

CHAPTER 18

Building Regulations

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ARTICLE 1

Building Codes

Sec. 18-1-10. Title.

The provisions of the ordinance codified herein shall be known and cited collectively as the "Town of Minturn Building Code" or "International Codes." (Ord. 5-2011 §1)

Sec. 18-1-20. Codes adopted.

The Town of Minturn adopts by reference the following codes:

(1) *International Building Code, 2009 Edition*, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

(2) *International Residential Code, 2009 Edition*, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

(3) *International Fuel Gas Code, 2009 Edition*, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

(4) *International Energy Conservation Code, 2009 Edition*, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

(5) *International Plumbing Code, 2009 Edition*, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

(6) *International Mechanical Code, 2009 Edition*, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

(7) *International Property Maintenance Code, 2009 Edition*, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

(8) *National Electrical Code* as currently adopted by the State of Colorado.

(9) *International Fire Code, 2009 Edition*, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001. (Ord. 5-2011 §1)

ARTICLE 2

Building Code

Sec. 18-2-10. Adoption.

(a) The *International Building Code, 2009 Edition*, 2nd printing, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001, Chapters 1 through 35 inclusive, exclusive of any Appendices, ("IBC") is hereby adopted by

reference as the Town of Minturn Building Code as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

(b) No building shall be hereafter constructed, erected, enlarged, altered or moved into the Town unless the same shall, as to design, construction, quality of materials and workmanship, conform with the IBC, as adopted and as amended. (Ord. 5-2011 §2)

Sec. 18-2-20. Amendments.

The following sections of the adopted code are hereby revised as follows:

(1) Section 111.2 Certificate Issued shall read: "Final Certificate of Occupancy Inspection approval shall be the Certificate of Occupancy."

(2) Section 419.2 Occupancies. The following sentence shall be added:

"F and I occupancies shall not be permitted in a live/work unit."

(3) Section 1029 Emergency Escapes and Rescue is amended to delete Exception 1.

(4) Section 1608.2 Ground Snow Loads is hereby deleted and replaced with the following:

"Snow loads for roofs and decks shall be 75 pounds per square foot."

(5) Section 1809.5 Frost Protection. This section is amended by deleting the section in its entirety and replacing it with the following language:

"Foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by the following method – Footings subject to frost shall have a minimum depth of 48” measured from finished grade to the bottom of the footing or the depth specified by the soils engineer of record."

(6) Section 1809.12 Timber Footings is deleted in its entirety.

(7) Section 2111.13 Exterior Air Intake is amended by adding the following:

"Outside combustion air intake shall be required for all gas-fired and wood burning fireplaces. Combustion air ducts shall be a minimum 26 gauge sheet metal for the portion of duct extending through the building on the outside of the fire-resistive shaft. Ducts extending from the fireplace and exiting directly to the outside without passing through any other portion of the building may be of any material permitted by the fireplace manufacturer or the International Mechanical Code. Fireplaces: Where dampers are required to be removed, clamped or welded open- doors in front of fireplace openings are required."

(8) Section 3001.5 is amended to read as follows:

"A fee for each permit and plan review shall be paid to the Northwest Colorado Council of Governments. The annual certificate of inspection will be administered by the certified

elevator inspection agency. For permit applications and inspections, contact Elevator Inspection Program at (970) 468-0295. Ext. 108"

(Ord. 5-2011 §2)

ARTICLE 3

Residential Code

Sec. 18-3-10. Adoption.

(a) The *International Residential Code*, 2009 Edition, 2nd printing, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001, Chapters 1 through 44 inclusive and Appendices A, C, G, H, and N, ("IRC") is hereby adopted by reference as the Town of Minturn Residential Building Code as if fully set out in this Article, with the additions, deletions, insertions and changes as set forth in this Article.

(b) No residential building shall be hereafter constructed, erected, enlarged, altered, or moved into the Town unless the same shall, as to design, construction, quality of materials and workmanship, conform with the IRC, as adopted and as amended. (Ord. 5-2011 §3)

Sec. 18-3-20. Amendments.

The following sections of the adopted code are hereby revised as follows:

(1) Section R104.4 Inspections is amended by the addition of the following paragraph:

"A third party inspection by a certified log inspection agency shall be required of all structural members in log framed buildings. A letter from the log grading agency certifying log grades are in accordance with the plan specifications shall be required at, or prior to frame inspection. Elevators installed in all structures shall require a third party plan review and inspection by Northwest Colorado Council of Governments."

(2) Section R301.2.3 Snow Loads is amended by the addition of the following:

"Snow loads for roofs and decks shall be 75 pounds per square foot."

(3) Section R302.2.2 Townhouses is amended by the deletion of the exception.

(4) Section R302.5.1 is amended by the addition of the following statement at the end: "Doors shall be self closing."

(5) Section R302.7 is amended to read:

"Enclosed accessible spaces under stairs shall have walls, under stair surfaces and any soffit protected on the enclosed side with 5/8" Type X gypsum board."

(6) Section R313.1 Townhouse automatic fire sprinkler systems is deleted in its entirety.

(7) Section R313.2 One and two-family dwelling automatic fire systems is deleted in its entirety.

(8) Section R315.1 Carbon Monoxide alarms is amended by deleting this section and replacing it with the following language:

"For new construction, an approved carbon monoxide alarm shall be installed within fifteen feet of the entrance to each bedroom in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages."

(9) Section R403.1.4.1 Frost Protection is amended by deleting the section in its entirety and replacing it with the following:

"Foundation walls, piers, and other permanent supports of buildings shall be protected from frost by the following method – Footings subject to frost shall have a minimum depth of 48" measured from finished grade to the bottom of the footing or the depth specified by the soils engineer of record."

(10) Section R403.2 Footings for Wood Foundations is amended by adding the following:

"Foundations shall be designed by a registered Colorado Engineer or Architect and approved by a Geotechnical Engineer."

(11) Section R403.3 Frost Protected Shallow Foundations is amended by adding the following:

"Foundations shall be designed by a registered Colorado Engineer or Architect and approved by a Geotechnical Engineer."

(12) Section R404.2 Wood Foundation Walls is amended by adding the following:

"Foundations shall be designed by a registered Colorado Engineer or Architect and approved by the Geotechnical Engineer."

(13) Section G2425.8 (501.8) Equipment Not Required to be Vented is amended by deleting item #7. The sentence after this exception should be amended to read: "Where the appliances listed in Items 5 and 6 above..."

(14) Section G2445 (621) is amended by removing all subsections and replacing it with "Section G2445.1 General. Unvented room heaters are prohibited from installation."

(15) Table R301.2(1) is amended by deleting it in its entirety and replacing it with the following:

"TABLE R301.2(1)

CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

Roof Snow Load	WIND DESIGN		SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP	ICE BARRIER UNDERLAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP
	Speed (mph)	Topographic effects		Weathering	Frost line depth	Termite					
75 psf	90	NO	B	SEVERE	48"	NONE TO SLIGHT	-15° F	YES	2007	2000	45° F"

(16) Table R302.6 is amended to read:

SEPARATION	MATERIAL
From residence and attics	not less than 5/8" Type X gypsum board applied on the garage side
From all habitable rooms above the garage	not less than 5/8" Type X gypsum board
Structure(s) supporting floor ceiling assemblies used for separation required by this section	not less than 5/8" Type X gypsum board
Garages located less than 6 feet from a dwelling unit on the same lot	not less than 5/8" type X gypsum board applied to the interior side of exterior walls of the garage that are within this area

(17) Add a new Section R303.1.2 Mechanical ventilation to read:

"R303.1.2 Mechanical ventilation. Dwelling units shall be provided with a mechanical exhaust system, supply system, or combination thereof to provide whole-building ventilation with outdoor air. Such system shall comply with Section R303.1.2.1 through R303.1.2.2.

"Exception:

"1. Other *approved* mechanical ventilation systems."

(18) Add a new Section R303.1.2.1 Mechanical ventilation rate to read:

"R303.1.2.1 Mechanical ventilation rate. The mechanical ventilation system shall provide outdoor air continuously at a rate of not less than that determined in accordance with Table R303.4(1)"

"Exception:

"Continuous operation of the system is not required where the system has controls that enable operation for not less the 25% of each 6 hour segment and the ventilation rate prescribed in Table R303.1.2.1 (1) is multiplied by the factor in accordance with Table R303.1.2.1 (2)."

(19) Add a new table, TABLE R303.1.2.1(1) to read:

TABLE R303.1.2.1(1)
VENTILATION AIR REQUIREMENTS, CFM¹

FLOOR AREA (SQ.FT.)	BEDROOMS				
	0 - 1	2 - 3	4 - 5	6 - 7	> 7
< 1,500	30	45	60	75	90
1,500 – 3,000	45	60	75	90	105
3,001 – 4,500	60	75	90	105	120
4,501 – 6,000	75	90	105	120	135
6,001 – 7,500	90	105	120	135	150
> 7,500	105	120	135	150	165

For SI: 1 square foot = 1 square foot = 0.0929 m².

¹ Equation R303.1.2.1 (1) can be used as an alternative to Table R303.1.2.1 (1)

$$Q_{fan} = 0.01 A_{floor} + 7.5 (N_{br} + 1)$$

Where:

Q_{fan} = fan flow rate in cubic feet per minute (cfm).

A_{floor} = floor area in square feet (ft²)

N_{br} = number of bedrooms; not to be less than 1

(20) Add a new table, TABLE R303.1.2.1(2) to read:

TABLE R303.1.2.1(2)
INTERMITTENT MECHANICAL VENTILATION RATE FACTORS □ □

Run-Time Percentage In each 6 hour Segment	25%	33%	50%	66%	75%
Factor	4	3	2	1.5	1.3

a. Interpolation between entries is permitted.

b. The ventilation system run time shall be not less than 25%

(21) Add a new section R303.1.2.2, System design, to read:

"R303.1.2.2 System design. The required whole-house ventilation system shall consist of one or more supply or exhaust fans or a combination thereof and associated ducts and controls. Outdoor air ducts connected to the return side of an air handler shall be considered to be supply ventilation where the manufacturer's requirements for a minimum return air temperature for the air handler are met."

(22) Add a new section R303.1.2.3 System Controls, to read:

"R303.1.2.3 System Controls. The mechanical ventilation system shall be provided with controls that enable occupant override."

(23) Add a new section R303.3.1 Bathroom ventilation to read:

"R303.3.1 Bathroom ventilation. Bathrooms shall be mechanically exhausted in accordance with section 1507."

(Ord. 5-2011 §3)

ARTICLE 4

Fuel Gas Code

Sec. 18-4-10. Adoption.

(a) The *International Fuel Gas Code*, 2009 Edition 2nd printing as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001, Chapters 1 through 8 inclusive, ("IFGC") is hereby adopted by reference as the Town of Minturn Fuel Gas Code as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

(b) No building shall be hereafter constructed, erected, enlarged, altered, or moved into the Town unless the same shall, as to design, construction, quality of materials and workmanship, conform with the IFGC, as adopted and as amended. (Ord. 5-2011 §4)

Sec. 18-4-20. Amendments.

The following sections of the adopted code are hereby revised as follows:

(1) Section 303.3 Prohibited Locations is amended by deleting exceptions number 3 and 4.

(2) Section 402.6.2 Liquefied Petroleum Gas Facilities and Piping is amending by the addition of the following sentence:

"Liquefied petroleum gas facilities and equipment shall not be located in any pit or basement, under show windows or interior stairways, in engine, boiler, heater, or electric meter rooms". The following exception shall apply: "equipment may be installed with an approved means of detection and removal of unburned liquid petroleum gas. A minimum 3" drain pipe to the exterior of the building, propane sensor and automatic safety shutoff shall be installed. The drain shall not be trapped and shall be protected from snow closure and rodents. When the above listed means cannot be achieved, an engineered mechanical exhaust system with a propane sensor, and an automatic safety shut-off, shall be required."

(3) Section 501.8 Equipment Not Required to be Vented is amended by the deletion of item No. 8. (Ord. 5-2011 §4)

ARTICLE 5

Fire Code

Sec. 18-5-10. Adoption.

(a) The *International Fire Code*, 2009 Edition 2nd printing as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 is hereby adopted by reference as the Town of Minturn Fire Code as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

(b) No building shall be hereafter constructed, erected, enlarged, altered, or moved into the Town unless the same shall, as to design, construction, quality of materials and workmanship, conform with the IFC, as adopted and as amended. (Ord. 8-2011 §1)

Sec. 18-5-20. Amendments.

The following sections of the 2009 International Fire Code are hereby revised as follows:

(1) Section 109.3 Violation Penalties shall be amended to read as follows:

"Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The imposition of a penalty for any violation of this code shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specifies, each day that a violation occurs or that a prohibited condition is maintained shall constitute a separate offense. The application of the above penalty or penalties shall not be held to prevent the enforced removal of any prohibited condition."

"109.3.1 Abatement of violation. In addition to the imposition of the penalties herein described, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act; conduct of business or occupancy of structure on or about any premises.

"109.3.2 Issuance of summons and complaint by fire code official. Pursuant to the general enforcement powers conferred upon fire protection districts in Section 30-15-401.5, C.R.S. to enforce fire safety standards, and subject to the provisions of this code, the fire code official may arrest a person without a warrant whenever he or she has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his or her presence which he or she has the discretionary duty to enforce, and to issue a summons to appear in the Eagle County Court or the Municipal Court of the Town in which the violation is alleged to have occurred. The fire code official shall file executed summonses and

complaints with Clerk of the County Court or the Clerk of the Municipal Court, and notify the District Attorney or the Town Attorney, as appropriate, of such filing."

(2) Section 307 is repealed and replaced with the following:

**"Section 307
"Recreational Fires**

"307.1 General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted in accordance with this section.

"307.1.2. Definition. For the purposes of this section, a recreational fire is defined as the burning of clean fire wood where the fuel area is no greater than three (3) feet in diameter and two (2) feet or less in height for pleasure, religious, ceremonial, cooking or similar purposes.

"307.2 Prohibited burning. Outdoor burning that will be offensive or objectionable due to excessive smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited. Open burning of rubbish containing paper products, garbage, solid waste, rubber or other petroleum based products (including tires), building material, roofing material, animal carcasses, plastics, tree limbs and leaves, and lawn clippings shall be prohibited.

"307.2.1 Extinguishment Authority. The Eagle River Fire Protection District and Minturn Police Department are authorized to order the extinguishment of any recreational fire that creates or adds to a hazardous or objectionable situation.

"307.3 Location. The location for recreational fires shall not be less than five (5) feet from any property line and ten (10) feet from any neighboring structure including wooden fences.

"307.3.1 Fires within the 30' river setback. No recreational fires shall be permitted within thirty (30) feet of the high water mark of any live stream in the Town of Minturn. Portable cooking devices may be used in this area; however, the dumping of ash in the river or setback area is strictly prohibited.

"307.4 Attendance. Recreational fires and portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

"307.5 Additional requirements. The following restrictions shall apply to all recreational fires and portable outdoor burning devices:

"No recreational fire shall exceed three feet in diameter or two feet in height.

"Only natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with a preservative and does not contain resins or glues as in plywood or other composite wood products shall be used for a recreational fire.

"307.6 Bonfires. The Town of Minturn reserves the right to conduct a bonfire in accordance with guidelines established by the Eagle River Fire Protection District."

(Ord. 8-2011 §1)

ARTICLE 6

Energy Conservation Code

Sec. 18-6-10. Adoption.

(a) The *International Energy Conservation Code*, 2009 Edition 5th printing as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001, Chapters 1 through 6 inclusive, ("IECC") is hereby adopted by reference as the Town of Minturn Energy Code as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

(b) No building shall be hereafter constructed, erected, enlarged, altered, or moved into the Town unless the same shall, as to design, construction, quality of materials and workmanship, conform with the IECC, as adopted and as amended. (Ord. 5-2011 §5)

Sec. 18-6-20. Amendments.

The following sections of the adopted code are hereby revised as follows:

(1) Chapter 1 Administration shall be deleted and chapter 1 of the IBC and IRC shall apply. (Ord. 5-2011 §5)

ARTICLE 7

Plumbing Code

Sec. 18-7-10. Adoption.

(a) The *International Plumbing Code*, 2009 Edition 3rd printing as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001, Chapters 1 through 13 inclusive, ("IPC") is hereby adopted by reference as the Town of Minturn Plumbing Code as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

(b) No building shall be hereafter constructed, erected, enlarged, altered, or moved into the Town unless the same shall, as to design, construction, quality of materials and workmanship, conform with the IPC, as adopted and as amended. (Ord. 5-2011 §6)

ARTICLE 8

Mechanical Code

Sec. 18-8-10. Adoption.

(a) The *International Mechanical Code*, 2009 Edition 4th printing as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001, Chapters 1 through 15 inclusive, ("IMC") is hereby adopted by reference as the Town of Minturn Mechanical Code as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

(b) No building shall be hereafter constructed, erected, enlarged, altered, or moved into the Town unless the same shall, as to design, construction, quality of materials and workmanship, conform with the IMC, as adopted and as amended. (Ord. 5-2011 §7)

ARTICLE 9

Property Maintenance Code

Sec. 18-9-10. Adoption.

(a) The *International Property Maintenance Code*, 2009 Edition 1st printing as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001, is hereby adopted by reference as the Town of Minturn Property Maintenance Code as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

(b) No building shall be hereafter constructed, erected, enlarged, altered, or moved into the Town unless the same shall, as to design, construction, quality of materials and workmanship, conform with the IPMC, as adopted and as amended. (Ord. 5-2011 §8)

ARTICLE 10

Electrical Code

Sec. 18-10-10. Adoption.

(a) The *National Electrical Code*, as published by the National Fire Protection Association, and the rules and regulations thereunder, as adopted, amended and updated to the most current edition by the Colorado State Electrical Board from time to time ("NEC") pursuant to the authority set forth in Article 23 of Title 12, C.R.S., is hereby adopted by reference as the Town of Minturn Electrical Code as if fully set out in this Article with the additions, deletions, insertions and changes as set forth in this Article.

(b) No building shall be hereafter constructed, erected, enlarged, altered, or moved into the City unless the same shall, as to design, construction, quality of materials and workmanship, conform with the NEC, as adopted and as amended. (Ord. 5-2011 §9)

ARTICLE 11

Building Permit

Sec. 18-11-10. Administrative Officer designated.

The Town Administrator shall be charged with the duty to enforce the provisions of this Chapter. An appeal from a ruling by the Administrative Officer regarding a requirement of this Chapter other than as specified in Chapter 16 of this Code may be made to the Planning Commission. (Prior code 18-201; Ord. 15-2008 §1; Ord. 5-2011 §§8, 9)

Sec. 18-11-20. Required; exceptions.

It is unlawful to erect, construct, reconstruct, alter or change the use of any building or other structures within the Town limits without obtaining a building permit from the Building Official, who shall not issue any permit unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conform to the appropriate provisions of this Chapter. Buildings, fences or structures used only for shelter of agricultural implements, farm products produced on the ranch or farm, and livestock or poultry, where permitted under the applicable zone district regulation, shall be exempted. (Prior code 18-202; Ord. 5-2011 §§8, 9)

Sec. 18-11-30. Application.

Application shall be made by the owner of the subject lot on forms provided by the Town, and such application shall be in compliance with this Chapter. (Prior code 18-203; Ord. 15-2008 §1; Ord. 5-2011 §§8, 9)

Sec. 18-11-40. Investigation and issuance.

The Building Official may utilize services of other town, county and state officials or agencies to arrive at a determination that the proposed building is in compliance with all applicable zoning, subdivision, building, health and sanitation regulations; and if the proposed building or structure is in compliance, shall issue a building permit for the improvements shown on the application. (Prior code 18-204; Ord. 5-2011 §§8, 9)

ARTICLE 12

Flood Damage Prevention

Sec. 18-12-10. Statutory authorization.

The state legislature has in Title 31, C.R.S., 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 Council has adopted the regulations set forth in this Article. (Prior code 18-241; Ord. 15-2008 §1; Ord. 5-2011 §§8, 9)

Sec. 18-12-20. 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 areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Prior code 18-242; Ord. 5-2011 §§8, 9)

Sec. 18-12-30. Statement of purpose.

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

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to 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;
- (6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazards assume responsibility for their actions. (Prior code 18-243; Ord. 15-2008 §1; Ord. 5-2011 §§8, 9)

Sec. 18-12-40. Methods of reducing flood losses.

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

- (1) 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;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

(4) Controlling filling, grading, dredging and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Prior code 18-244; Ord. 5-2011 §§8, 9)

Sec. 18-12-50. Lands to which this Article applies.

This Article shall apply to all areas of special flood hazards within the jurisdiction of the Town. (Prior code 18-245; Ord. 5-2011 §§8, 9)

Sec. 18-12-60. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the Town of Minturn," dated December 2007, with an accompanying Flood Insurance Rate Map (FIRM), is adopted by reference and declared to be a part of this Article. The Flood Insurance Study and FIRM are on file at the Town Clerk's office, 302 Pine Street, Minturn, Colorado. (Prior code 18-246; Ord. 15-2008 §1; Ord. 5-2011 §§8, 9)

Sec. 18-12-70. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. (Prior code 18-247; Ord. 5-2011 §§8, 9)

Sec. 18-12-80. Abrogation and greater restrictions.

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Prior code 18-248; Ord. 5-2011 §§8, 9)

Sec. 18-12-90. Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Prior code 18-249; Ord. 5-2011 §§8, 9)

Sec. 18-12-100. Warning and disclaimer of liability.

The degree of flood protection required by this Article 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 man-made or natural causes. This Article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder. (Prior code 18-250; Ord. 5-2011 §§8, 9)

Sec. 18-12-110. Definitions.

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

Appeal means a request for a review of the Town Administrator's interpretation of any provision of this Article or a request for a variance.

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.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Development means any man-made 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.

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.

Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

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 (1) foot.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, useable 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; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New construction means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this Article.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) 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.

Structure means a walled and roofed building or manufactured home that is principally above ground.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 purpose 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 affects the external dimensions of the 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 the State Inventory of Historic Places.

Variance means a grant of relief from the requirements of this Article which permits construction in a manner that would otherwise be prohibited by this Article. (Prior code 18-251; Ord. 5-2011 §§8, 9)

Sec. 18-12-120. Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 18-10-60. Application for a development permit shall be made on forms furnished by the Building Inspector 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. 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 18-10-290 of this Article; and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Prior code 18-252; Ord. 5-2011 §§8, 9)

Sec. 18-12-130. Building Inspector designated.

The Building Inspector is appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions. (Prior code 18-253; Ord. 5-2011 §§8, 9)

Sec. 18-12-140. Building Inspector duties and responsibilities.

Duties of the Building Inspector shall include but not be limited to those listed in Sections 18-10-150 through 18-10-190 below. (Prior code 18-254; Ord. 5-2011 §§8, 9)

Sec. 18-12-150. Building Inspector; permit review.

The Building Inspector shall:

- (1) Review all development permits to determine that the permit requirements of this Article have been satisfied;
- (2) Review all development permits to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required; and

(3) 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 Paragraph 18-10-320(1) are met. (Prior code 18-255; Ord. 5-2011 §§8, 9)

Sec. 18-12-160. Building Inspector; use of other base flood data.

When base flood elevation data has not been provided in accordance with Section 18-10-60, the Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A are administered in accordance with Sections 18-10-270 through 18-10-310. (Prior code 18-256; Ord. 5-2011 §§8, 9)

Sec. 18-12-170. Building Inspector; information to be obtained and maintained.

The Building Inspector shall:

(1) 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.

(2) For all new or substantially improved floodproofed structures:

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

b. Maintain the floodproofing certifications required in Paragraph 18-10-120(3).

(3) Maintain for public inspection all records pertaining to the provisions of this Article. (Prior code 18-257; Ord. 5-2011 §§8, 9)

Sec. 18-12-180. Building Inspector; alteration of watercourses.

The Building Inspector shall:

(1) Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency; and

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. (Prior code 18-258; Ord. 5-2011 §§8, 9)

Sec. 18-12-190. Building Inspector; interpretation of FIRM boundaries.

The Building Inspector shall 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 Sections 18-10-200 and 18-10-210. (Prior code 18-259; Ord. 5-2011 §§8, 9)

Sec. 18-12-200. Variances; appeal.

(a) The Town Administrator, as established by the Town, shall hear and decide appeals and requests for variances from the requirements of this Article.

(b) The Town Administrator shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Building Inspector in the enforcement or administration of this Article.

(c) Those aggrieved by the decision of the Town Administrator, or any taxpayer, may appeal such decisions to the Municipal Court, as provided in Section 31-23-307, C.R.S.

(d) In passing upon such applications, the Town Administrator shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) The compatibility of the proposed use with the existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) 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
- (11) 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, streets and bridges.

(e) Upon consideration of the factors of Subsection (d) above and the purposes of this Article, the Town Administrator may attach such conditions to the granting of variances as he or she deems necessary to further the purposes of this Article.

(f) The Building Inspector shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency. (Prior code 18-260; Ord. 5-2011 §§8, 9)

Sec. 18-12-210. Variances; conditions.

(a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, provided that items in Subsection 18-10-200(d) have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justifications required for issuing the variance increases.

(b) 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.

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

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

(e) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Subsection 18-10-200(d), or conflict with existing local laws or ordinances.

(f) 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 below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. (Prior code 18-261; Ord. 5-2011 §§8, 9)

Sec. 18-12-220. General standards.

In all areas of special flood hazards, the following standards in Sections 18-10-230 through 18-10-270 are required. (Prior code 18-262; Ord. 5-2011 §§8, 9)

Sec. 18-12-230. Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.

(b) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

(1) Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side;

(2) Frame ties be provided at each corner of the manufactured home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;

(3) All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and

(4) Any additions to the manufactured home be similarly anchored. (Prior code 18-263; Ord. 15-2008 §1; Ord. 5-2011 §§8, 9)

Sec. 18-12-240. Construction materials and methods.

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

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

(c) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. (Prior code 18-264; Ord. 5-2011 §§8, 9)

Sec. 18-12-250. Utilities.

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

(b) 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 flood waters.

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Prior code 18-265; Ord. 5-2011 §§8, 9)

Sec. 18-12-260. Subdivision proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

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

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less). (Prior code 18-266; Ord. 5-2011 §§8, 9)

Sec. 18-12-270. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 18-10-60 or Section 18-10-160, the provisions in Sections 18-10-280 through 18-10-310 below are required. (Prior code 18-267; Ord. 5-2011 §§8, 9)

Sec. 18-12-280. Residential construction.

(a) New construction and substantial improvement of any residential structure shall:

(1) Have the lowest floor (including basement) elevated to or above the base flood elevation.

(2) Require that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two [2] feet if no depth number is specified).

(3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures. (Prior code 18-268; Ord. 5-2011 §§8, 9)

Sec. 18-12-290. Nonresidential construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall:

(1) Either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

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

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

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Paragraph. Such certifications shall be provided to the official as set forth in Paragraph 18-10-170(2).

(2) Require that all new construction and substantial improvements of nonresidential structures:

a. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two [2] 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 standard specified in Paragraph (1) above.

(3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures. (Prior code 18-269; Ord. 5-2011 §§8, 9)

Sec. 18-12-300. Openings in enclosures below the lowest floor.

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:

(1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;

(2) The bottom of all openings shall be no higher than one (1) foot above grade; and

(3) Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. (Prior code 18-270; Ord. 5-2011 §§8, 9)

Sec. 18-12-310. Manufactured homes.

(a) Manufactured homes shall be anchored in accordance with Subsection 18-10-230(b) of this Article.

(b) All manufactured homes or those to be substantially improved in new manufactured home parks or expansions to existing and manufactured home parks shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system. (Prior code 18-271; Ord. 5-2011 §§8, 9)

Sec. 18-12-320. Floodways.

Located within areas of special flood hazard established in Section 18-10-60 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:

(1) 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.

(2) If Paragraph (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 18-10-220 through 18-10-310 and this Section. (Prior code 18-272; Ord. 5-2011 §§8, 9)

ARTICLE 13

Engineering Standards

Sec. 18-13-10. Engineering Standards and Specifications adopted.

The Town's Engineering Standards and Specifications are hereby adopted by reference, as set out in Appendix C to this Code. (Ord. 15-2008 §1; Ord. 5-2011 §§8, 9)

ARTICLE 14

Impact Fees

Sec. 18-14-10. Purpose.

(a) The Town requires that areas chosen for development shall be capable of being provided within a reasonable period of time with an adequate level of fire protection and emergency medical services, including fire protection facilities and emergency medical services facilities.

(b) This Section is intended to:

(1) Provide a rational system for identifying and mitigating costs associated with growth and development and the expansion of fire protection and emergency medical services and facilities made necessary by land development activities, a growing population and economic activity levels.

(2) Regulate the use and development of land to ensure that new development pays no more or no less than its fair share of the cost of capital expenditures necessary to provide adequate fire protection and emergency medical services to developments within the Town.

(3) Assure that the system of impact fees implemented in this Article is linked to a capital facilities program designed to provide the facilities and equipment for which the impact fees are imposed.

(4) Ensure that the impact fees established by this Article are not used to offset existing deficiencies in capital facilities necessary to serve preexisting development.

(5) Ensure that new development that adequately mitigates or reduces the impact it creates on fire protection and emergency medical services through site-specific dedications or improvements receives offsetting credit against its impact fee obligation.

(6) Assure that the impact fees established and implemented by this Article are imposed on a uniform and nondiscriminatory basis throughout the Town to any lot, tract or parcel or expansion for which no building permit has yet been issued. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-20. Use of fees.

(a) All impact fees collected pursuant to this Article shall, after retention of a reasonable administrative fee not to exceed six percent (6%) by the Town, within sixty (60) days following payment to the Town, be transferred to the Eagle River Fire Protection District (the "District").

(b) After payment to the District, all fees collected pursuant to this Article shall be accounted for in the manner required by Section 29-1-801, et seq., C.R.S., and other applicable law. Fees shall be deposited in an interest-bearing account which clearly identifies the lot, development activity and development approval for which the impact fee was collected and the associated category, account or fund of the capital facility, by either aggregate or individual land development. Each such category, account or fund shall be accounted for separately. Any interest or any income earned on moneys deposited in said interest-bearing account shall be credited to the account.

(c) Revenues from impact fees shall be used exclusively for capital facilities, as defined by Section 29-20-104.5, C.R.S., for fire protection and emergency medical services. The costs of such capital facilities shall include any financing costs associated with such improvements.

(d) No fees shall be used for periodic or routine maintenance, personnel costs or operational expenses.

(e) In the event that bonds or similar financing instruments are used for the advance provision of any capital facilities for which impact fees are required, impact fee revenues may be used to pay debt service on such bonds or similar financing instruments.

(f) The Town may enter into an intergovernmental agreement with the District to jointly fund expenditures and provide capital facilities needed to serve the development for which the impact fees were imposed. To the extent such intergovernmental agreement utilizes revenues from the impact fees imposed by this Article, it shall include such terms requiring compliance with this Chapter and state law regarding impact fees, including Part 8, Article 1, Title 29, and Sections 29-20-103 and 29-20-104.5, C.R.S., and auditing of accounts and compliance as deemed appropriate by the Town Council.

(g) In the event this Article is repealed or any such intergovernmental agreement is terminated, such capital facilities during their useful life shall continue to be utilized to provide services to the development for which the impact fees were imposed. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-30. Payment of fees.

(a) As used in this Article, the term *development approval* shall constitute a development permit, as that term is used in Sections 29-20-103 and 29-20-104.5, C.R.S.

(b) A developer requesting a development approval shall be subject to payment of the impact fees established by this Article as a condition of development approval. The obligation to pay such

impact fees shall run with the land. The impact fee imposed shall be paid at the time of issuance of each building permit.

(c) Where previous development activity has occurred prior to the imposition of the impact fees established by this Article or for which impact fees were previously paid, impact fees for subsequent development activity on the same lot shall be based on the net increase, if any, in the impact fee based on the demand for capital facilities for fire protection and emergency medical services created by the new development activity as compared to the previous development activity.

(d) For applications for an amendment or change to a development approval previously obtained, but for which the development activity was not completed, the amount of the impact fee for the subsequent development approval shall be based on the net increase, if any, in the demand for capital facilities for fire protection and emergency medical services created by the new development approval as compared to the impact fee paid for the previous development approval. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-40. Timing of payment.

(a) Where development activities may result in multiple levels of development approvals, such as annexation, zoning, subdivision and building permit approval, impact fees shall be imposed upon the earliest development activity to occur for which the amount of impact fees can be reasonably calculated. The impact fee imposed shall be paid at the time of issuance of each building permit.

(b) If, for any reason, the amount of the impact fee cannot be calculated at the time of the initial level of development approval, the Town may defer computation and payment of all or a part of the impact fee until a subsequent level of development approval, or the Town may require that an estimated fee be paid. If an estimated fee is paid, any underpayment shall be recovered at the time of the next development approval at which the impact fee can be reasonably calculated. In the event an overpayment is made, such overpayment shall be refunded, without interest, within thirty (30) days following the date the impact fee can be completely computed. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-50. Alternative fee calculation.

In lieu of payment of impact fee amounts set forth in this Article, the developer may prepare and submit to the Town Administrator a site-specific fiscal impact and fee calculation study for the development approval that is requested. The site-specific fiscal impact and fee calculation study shall follow the prescribed methodologies and formats established by the impact fee study submitted by the District. The fiscal impact study submitted shall show the basis upon which the site-specific fee calculation was made. The site-specific fiscal impact and fee calculation study shall be prepared and presented by professionals qualified in their respective fields. The Town Administrator shall consider the documentation submitted by the developer, but is not required to accept such documentation reasonably deemed to be inaccurate or not reliable, and may, in the alternative, require the developer to submit additional or different documentation for consideration. If an acceptable site-specific fiscal impact and fee calculation study is not presented, the developer shall pay the impact fee set forth in this Article. Determinations made by the Town Administrator pursuant to this Section may be appealed to the Town Council by filing a written request with the Town Administrator within ten (10) days of the Town Administrator's determination. Following the submittal of such request, the Town Council shall hold a public hearing to determine the amount of the impact fee. The decision of the

Town Council shall be a final quasi-judicial decision for purposes of Rule 106(a)(4) and (b), C.R.C.P. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-60. Impact fee credit for improvements.

Any developer who has previously made a site-specific dedication or improvement to meet the same need for capital facilities for which an impact fee is imposed may apply to the Town Council for a partial or total impact fee credit. The developer shall submit written evidence of the previously made site-specific dedication or improvement, the fair market value of the site-specific dedication or improvement at the time the dedication or improvement was made and that such was made for capital facilities for which an impact fee is imposed. Upon approval by the Town Council, the developer shall receive a credit against the amounts due or to become due pursuant to this Article. Such credit may also be made as a refund to the developer from impact fees imposed and paid to the Town equal to the fair market value of the site-specific dedication or improvement provided by the developer. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-70. Refund of paid fees.

(a) If a building permit expires without commencement of construction or development, the applicant shall be entitled to a refund, without interest, of the impact fee paid as a condition for issuance, except when the fee has been expended or encumbered by the District in advance of and in anticipation of development. The applicant must submit an application for such refund to the Town Administrator within thirty (30) days of the expiration of the building permit. Neither the Town nor the District shall have any obligation to refund any fee that has been expended or encumbered by the District in advance of and in anticipation of the development.

(b) Any impact fee not expended or encumbered by the District by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall, upon application of the then-current landowner to the Town Administrator, be returned to the landowner with interest earned on the fee, within one hundred eighty (180) days of the expiration of such ten-year period; provided, however, that the Town Council, in its discretion, for good cause shown, may extend such period of time for an additional period as the Town Council deems reasonable and necessary. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-80. Lien for unpaid fees.

All impact fees shall constitute a prior, perpetual lien upon each lot or parcel subject to the development approval for which impact fees are imposed from the due date thereof until paid. If such fee is not paid when due, in addition to any other means provided by law, the Town Clerk shall certify such delinquent fee to the County Treasurer, and the fee shall be collected in the same manner as though it were part of the taxes. The Town may withhold or revoke any development approval, including certificates of occupancy, for which payment of impact fees is delinquent. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-90. Waiver.

The Town Council may, by resolution, grant a waiver of the applicable impact fees for fire protection and emergency medical services on a development or portion of a development for the

purpose of constructing or providing low or moderately priced housing units for sale or lease to low- or moderate-income persons; provided that the parties to the development shall agree to appropriately restrict the future use of the applicable units by recorded agreement, deed restriction, covenants, declarations or similar instruments as may be required by the Town Administrator. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-100. Impact fee schedule.

(a) The following impact fees for fire protection and emergency medical services are established and imposed. The impact fee amounts and rates are deemed to fairly, equitably and proportionately mitigate the impacts on capital facilities for fire protection and emergency medical services created by development within the Town. Any impact fee for fire protection and emergency medical services hereby imposed shall be imposed and applied on a uniform and nondiscriminatory basis throughout the Town to any lot, tract, parcel or expansion for which no building permit has yet been issued.

(b) For residential, commercial (including lodging) or industrial development, impact fees imposed for fire protection and emergency medical services shall be based on size of the water meter required for development:

<i>Size</i>	<i>Impact Fee</i>
¾-inch	\$ 1,671.00
1-inch	2,841.00
1.5-inch	5,515.00
2-inch	8,857.00
3-inch	18,382.00
4-inch	28,409.00
6-inch	55,147.00

(Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)

Sec. 18-14-110. Annual adjustment.

The impact fees imposed hereby shall be reviewed and may be administratively adjusted without further Town Council action annually for inflation, beginning January 15, 2009, and annually on each anniversary date thereafter. Any such adjustment shall be based upon the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, All Items, All Urban Consumers, or its successor index, or an equivalent index applicable to Eagle County. (Ord. 2, 2009 §1; Ord. 5-2011 §§8, 9)