and operations shall be designed, constructed and operated so as to prevent the contamination of water resources and protect the public health, welfare and safety and the natural environment.

(Code 2007, 15-26)

Sec. 15-27. Security.

Security of location and equipment shall be required for major and minor oil and gas facilities and includes:

1. Temporary fencing at least four (4) feet high of barbed wire or other fencing equally acceptable during the drilling, construction, work-over or completion of the oil and gas facility; and

2. Permanent perimeter fencing, at least six (6) feet high with a single strand of barbed wire and locked gating for all facilities after construction and for the duration of the operating oil and gas facility.
(Code 2007, 15-27)

Sec. 15-28. Fluids.

Managing of fluids at all minor and major oil and gas facilities is required and includes, but is not limited to, the following:

1. All drilling fluids produced from sites within four hundred (400) feet of any existing residential, office, institutional, commercial or industrial structure or one hundred (100) feet from a public right-of-way shall be contained in portable tanks at the drilling site.
2. All fluids produced from sites within four hundred (400) feet of any existing residential, office, institutional, commercial or industrial structure or one hundred (100) feet from a public right-of-way shall be stored in a tank and transported off the location.
3. At no time shall fluids of any kind be run into or stored in lined earthen pits within four hundred (400) feet of any existing residential, office, institutional, commercial or industrial structure or one hundred (100) feet from a public right-of-way without an approved variance. No saltwater or other waste fluids shall be disposed of in waterways or the sanitary sewer system unless approved, in writing, by the city and appropriate state and federal authority.
4. All waters used or produced in the drilling and completion of any well remaining after one hundred twenty (120) days shall be disposed of by transporting off location or by underground injection in accordance with state and federal regulations.
5. The owners and operators of drilling, pumping or storage equipment shall be responsible for the immediate clean-up and disposal of any spillage of oil or brine at the facility.
6. Compressor units on the well location not equipped with a drip pan for containment of fluids shall be lined with an impervious material at least eight mils thick and a twelve-inch berm. When compressor units are washed, or any other equipment associated with the locations, the fluids (Le., scrubber cleaners) will be properly disposed of to avoid ground contamination or hazard to livestock or wildlife
7. No unlined pits shall be permitted in the city limits of Aztec, New Mexico.
(Code 2007, 15-28)

Sec. 15-29. Reserve Pits.

Lined reserve pits shall be allowed on drilling sites which are in excess of four hundred (400) feet from any existing residential, office, institutional, commercial or industrial structure or one hundred (100) feet from a public right-of-way. Lined reserve pits are subject to the following conditions:

1. All lined pits shall be constructed so as not to leak, break or allow discharge of liquids or produced solids.
2. At least half of the capacity of the reserve pit must be in cut.
3. The top of the outside wall of the reserve pit shall be smoothed-off with a minimum of one blade width.
4. The pit should have adequate capacity to maintain two (2) feet of free board.
5. Pits are not to be located in natural drainages or trail locations.
6. Pit walls are to be "walked down" by a crawler type tractor following construction and prior to usage.
7. Any plastic material used to line pits must be removed to below-ground level before pits are covered.
8. The final grade of the reserve pit (after reclamation) shall allow for drainage away from the pit area.
9. All unguarded pits containing liquids will be fenced with woven wire. Drilling pits will be fenced on three (3) sides and once the rig leaves location, the fourth side will be fenced.
10. All fencing must be a legal fence in accordance with New Mexico State Law.
11. Upon completion of a well any reserve pit containing significant amounts of oil (sheen of oil across the pit) will be covered with screening or netting and remain covered until the pit is reclaimed or the oil is removed.
12. Liquids in pits will be allowed to evaporate, or be pumped out as necessary, before pits are filled and re-contoured. Under no circumstances will pits be cut and drained. All reserve pits will be closed and rehabilitated within one hundred twenty (120) days after completion.
13. No unlined pits shall be permitted in the city limits of Aztec, New Mexico.
(Code 2007, 15-29)

Sec. 15-30. Storage Tanks.

When the use and maintenance of storage tanks is required, the following conditions are required:

1. All petroleum, brine and other storage tanks located on an oil and gas facility shall be covered. No gas, odors, fumes from any storage tank, separator or casing head shall be released in significant quantities (i.e., that would reach or exceed local, state or federal permitting thresholds or that would create an odor nuisance) without being controlled through a pollution control device to control emissions. Pollution control devices shall be maintained on a scheduled basis to maintain their effectiveness. Burning of gases or fumes

by use of flares from wells or storage facilities is not allowed without a specific air quality permit as required by local, state or federal authority.

2. All storage tanks shall be located within a diked area sufficient to contain and hold one and one-half (1/2) times the entire liquid capacity of all tanks therein. Rainwater or other fluids shall not be allowed to accumulate within the dikes and shall be removed periodically. Unless tested and approved (in writing) for disposal by sanitary sewer, the fluids shall be considered as contaminated and disposed of in accordance with local, state and federal regulations.
3. Storage tanks shall be equipped with automatic shut-off devices or alerts (level safety indicators) linked to the fluid level in the tank to prevent overfilling and spillage. In addition, in the absence of an alert device, a single overflow tank shall be provided to contain the overflow from the oil or brine storage tanks in the event that the shutoff devices fail. The capacity of the oil or brine storage overflow tank shall be sufficient to hold twenty-four (24) hours' production from the well or wells.

(Code 2007, 15-30)

Sec. 15-31. Other Equipment.

If the use and maintenance of other equipment is required then the following must be abided by:

1. All production equipment, structures and premises shall at all times be maintained and kept in a clean, sanitary and tidy condition; and all structures shall be of incombustible materials.
2. All other equipment installed on site must adhere to the requirements of this chapter.

(Code 2007, 15-31)

Sec. 15-32. Visual Impacts.

A visual mitigation plan shall be required for all new minor and major facilities, existing facilities being modified or upgraded and those facilities found to be in violation. In accordance with the visual impact plan, the applicant shall:

1. Locate all facilities away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings, trails, arroyos, public use areas and other landmarks;
2. Locate the facilities to avoid crossing hills and ridges (silhouetting);
3. Locate the facilities at the base of slopes to provide a background of topography and/or natural cover;
4. Design and use structures of minimal size to satisfy present and future functional requirements and minimize impact to surrounding property owners;
5. Minimize damage to existing trees and vegetation and where clearing of trees and vegetation is required in the construction of the facility, the applicant will feather and thin edges of vegetation;

6. Replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site;
7. Align access roads to follow existing grades and minimize cuts and fills;
8. Paint equipment in a uniform, non-contrasting, non-glare, non-chalking, non-reflective color tone, similar to the Munsell Soil Color coding system and in a color to match the landscape and not sky (Example Federal Juniper Green 595a-34127). Safety rails, bollards or other safety devices may be painted with safety yellow, orange or comparable color.
9. Ensure that within six (6) months of well completion, the pad area (except the main access road and the immediate areas within twenty-five (25) feet of the above ground facilities) shall be reseeded with native grasses or existing vegetation acceptable to the surface owner, local, state and federal guidelines or requirements. Apply the following landscape practices (on a site specific basis):
 10. Establishment of ground covers, shrubs and trees;
 11. Shaping cuts and fills to appear as natural forms;
 12. Cutting rock areas to create irregular forms;
 13. Designing the facility to utilize natural screens;
 14. Construction of fences such as woven wood or rock for use with or in place of landscaping;
 15. Enclose the area to be occupied by the producing equipment in a locked, fenced enclosure. The fenced area shall be landscaped in such a manner as to provide a physical and visual buffer or screen that blocks and protects the interior area of the facility from the neighboring regions;
 16. Ensure that permanent exterior facility lighting shall be directed away and down from residential areas, or shielded from such areas.
(Code 2007, 15-32)

Sec. 15-33. Additional Requirements.

At the time of granting any permit, or as a condition of approval, under the provisions of this chapter, the city commission may make requirements, in addition to those contained therein. Such requirements or conditions of approval, may include but are not limited to the use of existing well pad(s), access roads, directional drilling, increased setbacks, most recent sound prevention methods or technology, any other improved technology or expert testimony or analysis that may benefit the area surrounding the oil and gas facility. In addition, at any time that an existing well site is not in compliance with the regulations set forth herein, the owner of the well shall be required to demonstrate compliance.

(Code 2007, 15-33)

Secs. 15-34 to 15-40. Reserved.**Sec. 15.41. Roads and Access.**

1. No facility shall be constructed nor well drilled at any one (1) location which is within any of the streets or alleys of the city. No street, alley or public right(s)-of-way shall be blocked or encumbered or closed in the construction of a facility, drilling, production or pipeline operation without the express written permission of the city manager, and then only temporarily with specific dates of closure identified.
2. Access to all facilities shall be through appropriately acquired road right-of-way.
3. All unimproved road accesses to facilities adjacent to paved public rights-of-way shall be surfaced with a minimum of three (3) inches deep (maximum of two hundred (200) feet long) of gravel road base and maintained through the duration of the well.
(Code 2007, 15-41)

Sec. 15-42. Proximity of Well, Tanks, Compressors or Pipe Lines to Buildings.

1. No well shall be drilled and no permit shall be issued for any well to be drilled at any location or storage tank to be located which is nearer than four hundred (400) feet from any existing residential, office, institutional, commercial or industrial structure without the applicant having first secured a variance.
2. No high pressure gas injection well or compressor used in conjunction with the gas injection well shall be located nearer than four hundred (400) feet from any existing residential, office, institutional, commercial or industrial structure without the applicant having first secured a variance. In exceptional cases for reasons of safety, the commission may require that any such facility shall be located at a greater distance than four hundred (400) feet to any such structure.
3. No residential, commercial or industrial structure other than structures necessary to operate the pipeline shall be erected or moved to a location nearer than thirty (30) feet to any pipeline transporting gas when the pipeline operating pressure is greater than two hundred fifty (250) psi unless a greater or lesser distance is recommended by the then applicable ASA Code.
(Code 2007, 15-42)

Sec. 15-43. Use of Abandoned Well.

All abandoned wells which shall not be used and equipped for disposal purposes or general purpose water well, shall be plugged and abandoned in accordance with applicable rules of state or federal agencies having jurisdiction thereof.

The entire area of the well location shall be reclaimed to its original state or as close to its original state prior to the installation of the well. Any abandoned well scheduled to be re-used will be subject to the same process and regulations as new oil and gas facilities or wells.

(Code 2007, 15-43)

Secs. 15-44 to 15-50. Reserved.**Sec. 15-51. Appeals.**

Any person aggrieved by any inspection order to stop or correct any work may forthwith appeal to the community development department for a hearing and determination of the matter complained of; and may, within ten (10) days from the decision of the community development department, file an appeal in writing with the city clerk to be submitted to the commission at its next meeting for a hearing and a determination thereof. The decision of the commission shall be final and conclusive.

(Code 2007, 15-51)

Sec. 15-52. Variances, Exceptions and Waiver of Conditions.

Where the commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances, exceptions, and waiver of conditions to these regulations so that substantial justice may be done and the public interest secured, provided that the variance, exception, or waiver conditions shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the commission shall not approve variances, exceptions, and waiver of conditions unless it shall make findings based on the following:

1. The granting of the variance, exception, or waiver of conditions will not be detrimental to the public safety, health, or welfare or injurious to other property.
2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property.
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
4. The difficulty or hardship resulting from the application of these regulations would prevent the owner from making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance.
5. The relief sought will not in any manner vary the provisions of the land use regulations, comprehensive plan, or official map, except that those documents may be amended in the manner prescribed by law.

(Code 2007, 15-52)