

Title 15

BUILDINGS AND CONSTRUCTION

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Chapter 15.04

Building Code

Sections:

- 15.04.010 General.
- 15.04.020 International Building Code adopted.
- 15.04.030 International Building Code—Amendments.
- 15.04.040 International Mechanical Code adopted.
- 15.04.050 International Mechanical Code—Amendments.
- 15.04.060 International Plumbing Code adopted.
- 15.04.070 International Plumbing Code—Amendments.
- 15.04.080 Penalty for violation.
- 15.04.090 Severability.
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- 15.04.130 Nonliability; section headings.
- 15.04.150 Copies of code.
- 15.04.160 International Property Maintenance Code.
- 15.04.170 International Property Maintenance Code—Amendments.

15.04.010 General.

The codes adopted by reference thereto and incorporated into and made a part of the Firestone Municipal Code by the provisions of this chapter shall be known as the "Building Code of the Town of Firestone." Any reference to the building code in this chapter shall be to the codes adopted by reference herein. (Ord. 330 §1, 1996)

15.04.020 International Building Code adopted.

The International Building Code, 2006 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001, Chapters 1 through 35 inclusive, Appendix I and Appendix J, are hereby adopted by reference thereto and incorporated into and made part of the Firestone Municipal Code. The purpose and subject matter of the International Building Code include comprehensive provisions regulating construction aspects of building and providing uniform building standards for the purpose of protecting the public health, safety and general welfare. In all sections of this code where a reference is made to the International Building Code, said reference shall be to the 2006 Edition of said Code. The town clerk shall maintain sufficient copies of the International Building Code as required by law in the Town Hall. (Ord. 654 §1, 2007)

15.04.030 International Building Code—Amendments.

The International Building Code as adopted by the town is hereby amended as follows:

- A. Section 101.1 (Title) is amended by the addition of the term "Town of Firestone" where indicated.
- B. Section 101.4.1 (Electrical) is amended by replacing "ICC Electrical Code" with "National Electrical Code as adopted by the State of Colorado."
- C. Section 101.4.4 (Plumbing) is amended by deletion of the last sentence.

D. Section 101.4.6 (Fire prevention) is amended by renumbering the section as 101.4.5 and replacing "International Fire Code" with "adopted fire code."

E. Section 105.1 (Required) is amended by replacing the words "building official" with "town."

F. Section 108.4 (Work commencing before permit issuance) is amended by replacing the words "building official" with "town" and adding the words "the fee shall be equal to 100% of the original building fee in addition to the required permit fees."

G. Section 108.6 (Refunds) is amended by deleting the section in its entirety and replacing the section with the following:

The town may authorize refunding of any fee paid hereunder which was erroneously paid or collected. The town may authorize refunding of not more than 80 percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code. The town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done. The town shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

H. Section 109.3.5 (Lath and gypsum board inspection) is amended by deleting the exception in its entirety.

I. Section 110.3 (Temporary occupancy) is amended by deleting the words "building official" in the first and second sentence and replacing them with "town."

J. Section 112.1 (General) is amended by deleting the last two sentences and inserting the following:

The members of the Board of Appeals shall be comprised of the member of the board of trustees.

K. Section 112.3 (Qualifications) is amended by deleting the section in its entirety.

L. Section 202 (Definitions) is amended by the addition of the following:

"Sleeping Room" (Bedroom) is any enclosed habitable space within a dwelling unit, which complies with the minimum room dimension requirements of IBC Section 1208 and contains a closet, an area that is useable as a closet, or an area that is readily convertible for use as a closet. Living rooms, family rooms and other similar habitable areas that are so situated and designed so as to clearly indicate these intended uses shall not be interpreted as sleeping rooms.

M. Section 1013.1 (Where required) is amended by the addition of a second paragraph inserted before the exceptions as follows:

All area wells, stair wells, window wells and light wells attached to any building that are located less than 36 inches (914.4 mm) from the nearest intended walking surface and deeper than 30 inches (762 mm) below the surrounding ground level, creating an opening greater than 24 inches (610 mm) measured perpendicular from the building, shall be protected with guardrails conforming to this section around the entire opening, or be provided with an equivalent barrier.

N. Section 1612.3 (Establishment of flood hazard areas) is amended by the insertion of "Town of Firestone" where indicated in [Name of Jurisdiction] and the date of the latest flood insurance study for the town, where indicated in [Date of Issuance].

O. Section 3401.3 (Compliance with other codes) is amended by deleting "International Fire Code" and inserting in its place "adopted fire code," deleting "International Private Sewage Disposal Code," and deleting "ICC Electrical Code" and inserting in its place "National Electrical Code as adopted by the State of Colorado."

P. Appendix J (Grading) is amended by the addition of new sections "J112 Grading fees" and "J113 Performance guarantees," which shall read as follows:

Section J112 Grading fees.

J112.1 General. Fees shall be assessed in accordance with the provisions of this section or shall be as set forth in a fee schedule adopted by the board of trustees.

J112.2 Plan review fees. When a plan or other data are required to be submitted, a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be as set forth in Table J112-A. Separate plan review fees shall apply to retaining walls or major drainage structures as required elsewhere in this code. For excavation and fill on the same site, the fee shall be based on the volume of excavation or fill, whichever is greater.

J112.3 Grading permit fees. A fee for each grading permit shall be paid to the building official as set forth in Table J112-B. Separate permits and fees shall apply to retaining walls or major drainage structures as required elsewhere in this code. There shall be no separate charge for standard terrace drains and similar facilities.

TABLE J112-A GRADING PLAN REVIEW FEES

50 cubic yards (38.2 m ³) or less	No fee
51 to 100 cubic yards (40 m ³ to 76.5 m ³)	\$23.50
101 to 1,000 cubic yards (77.2 m ³ to 764.6 m ³)	\$37.00
1,001 to 10,000 cubic yards (765.3 m ³ to 7,645.5 m ³)	\$49.25
10,001 to 100,000 cubic yards (7,646.3 m ³ to 76,455 m ³)	\$49.25 for the first 10,000 cubic yards (7,645.5 m ³), plus \$24.50 for each additional 10,000 yards (7,645.5 m ³) or fraction thereof.
100,001 to 200,000 cubic yards (76,456 m ³ to 152,911 m ³)	\$269.75 for the first 100,000 cubic yards (76,455 m ³), plus \$13.25 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
200,001 cubic yards (152,912 m ³) or more	\$402.25 for the first 200,000 cubic yards (152,911 m ³), plus \$7.25 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
Other Fees: Additional plan review required by changes, additions or revisions to approved plans at \$50.50 per hour* (minimum charge – one-half hour)	

* Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

TABLE J112-B GRADING PERMIT FEES¹

50 cubic yards (38.2 m ³) or less	\$23.50
51 to 100 cubic yards (40 m ³ to 76.5 m ³)	\$37.00
101 to 1,000 cubic yards (77.2 m ³ to 764.6 m ³)	\$37.00 for the first 100 cubic yards (76.5 m ³), plus \$17.50 for each additional 100 cubic yards (76.5 m ³) or fraction thereof.
1,001 to 10,000 cubic yards (765.3 m ³ to 7,645.5 m ³)	\$194.50 for the first 1,000 cubic yards (764.6 m ³), plus \$14.50 for each additional 1,000 cubic yards (764.6 m ³) or fraction thereof.
10,001 to 100,000 cubic yards (7,646.3 m ³ to 76,455 m ³)	\$325.00 for the first 10,000 cubic yards (7,645.5 m ³), plus \$66.00 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
100,001 cubic yards (76,456 m ³) or more	\$919.00 for the first 100,000 cubic yards (76,455 m ³), plus \$36.50 for each additional 10,000 cubic yards (7,645.5 m ³) or fraction thereof.
Other Inspections and Fees:	
1. Inspections outside of normal business hours..... \$50.50 per hour ² (minimum charge – two hours)	
2. Reinspection fees assessed under Section 108.8..... \$50.50 per hour ²	
3. Inspections for which no fee is specifically indicated..... \$50.50 per hour ² (minimum charge – one-half hour)	

¹ The fee for a grading permit authorizing additional work to that under a valid permit shall be the difference between the fee paid for the original permit and the fee shown for the entire project.

² Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

J113 Performance Guarantees. The building official may require a performance guarantee in the form of a bond, letter of credit or cash escrow in such form and amounts as may be deemed necessary to ensure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions.

Q. Section 3410.2 (Applicability) is amended by the insertion of the effective date of building codes for the town where indicated in [DATE]. (Ord. 654 §2, 2007)

15.04.040 International Mechanical Code adopted.

The International Mechanical Code, 2006 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC, 20001, Chapters 1 through 15 inclusive, is hereby adopted by reference thereto and incorporated into and made a part of the Firestone Municipal Code. The purpose and subject matter of the International Mechanical Code include minimum standards relating to the mechanical installations in or in connection with the construction, alteration and repair of new and existing structures, including design, construction, installation, quality of materials, locations, operation and maintenance or use of heating, ventilation, cooling refrigeration systems, incinerators and other miscellaneous heat-producing appliances. In all sections of this code where a reference is made to the International Mechanical Code, said reference shall be to the 2006 Edition of said Code. The town clerk shall maintain sufficient copies of the International Mechanical Code as required by law in the Town Hall. (Ord. 654 §3, 2007)

15.04.050 International Mechanical Code—Amendments.

The International Mechanical Code as adopted by the town is hereby amended as follows:

- A. Section 101.1 (Title) is amended by the addition of the term "Town of Firestone" where indicated.
- B. 504.6.1 (Maximum length) is amended by deleting the exception in its entirety. (Ord. 654 §4, 2007)

15.04.060 International Plumbing Code adopted.

The International Plumbing Code, 2006 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC, 20001, Chapters 1 through 13 inclusive, is hereby adopted by reference thereto and incorporated into and made part of the Firestone Municipal Code. The purpose and subject matter of the International Plumbing Code include comprehensive provisions regulating plumbing installations in or in connection with new and existing structures and providing uniform plumbing standards for the purpose of protecting the public health, safety and general welfare. In all sections of this code where a reference is made to the International Plumbing Code, said reference shall be to the 2006 Edition of said Code. The town clerk shall maintain sufficient copies of the International Plumbing Code as required by law in the Town Hall. (Ord. 654 §5, 2007)

15.04.070 International Plumbing Code—Amendments.

The International Plumbing Code as adopted by the town is hereby amended as follows:

- A. Section 101.1 (Title) is amended by the addition of the term "Town of Firestone" where indicated.
- B. Section 305.6.1 (Sewer depth) is amended by filling in both areas where indicated to read "12 inches (305 mm)."
- C. Section 904.1 (Roof extension) is amended by inserting the number "6" (152.4 mm)" where indicated in the second sentence. (Ord. 654 §6, 2007)

15.04.080 Penalty for violation.

A. It shall be unlawful for any person to do any act which is forbidden or declared to be unlawful or declared to be a nuisance or to fail to do or perform any act required in the Building Code, or for any person to erect, construct, reconstruct, alter, remodel, use or maintain any building, structure or equipment in the town, or cause to permit the same to be done contrary to or in violation of any of the provisions of the Building Code. Maintenance of any condition which was unlawful at the time it was initiated and which would be unlawful at the time it was installed after the effective date hereof shall constitute a continuing violation. Any person violating any of the provisions of the Building Code shall be deemed guilty of a misdemeanor, shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued or permitted, and, upon conviction of any such violation, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

B. In addition to any and all other remedies provided by law, the town may institute an appropriate action for injunction, mandamus or abatement to prevent, enjoin, abate or remove any unlawful act, erection, construction, reconstruction, alteration, remodeling or use.

C. It shall be unlawful for any person to erect, construct, reconstruct, alter, remove or change the use of any building or other structure within the town without first obtaining all permits required by the Building Code. No such permit shall be issued unless the plans for the proposed erection, construction, reconstruction, alteration, removal or use fully conform to the ordinances codified in this title and in titles 16 and 17 of this code, to the final subdivision plat and final development plan governing the property for which the permit is requested, and to other applicable regulations of the town. (Ord. 654 §7)

15.04.090 Severability.

If any part or parts of the Building Code are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of such Building Code. The board of trustees hereby declares that it would have passed each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid. (Ord. 255 §1, 1989)

15.04.110 Repeal.

Any or all ordinances or parts of ordinances of the town in conflict or inconsistent herewith are hereby repealed. (Ord. 255 §1, 1989)

15.04.130 Nonliability; section headings.

A. The adoption of the Building Code as provided for herein shall not create any duty to any person with regard to the enforcement or nonenforcement of said Building Code. No person shall have any civil liability remedy against the town, its officers, employees, or agents, for any damages arising out of or in any way connected with the adoption, enforcement, or nonenforcement of said Building Code. Neither the adoption of the Building Code nor any provisions thereof shall be construed to create any liability or to waive any of the immunities, limitations on liability, or other provisions of the Governmental Immunity Act, C.R.S. § 24-10-101 et seq. or to waive any immunities or limitations on liability otherwise available.

B. Section headings of the Building Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any section thereof. (Ord. 547 §9, 2003; Ord. 255 §1, 1989)

15.04.150 Copies of code.

The town building department shall maintain sufficient copies of the Building Code as required by law in the Town Hall. (Ord. 568, 3, 2004; Ord. 255 §1, 1989)

15.04.160 International Property Maintenance Code.

The International Property Maintenance Code, 2006 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC, 20001, Chapters 1 through 8 inclusive, is hereby adopted by reference thereto and incorporated into and made a part of the Firestone Municipal Code. The purpose and subject matter of the International Property Maintenance Code include the provision of just, equitable and practical procedures for the continued maintenance of property. In all sections of this code where a reference is made to the International Property Maintenance Code, said reference shall be to the 2006 Edition of said Code. The town clerk shall maintain sufficient copies of the International Property Maintenance Code as required by law in the Town Hall. (Ord. 654 §8, 2007)

15.04.170 International Property Maintenance Code—Amendments.

The International Property Maintenance Code as adopted by the town is hereby amended as follows:

- A. Section 101.1 (Title) is amended by the addition of the term "Town of Firestone" where indicated.
- B. Section 103.5 (Fees) is amended by deleting the section in its entirety.
- C. Section 111.2 (Membership of board) is amended by deleting the section in its entirety and inserting the following:

The members of the Board of Appeals shall be comprised of the members of the town board of trustees.

- D. Section 111.2.1 (Alternate members) is amended by deleting the section in its entirety.
- E. Section 111.2.2 (Chairman) is amended by deleting the section in its entirety.
- F. Section 111.2.3 (Disqualification of member) is amended by deleting the section in its entirety.

G. Section 111.2.4 (Secretary) is amended by deleting the section in its entirety.

H. Section 111.2.5 (Compensation of members) is amended by deleting the section in its entirety. (Ord. 654 §9, 2007)

Chapter 15.06

International Residential Code

Sections:

- 15.06.010 International Residential Code adopted.
- 15.06.020 International Residential Code—Amendments.
- 15.06.030 Violation and penalties.

15.06.010 International Residential Code adopted.

The International Residential Code, 2006 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC, 20001, Chapters 1 through 43 inclusive, and Appendix Chapters G and H, are hereby adopted by reference thereto and incorporated into and made a part of the Firestone Municipal Code. The purpose and subject matter of the International Residential Code include comprehensive provisions regulating construction of residential areas and providing uniform standards for the purpose of protecting the public health, safety and general welfare. In all sections of this code where a reference is made to the International Residential Code, said reference shall be to the 2006 Edition of said Code. The town clerk shall maintain sufficient copies of the International Residential Code as required by law in the Town Hall. (Ord. 654 §10, 2007)

15.06.020 International Residential Code—Amendments.

The International Residential Code as adopted by the town is hereby amended to read as follows:

A. Section R101.1 (Title) is amended by the addition of the term "Town of Firestone" where indicated.

B. Section R105.1 (Required) is amended by replacing the words "building official" with "town."

C. Section 108.4.1 is added to read as follows:

R108.4.1 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the Town. The fee shall be equal to 100% of the original building fee in addition to the required permit fees.

D. Section R108.5 (Refunds) is amended by deleting the section in its entirety and replacing the section with the following:

The town may authorize refunding of any fee paid hereunder which was erroneously paid or collected. The town may authorize refunding of not more than 80 percent (80%) of the permit fee paid

when no work has been done under a permit issued in accordance with this code. The town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done. The town shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

E. Section R109.1.5 (Other inspections) is amended by the addition of new subsections to read as follows:

R109.1.5.3 Insulation inspection. Inspection of the structure shall be made following installation of the wall, ceiling and floor insulation and exterior windows and before wall coverings are installed.

R109.1.5.4 Lath and gypsum inspection. Inspection of all interior or exterior lathing and gypsum board shall be made after installation but before any plastering is applied or before gypsum board joints and fasteners are taped and finished.

F. Section R110.4 (Temporary occupancy) is amended by deleting the words "building official" in the first and second sentence and replacing them with "town."

G. Section R112.1 (General) is amended by deleting the last three sentences and inserting the following:

The members of the Board of Appeals shall be comprised of the members of the town board of trustees.

H. Section R202 (Definitions) is amended by the addition of the following:

"Sleeping Room" (Bedroom) is any enclosed habitable space within a dwelling unit which complies with the minimum an area that is useable as a closet, or an area that is readily convertible for use as a closet. Living rooms, family rooms and other similar habitable areas that are so situated and designed so as to clearly indicate these intended uses shall not be interpreted as sleeping rooms.

I. Table R301.2(1) is filled to provide the following:

**Table R301.2(1)
Climatic and Geographic Design Criteria**

<i>Ground Snow Load</i>	<i>Wind Speed (mph)</i>	<i>Seismic Design Category</i>	<i>Subject to Damage From</i>			<i>Winter Design Temp</i>	<i>Ice Shield Underlayment Required</i>	<i>Flood Hazard</i>	<i>Air Freezing Index</i>	<i>Mean Annual Temp</i>
			<i>Weathering</i>	<i>Frost Line Depth</i>	<i>Termite</i>					
20 psf	90	B	Severe	30 in.	Slight to Moderate	1	NO	Per town Ordinance	1000	45°F

J. Section R310.2.1 (Ladder and steps) is amended by the addition of the following exception to read as follows:

Exception: Only one window well egress ladder shall be required in an unfinished basement.

K. Section R312.1 (Guards required) is amended by the addition of a third paragraph as follows:

All area wells, stair wells, window wells and light wells attached to any building that are located less than 36 inches (914 mm) from the nearest intended walking surface and deeper than 30 inches (762 mm) below the surrounding ground level, creating an opening greater than 24 inches (610 mm) measured perpendicular from the building, shall be protected with guardrails conforming to this section around the entire opening, or be provided with an equivalent barrier.

Exceptions:

1. The access side of stairways need not be protected.
2. Area and window wells provided for emergency escape and rescue windows may be protected with approved grates or covers that comply with Section R310 of this code.
3. Covers and grates may be used over stairways and other openings used exclusively for the service access or for admitting light or ventilation.

L. Section R401.2 (Requirements) is amended by the addition of the following:

Foundations shall be designed, and the construction drawings stamped, by a Colorado registered design professional. The foundation design must be based on an engineer's soils report. The drawings must be noted with the engineering firm name, specific location for design and soils report number. A site certification prepared by a State of Colorado licensed professional is required for setback verification on all new Group R Division 3 occupancies.

M. Section R405.1 (Concrete and masonry foundations) is amended by the addition of the following after the first sentence:

All foundation drains shall be designed and inspected by a State of Colorado registered design professional.

N. Section M1502.6 (Duct length) is amended by deleting Exception 1 in its entirety.

O. Section G2415.9 (Minimum burial depth) is amended by the addition of the following:

All plastic fuel gas piping shall be installed a minimum of 18 inches (457 mm) below grade.

P. Section G2415.9.1 (Individual outside appliances) is deleted in its entirety.

Q. Section G2417.4.1 (Test pressure) is amended by changing "3 psig" to "10 psig."

R. Section P2603.6.1 (Sewer depth) is amended by filling in both areas where indicated to read "12 inches (305 mm)."

S. Section P3103.1 (Roof extension) is amended by filling in both areas where indicated to read "6 inches (152.4 mm)." (Ord. 654 §10, 2007)

15.06.030 Violation and penalties.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of the provisions of this chapter or the terms of the code adopted and incorporated herein. Any person, firm or corporation convicted of a violation of any provision of this chapter or of the provisions of the code adopted and incorporated herein shall be subject to the penalty provided in Section 1.16.010. (Ord. 654 §10, 2007)

Chapter 15.08

National Electrical Code

Sections:

- 15.08.010 National Electrical Code adopted.
- 15.08.020 National Electrical Code—Amendments.
- 15.08.030 Violations and penalties.

15.08.010 National Electrical Code adopted.

The National Electrical Code, 2002 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA, 02269-9109, is adopted by reference thereto and incorporated into and made a part of this code. The purpose and subject matter of the National Electrical Code include minimum regulations for the practical safeguarding of persons and property from the hazards arising from the use of electricity and minimum standards relating to the installation of electrical conductors and equipment within or on public and private buildings and other structures, including mobile homes, recreational vehicles and floating dwelling units, and other premises such as yards, carnivals, parking and other lots, and industrial substations. Except as otherwise provided herein, the National Electrical Code is adopted in full, including the outline of contents, index and all appendices thereto. Any references to the National Electrical Code within this code shall be to the 2002 Edition of said code. The town building department shall maintain sufficient copies of the National Electrical Code as required by law in the Town Hall. (Ord. 568 §3, 2004; Ord. 504 §7, 2002; Ord. 330 §9(part), 1996)

15.08.020 National Electrical Code—Amendments.

The National Electrical Code as adopted by the town is hereby amended as follows: The electrical permit fees for each permit shall be as established from time to time by resolution of the board of trustees and set forth in the town fee schedule maintained by the building officials for such purposes. (Ord. 504 §8, 2002; Ord. 330 §9(part), 1996)

15.08.030 Violations and penalties.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use or maintain any electrical systems or equipment or cause or permit the same to be done in violation of the provisions of this chapter or the terms of the code adopted and incorporated herein. Any person, firm or corporation convicted of a violation of any provision of this chapter

or of the provisions of the code adopted and incorporated herein shall be subject to the penalty provided in Section 15.04.080. (Ord. 330 §9(part), 1996)

Chapter 15.10

International Existing Building Code

Sections:

- 15.10.010 International Existing Building Code adopted.
- 15.10.020 International Existing Building Code—Amendments.
- 15.10.030 Violation and penalties.

15.10.010 International Existing Building Code adopted.

The International Existing Building Code, 2006 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC, 20001, Chapters 1 through 15 inclusive, is hereby adopted by reference thereto and incorporated into and made a part of the Firestone Municipal Code. The purpose and subject matter of the International Existing Building Code include the provision of standards for changes of occupancy and alterations or repairs of existing buildings and structures which encourage the continued use of reuse of legally existing buildings and structures. Any reference to the International Existing Building Code within this title shall be to the 2006 Edition of said Code. The town clerk shall maintain sufficient copies of the International Existing Building Code as required by law in the Town Hall. (Ord. 654 §11, 2007)

15.10.020 International Existing Building Code—Amendments.

The International Existing Code as adopted by the town is hereby amended as follows:

- A. The International Existing Building Code is amended by replacing all references to "International Fire Code" with "adopted fire code."
- B. The International Existing Building Code is amended by replacing all references to "ICC Electrical Code" with "National Electrical Code as adopted by the State of Colorado."
- C. Section 101.1 (Title) is amended by the addition of the term "Town of Firestone" where indicated.
- D. Section 1201.1 (Conformance) is amended by deleting the section in its entirety and replacing it with the following:

Structures moved into or within the jurisdiction shall comply with the provision of this code for new structures.

(Ord. 654 §11, 2007)

15.10.030 Violations and penalties.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or permit the same to be done in violation of the provisions of this chapter or the terms of the code adopted and incorporated herein. Any person, firm or corporation convicted of a violation of any provision of this chapter or of the provisions of the code adopted and incorporated herein shall be subject to the penalty provided in Section 1.16.010. (Ord. 654 §11, 2007)

Chapter 15.12

International Fuel Gas Code

Sections:

- 15.12.010 International Fuel Gas Code adopted.
- 15.12.020 International Fuel Gas Code—Amendments.
- 15.12.030 Violation and penalties.

15.12.010 International Fuel Gas Code adopted.

The International Fuel Gas Code, 2006 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC, 20001, Chapters 1 through 8 inclusive, is hereby adopted by reference thereto and incorporated into and made a part of the Firestone Municipal Code. The purpose and subject matter of the International Fuel Gas Code include the provision of standards for the design and installation of fuel gas systems and gas-fired appliances. Any reference to the International Fuel Gas Code within this title shall be to the 2006 Edition of said Code. The town clerk shall maintain sufficient copies of the International Fuel Gas Code as required by law in the Town Hall. (Ord. 654 §12, 2007)

15.12.020 International Fuel Gas Code—Amendments.

The International Fuel Gas Code as adopted by the town is hereby amended as follows:

A. Section 101.1 (Title) is amended by the addition of the term "Town of Firestone" where indicated.

B. Section 404.9 (Minimum burial depth) is amended by the addition of the following:

All plastic fuel gas piping shall be installed a minimum of 18 inches (457 mm) below grade.

C. Section 404.9.1 (Individual outside appliances) is deleted in its entirety.

D. Section 406.4.1 (Test pressure) is amended by changing "3 psig" to "10 psig."

E. Section 409.5 (Equipment shutoff valve) is amended by deleting the Exception.

F. Section 614.6.1 (Maximum length) is amended by deleting the Exception in its entirety. (Ord. 654 §12, 2007; Ord. 547 §11, 2003)

15.12.030 Violation and penalties.

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of the provisions of this chapter or the terms of the code adopted and incorporated herein. Any person convicted of a violation of any provision of this chapter or of the provisions of the code adopted and incorporated herein shall be subject to the penalty provided in Section 1.16.010. (Ord. 654 §12, 2007)

Chapter 15.32

Fire Code

Sections:

- 15.32.010 International Fire Code, adopted.
- 15.32.020 International Fire Code—Amendments.
- 15.32.030 Penalties.

15.32.010 International Fire Code, adopted.

Subject to the amendments set forth in Section 15.32.020, below, the International Fire Code, 2006 Edition, as published by the International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington, DC, 20001-2070, is hereby adopted by this reference and incorporated into and made a part of the Firestone Municipal Code. The purpose and subject matter of the 2006 International Fire Code is to: (1) regulate and govern the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices; (2) provide greater safety and protection to the public from conditions hazardous to life or property in the occupancy of buildings or premises; and (3) provide for the issuance of permits and collection of fees therefor. Except as amended in Section 15.32.020, below, the 2006 International Fire Code is adopted in full, including the outline of contents, index, Chapters 1 through 45 and Appendix Chapters A through G. Any reference to the International Fire Code within this chapter or to the fire code within this code shall be to the 2006 Edition of said International Fire Code. The town clerk shall maintain sufficient copies of the International Fire Code as required by law in the Town Hall. The Code adopted herein shall be enforced by the fire district having jurisdiction within the town, which district shall serve as the bureau of fire prevention of the town. (Ord. 670 §1, 2008)

15.32.020 International Fire Code—Amendments.

The following additions, amendments and deletions are made to the International Fire Code, 2006 Edition:

A. Section 108.1 of the International Fire Code is amended to read:

In order to hear and decide appeals of orders, decisions or determinations made by the fire code official in the application and interpretation of this code, there is hereby created a board of appeals. The three-member board of appeals shall be comprised of the Chief Building Official, the Fire Chief and an independent fire safety engineer, architect, industrial hygienist or other qualified individual with expertise in interpreting and applying this code with respect to the specific issues being appealed, and

who is mutually agreed upon by the Chief Building Official and the Fire Chief. The board of appeals may adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the fire code official.

B. Section 108.3 is deleted in its entirety.

C. Appendix A of the International Fire Code is deleted in its entirety, and the following new Appendix A is added:

Appendix A – Board of Appeals.

Section A101 – General.

A101.1 Scope. A board of appeals shall be established within the jurisdiction for the purpose of hearing applications for modification of the requirements of the International Fire Code pursuant to the provisions of Section 108. The board shall be established and operated in accordance with this section and shall be authorized to hear evidence from appellants, the fire code official and other interested parties pertaining to the application and intent of this code for the purpose of issuing orders pursuant to these provisions.

A101.2 Membership. The three-member board shall consist of the Chief Building Official, the Fire Chief and an independent fire safety engineer, architect, industrial hygienist or other qualified individual with expertise in interpreting and applying this code with respect to the issues being appealed. The Fire Chief and the Chief Building Official shall mutually agree upon the individual to serve as the third board member.

A101.3 Quorum. All three members of the board are required for a quorum. In varying the application of any provisions of this code or in modifying an order of the fire code official, an affirmative vote of at least two of the three board members is required.

A101.4 Secretary of the Board. The Fire District's Administrative Assistant shall serve as the secretary of the board and shall keep a detailed record of all its proceedings which shall set forth the reasons for its decisions and the vote of each member.

A101.5 Meetings. The board shall meet within ten days after notice of appeal has been received, or as soon thereafter as practicable.

A101.6 Procedures. The board shall establish rules and regulations for its own procedures not inconsistent with the provisions of the Firestone Municipal Code and laws of the State of Colorado.

A101.7 Decisions. Every decision shall be promptly filed in writing in the office of the fire code official, the director of operations and town clerk and shall be open to public inspection. A copy of such decision shall be kept publicly posted in the office of the fire code official for twenty-one days after filing. A certified copy of the final board decision shall be sent by mail or otherwise to the appellant by the fire code official.

A101.8 Board of Trustees Review. The town board of trustees, at its discretion and by motion, may call up any decision of the board within twenty-one days after the date of issuance of the board's written decision. In the event of such call-up, the following shall apply:

A101.8.1 The board of trustees shall consider the board's decision at a public hearing held subsequent to the meeting at which the decision was called up, and notice of such public hearing shall be provided to the appellant at least five days in advance of the public hearing.

A101.8.2 The board of trustees call-up review shall be *de novo*; in addition to the information submitted at its public hearing, the board of trustees may receive and consider the board's minutes, any staff reports and reviews and recommendations provided by town staff or fire district staff, and such other information as the board of trustees determines relevant to review of the decision subject to its call-up.

A101.8.3 The board of trustees may uphold, reverse or modify the decision of the board subject to its call-up. The board of trustees' decision shall be promptly filed in writing in the office of the fire code official and the town clerk and shall be open to public inspection. A copy of such board of trustees' decision shall be kept publicly posted in the office of the fire code official for twenty-one days after filing. A certified copy of the final board of trustees' decision shall be sent by mail or otherwise to the appellant by the town clerk.

A101.8.4 Failure of the board of trustees to call up a decision of the board prior to the expiration of twenty-one days after the date of issuance of the board's written decision shall render the board's decision final for purposes of judicial review.

(Ord. 712 §1, 2009; Ord. 670 §2, 2008)

15.32.030 Penalties.

The following penalties shall apply to violations of this chapter:

A. It is unlawful for any person, partnership, corporation or other legal entity to violate any of the provisions of this chapter.

B. Every person, partnership, corporation or other legal entity convicted of a violation of any provision stated or adopted by reference in this chapter shall be punished by a fine not exceeding one thousand dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person shall be a separate offense. (Ord. 670 §3, 2008)

Chapter 15.36

International Energy Conservation Code

Sections:

- 15.36.010 International Energy Conservation Code adopted.
- 15.36.020 International Energy Conservation Code—Amendments.

15.36.030 Violations and penalties.

15.36.010 International Energy Conservation Code adopted.

The International Energy Conservation Code, 2006 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC, 20001, Chapters 1 through 6 inclusive, is hereby adopted by reference thereto and incorporated into and made a part of the Firestone Municipal Code. The purpose and subject matter of the International Energy Conservation Code include the provisions that encourage energy conservation through efficiency in envelope design, mechanical systems, lighting systems and the use of new materials and techniques. Any reference to the International Energy Conservation Code within this title shall be to the 2006 Edition of said Code. The town clerk shall maintain sufficient copies of the International Energy Conservation Code as required by law in the Town Hall. (Ord. 654 §13, 2007)

15.36.020 International Energy Conservation Code—Amendments.

The International Energy Conservation Code as adopted by the town is hereby amended as follows:

A. The International Energy Conservation Code is amended by replacing all references to "International Fire Code" with "adopted fire code."

B. The International Energy Conservation Code is amended by replacing all references to "ICC Electrical Code" with "National Electric Code as adopted by the State of Colorado."

C. Section 101.1 (Title) is amended by the addition of the term "Town of Firestone" where indicated. (Ord. 654 §13, 2007)

15.36.020 Violations and penalties.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of the provisions of this chapter or the terms of the Code adopted and incorporated herein. Any person convicted of a violation of any provision of this chapter or of the provisions of the code adopted and incorporated herein shall be Subject to the penalty provided in Section 1.16.010. (Ord. 654 §13, 2007)

Chapter 15.40

Fences

Sections:

- 15.40.010 Types prohibited.
- 15.40.020 Permit required—Building inspector.
- 15.40.030 Street line and front setback.
- 15.40.040 Fence on reverse corner lot.
- 15.40.050 Reverse corner lot defined.
- 15.40.060 Fence on corner lot.
- 15.40.070 Height limitation.
- 15.40.080 Gates may be required.

15.40.090 Fence defined.

15.40.010 Types prohibited.

There shall be no railroad tie, barbed wire, electric wire, tin, chain link or sheet metal fences constructed within the town, except that in districts zoned for industrial or commercial use that are not zoned Planned Unit Development ("PUD") or PUD Overlay, barbed wire may be allowed as a topping for woven wire industrial type fences, provided that the barbed wire shall be no closer than six feet from ground level. When such materials are utilized as noted above, they shall not be permitted within the principal building setback. Additionally, these prohibitions do not apply to PUD zoned districts that expressly provide for such fencing materials in an approved Final Development Plan ("FDP"). No traditional picket privacy fence shall be constructed so that the rail side faces the outside of the property or lot. (Ord. 568 §7, 2004; prior code §3-3;)

15.40.020 Permit required—Building inspector.

No fence shall be erected or constructed or permitted until a plan thereof has been presented to and approved by the building inspector and a permit has been issued in the manner now provided for the issuance of building permits. The noted plan shall depict the proposed location of all fencing, list all types of fencing materials proposed to be used, and contain such other information as may reasonably be required by the building inspector in order to evaluate the application. (Ord. 568 §8, 2004; prior code §3-4)

15.40.030 Street line and front setback.

Except in districts zoned for commercial or industrial use, no fence, wall more than eighteen inches above ground level or other construction shall be constructed between the street line and the front setback line on any street, except it shall be permissible to construct a fence of picket, ornamental iron or split rail in such manner that visibility through the fence shall not be less than fifty percent, and that the fence shall not exceed forty-two inches in height from ground level. In the excepted districts woven wire industrial type fences shall be allowed to a height not exceeding six feet. These requirements apply to all PUD zone districts unless otherwise specified in an approved FDP. (Ord. 568 §9, 2004; Prior code §3-5)

15.40.040 Fence on reverse corner lot.

A. On any reverse corner lot for a single-family dwelling located within a planned unit development (PUD) zone district, unless otherwise permitted in the approved final development plan, no fence shall be constructed beyond that point which is half-way between the street line and the front setback line of the adjacent single-family residence whose side yard is the rear line of the corner lot, except as follows: a permit may be issued for a picket, ornamental iron or split rail fence that does not exceed forty-two inches in height, as measured from the finished surface of the ground to the top of the fence at any point along the exterior of the fence, and that permits visibility through the fence of at least fifty percent.

B. On any reverse corner lot located within a non-PUD residential district, no fence shall be constructed within ten feet of the street line of the adjacent residence whose side yard is the rear line of the corner lot, except as follows: a permit may be issued for a picket, ornamental iron or split rail fence that does not exceed forty-two inches in height, as measured from the finished surface of the ground to the top of the fence at any point along the exterior of the fence, and that permits visibility through the fence of at least fifty percent. (Ord. 703 §1, 2008)

15.40.050 Reverse corner lot defined.

The term *reverse corner lot* means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear. (Prior code §3-6.2)

15.40.060 Fence on corner lot.

On all corner lots within any residence zones, no fence, wall, shrubbery or sign other than traffic control signs erected by the town, county or state shall be erected, placed, planted or allowed to grow or maintained within the triangular space formed by the intersection of the center lines of the intersecting streets and a line joining points on the street lines sixty feet from the point of intersection of the street center line. (Ord. 246 §28, 1988; prior code §3-7)

15.40.070 Height limitation.

No fences shall exceed six feet in height, as measured from the finished surface of the ground to the top of the fence at any point along the exterior of the fence. Additionally, no fence subject to Section 15.40.030 or Section 15.40.040 shall exceed forty-two inches in height, as measured from the finished surface of the ground to the top of the fence at any point along the exterior of the fence. (Ord. 506 §1, 2002; Ord. 457 §1, 2000; Prior code §3-8)

15.40.080 Gates may be required.

The building inspector, at his or her discretion, may require a gate or gates to be placed in any fence constructed in conformance with this code for the purpose of providing access for fire protection, for meter reading or for the use and maintenance of any existing easement, and the building inspector is further authorized to promulgate such rules as to the location of any such gate or gates. (Prior code §3-9)

15.40.090 Fence defined.

For purposes of this chapter, a *fence* is any structure or combination of structures that is comprised of posts, boards, wires, stakes, rails, metal, masonry, composition or wood, or any combination thereof or of similar elements, that provides a physical barrier, enclosure, screen or boundary. A combination of structural features, such as a retaining wall with wood above, constitutes a single fence unless there is a horizontal separation of three (3) feet or more between structural features. (Ord. 568 §11, 2004; Ord. 457 §2, 2000)

Chapter 15.44

Installation of Pipelines, Conduits, Transmission Lines and Cables

Sections:

- 15.44.010 Permit required.
- 15.44.020 Permit applications.
- 15.44.030 Permit denial—Authority.
- 15.44.040 Insurance required.
- 15.44.050 Repair of public property.
- 15.44.060 Annual inspection.
- 15.44.070 Suspension or revocation of permit.
- 15.44.080 Supervision of installation or removals.

- 15.44.090 Permit required for other excavation.
- 15.44.100 Excavation permit—Application.
- 15.44.110 Excavation permit—Fee.
- 15.44.120 Commencement and completion of work.
- 15.44.130 Barricades and lights.
- 15.44.140 Excavation width.
- 15.44.150 Sidewalks and gutters.

15.44.010 Permit required.

It is unlawful for any person, firm, or corporation to remove, install, construct, or otherwise put in place any pipeline, conduit, transmission line, cable, or other similar facility either above or below the ground surface in the town, without first having obtained a permit or franchise to do so from the board of trustees of the town, according to the provisions of this chapter, or with regard to franchises, according to applicable portions of this code. (Prior code §3-200)

15.44.020 Permit applications.

Prior to obtaining a permit under this chapter, an application shall be submitted to the town engineer through the town clerk. The application shall be accompanied by a nonrefundable fee of three hundred dollars, and shall contain the following information:

- A. The exact location of the installation or removal;
- B. Whether the removal or installation is to be above or below ground level;
- C. If excavation is to be utilized, the depth, width, and precise location thereof;
- D. If the installation or removal is to be on or above ground, the manner of removal or installation, and the exact location;
- E. The dates contemplated for commencing and finishing the removal or installation;
- F. The size, composition, and capacity of the installation;
- G. A description of procedures for installation or removal, including but not limited to safety precautions to be utilized;
- H. Whether or not the installation or removal will require cuts in or damage to any curbs, sidewalks, gutters or paving; and
- I. The proximity of the removal or installation to sidewalks, curbs, gutters, streets, structures, and other facilities of a similar nature. (Ord. 568 §12, 2004; Prior code §3-201)

15.44.030 Permit denial—Authority.

- A. The town clerk may deny an application for permit under this chapter upon a determination that:
 - 1. The applicant has failed to supply any of the information required on the application;

2. The applicant has failed to obtain required insurance;
3. The applicant has failed to pay the required permit fee;
4. The applicant is not qualified by experience, training, or education to engage in the activity authorized by the permit; or
5. The applicant has been finally convicted of an offense and would create danger to the public health, safety, or welfare if the applicant were to engage in such offensive conduct after the permit was issued.

B. If the town clerk denies a permit application under this section, the town clerk shall notify the applicant in writing stating the specific grounds for the denial. The applicant may thereafter appeal the denial of the application by the town clerk to the board of trustees. (Ord. 246 §48, 1988; prior code §201.1)

15.44.040 Insurance required.

Each applicant for a permit or franchise to put in place any pipeline, conduit, transmission line, cable, or other similar facility must furnish, with the application for such permit, proof of insurance current for all times for which the permit is sought, providing for the following minimum coverage: Workers' compensation insurance, public liability insurance coverage not less than two hundred fifty thousand dollars for injury or death to one person, not less than five hundred thousand dollars for injury or death to more than one person in a single accident or event, and public property damage insurance not less than one hundred twenty-five thousand dollars for damages to or destruction of property for any one accident. The applicant must keep current the insurance at all times for which the permit is issued and must file with the town clerk a certificate signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies of worker's compensation and public liability and property damage insurance as required, naming the town as an additional insured, the limits of each policy, the policy number, the name of the insurer, the effective date and the expiration date of each policy, and a copy of an endorsement placed on each policy requiring ten days' notice by mail to the town clerk before the insurer may cancel the policy for any reason. Nothing in this section shall be construed to be a waiver by the town, its officers, employees or agents, of sovereign immunity. Further, each applicant must agree to indemnify and save harmless the town against and from any and all damages and claims for damages, loss, costs, charges or expense that may be brought against the town by any person or entity for or on account of injury to persons or property resulting from or occasioned by reason of the act, omission to act or negligence of any person or entity acting under the permit or resulting from performance of work contemplated by the permit. (Ord. 246 §49, 1988; prior code §3-202)

15.44.050 Repair of public property.

The applicant shall enter into an agreement with the town for the repair and/or replacement of any damage or loss caused the town by the installation or removal, including but not limited to damage or loss to streets, alleys, sidewalks, curbs, gutters, paving, parks, or other public property or public ways. Such agreement shall require as a condition thereof a bond or other surety deemed appropriate by the board of trustees for the completion of any repairs or replacements. (Prior code §3-203)

15.44.060 Annual inspection.

Each permit issued hereunder shall be issued on an annual basis and may be renewed annually on the following conditions:

- A. The provisions of this section are fully complied with; and
- B. The permittee has caused an inspection to be made, ,annually, of each installation, appliances and equipment; and
- C. The permittee has filed with the town clerk a written report of such annual inspection, within fourteen days of the completion of the inspection, certifying the safety of each such installation; and
- D. The permittee shall bear and pay the entire cost of the inspection and report. (Ord. 246 §50, 1988; prior code §3-204)

15.44.070 Suspension or revocation of permit.

A. In addition to any other provisions of this code or other ordinances of the town, the town clerk may suspend or revoke a license or permit issued under this title if:

- 1. The licensee fails to meet the qualifications required of an applicant;
- 2. The licensee violates any provision of this code or other ordinance of the town governing the activities permitted by the license;
- 3. The licensee obtained the license by fraud or misrepresentation;
- 4. The licensee is finally convicted of an offense and would create a danger to the public health, safety or welfare of the citizens of the town if the licensee were to engage in such conduct after the license was issued;
- 5. The installation or removal or continued maintenance by the licensee of a pipeline, conduit, transmission line, cable or other facility, is determined to constitute a hazard to the public health, safety or welfare of the citizens of the town.

B. If the town engineer finds one of the grounds in subsection A of this section or any other ground for suspension or revocation in this code, the town building department shall determine whether to revoke the license for the remainder of its term or suspend it for any shorter period according to the severity of the disqualification, its effect on public health, safety, and welfare, and the time during which the disqualification can be remedied, if at all.

C. Before the hearing required by subsection D of this section, the town clerk may suspend a license for up to fourteen days, if the town clerk determines that the suspension is in the interest of public health, safety, and welfare. The town clerk may include in the temporary suspension reasonable orders or conditions with which the licensee shall comply to protect any work in progress and the public health and safety. Any breach of such conditions or orders is an independent ground for suspension or revocation of the license.

D. Except for such emergency suspension authorized by subsection C of this section, no such suspension or revocation is final until the licensee has been given the opportunity for a hearing before the board of trustees to contest the suspension or revocation.

E. If, after a hearing, the suspension or revocation is upheld, the town clerk may include reasonable orders or conditions with which the person whose license has been suspended or revoked shall comply to protect any work in progress and the public health, safety and welfare.

F. No person whose license is revoked under this title may receive a refund of any part of the license fee paid for the license.

G. No person who has had a license suspended or revoked under this title is entitled to obtain the same or any similar license under this code during the period of suspension or revocation, either in the person's own name or as a principal in another business that applies for a license.

H. Nothing in this title shall be deemed to prohibit the town clerk or other authority from imposing other penalties authorized by this code or other ordinance of the town, including filing a complaint in the town court for a violation of this code or other ordinance of the town. (Ord. 568 §13, 2004; Ord. 246 §51, 1988; prior code §3-205)

15.44.080 Supervision of installation or removals.

All installations or removals shall be supervised by the town engineer or other official as may be designated by the board of trustees to insure compliance with the code of the town. (Prior code §3-206)

15.44.090 Permit required for other excavation.

It is unlawful for any person, other than those complying with Sections 15.44.010 through 15.44.080, to excavate, cut, open or trench in or under any street, sidewalk, curb, gutter, curbside, alley or other public place without having first obtained a permit from the town clerk. A complete set of rules and regulations shall be prepared by the town engineer and approved by the board of trustees describing the procedures, precautions and specifications under which the excavation work and backfilling shall be done and any other provisions deemed necessary to be in the best interests of the town in connection therewith. (Prior code §3-207)

15.44.100 Excavation permit—Application.

Every person desiring to do any of the excavation work shall apply to the town clerk for a permit therefor on a form provided by the town, stating the applicant's name, the location, length, width and purpose of the proposed excavation, the amount of the permit fee, the dates of commencement and completion of the work and a statement that the work will be performed in strict compliance with the plans, specifications and procedures furnished by the town engineer. (Prior code §3-208)

15.44.110 Excavation permit—Fee.

A fee of ten dollars per square foot or fraction thereof shall be paid to the town prior to the issuance of excavation permits for paved streets. A fee of five dollars per square foot shall be paid to the town prior to the issuance of excavation permits for unpaved streets. The fee shall be retained by the town until such time as the town engineer, or other town employee under his supervision, shall sign the excavation permit indicating that all excavation, backfill and repairs have been completed according to the rules and regulations described in Section 15.44.090. Upon presentation to the town building department of the completed permit,

all funds will be refunded except fifty dollars which shall be retained by the town and is nonrefundable. (Ord. 568 §14, 2004; Prior code §3-209)

15.44.120 Commencement and completion of work.

All work authorized by a permit issued pursuant to this section shall be commenced within a reasonable time after issuance of the permit and shall be diligently and continuously performed until completion. In the event that weather, process of law or any other unexpected obstacles shall cause work to be stopped for so long a time that public travel shall be unreasonably obstructed, the town engineer may order the excavation refilled and repaved as if the work contemplated in the permit were actually completed. (Prior code §3-210)

15.44.130 Barricades and lights.

Every person making or causing to be made any excavation shall keep the excavation barricaded at all times, and between the hours of sunset and sunrise, he shall keep such excavation properly lighted so as to warn all persons thereof. (Prior code §3-211)

15.44.140 Excavation width.

No opening or excavation shall be undercut or have a greater width at the bottom than at the top. In no case shall more than one-half of the width of any street, alley or other public place be opened or excavated at any one time, and, in all cases, one-half of such street, alley or other public place shall remain untouched for the accommodation of traffic until the other one-half is restored for safe use. All such work shall be performed in such way as to cause minimum inconvenience and restriction to the public and to both pedestrian and vehicular traffic. (Prior code §3-212)

15.44.150 Sidewalks and gutters.

It is unlawful for any person performing any excavation work to place any dirt or other materials upon any sidewalk or in any gutters and such work shall be performed so as to permit the free passage of water along the gutters. (Prior code §3-213)

Chapter 15.48

Oil or Gas Wells

Sections:

- 15.48.010 Purpose.
- 15.48.020 Definitions.
- 15.48.030 Requirements and procedures.
- 15.48.040 Application elements.
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- 15.48.060 Notice to proceed.
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- 15.48.100 Noise regulation and special mitigation measures.
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- 15.48.120 Abandonment and plugging of wells.
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- 15.48.140 Signage.
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- 15.48.170 Access roads.
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- 15.48.200 Violation and enforcement.

15.48.010 Purpose.

These regulations are enacted to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the present and future residents of the town. It is the town's intent by enacting these regulations to facilitate the development of oil and gas resources within the town while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. 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 these regulations and any applicable statutory and regulatory requirements. The state has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources, and in the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits in a manner that is consistent with the protection of public health, safety and welfare. 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. Municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority. (Ord. 317 §1(part), 1995)

15.48.020 Definitions.

All terms used in this chapter that are defined in the Act or in Commission regulations and are not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this chapter. All other words used in this chapter are given their usual customary and accepted meaning, and all words of a technical nature, or peculiar to the oil and gas industry, shall be given that meaning which is generally accepted in said oil and gas industry. When not clearly otherwise indicated by the context, the following words and phrases used in this chapter have the following meanings:

A. Definitions.

1. *Act* means the Oil and Gas Conservation Act of the state.
2. *Commission* or "OGCC" means the Oil and Gas Conservation Commission of the state.
3. *Day* means a period of twenty-four consecutive hours.
4. *Director* means the director of the Oil and Gas Conservation Commission of the state.
5. *Injection well* means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage or disposal, pursuant to authorizations granted by the Commission.

6. *Inspector* means any person designated by the town or by the town's designee, who shall have the authority to inspect well sites to determine compliance with this chapter and other applicable ordinances of the town.

7. *Oil and gas well* means any hole drilled into the earth for the purpose of exploring for or extracting oil, gas or other hydrocarbon substances.

8. *Operating plan* means a general description of a well site or a production site identifying purpose, use, typical staffing, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure and any other information related to regular functioning of that facility.

9. *Operator* means the person designated by the working interest owners as operator and named in Commission Form 2 or a subsequently filed Commission Form 10.

10. *Owner* means any person with a working interest ownership in oil and gas or a leasehold interest therein.

11. *Production site* means the area surrounding proposed or existing production pits or other accessory equipment required for oil and gas production, at which may also be located tanks and tank batteries, exclusive of transmission and gathering pipelines.

12. *Reentering* means accessing an existing well bore for either the original or amended purpose, provided that such well has not been abandoned.

13. *Sidetracking* means entering the same wellhead from the surface, but not necessarily following the same well bore, throughout its subsurface extent when deviation from such well bore is necessary to reach the objective depth because of an engineering problem.

14. *Twinning* means the drilling of a well within a radius of fifty feet from an existing well bore when the well cannot be drilled to the objective depth or produced because of an engineering problem, such as a collapsed casing or formation damage.

15. *Use tax* means the tax paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the town.

16. *Well* means an oil and gas well or an injection well.

17. *Wellhead* means the equipment attaching the surface equipment to the well bore equipment at the well.

18. *Well site* means that area surrounding a proposed or existing well or wells, and accessory structures and equipment necessary for drilling, completion, recompletion, workover, development and production activities.

B. All terms used herein that are defined in the Act or in Commission rules and regulations and are not otherwise defined in Subsection A of this section shall be defined as provided in the Act or in such rules and regulations. (Ord. 317 §1(part), 1995)

15.48.030 Requirements and procedures.

A. Proposed New Wells, Redrilling Certain Wells and Other Specified Enhancement Operations.

1. It shall be unlawful for any person to drill a well that has not been previously permitted under this chapter, to reactivate a plugged or abandoned well or to perform initial installation of accessory equipment or pumping systems (in cases where a well is not being drilled) unless a special use permit has first been granted by the town in accordance with the procedures in this chapter.

2. The granting of such special use permit shall not relieve the operator from otherwise complying with all applicable regulatory requirements of the town, the state and the United States.

3. When a special use permit has been granted for a well, reentry of such well for purposes of sidetracking, twinning, deepening, recompleting or reworking shall not require a separate special use permit.

4. The special use permit is limited to the current proposed facilities as shown in the approved plan. To the extent the applicant desires, after initial completion of a well, to place additional production facilities or other equipment on a tank battery or wellhead location which was not shown in the approved plan, the applicant must, except in a situation where additional equipment is necessary for and will be removed within a period of fourteen days or less, obtain approval pursuant to the following procedures:

a. The applicant shall submit to the town an application to expand the special use permit. The applicant shall submit a copy of the approved special use permit and plans with the details, including height, equipment specifications, operational noise levels and placement of the proposed additional production facilities and equipment and any other changes requested. The applicant shall submit information regarding the level of noise that will be emitted by the well and well site with the proposed changes.

b. Town staff shall evaluate the applicant's submittal for expanding the special use and, if the director of operations determines that the proposed changes do not: (i) increase the noise levels emitted from the well and well site operations; (ii) increase the height of any equipment beyond the maximum height permitted in the special use permit; (iii) increase either the frequency or intensity of vehicle traffic necessary for well site operations, whether by changes in vehicle types or sizes or by increases in vehicle trips; or (iv) otherwise increase the use intensity as permitted in the special use permit, then the director of operations may administratively approve the proposed expansion of the special use permit. If, however, the director of operations finds that the proposed expansion of the special use permit does not meet any of the criteria set forth herein, then the application shall be reviewed by the board of trustees pursuant to the criteria set forth in Section 15.48.050 of this chapter.

5. Within thirty days after completion of operations, the applicant shall provide to the town "as-built" drawings showing all facilities, pipelines, flow lines and gathering lines which the applicant has placed on the land subject to the permit.

B. Inspections. In recognition of the potential impacts associated with oil and gas drilling and well operating in an urban setting, all wells and accessory equipment and structures may be inspected by the inspectors of the town at reasonable times to determine compliance with applicable provisions of this chapter, the Uniform Fire Code and the Uniform Building Code. For the purpose of implementing and enforcing the

provisions of this chapter, town personnel have the right to enter upon private property after reasonable notification to the operator, which provides the operator an opportunity to be present.

C. Inspection Fee.

1. For all wells within the town, the inspection fee shall be four hundred dollars per well for each year or part of a year during which such well has not been plugged and abandoned. No inspection fee shall be due for any year following the year in which a well is plugged and abandoned, unless a new special use permit is granted with respect to such well. No inspection fee shall be due for any calendar year in which the fee for an application for special use permit, as provided in Subsection E of Section 15.48.030 hereof, is paid. Any inspection fee which becomes due and payable after January 1 of each year shall be paid by the operator within thirty days after receipt of an invoice from the town. An operator contesting the amount of the invoice may, upon payment of the invoice under protest, appeal directly to the board of trustees.

2. If the operator fails to pay the inspection fee imposed by this section when due, a penalty of ten percent shall be added to the amount of the fee due, together with interest on the amount due at the rate of one percent for each month or portion thereof for which the fee is unpaid. The town clerk may, in his or her sole discretion, waive the penalty for good cause shown.

3. The town may recover in an action at law the amount of the inspection or other fees and costs imposed by the provisions of this Section, penalty and interest due and unpaid under this chapter as well as all costs, including attorney fees, incurred by the town if it prevails in the enforcement of this chapter.

D. Use Tax. All operators must conform to applicable provisions of this code relating to taxation.

E. Application Fee. A nonrefundable fee of one thousand dollars shall accompany the application. (Ord. 712 §1, 2009; Ord. 667 §1, 2008; Ord. 317 §1(part), 1995)

15.48.040 Application elements.

An application for a special use permit pursuant to this chapter shall be filed with the town clerk and shall include the following information:

A. Application Requirements - Site Plans. The site plans for a well site submitted with an application for a use by special review shall be submitted on one or more plats or maps, at a scale not less than one inch to fifty feet, showing the following information:

1. The proposed location of production site facilities or well site facilities associated with the well in the event production is established, if applicable. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within six hundred sixty feet of the well site shall be shown.

2. The location of layout including, without limitation, the position of the drilling equipment and related facilities and structures, if applicable.

3. True north arrow.

4. Existing improvements, if any, within a radius of six hundred sixty feet of the proposed well.

5. Existing utility easements and other rights-of-way of record, if any, within a radius of six hundred sixty feet of the proposed well.

6. Existing irrigation or drainage ditches within four hundred feet of the well site or production site, if any.

7. Applicant's drainage and erosion control plans for the well site or production site and the area immediately adjacent to such site, if applicable.

8. Location of access roads.

9. Well site or production site and existing lease boundaries.

10. The names of abutting subdivisions or the names of owners of abutting, unplatted property within four hundred feet of the well site or production site.

11. The name and address of the operator and the name of the person preparing the site plan or map.

B. Application Requirements - Vicinity Maps. The vicinity maps for a well site or production site submitted with an application for a use permitted by special review shall be submitted on one or more plats or maps showing the following information:

1. Location of all existing waterbodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7.5 minute series or assessor base maps which indicate topographic detail and show all existing waterbodies and watercourses with a physically defined channel within a four-hundred-foot radius of the proposed well.

2. Location of existing oil and gas wells as reflected in OGCC records. This information shall be submitted on a map and shall include any and all wells within a one-thousand-foot radius of the proposed location for the well.

3. Location of Drill Site - The information to be submitted shall be Commission Form 2 and shall include the Parcel Tax Identification Number.

C. Application Requirements - Narrative. In addition to the site plans and the vicinity map(s) required in subsections A and B of this section, the application shall include the following:

1. The operator's and surface owner's names and addresses, copies of any required OGCC Form 2 and designation of agent, if applicable.

2. An operating plan.

3. A list of all permits or approvals obtained or yet to be obtained from local, state or federal agencies other than OGCC.

4. An emergency response plan that is mutually acceptable to the operator and the appropriate fire district that includes a list of local telephone numbers of public and private entities and individuals to

be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities.

5. A plan for weed control at the well site.

6. A fire protection plan that is mutually acceptable to the operator and the appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to the application to the town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.

7. Sanitary facilities must comply with Section 602(g) of the OGCC regulations. (Ord. 317 §1(part), 1995)

15.48.050 Review criteria.

The board of trustees shall approve an application for a use permitted by special review for a well site if the application submitted by the applicant conforms to the following requirements:

A. The site plan for a well site application complies with the requirements of Section 15.48.040A of this chapter.

B. The vicinity map for a well site application complies with the requirements of Section 15.48.040B of this chapter.

C. The narrative for a well site application complies with the requirements of Section 15.48.040C of this chapter.

D. The well location and setbacks comply with Section 15.48.080 of this chapter.

E. When applicable, compliance with the provisions for mitigation of noise required in Section 15.48.100 of this chapter.

F. When applicable, compliance with the provisions for visual special mitigation required in Section 15.48.110 of this chapter.

G. When applicable, compliance with the provisions for geologic hazards, floodplains or floodway required in Section 15.48.160 of this chapter.

H. When applicable, compliance with the provisions for wildlife mitigation procedures required in Section 15.48.180 of this chapter.

I. The board of trustees' decision shall be based upon evidence presented in the application and at public hearing. Following the conclusion of the public hearing, the board of trustees may proceed to render its provisional decision orally on the application, or it may take the matter under advisement until an announced date certain not to exceed fourteen days, at which time it shall orally render its decision. In the event that an application is granted with conditions, the applicant may, within fourteen days of the board's decision, request a rehearing to demonstrate that removal or modification of one or more of the conditions is necessary to prevent waste or protect owners of correlative rights in a common source to a fair share of production profits or that the decision is otherwise inconsistent with state laws and

regulations. Following the board of trustees' oral announcement of its decision, and any subsequent rehearing, a written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings of the board of trustees. Such written resolution shall be adopted within twenty-one days of the announcement of the board of trustees' oral decision, unless the applicant requests rehearing, in which case the written resolution shall be adopted within thirty days of the oral decision. For the purposes of judicial review, the board of trustees' final action or decision on an application shall be deemed to have been made as of the date upon which the board of trustees executes the written resolution, which shall constitute the final decision of the board of trustees. (Ord. 317 §1(part), 1995)

15.48.060 Notice to proceed.

Prior to commencement of operations for which a use permitted by special review has been approved, a "Notice to Proceed" shall be obtained from the town clerk. The town clerk shall issue the "Notice to Proceed" upon receipt of the following:

- A. A copy of the resolution approving a use permitted by special review for a well or wells.
- B. A copy of the approved site plan.
- C. A copy of an approved extra legal vehicle or load permit issued by the town clerk pursuant to this code, if applicable.
- D. Copies of any necessary state or federal permits issued for the operation, if not previously submitted. (Ord. 317 §1(part), 1995)

15.48.070 Building permit.

Building permits must be obtained for all aboveground structures to which the Uniform Building Code applies. (Ord. 317 §1(part), 1995)

15.48.080 Well location and setbacks.

A. All wells shall be set at a distance not less than the minimum setback allowed by OGCC rules and regulations.

B. Notwithstanding the foregoing, but subject to the exception in subsection C hereof, in all areas of the town, the following apply:

- 1. A wellhead location shall be set back not less than three hundred fifty feet from any occupied building or occupied building permitted for construction and shall be set back not less than seventy-five feet from any public right-of-way.
- 2. Production tanks and/or associated on-site production equipment shall be set back not less than three hundred fifty feet from any occupied building or occupied building permitted for construction and shall be set back not less than seventy-five feet from any public right-of-way.

C. Location and setback requirements will be waived if an exception has been granted by the Director pursuant to Rule 603(b) of the Commission, and a copy of waivers from each person owning an occupied

building or building permitted for construction within three hundred fifty feet of the proposed location is submitted as part of the application for use by special review. (Ord. 317 §1(part), 1995)

15.48.090 Compliance with state environmental requirements.

The approval of an oil and gas special use permit shall not relieve the operators from complying with all current applicable state and federal regulations and standards concerning air quality, water quality and waste disposal. (Ord. 317 §1(part), 1995)

15.48.100 Noise regulation and special mitigation measures.

A. The approval of a special use permit shall not relieve an operator from complying with all applicable state laws and regulations concerning noise.

B. Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all occupied buildings to the extent practicable.

C. Where a well and well site do not comply with the required setback or other requirements of this chapter or where the well and well site are in an area of particular noise sensitivity, additional noise mitigation may be required. An area of particular noise sensitivity includes but is not limited to the following: hospitals, dwelling units, nursing homes, hotels, churches and designated wildlife preserves. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:

1. Nature, proximity, location and type of adjacent development;
2. Prevailing weather patterns, including wind directions;
3. Vegetative cover on or adjacent to the site; or
4. Topography.

D. The level of required mitigation may increase with the proximity of the well and well site to areas of particular noise sensitivity or the level of noise emitted by the well and well site. One or more of the following additional noise abatement measures may be required:

1. Acoustically insulated housing or cover enclosing the motor or engine;
2. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted, and proposed mitigation measures; or
3. Any abatement measures required by the Commission for high-density areas, if applicable. (Ord. 317 §1(part), 1995)

15.48.110 Visual impact/aesthetics regulation and special impact measures.

A. Visual Impacts and Aesthetics.

1. To the maximum extent practicable, oil and gas facilities shall be located away from prominent natural features, such as distinctive rock and land forms, vegetative patterns, ditch crossings, town-approved open space areas and other approved landmarks.

2. To the maximum extent practicable, oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.

3. To the maximum extent practicable, the applicant shall use structures of minimal size to satisfy present and future functional requirements.

4. To the maximum extent practicable, when clearing trees and vegetation for construction of oil and gas facilities, the applicant shall feather and thin edges of vegetation.

5. To the maximum extent practicable, the applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.

6. The applicant shall replace earth adjacent to water crossings at slopes less than the normal angle of repose with the soil type of the site.

7. To the maximum extent practicable, the applicant shall align access roads to follow existing grades and minimize cuts and fills.

8. Facilities shall be painted as follows:

a. Uniform, noncontrasting, nonreflective color-tones.

b. Color matched to land, not sky, slightly darker than adjacent landscape.

c. Exposed concrete colored to match soil color.

B. Special Mitigation Measures - Visual. Where a well or well site does not comply with the required setback or other requirements of this chapter, or in areas of increased visual sensitivity, such as a location near an occupied subdivision, the applicant shall submit a visual mitigation plan including one or more of the following standards, as appropriate:

1. To the maximum extent practicable, exterior lighting shall be directed away from residential areas, or shielded from said areas to eliminate glare.

2. One or more of the following landscaping practices may be required, where practicable, on a site specific basis:

a. Establishment and proper maintenance of ground covers, shrubs and trees.

b. Shaping cuts and fills to appear as natural forms.

c. Cutting rock areas to create irregular forms.

d. Designing the facility to utilize natural screens.

e. Construction of fences for use with or instead of landscaping.

C. Other Special Mitigation Measures. The applicant shall keep town and private streets or roads reasonably free of mud or other materials during drilling and completion operations and during well operations. The applicant shall use its best efforts to keep the well site free of trash, litter and other refuse during and at the completion of drilling and shall not in any case bury said trash. The operator shall construct and manage pits in accordance with applicable state and federal regulations. (Ord. 317 §1(part), 1995)

15.48.120 Abandonment and plugging of wells.

The approval of a use permitted by special review shall not relieve the operator from complying with all Commission rules with respect to abandonment and plugging of wells. The operator shall provide the town with Commission Form 4 at the time that it is filed with the Commission. The applicant shall abandon flowlines in accordance with applicable state rules and regulations. (Ord. 317 §1(part), 1995)

15.48.130 Seismic operations.

The approval of a use permitted by special review shall not relieve the operator from complying with all Commission rules and regulations with respect to seismic operations. All notices which an operator is required to file with the Commission with respect to seismic operations shall be filed with the town on a timely basis. The town shall comply with the same confidentiality requirements which bind the Commission. (Ord. 317 §1(part), 1995)

15.48.140 Signage.

The approval of an oil and gas special use permit shall not relieve the operator from complying with all Commission rules with respect to signs. In addition, the operator shall maintain in good, readable condition all signs required by Commission regulations. (Ord. 317 §1(part), 1995)

15.48.150 Reclamation.

The approval of a special use permit shall not relieve the operator from complying with all Commission rules and regulations with respect to site reclamation. (Ord. 317 §1(part), 1995)

15.48.160 Geologic hazard/floodplain/floodway location restrictions.

All equipment at well sites and production sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement or subsidence and to the extent necessary to comply with the Federal Emergency Management Act. (Ord. 317 §1(part), 1995)

15.48.170 Access roads.

All private roads used to maintain access to the tank batteries or the well site shall be improved and maintained according to the following standards:

A. Tank Battery Access Roads. Access roads to tank batteries shall be subject to review by the town's engineer in accordance with the following minimum standards:

1. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of six inches thick compacted to a minimum density of ninety-five percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 3, Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition.

2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the town's engineer.

3. Maintained so as to provide a passable roadway reasonably free of ruts at all times.

B. Wellhead Access Roads. Access roads to wellheads shall be subject to review by the town's engineer in accordance with the following minimum standards:

1. A graded, dirt roadway compacted to a minimum density of ninety-five percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures, and approved by the town's engineer.

2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval by the town's engineer.

3. Maintained so as to provide a passable roadway generally free of ruts.

C. Public Access Roads. An extra-legal vehicle or load permit shall be required for all extra-legal vehicles or loads as defined in Sections 42-4-401 through 411, C.R.S., which use town streets. Said permit, if required, shall be obtained from the town clerk prior to such use. The applicant shall comply with all town and state regulations regarding weight limitations on streets within the town and the applicant shall minimize extra-legal truck traffic on streets within the town. (Ord. 317 §1(part), 1995)

15.48.180 Wildlife impact mitigation.

A. Wildlife. When a well site or production site is located within a designated moderate (blue) or high impact zone (red) on the 1987 Cumulative Impact Maps prepared by the Colorado Division of Wildlife, the applicant shall consult with the Colorado Division of Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. The operator shall implement such mitigation procedures as are recommended by the Colorado Division of Wildlife after consultation with the town.

B. Endangered Species. The applicant shall not engage in activities which, in the opinion of the Colorado Division of Wildlife, threaten endangered species. (Ord. 317 §1(part), 1995)

15.48.190 Emergency response costs.

The operator shall reimburse the town or the fire district for any emergency response costs incurred by the town or the fire district in connection with activity at the well site or production site, except that the operator

shall not be required to pay for emergency response costs where the response was precipitated by the mistake of the town. (Ord. 317 §1(part), 1995)

15.48.200 Violation and enforcement.

A. Unlawful to Construct or Install Unapproved Oil and Gas Facilities. Except as otherwise provided in this chapter, it is unlawful to construct, install or cause to be constructed or installed any oil and gas facility within the town unless approval has been granted by the board of trustees. The unlawful drilling or redrilling of any well or the production therefrom is a violation of this chapter.

B. Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses, or which causes to be constructed, installed or used, any oil, gas or injection well, well site or production site or commits any act or omission in violation of any provision of this chapter or of the conditions and requirements of the oil and gas special use permit may be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. Each day of such unlawful operation constitutes a separate violation.

C. 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 or the conditions and requirements of the oil and gas special use permit, the town 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.

D. False or Inaccurate Information. The board of trustees may revoke an oil and gas special use permit if it is determined, after an administrative hearing held on at least ten days' notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants or employees, knew, or reasonably should have known, was materially false, misleading, deceptive or inaccurate.

E. Prospective Application. Unless specifically provided otherwise, this chapter shall apply only to wells which are drilled in the town on and after the date that this chapter is adopted. The reentering of a well in existence prior to the date of adoption of this chapter for purposes of deepening, recompleting or reworking shall not require approval of a use permitted by special review.

F. Recovery of Fees. Should the town prevail in any action for legal or equitable relief for a violation of the provisions of this chapter, in addition to any other penalties or remedies which may be available, the town shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorney's fees incurred. (Ord. 317 §1(part), 1995)

Chapter 15.52

Floodplain Regulations

Sections:

- 15.52.010 Authorization.
- 15.52.020 Definitions.

- 15.52.030 Findings of fact.
- 15.52.040 Provisions--Purpose.
- 15.52.050 Provisions--Generally.
- 15.52.060 Provisions--Greater restrictions to apply.
- 15.52.070 Provisions--Interpretation.
- 15.52.080 Provisions--Applicability.
- 15.52.090 Special flood hazard areas--Basis for establishment.
- 15.52.100 Flood hazard reduction--General standards.
- 15.52.110 Flood hazard reduction--Specific standards.
- 15.52.120 Floodways.
- 15.52.130 Development permit.
- 15.52.140 Local administrator--Designation.
- 15.52.150 Local administrator--Powers and duties.
- 15.52.160 Variance procedure.
- 15.52.170 Liability--Disclaimer.
- 15.52.180 Violation--Penalties.

15.52.010 Authorization.

The Legislature of the state of Colorado has in Title 31, Article 23, C.R.S. 1973, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore the town board ordains as set out in this chapter. (Ord. 237 §1, 1987; prior code §10-125)

15.52.020 Definitions.

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Appeal" means a request for review of the local administrator's interpretation of any provision of this chapter or a request for a variance.
2. "Area of shallow flooding" means a designated AO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.
3. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
4. "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.
5. "Critical feature" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
6. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

7. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters, and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

8. "Flood insurance rate map" (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

9. "Flood insurance study" means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the flood boundary floodway map and water surface elevation of the base flood.

10. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

11. "Levee" means a manmade structure, usually an earthen embankment, 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.

12. "Levee system" means 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.

13. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor.

14. "Manufactured home" means a single-family dwelling which:

- a. Is partially or entirely manufactured in a factory;
- b. Is not less than twenty-four feet in width and thirty-six feet in length;
- c. Is installed on an engineered permanent foundation;
- d. Has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and
- e. 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 such certification is confirmed prior to the issuance of a building permit.

15. "Mean sea level" means, for purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

16. "Mobile home" means a structure, transportable in one section, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein, and bears the insignia of approval of the Division of Housing of Colorado and has not been altered since receiving such approval.

17. "New manufactured home park or manufactured subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of the ordinance codified in this section.

18. "Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards in Sections 60.3, 60.4, 60.5 or 60.6.

19. "Remedy a violation" means to bring the structure or other development into compliance with state or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

20. "Start of construction" includes substantial improvement and means the date the building permit was issued, provided that actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means 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 a 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.

21. "Structure" means a walled and roofed building, a mobile home, or a gas or liquid storage tank, that is principally above ground.

22. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affected the external dimensions of this structure.

The term does not, however, include either:

a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

23. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

24. "Violation" means 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 NFIP Standards Sections 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

25. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 589 §§1, 2, 2005; Ord. 242 §5, 1988; Ord. 237 §2, 1987.; Ord. 139 §1., 1980; Ord. 134 §1(part), 1979; prior code §10-129)

15.52.030 Findings of fact.

A. The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other area. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute of the flood loss. (Ord. 134 §1(part), 1979; prior code §10-126)

15.52.040 Provisions—Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

A. To protect human life and health;

B. To minimize expenditure of public money for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expenses of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To ensure that potential buyers are notified that property is in an area of special flood hazards; and

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 134 §1(part), 1979; prior code §10-127)

15.52.050 Provisions--Generally.

In order to accomplish its purposes, this chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

D. Controlling filling, grading, dredging and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 134 §1(part), 1979; prior code §10-128)

15.52.060 Provisions--Greater restrictions to apply.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 134 §1(part), 1979; prior code §10-133)

15.52.070 Provisions--Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 134 §1(part), 1979; prior code §10-134)

15.52.080 Provisions--Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the town. (Ord. 134 §1(part), 1979; prior code §10-130)

15.52.090 Special flood hazard areas--Basis for establishment.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Firestone, Weld County, Colorado," dated June 1, 1979, with accompanying flood insurance rate maps and flood boundary-floodway maps is adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the Town Hall, town of Firestone, Colorado. (Ord. 242 §1, 1988; Ord. 134 §1(part), 1979; prior code §10-31)

15.52.100 Flood hazard reduction--General standards.

In all areas of special flood hazards the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement and to withstand hydrodynamic loads.

2. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over the-top and frame ties to ground anchors. Special requirement shall be:

a. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than fifty feet long requiring one additional tie per side;

b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than fifty feet long requiring four additional ties per side;

c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred pounds; and

d. Any additions to the mobile home be similarly anchored.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that 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 professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty lots or five acres (whichever is less). (Ord. 237 §5(part), 1987; Ord. 134 §1(part), 1979; prior code §10-40(1))

15.52.110 Flood hazard reduction--specific standards.

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 15.52.090 or 15.52.140(D) the following standards are required:

A. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least eighteen inches above base flood elevation.

1. It is required that, within any AO and AH zone on the FIRM, all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated at least eighteen inches above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).

2. It is required that, within zones AO and AH, there be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

B. Nonresidential Construction. New construction and industrial or other nonresidential structures shall either have the lowest floor, including basement, elevated to at least eighteen inches above base flood elevation; or together with attendant utility and sanitary facilities shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 15.52.140(F).

4. It is required that, within any AO and AH zone on the FIRM, all new construction and substantial improvements of nonresidential structures (a) have the lowest floor (including basement) elevated at least eighteen inches above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (b) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standards specified in subdivisions 1, 2 and 3 of this subsection.

5. It is required that, within zones AO and AH, adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

C. Manufactured Homes.

1. No mobile home shall be placed in a floodway, except in an existing mobile home park or an existing mobile home subdivision. A mobile home placed within a floodway shall be anchored in accordance with Section 15.52.100(A)(2)(a through d).

2. All manufactured homes or those to be substantially improved shall be elevated on a permanent concrete foundation such that the lowest floor of the manufactured home is at least eighteen inches above the base flood elevation and is securely anchored to an adequately anchored foundation system.

3. Except as provided in this subsection, all dwellings shall be constructed on a permanent concrete foundation which foundation shall have the following minimum characteristics:

a. It shall be constructed to be below estimated frost depth.

b. The foundation shall be located directly below not less than ninety percent of the outside perimeter of the first floor building wall.

c. The foundation shall be at a minimum eight inches in thickness.

4. All mobile homes, manufactured homes and other dwelling structures located within the flood plain shall have flood vents and such other flood hazard reduction components as are required by applicable FEMA regulations. (Ord. 589 §3, 2005; Ord. 246 §§134, 135, 136, 1988; Ord. 242 §§3, 4,

1988; Ord. 237 §5(part), 1987; Ord. 196 §§1, 2, 3, 1983; Ord. 134 §1(part), 1979; prior code §10-140(2))

15.52.120 Floodways.

Located within areas of special flood hazard established in Section 15.52.090 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 apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 15.52.100 and 15.52.110. (Ord. 237 §5(part), 1987; Ord. 134 §1(part), 1979; prior code §10-140(3))

15.52.130 Development permit.

A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.52.090. Application for a development permit shall be made on forms furnished by the town and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

B. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 15.52.110(B);
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 134 §1(part), 1979; prior code §10-136)

15.52.140 Local administrator—Designation.

The town clerk is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 139 §2, 1980; Ord. 134 §1(part), 1979; prior code §10-137)

15.52.150 Local administrator—Powers and duties.

Duties of the local administrator shall include, but not be limited to:

A. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

B. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

C. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 15.52.120(A) are met;

D. When base flood elevation data has not been provided in accordance with Section 15.52.090, the local administrator shall obtain, review and reasonably utilize any base elevation and floodway data available from a federal, state or other source, in order to administer Sections 15.52.110 (A) or (B);

E. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

F. For all new substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level to which the structure has been floodproofed), and

2. Maintain the floodproofing certifications required in Section 15.52.130(B)(3);

G. Maintain for public inspection all records pertaining to the provisions of this chapter;

H. Notify the Colorado Water Conservancy Board and adjacent communities prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

I. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;

J. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.52.160. (Ord. 242 §2, 1988; Ord. 237 §4, 1987; Ord. 139 §§3, 4, 1980; Ord. 134 §1(part), 1979; prior code §10-138)

15.52.160 Variance procedure.

A. Appeal Board.

1. The board of adjustment as established by the town shall hear and decide appeals and requests for variances from the requirements of this chapter.

2. The board of adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.

3. Those aggrieved by the decision of the board of adjustment or any taxpayer, may appeal such decision to the district court, as provided by Colorado statutes.

4. In passing upon such applications, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger of life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of waterfront location, where applicable;
- f. The availability of alternative locations for the proposed uses which are not subject to flooding or erosion;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

5. Upon consideration of the factors of subdivision 4 of this subsection of this section and the purposes of this chapter, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

6. The board of adjustment shall maintain the records of all appeal actions, including technical information and report any variances to the Federal Insurance Administration upon request.

B. Conditions for Variances.

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing

structures constructed below the base flood level, providing subparagraphs a through k of subsection A(4) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. 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 section.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. 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 as identified in subsection A(4) of this section, or conflict with existing local laws or ordinances.

6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevations and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 139 §5, 1980; Ord. 134 §1(part), 1979; prior code §10-139)

15.52.170 Liability--Disclaimer.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the area of special flood hazards 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 town, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 134 §1(part), 1979; prior code §10-135)

15.52.180 Violation--Penalties.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation of this code. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be

fined not more than three hundred dollars or imprisoned for not more than ninety days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing contained in this chapter shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 134 §1(part), 1979; prior code §10-132)