



## AGENDA

### MEETING OF THE MINTURN PLANNING COMMISSION Minturn, CO 81645 • (970) 827-5645

**Meeting will be held via Zoom Conferencing and call-in.  
Public welcome to join meeting using the following methods:  
Join from PC, Mac, Linux, iOS or Android:**

<https://zoom.us/j/770680281>

**Phone:**

- 651 372 8299 US
- 301 715 8592 US

**Meeting ID: 770 680 281**

**Wednesday, April 8, 2020**

**Work Session – 5:30 PM (Cancelled)  
Regular Session – 6:30 PM**

**CHAIR – Lynn Teach**

**COMMISSION MEMBERS:**

Jeff Armistead  
Lauren Dickie  
Burke Harrington  
Christopher Manning  
Jena Skinner

When addressing the Commission, please state your name and your address for the record prior to providing your comments. Please address the Commission as a whole through the Chair. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

**Work Session – 5:30pm - Cancelled**

#### **1. No Work Session Items**

#### **Regular Session – 6:30pm**

##### **1. Call to Order**

- Roll Call
- Pledge of Allegiance

**2. Approval of Agenda**

- Items to be Pulled or Added

**3. Approval of Minutes**

- March 11, 2020
- March 25, 2020

**4. Public comments on items, which are NOT on the agenda (5min time limit per person)**

**5. Planning Commission Comments**

**DESIGN REVIEW AND LAND USE PUBLIC HEARINGS**

**No DRB Applications**

**PROJECTS AND UPDATES**

**6. Food Truck Guidelines – DRAFT**

**7. Housing Ordinance – DRAFT**

**8. Other Project Updates**

## **9. Planning Director Report & Minor DRB Approvals by Director**

- None

## **10. Future Meetings**

- April 29, 2020
- May 13, 2020

## **11. Adjournment**



## OFFICIAL MINUTES

### MEETING OF THE MINTURN PLANNING COMMISSION Minturn, CO 81645 • (970) 827-5645

Wednesday, March 11, 2020

**Work Session – 5:30 PM (Cancelled)**  
**Regular Session – 6:30 PM**

**CHAIR – Lynn Teach**

**COMMISSION MEMBERS:**

Jeff Armistead  
Lauren Dickie  
Burke Harrington  
Christopher Manning  
Jena Skinner

When addressing the Commission, please state your name and your address for the record prior to providing your comments. Please address the Commission as a whole through the Chair. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

**Work Session – 5:30pm - Cancelled**

#### 1. No Work Session Items

#### **Regular Session – 6:30pm**

##### 1. Call to Order

Lynn T. called the meeting to order at 6:30 p.m.

- Roll Call

Those present at roll call: Lynn T., Burke H., Chris M., Jeff A., Jena S., and Lauren D.

Staff Members Present: Town Planner Scot Hunn and Economic Development Coordinator Cindy Krieg.

- Pledge of Allegiance

## **2. Approval of Agenda**

- Items to be Pulled or Added

Motion by Jena S., second by Jeff A., to approve the agenda as presented. Motion passed 5-0.

## **3. Approval of Minutes**

- February 26, 2020

Motion by Chris M., second by Jena S., to approve the minutes of February 26, 2020 as presented. Motion passed 5-0.

## **4. Public comments on items, which are NOT on the agenda (5min time limit per person)**

Michelle Metteer – Town Manager  
302 Pine St.

Town Updates related to COVID-19

In coordination with what's happening at the County level:

- Canceling March 22<sup>nd</sup> Community Dinner
- Candidate Forum – March 19<sup>th</sup>

This will now be a closed forum, but will be televised (pull verbiage from public notice)

Reminded folks to submit questions – note that they can be physically dropped off if you can't submit via email.

Chris Romer will be the moderator.

- Avon-Gilman Transmission Line

Open House was scheduled for tomorrow night (3/12) at the Forest Service.

This event has also been postponed.

The public can submit comments online, via phone, or can request to meet in person.

Also note that the Town Council has requested an additional 30-day comment period.

## 5. Planning Commission Comments

Jeff A.

RE: USFS NEPA study – Reminded and encouraged the group to submit comments via the portal as soon as possible. You can check in to the reading room to see all comments. As of yesterday, were only 10 comments.

Jena S. – Are they transposing phone calls?

Jeff A. – Not sure, but doesn't think so.

Jeff noted that the EVPOA was not aware of the study.

It's really important to get the word out, and encourage the public to educate themselves and give comment.

Commented on the success of Barstool Racing, held on March 7<sup>th</sup>. Thanked all of the participants and volunteers.

Also brought up Food Trucks

Would like to continue the discussion regarding allowing food trucks in town.

Scot H. noted that the town staff is currently in discussion regarding food trucks and hopes to bring something forward to the planning commission soon.

## DESIGN REVIEW AND LAND USE PUBLIC HEARINGS

### 6. **1041 Main Street – Peace Love Aerial Yoga Studio Final Plan Review**

Review of final plans for a commercial and residential building proposed as a yoga studio with two employee housing units and underground parking garage.

**Recommendation:** Approval, with conditions.

Scot H. reintroduced the project. The applicants had come in for a conceptual review in January and have since made updates to their plans based on input from the Planning Commission, as well as from CDOT.

#### **Excerpts from the staff report dated March 11, 2020:**

*The Applicants, Tracy Long and Thom Conville, request final plan review of a new commercial and residential project located at 1041 Main Street. The project includes:*

- *1,989 square feet of studio space designed specifically for aerial yoga*
- *4,500 square feet of underground parking garage to provide 10 enclosed spaces*
- *Outside parking areas to accommodate three additional spaces including ADA*

- *accessible space*
- *Two residential units intended to provide employee housing and configured as a “duplex”*
- *A green roof terrace area located over the parking garage entry*
- *Improved property access*

*Following conceptual plan review on January 22nd the Applicants have revised the design of the site and building plans to better comply with the Town’s development standards and dimensional limitations.*

*Staff’s analysis of development standards and dimensional limitations in Section III outlines how the proposed project meets or exceeds requirements of the Town of Minturn Municipal Code, Chapter 16.*

*V. Issues to Consider and/or Address:*

*Staff suggests that the Applicant has satisfactorily addressed the following issues or concerns identified during previous reviews:*

- *Building Height*
- *Sewer Line Easement*

***Building Height***

*During the conceptual plan review by the Planning Commission for this building, the Applicant disclosed that the design of the parking garage and the desired building – which needs a clear story height of at least 25’ to allow for aerial yoga – would dictate the height of the building on this sloped lot. The grade change or slope from the front property line along Hwy. 24 to the area of the lot where grades flatten out at the lower 1/3 of the property is approximately 12 percent.*

*This slope is apparent in the existing gravel driveway that provides access to the property as well as the adjacent property owner. Other portions of the front 2/3 of the property are raised with grading and boulder retaining walls. The entire site has long-since been graded and disturbed, so establishment of “natural grade” particularly in the front 2/3 of the property is difficult if not impractical.*

*At the January 22nd hearing to consider the conceptual design, the Applicants asked if finished grade could be used to calculate building height given the impracticality of establishing or even extrapolating what natural grade might have been in the past (prior to previous property owners manipulating grade in such a substantial manner). It was determined at that time that the Applicants could use that method (using finished grades) and that raising the grade of the access driveway could serve two purposes: to even the slope of the access drive and to aid in effectively lowering the appearance of height of the building, particularly on the southwest corner of the building.*

*In response, the Applicant's plans now show an amended grade along most of the length of the access drive – in some places adding 4-5' of fill and reducing the slope from 12% to 3%-8%, and a building that is at or below the 28' height limit.*

***Sewer Line Easement***

*A 20' sewer line easement is reserved at the rear (southwest side) of the property. The landscape plan by Blueline Architects shows two groupings of evergreen and deciduous tree plantings within that easement. In discussions with the Applicants, staff has recommended that the Applicant work with the Upper Eagle River Water and Sanitation District and Town staff to revise the landscape plan as necessary to avoid any impacts to existing sewer lines – this will require proper locates by ERWSD and possibly an encroachment agreement with the District prior to landscape installation.*

Lauren D. – noted that the applicant had to move the parking, based on CDOT requirements.

**Thom Conville and Tracy Long, Applicants 1041 Main St. - Presented**

Tracy noted that the conceptual review was very helpful in providing input and alerting them to the CDOT situation / restrictions regarding access.

The Applicants stated that they want to grow their business in Minturn, and that they feel that this will be a unique space not only in Minturn, but for the entire valley.

Lauren D. and Chris M. both commented that they really like the idea, and appreciate the updates made.

Jena S. – Would there be any opportunity to rent the space for special events?  
Curious about capacity. Could be a draw for private events.

Tracy and Thom have not figured out the exact capacity yet, will determine that when doing fire inspection.

Burke H. – Is building height still a gray area within the code?  
Feels that this is still a burden that falls on the planning commission to determine building height and make interpretations.

Scot H. – Explained that the code amendments and providing a new building height definition, along with a better definition of “natural grade” will help staff interpret building height for individual properties, but stated that the Planning Commission will always be in a position to either agree with or disagree with staff's interpretations; that no regulation or definition will adequately cover every situation and that is why the code permits discretion by the Planning Commission and Planning Director.

Burke H. – Clarified that the building is being presented at the 28' max. height limit and

he cautioned the applicant to be careful with framing to ensure they don't exceed.

Jena S. – Could still verify measurements during inspections. Recommends doing an ILC. It's not a requirement, but strongly recommend it.

Scot H. – ILC is a requirement of foundation inspection and can made a condition of approval to require an additional ILC at framing.

Burke – Parking spots underneath – Back spot appears to not have much room to turn out, probably needs to be labeled as a compact car spot.

Burke – meter locations – be sure they don't get put where the drip edge is.

Thom – would like to keep electrical meter where it is (on a pole).

Burke – Any consideration for solar?

Thom – yes, if they can afford it. They are looking into it.

Jeff A. – Gas meter also will need to be looked at – ideally will want on the rear of the building.

Thom - Not entirely sure if they will run gas to the building.

Jeff A. - Loves the cupulas. The building may appear taller, but Jeff really likes them. Thinks it's a great looking building.

Jeff A. – Do they plan to snow clip or snow fence the roof?

Jeff A. also recommended Lifetime wood treatment (which gives the same appearance of aged wood but can be done instantly). Brush or spray it on, then clear coat vs. leaving bare wood to weather naturally which can cause the wood to dry out and split.

Applicant showed stone and siding samples.

Lynn T. asked if ILC should be a requirement.

Scot H. - also noted Colorado Code Compliance, the Town's plans examiner and building inspection vendor, are working with staff to clean up the Town's processes with regard to building permits and ILC requirements; this (requirement for ILC at different stages of building and depending on issues like setbacks and building height) could become more of a requirement.

Jena S. – Civil engineer could assist with surveying.

Jeff A. – Could code compliance be checking these things?

Scot H. – Depends on experience and training, not currently equipped for this.

**Public Comment:**

Dan Armistead  
1003 Main St., Unit C

1001 Main St. – converted the pole barn into a garage and apartment.  
Closed on 1021 recently (formerly John Rosenfeld’s property).  
Also commented on plans for 1011 Main St.

He likes that this part of town continues to have some mixed use.  
Likes the street view of having things like this vs. trailers and other items.

He will be coming forth in the near future with some additional proposals for that area.

Motion by Jena S., second by Burke H.  
To approve the motion, with conditions, (and with additional condition of ILC / heights to be verified), for 1041 Main St.

Motion passed 5-0.

**PROJECTS AND UPDATES**

**7. Project Updates**

- None.

**8. Planning Director Report & Minor DRB Approvals by Director**

- Status Update: Ordinance No. 2 – Series 2020 – Chapter 16 Amendments, Town Council – Approved on 2<sup>nd</sup> Reading

Scot H. – noted that following Council approval staff will be working on clarity of the requirements for engineering in Appendix C along with Town Engineer. This will make requirements for small and large projects more understandable and appropriate. Once more clarity is added, the language regarding Planning Director/Town Engineer discretion to waive requirements (added as part of Ordinance No. 2) would likely be removed.

Jena S. – feels that some discretion needs to be allowed to provide for flexibility with technology and other changes (code could become outdated and is important to have some flexibility).

There was also some discussion regarding ADU limitations.

**9. Future Meetings**

- March 25, 2020
- April 8, 2020
- April 29, 2020 (to replace April 22<sup>nd</sup>)

**10. Adjournment**

Motion by Jeff A., second by Chris M., to adjourn the meeting of February 22, 2020 at 7:23pm. Motion passed 5-0.

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Lynn Teach, Commission Chair

ATTEST:

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Scot Hunn, Planning Director



## OFFICIAL MINUTES

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**Meeting Id: 270 203 7865**

**Wednesday, March 25, 2020**

**Work Session – 5:30 PM (Cancelled)  
Regular Session – 6:30 PM**

**CHAIR – Lynn Teach**

**COMMISSION MEMBERS:**

Jeff Armistead  
Lauren Dickie  
Burke Harrington  
Christopher Manning  
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**Work Session – 5:30pm - Cancelled**

#### **1. No Work Session Items**

#### **Regular Session – 6:30pm**

##### **1. Call to Order**

Lynn T. called the meeting to order at 6:30 p.m.

- Roll Call

Those present at roll call: Lynn T., Burke H., Chris M., Jeff A., Jena S., and Lauren D.

Staff Members Present: Town Planner Scot Hunn and Economic Development Coordinator Cindy Krieg.

- Pledge of Allegiance

## **2. Approval of Agenda**

- Items to be Pulled or Added

Lynn T. – Approval of minutes from March 11, 2020 to be tabled to the April 8<sup>th</sup> meeting. Need to make some edits to the minutes.

Scot H. – Will also be removing 232 Main St. (Bloodworth addition) from the agenda. They will be withdrawing their application, so no need to table.

Motion by Jena S., second by Jeff A., to approve the agenda as amended.  
Motion passed 5-0.

## **3. Approval of Minutes**

- March 11, 2020

Motion by Jeff A., second by Jena S., to table approval of the March 11<sup>th</sup>, 2020 meeting minutes to the April 8<sup>th</sup> meeting. Motion passed 5-0.

## **4. Public comments on items, which are NOT on the agenda (5min time limit per person)**

Cindy Krieg  
Economic Development, Town of Minturn:

Town Announcements:

- Reminder about the upcoming April 7<sup>th</sup> election. Encouraging all residents to apply for an absentee ballot and vote that way. To apply for an absentee ballot, please contact Jay Brunvand. More detailed information available on the Town website.
- Town Hall closure has been extended through April 10<sup>th</sup>, however Council Chambers will be open on election day – April 7<sup>th</sup>, from 7am – 7pm. All ballots must be received by 7pm on election day.
- COVID-19 Eagle County Funding
  - Opportunities available to apply for assistance. Link available within the COVID-19 alert section of the Minturn.org website.
- SBDC hosting a resource and recovery call for businesses and community leaders on Friday March 27<sup>th</sup>. Information was shared via email today. If you need this information, please contact Cindy Krieg ([events@minturn.org](mailto:events@minturn.org)).

## 5. Planning Commission Comments

No Planning Commission Comments.

### DESIGN REVIEW AND LAND USE PUBLIC HEARINGS

6. **232 Main Street – Bloodworth Addition Final Review** (Tabled from December 11<sup>th</sup>, January 8<sup>th</sup> and January 22<sup>nd</sup>, 2020 Meetings; To be Tabled to a date certain).

**Application is being withdrawn.**

7. **201 Main Street Unit Suite 2A – Futurian Systems Sign Permit Application**  
Review of proposed exterior sign to be mounted on the Iron Works Building facing Toledo Ave. This is a replacement sign for one that was stolen.

**Recommendation:** Approval, with conditions.

#### **Excerpts from staff report dated March 25, 2020:**

*The Applicant, Futurian Systems, requests review of a sign permit for an existing office located at 201 Main Street, Suite 2A in the Iron Works Building. This is a replacement of a previously approved sign in the same location that was recently stolen.*

*The proposed three (3) square foot sign is proposed to be a double sided, internally lit sign that will hang perpendicularly from an existing metal bracket on the north side of the Iron Works Building. The previous sign was not lit. The metal bracket is mounted to the building on the second story.*

*The sign permit application is complete, the proposed sign complies with the requirements of the Minturn Municipal Code, and staff is **recommending approval** of the request, with the condition that Pursuant to Section 16-19-110, Minturn Municipal Code, the sign may be lit no later than 11:00 p.m. or until the close of business, whichever is later.*

The staff report also noted a condition that the Applicant obtain an electrical permit for any new electrical work being performed in order to illuminate the sign. But Staff later

learned that no new electrical work will be required for the sign, so this condition is not needed.

Planning Commission Comments:

Lynn T. – Asked about the condition of not having the sign light after 11pm, “or close of business – whichever is later”. Do we need to include “whichever is later” since the business is not operating at night?

Scot H. – Asked for input from the Planning Commission. How do they feel about signs being lit at night and what is the current or existing conditions in town; are signs at restaurants and bars normally lit past 11pm?

Jeff A. – Noted other examples. Minturn Anglers sign is lit past 11, but it’s neon (not bright white) and is in the commercial zone (not around residences). Magustos and some other businesses have signs lit until close, but bars / restaurants are of course open later. This particular business has several residences near it.

Jena S. – Wondering why they’ve requested a lit sign this time (since it’s a replacement sign)? Also asked if it’s possible to decrease the white space (glow / glare)? We could possibly suggest doing the outer trim around the logo in blue or even reversing the color so the background is dark and the lettering is white.

Jeff A. – Feels that the lit sign is just to be more of a high-tech sign to align with the type of business that they are (they are a technology company). Feels the 11pm cutoff for the lighting makes sense. Recommends an auto-timer.

It’s also not a very large sign (Overall: 9”x30”, Visual Size: 6” tall x 27” wide)

Lynn T. – Also likes the suggestion of blue or other color around the perimeter vs. all white. Feels 11pm is a reasonable time to request the lighting be turned off.

Chris M. – Agrees with the 11pm cutoff.

Burke H. – Also agrees with the 11pm cutoff.

Jena S. – Noted that it’s a more modern sign than others in town (where others are more artistic in design). She has done work with this sign company in the past, and they do high quality work.

Motion by Jeff A., second by Burke H., to approve the sign permit application for 201 Main St. Unit 2A (Futurian Systems), with the following conditions and recommendations.

Motion Passed 5-0.

- Pursuant to Section 16-19-110, Minturn Municipal Code, the sign may be lit no later than 11:00 p.m.
- Recommend consideration of the logo blue or other soft color for the outside perimeter of the lit sign, vs. using a bright white.

## PROJECTS AND UPDATES

### 8. Project Updates

- **Three Mile Plan**

At a bit of a standstill. Scot H. has all of the Planning Commission comments and has presented to Town Council.

Scot H. recently heard from Dominic Mauriello, representative for the new owner of the Palmateer Property (now “Grindstone Minturn, LLC”). Mr. Mauriello requested a draft of the Three Mile Plan, to look at language within the Three Mile Plan relating to this parcel (what was recommended for future land use of this parcel). It was included in the 2009 Three Mile Plan (unincorporated Eagle County) and is also included within the 2020 updated plan.

Scot H. - There is currently mention of future land use of that parcel having to do with potential for a base area development and ski lift access to Vail Mountain (up Game Creek drainage).

Scot H. - There was also a 1993 Resolution referencing Joint Master Planning with the Town and Vail Associates (to work with Vail Associates and the Forest Service). The 2009 Plan also references a 2003 Memo of Understanding (MOU) between the Town and Vail Resorts Inc., however staff is not able to locate any copy of the MOU and is not certain of what was agreed to in the MOU.

Scot H. - However, there has been no discussion since that time between the Town and Vail Resorts regarding any potential ski lift access off that site. Also does not believe that such use (ski lift access and base area development) would be encouraged or desired by the Town at this time.

Scot H. - asked the Planning Commission if they were aware of any previous plans for a lift coming down from Game Creek, landing at the old Palmateer Property.

Lynn T. – Not aware of any specific plan, but is aware of discussions that there was land available

Burke H. – Asked about the specific property that Scot is referring to (Oren’s old house)? Wondering what the approach was of the owner’s representative. Curious what their

questions were.

Scot H. - noted that they just wanted to be included in the discussion. This property continues to be referenced in the Three Mile Plan due to its proximity to Town and the fact that it could be appropriate for annexation into the Town at some point.

Burke H. – That property was for sale for 7 – 8 years (feels that if Vail Resorts had any inkling of wanting to put something in, they had ample opportunity to buy it). He has also heard that if there is any thought of a lift, it would more likely be located in the Two Elk draining (not Game Creek).

Jeff A. – Is that property annexed into Town currently? Are the owners interested in annexation? And what are the rough boundaries?

Scot H. – No, it is not currently annexed. Have not heard from the owner’s representative that they are specifically interested in annexation, but it is possible. Annexation may become part of the conversation.

The Planning Commission asked for clarification on the characteristics of the parcel.

Scot H. - It’s a square-ish property surrounding a single-family house, Game Creek flows right through the middle of it. Some wetlands, riparian areas along Game Creek, and some steep hillside.

Jeff A. – This property has had some improvements ((landscaping, etc) done recently. The property also sold just a few years ago.

Jeff A. - What kind of language do the owners want to see in the plan?

Scot H. – Not sure but hoping to speak with Mr. Mauriello soon. Also looking to speak with the Pierson property owners (south side of town) as well, and the language that affects their property.

Lynn T. – Noted that Mr. Mauriello was previously involved in the Ginn project when that was in the works.

Jena S. - Regarding MOU from 1993, if things have changed hands without any updates to the MOU, it doesn’t carry any legal weight.

Scot H. – After speaking with the owners of affected properties, will be cleaning up the document and starting the public process to get the plan adopted.

Scot H. then also brought up the public process for things like the updated Chapter 16, Three Mile Plan, projects like this (Master Plans) – asked for Planning Commission input on how to handle these types of projects during this time. Should we wait for the dust to settle so we can have in-person public meetings? Or keep moving forward with these

items with the online meetings?

Lynn T. – Prefers to have in-person public meetings for master planning projects. Not so much concerned about the Planning Commission but want to make sure it's easy for the public and don't want to exclude anyone. Feels that we may have less public involvement while we're doing online meetings.

Jena S. – Suggested that if we have to move forward with online options for these items, with the public, we should consider a different platform that can be controlled better with several people in the meeting. (More webinar style meetings). Could also have the public submit questions ahead of time.

Jeff A. – Doesn't want to come to a grinding halt. Need to keep working, so need to find options that work. Perhaps people can submit questions, comments, letters in advance that can be written into the record.

Lauren D. - Agreed that we need to keep moving forward and could use other technological tools to make the process effective.

Scot H. - Agreed. We need to keep moving forward and need to find a public meeting solution. Willing to explore other platforms.

- **Housing Ordinance**

Scot H. - Is still working on a draft Housing Ordinance to memorialize the goals and policies adopted in the 2019 Minturn Housing Action Plan.

Scot H. - Working on Article 2 of Chapter 16 - Definitions, especially those which are specific to housing. Building a new Article 26 within Chapter 16 (Housing Standards and Guidelines), and the regulations of how these will be applied.

Scot H. – Feels that he is walking a fine line between getting something on the books that reflects the goals and what we said we wanted to see regarding percentage requirements, but not take the next two months to figure out exactly how this will work. Would like to get something adopted quickly, so that we have guidelines in place when projects come through the door.

Scot H. - Would like to get a draft ordinance in front of the commission in April.

- **Chapter 16 Project**

As discussed with the housing ordinance, Scot H. is currently working on Article 2 - Definitions.

Scot H. - Shared some documents with Jena S. (Jena had offered to assist with definitions). These documents include some work that Madison had previously done

(definitions from other municipalities).

Scot has also received some feedback from Town Attorney Richard Peterson Cremer, regarding definitions.

Some primary areas that need to be looked at are: Definition of Natural Grade and Building Height Calculation.

Scot H. - Previously focused on Zone Districts, dimensional and designs standards for zone districts, new mapping, flow and organization of chapter 16. Now need to focus on definitions.

Scot H. - has been working on this since 2018, with the Planning Commission on reviewing Chapter 16 since September.  
There is push to get this finalized and adopted, to help with issues regarding unclear areas of the code.

Scot H. - Would like to get the definitions to the commission in April. Could hopefully start the public review process in May for Chapter 16.

Jena S. – Would like to compare our neighboring jurisdictions as well, within the Valley. Will also assist with definitions.

- **Minturn Crossing PUD Preliminary Plan**

Scot H. – We have received preliminary plans. Not reviewed yet by Scot or Jeff Spanel (Town Engineer). First step is to check for completion and identify any missing pieces.

Also need to address the moratorium on water taps (for any projects over 3 units).

Scot H. explained that last week at the Town Council work session, there was a conversation to consider a draft ordinance that would place a moratorium on any new water taps for developments over 3 units (or 3 single family equivalents). This has to do with the Town's work that they've done over the last couple of years with regard to capital improvements planning for the water system, and all the components that the Town has laid out previously needing to be upgraded (\$17 - \$18M in improvements that need to be made – storage tanks, water lines, leak detection system, etc).

Scot H. - Since the proposed interconnect and the deal with the District was rejected by the Council, the Town has shifted its focus on addressing the existing water system and prioritizing upgrades, starting with leak detection and repair as the most likely means to gain (back) more water.

Scot H. - The Town's water engineer and water attorney went through several studies and have come up with estimates of how many taps we probably have available (prior to system improvements), and what we will need to consider for reasonable future growth to

help pay for these improvements.

Scot H. - It is estimated that (on the bottom end) that we have about 70 taps that we can rely on over the next 2 – 3 years, until we can start making improvements. On the high end, the figure (not counting the 120 taps that have already been agreed to with the school district), is about 330 additional units (if all of the improvements are made, leaks are fixed, etc).

Scot H. - That said, the Minturn Crossing PUD applicant has asked the Town to guarantee them enough taps to at least build the first phase of the project. The Town has not done this as we only had a conceptual plan and no preliminary plans. Now that we've received the preliminary plan, the Town is now in a position to work with the applicant through the review process and understand better how phasing and timing of improvements to the water system will permit development of a first phase, if approved by the Town.

Scot H. - This does not preclude a property owner who has existing taps on their property from proposing a re-development and re-using those taps. It also does not preclude a developer from coming to the table that could bring water rights (someone who potentially has a separate deal with the water district), or from applying for land use approval (a PUD or subdivision with more than three SFEs) with the caveat that their development, if approved, may not be served with water until such time that additional water taps are made available.

Lynn T. – At this time, the applicant has not been guaranteed the 70 taps?

Scot H. – No, not guaranteed

Jena S. - Asked about the status of the moratorium.

Scot H. – It was a work session, so it will still need to go through the ordinance first and second reading process.

Jeff A. – Asked about vested right. When do you actually get approval for taps (in relation to the application status)? Do you have to get through approval of the preliminary PUD first (by P&Z and Council)?

Scot H. – The vested rights are for the land use and density of the project. Right now, the way the ordinance reads, it does recognize the application submission and that the applicant is intending to secure the 70 taps. If for whatever reason they don't get approval, that reservation of taps would be void and taps would theoretically be available for other projects (in cue).

Jeff A. – Is there a time restriction to avoid someone tying up water reservations for an unlimited period?

Scot H. – Technically, no, the Code provides limits on vesting and approvals. There are time limits on continuing files as well. If it became clear that a land

Scot H. - The Minturn Crossing PUD developer is currently pledging to pay for water taps up front (which would be approximately \$1.5M). So, there is benefit/incentive to the Town in reserving what on paper appears to be our last remaining taps, in that we would receive much-needed cash in return to start making some of these improvements. Those improvements will likely lead to more available water for other projects.

Scot H. - Also discussed the timing of the Minturn Crossing PUD project. The developer has several months of review ahead before any property is final platted (assuming Preliminary Plan approval and the negotiation of a subdivision improvement agreement). The developer is also not proposing any vertical construction but will be working (potentially as soon as spring/summer of 2021) on horizontal construction of infrastructure. Therefore, it is also likely that if they had sold lots in the first phase by 2021, and a lot purchaser needed to then go through DRB and building permit application, no homes will likely be built until 2022 at the earliest.

Scot H. - So when someone comes to pull the first tap, it's a year and a half out. And in the meantime, we'll likely have already made some improvements, found some efficiencies and possibly some additional water taps.

Jeff A. - Mentioned that he's had public questions regarding legal options for someone wanting to develop something larger than 3 units, but taps aren't available - could they drill a well?

Scot H. – From the standpoint of sanitary sewer and wastewater – if you are within a certain distance of a municipality and a wastewater treatment system, you typically are required to tie into that system. Not sure if the same applies to a well.

Jena S. – Agreed with Scot's comments, unless the municipality / wastewater system is unable to serve you. For example, the idea has been kicked around locally (within the valley) of using a well (non-potable water) for irrigation and landscaping for properties that may be within a municipal water service district, but not wanting to use potable water for irrigation. When that happens, however, there is a potential to threaten other / senior water rights.

Jena S. - That said, there is nothing in Colorado law that says you have to be on a public system, as long as you're not interfering with other water rights. It depends on how many units you're proposing. In this valley, we try to keep everything on a public system, but in the front range for example this scenario happens all the time. Working through the process of gaining approval or getting an exemption to drill a well within an area served by municipal water would likely be a very expensive and time-consuming endeavor. If it's a small (5 units for example) project, perhaps they could supplement with a water tank. However, feels that it would be cost prohibitive and also a very lengthy process.

Burke H. – Has definite concerns about tying up all 70 taps.

Chris M. – Asked about single taps available for smaller projects. Would those still be doable if the 70 taps were tied up?

Scot H. – Yes, there is a specific provision in the moratorium for projects that are 3 or fewer units (single family, duplex, townhome, ADU). Also included in the draft ordinance the ability for someone proposing a project larger than 3 units to apply (with the caveat that there is no guarantee that they would have water to serve their project), so that if they were willing to go through a multi-month or multi-year project, they could still begin the process.

Lynn T. – Asked if someone applies for a tap for a smaller (less than 3 units) project, would that number come out of the 70?

Scot H. – Yes, it would, but reminded the group that 70 is an estimated number and projected to be on the low end (in a very bad/dry year). We could very well have more water available in normal years and particularly following the installation of leak detection infrastructure improvements and actual repair of leaks and loss.

Jena S. – Asked if the Town is willing to support an extension of vested rights? Typically, a preliminary plan you get two years, and final plat could be anywhere from 1 – 5 years. Would the Town be willing to extend in order to tie in with water availability?

Scot H. – Can't answer that definitively right now but can't imagine that the Town wouldn't support that. Believes that it's currently two years but can be evaluated by Town Council and/or negotiated on case-by-case basis for PUDs.

Jena S. – Feels it's important to establish that, because it allows business to continue and good projects to come in and be evaluated.

## **9. Planning Director Report & Minor DRB Approvals by Director**

- None

## **10. Future Meetings**

- April 8, 2020
- April 29, 2020 (Rescheduled from April 22<sup>nd</sup>)

## **11. Adjournment**

Motion by Jeff A., second by Chris M., to adjourn the meeting of March 25, 2020 at 7:36pm. Motion passed 5-0.

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Lynn Teach, Commission Chair

ATTEST:

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Scot Hunn, Planning Director



## Town of Minturn Mobile Vendor Guidelines

Established April \_\_\_\_, 2020

This policy of the Planning Department applies to pushcarts and food trucks, as defined by the Colorado Department of Public Health and Environment. All other itinerant sales shall conform to the provisions of ([Insert Minturn specific section of code](#)) Code of Laws. This policy does not apply to mobile retailers associated with special events, private parties, or farmers' markets; but licensing requirements may still apply.

**Pushcarts** are retail food establishments that are non-motorized, non-self-propelled units designed so foods are served from the exterior of the unit. They are intended to physically report to and operate from a commissary for servicing, restocking, and maintenance.

**Mobile Retail Food Establishments ("Food Trucks")** are retail food establishments that report to and operate from a commissary and are readily moveable. They are motorized wheeled vehicles, or towed wheeled vehicles designed and equipped to serve food.

Mobile retail food establishments and pushcarts are temporary uses, permitted under the following conditions:

- a. Mobile food sales are only permitted on private property that is commercially or industrially zoned or on property in any zone district with an institutional or semi-public use (unless approved by Town Staff as part of a civic event).
- b. Written approval of:
  - 1) The property owner;
  - 2) The Business owner if different than the property owner; and
  - 3) The Town staff
- c. Mobile food sales are not permitted in the public right-of-way.
- d. The food sales must be ancillary to an existing primary use. An active construction site is considered a primary use.
- e. Only one pushcart or mobile retail food establishment is allowed per principal use on any one private property.
- f. Sales may include only food and non-alcoholic beverages.
- g. Hours of operation shall be between 7:00 a.m. and 11:00 p.m. for no more than four (4) total hours per day at any one location.
- h. Food trucks and pushcarts shall be parked only on paved surfaces, unless otherwise approved by Town Staff. In the case of an active construction site where a paved surface may be unavailable or unbuilt, a vendor shall be parked on an approved

material that minimizes the tracking of dirt into the street and complies with the approved stormwater management plan.

- i. Operation shall not obstruct the visibility of motorists or pedestrians; interfere with the sight distance triangle; impede parking lot circulation; block access to a public street, alley or sidewalk; impede handicap or emergency access; or unreasonably reduce the area required for parking for any other use on the lot.
- j. Site plan approval by the Planning Department is required. Site plans shall be drawn to scale and may be accompanied by available surveys of the private property, photographs and aerial mapping available from Eagle County GIS. (Should we follow our procedure for liquor license applications' site plans?)
- k. Signage must be permanently affixed to or painted on pushcarts and food trucks—projecting signs are not permitted. One portable sign per vendor is allowed with a sign permit—up to six (6) square feet per side, A-frame or pedestal style only. Sandwich board signs less than six (6) square feet are permitted without a sign permit. All signage must not block or obstruct public streets, alley or sidewalk areas; must not block or obstruct sight distance triangle; impede parking lot circulation; or unreasonably reduce the area required for parking for any other use on the lot.
- l. Permanent structures, accessory furniture (canopies, tables, chairs, etc) and amplified music are not permitted. Agree with possible tables, chairs, umbrella – but should require they be shown on the site plan so we can ensure it's not interfering with surroundings.
- m. Any lighting must be indirect and downcast so as not to direct glare off-site. No lighting shall be permitted that causes safety hazards by projecting glare onto public rights-of-way or travel corridors; or, that adversely or unreasonably impacts neighboring property owners' enjoyment of private property or business owners' ability to conduct business.
- n. Operators shall be responsible for the storage and daily disposal of all trash, refuse, and litter. No liquid wastes shall be discharged from the food truck onto the ground (with the exception of clean ice melt).
- o. A business license is required and all sales tax and health department regulations must be met.
- p. Permits shall be prominently displayed and clearly conspicuous and visible to the public in the food handling area during operation.

If at any time a business license, health department certificate, or property owner permission is revoked or suspended, approval from the Planning Department is revoked or suspended simultaneously.

## Town of Minturn - Mobile Food Vendor Guidelines – DRAFT

### Questions and Talking Points:

- Item G:
  - Does this mean that someone could just move down the road to another spot after 4 hours? When someone applies, they may want approval for multiple stops or sites on a regular route each day or week. Is that OK, as long as we have a site plan for each site/stop and the permit includes just those sites?
  - Do we want to require the vendor to choose (1) permanent location?
  - Can also see allowing multiple sites/stops being a code enforcement nightmare!
  - Do we want to govern / restrict the number of (or which) days per week?
    - Mobile food trucks or push carts offer the same product as a restaurant and can add to the vitality of town in the same way if properly regulated.
- Item J:
  - Site Plans - Should we follow our liquor license applications process for site plans?
- Item L:
  - Permanent Structures - How do we feel about this? Agree that amplified music is a no- no, but providing a table and umbrella might be nice if taken down each day or at the end of the 4 hour period.
- Item P:
  - Permits - Which permits need to be obtained and displayed? Business license, public health/food safety inspections or permits?
- Who is approving?
  - Suggest the permit showing one or multiple sites would all be staff approved.



**CERTIFICATE OF PROPERTY PERMISSION**

**To be submitted by peddlers other than those at special events organized by the Town or property owner**

Permission is hereby granted for \_\_\_\_\_  
(temporary business)

To conduct retail sales on the property located at: **NW SW NE SE** (corner) of:  
\_\_\_\_\_  
(location/address/intersection)

Owned By:  
\_\_\_\_\_  
(land owners name)

*This Certificate of Property Permission must be approved by the City of Wheat Ridge Zoning Department.*

Certificate Valid from \_\_\_\_\_ to \_\_\_\_\_ only for the above location.

No more than one use may be granted for any given time period.

X			
Vendor Signature	Address	Date	
X			
Land owner Signature	Address	Date	

**NOTARY PUBLIC:**      X-- \_\_\_\_\_ **SEAL:**

Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By Applicant:

Applicant's address \_\_\_\_\_  
\_\_\_\_\_

My Commission Expires: \_\_\_\_\_

<b>Approved By:</b>	
Sales Tax Representative	_____ Date
Zoning Department Representative	_____ Date

**Notes:**  
\_\_\_\_\_

TOWN OF MINTURN, COLORADO  
ORDINANCE NO. 1 – SERIES 2020

AN ORDINANCE OF THE TOWN OF MINTURN, COLORADO  
AMENDING THE ZONING CODE OF THE TOWN OF  
MINTURN SET FORTH AS CHAPTER 16 OF THE MINTURN  
MUNICIPAL CODE FOR THE PURPOSE OF ADOPTING  
INCLUSIONARY ZONING FOR AFFORDABLE HOUSING.

**WHEREAS**, the Town of Minturn (“Town”) is a legal and political subdivision of the State of Colorado for which the Minturn Town Council (“Town Council”) is authorized to act; and

**WHEREAS**, the Town is authorized by the Local Government Land Use Control Enabling Act of 1974, §29-20-101 through §29-20-108, C.R.S., as amended, and §31-23-301, C.R.S., as amended, to plan for and regulate the use of land within the Town’s jurisdiction, and to enact zoning, subdivision, and other land use and development regulations; and

**WHEREAS**, the Town Council and Planning Commission held various public work sessions and public hearings to receive public input on the adoption of local’s housing tools and requirements in January, March, May and June of 2019; and

**WHEREAS**, the Town of Minturn 2019 Community Survey has identified housing as a priority for the Town; and

**WHEREAS**, the 2009 Town of Minturn Community Plan adopted via Resolution No. 28, Series 2009, and the 2009 Town of Minturn Three Mile Plan for Annexation adopted via Resolution No. 3, Series 2009, set forth community visions, policy goals and implementing strategies calling for the provision of future housing opportunities and “affordable housing;” and

**WHEREAS**, the Town of Minturn 2018-2020 Strategic Plan adopted by the Minturn Town Council via Resolution No. 14, Series 2018, sets forth strategies to “sustain and invest in the things that define Minturn as a proud, sturdy mountain town to ‘keep Minturn Minturn’ and, specifically, to “Adopt and implement an Attainable Housing Policy through assistance from Eagle County Government and a third party consultant following a public engagement process;” and

**WHEREAS**, the Town Council, at their regularly scheduled meeting of August 21, 2019 considered and adopted the 2019 Town of Minturn Housing Action Plan (Resolution No. 33, Series 2019); and

**WHEREAS**, the 2019 Town of Minturn Housing Action Plan sets forth certain overarching goals and objectives aimed at creating and preserving locals-only, Community Housing stock within the Town and creating and preserving restricted housing stock through deed restrictions via the subsequent adoption of inclusionary Community Housing ordinances, annexation policies and incentives for the creation of Accessory Dwelling Units (ADUs) within the Town; and

**WHEREAS**, following adoption of Resolution 33, 2019 the Town of Minturn Planning Commission held subsequent work sessions to discuss and refine specific target goals and regulatory and policy related means to achieve said goals; and

**WHEREAS**, §31-23-304, C.R.S., provides that the Town shall provide for the manner in which its land use and development regulations are amended, supplemented, or changed; and

**WHEREAS**, §16-21-430 of the Minturn Municipal Code provides that Town Council, Planning Commission or Planning Director may initiate an amendment of the Zoning Code, and §16-21-440 provides that the Town's Planning Commission shall review all proposed amendments to the Town's Zoning Code at a duly noticed public hearing and shall recommend approval or denial of a proposed amendment by Town Council, and that the Town Council shall finally approve or deny a proposed amendment at a duly noticed public hearing; and

**WHEREAS**, the Planning Commission at a duly noticed public hearing on [REDACTED], 2020 considered the Zoning Code amendments and provided a recommendation to the Town Council; and

**WHEREAS**, the Town Council at duly noticed public hearings on [REDACTED], 2020 considered the proposed Zoning Code amendments and recommendation of the Planning Commission and determined that the amendments are in the best interest of the public health, safety and welfare of the citizens of the Town and conformed in all respects to the Minturn Municipal Code.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

SECTION 1. The foregoing recitals are incorporated herein as if set forth in full.

SECTION 2. Chapter 16 of the Minturn Municipal Code, the Zoning Code of the Town of Minturn, is hereby amended to read as follows, with additions shown in double underlined text, and ~~strike through language is deleted~~. Sections of Chapter 16 which are not expressly described in this Ordinance are deemed to continue to be in full effect without change.

## **CHAPTER 6 - Business Licenses and Regulations**

### **ARTICLE 7 – Short-Term Rentals**

#### **Sec. 6-7-10. - Applicability and purpose.**

The purpose of this Article is to establish within the Town reasonable regulations and procedures for the licensing of short-term rentals. As a mountain community geographically limited in growth, the Town is impacted by high costs of land and development, which adversely affect the stock of affordable, work-force housing and the residential, community-oriented nature of the Town. By reasonably regulating short-term rentals, and by prohibiting the short-term rental of Community Housing, the negative impacts of transiency and added

commercial activity and business enterprises in residential zone districts, including the impacts on long-term housing, community character, code compliance, and system and infrastructure deterioration can be addressed while protecting the rights of the Town's citizens and property owners.

(Ord. ~~4-2017~~, §3)

**Sec. 6-7-20. - Definitions.**

When not clearly otherwise indicated by the context, the following terms, words, and phrases as used in this Article have the following meanings:

*Building Code* includes the International Building Code, International Residential Code, International Fire Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, International Energy Conservation Code, International Performance Code, Uniform Code for the Abatement of Dangerous Buildings and the National Electrical Code, as adopted by the Town.

*Building Official* means the building official as defined in the Building Code as adopted by the Town, or his or her designee.

*Community housing unit* – A Residential dwelling unit within the Town of Minturn that is deed restricted in accordance with the Town of Minturn’s Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with a deed restrictions approved by the Town of Minturn Town Council or its designee

*Community housing rental unit* – A Community Housing unit that is deed-restricted in accordance with the Town of Minturn’s Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with deed restrictions approved by the Town of Minturn Town Council or its designee, to establish a maximum rental prices, as well as residency, employment and income qualifications for owners and occupants.

*Community Housing Sale Unit* – A Community Housing unit that is deed-restricted in accordance with the Town of Minturn’s Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with a deed restrictions approved by the Town of Minturn Town Council or its designee to establish maximum initial sales and resale prices, as well as residency, employment and income qualifications for owners and occupants.

*License* means a short-term rental license, as prescribed in this Article.

*Local Property Manager* means any person or entity with a physical place of business located or residing within fifty (50) road miles of the Town and identified on a short-term rental license as the Local Property Manager and who is a contract person responsible for the handling of maintenance of the short-term rental, snow removal, and complaints associated with the short-term rental property. If the Local Property Manager

is a person or entity other than the owner of the property, the Local Property Manager shall be licensed as may be required under state law.

*Short-term rental* means any residential property dwelling unit or portion thereof rented for a period of less than thirty (30) consecutive days. Rentals of entire dwelling units, individual rooms, or portions of rooms shall each be considered short-term rentals. Short-term rentals are considered lodging accommodations under Chapter 4, Article 4 of this Code.

(Ord. [4-2017](#), §3)

**Sec. 6-7-40. - License restrictions.**

- (a) Zoning. A short-term rental license may be issued in all zone districts.
- (b) Parking requirement. Parking shall be provided consistent with the requirements of Article 16 of this Code.
- (c) Number of inhabitants. No more than three (3) people per bedroom, including children, shall be permitted to occupy a short-term rental.
- (d) Two-year ownership. No property shall be licensed as a short-term rental unless the owner has owned the property for two (2) or more years before a license application is filed. Transfers to a trust where the owner of the property is the beneficiary of the trust or to a corporate entity where the owner of the property is the majority owner of the entity shall not constitute a break in the period of ownership. This section shall not be read to prohibit the long-term rental of properties (for periods in excess of thirty (30) days) within the first two (2) years of ownership. The short-term rental license is nontransferable with the sale of the property.
- (e) Community Housing. No unit designated by the Town as a Community Housing Unit shall be eligible for short-term rental.
- (f) Housing stock. No more than ten percent (10%) or fifty (50), whichever is fewer, of the residential housing units shall be licensed as short-term rentals in the Town at any time.

**CHAPTER 16 – Zoning**

**ARTICLE 2 – Definitions**

**Sec. 16-2-20. - Definitions.**

For the purposes of this Chapter, the following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

*Accessory apartment* means a dwelling unit that has been added onto, or created within, a single-family dwelling or detached garage. The *accessory apartment* has separate cooking, bathing and sleeping areas. The inclusion of an accessory apartment shall maintain the appearance of the structure as a single-family dwelling or detached garage. The *accessory apartment* shall remain under the same ownership as the single-family dwelling.

*Accessory building or structure* means a building or structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use. An *accessory building or structure* is functionally dependent upon the principal use. (See Illustration No. 16-1 at [Section 16-2-30](#))

*Accessory dwelling* means an individual dwelling unit subordinate to, and contained within or on the same lot as, a single-family dwelling.

*Accessory use* means a use of land, or of a building or portion thereof, customarily incidental to and subordinate to the principal use of the land or building and located on the same lot with the principal use.

*Adult use* means an establishment consisting of, including or having the characteristics of any or all of the following:

*Adult bookstore* means an establishment having as a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes or films that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.

*Adult cabaret* means:

1. An establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas;
2. A cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators or similar entertainers for observation by patrons.

*Adult massage parlor* means a similar establishment or portion of an establishment presenting material distinguished by emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement and customarily not open to the general public through the exclusion of minors.

*Adult motion picture theater* means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical genital areas.

*Nude entertainment establishment* means an establishment where a person appears in a state of nudity when such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals of either sex.

*Agricultural use* means the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to:

*Animal husbandry* means raising of livestock, bees, apiary products and fur animals, including the incidental preparations for market, storage and delivery, but not the sale of retail products.

*Horticulture* means the cultivation of a garden or orchard, including floriculture and viticulture, and comprises the production of crops and raising nursery stock, including incidental preparations for market, storage and delivery but not retail sale of products.

*Alley* means a service roadway providing a secondary means of access to abutting property and designated for service access to the rear or side of buildings.

*Alteration* means any act or process that changes one (1) or more of the exterior architectural features of any building or structure. A change in exterior color is not an *alteration*.

*Alteration, structural* means any change in the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof, foundation or exterior walls.

*Amusements* means an establishment or enterprise for the purpose of amusing or entertaining persons, including by way of example but not in limitation, museums, bowling alleys, pool halls, arcades, dance halls, puppet shows, theaters, cinemas, concerts, stage shows, roller and ice skating rinks, sport facilities and recreational facilities, whether such establishments are indoor or outdoor, for profit or not for profit or in conjunction with another use on the premises. However, amusements shall not include devices for amusement and entertainment such as jukeboxes, pool tables, coin-operated games, pinball machines or television and radio where such devices are clearly incidental and subordinate to the principal use of the premises.

*Apartment house* means a structure containing three (3) or more dwelling units that have not been subdivided into separate ownership units.

*Area median income (AMI)* means the median household income estimates and program income limits compiled and released annually by the United States Department of Housing and Urban Development (HUD).

*Automobile service station* means any building, land area or other premises or portion thereof used for the retail dispensing or sales of vehicular fuels; serving and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar vehicle accessories. Motor vehicle service is listed as an industrial use.

*Automotive detail shop* means a building, or portion thereof, containing facilities for complete or partial hand-washing of automobiles as a service to a customer.

*Automotive parts/sales* means any building or premises whose primary use is for the dispensing or sale at retail to the public of lubricating oil or grease, tires, batteries and other minor automobile accessories.

*Bakeries and confectioneries* means the baking of bread, cake, cookies and other similar items for delivery to wholesale customers or for door-to-door sale or delivery to retail customers.

*Bakeries and delicatessens with food service* means stores engaged in the sale at retail of bread, cake, cookies and other similar items, including the baking of such items on the premises, but excluding the baking of such items for delivery to wholesale customers or for door-to-door sale or delivery to retail customers.

*Banks and financial institutions* means commercial banks, savings and loan associations, brokerage offices and other similar financial institutions, but not including pawnshops.

*Batch plant* means the manufacturing of asphalt or concrete which may include the storage of related component materials.

*Bed and breakfast* and *tourist home* mean a dwelling unit in which overnight accommodations and a morning meal are provided only to guests of the facility for compensation. There are no cooking or dining facilities provided in individual rooms, and the length of stay is less than thirty (30) days. See also *Commercial accommodations*.

*Building* means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

*Building height* or *height of building* means the maximum vertical (plumb) distance measured at any point along the perimeter of the structure from the finished or natural grade (whichever is more restrictive) and a point on the roof depending on the roof type. No portion of any structure shall exceed the applicable building height limitation contained in this Code. (See Illustration No. 16-2.)

Height measurement points specified for the following types of roofs:

*Flat roof:* Height shall be measured to the highest point of the building, including parapet walls and rooftop appurtenances, but excluding architectural features and chimneys which may be permitted by Planning Director.

*Gable, hip, gambrel or shed roof:* Height shall be measured to the mean height level between the highest ridge or wall and its highest associated eave, provided, however, that if any parapet wall equals or exceeds the height of the highest ridge, then vertical distance shall be measured to the highest point of the parapet. Mansard roof height shall be measured to the decline of the roof.

See also [Section 16-3-30](#).

*Building lot coverage* means the portion of a lot that is covered by buildings, including all interior space including garages, and all enclosed cantilevered portions of a building, covered porches, covered walkways and similar covered areas. Buildings are measured at the outside exterior wall. Additionally, fifty percent (50%) of the total area of second- and third-

level decks shall be counted towards the allowable building lot coverage. Second- and third-level decks that cover a portion of a building that has already been counted towards the allowable lot coverage shall not count towards the total lot coverage. Second- and third-level decks that are structurally supported from the ground level shall have their entire area counted towards the allowable lot coverage. (See Illustration No. 16-3.)

*Bulk plane* means a theoretical plane beginning at a setback or directly above a street line at a maximum height of twenty (20) feet and rising over a slope determined by a forty-five (45) degree angle measured down from the vertical. (See Illustration No. 16-3)

*Camper/trailer* means a vehicle eligible to be registered and insured for highway use, designed to be used as temporary shelter for travel, recreational and vacation purposes for not more than thirty (30) days. The term includes, but is not limited to, equipment commonly called fifth wheels, independent travel trailers, dependent travel trailers, tent trailers, pickup campers, motor homes and converted buses, but does not include mobile homes.

*Campground* means any property utilized for camping and/or parking of a camper/ trailer for a period not to exceed thirty (30) days.

*Car wash* means a building, or portion thereof, containing facilities for washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device or other mechanical devices; or providing space, water, equipment or soap for the complete or partial hand-washing of such automobiles, whether by an operator or by a customer.

*Caretaker unit* means a stand-alone building that houses an accessory dwelling use and is intended to be occupied by not more than four (4) unrelated individuals, or by a family, which individuals are employed for the purpose of taking care of the property and improvements located within a ranch lot or within an estate lot and/or providing domestic services to the principle single family dwelling located on such lot.

*Cemetery* means land used for interring of the dead.

*Church* means a building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

*Club* means any nonprofit organization exclusively serving members and their guests whose facilities are limited to meeting, eating and recreational uses; and further, whose activities are not conducted principally for monetary gain.

*Commercial accommodations* means a building or group of buildings containing guest units designed to be rented for less than thirty (30) days to the general public for compensation and which may or may not have eating or drinking facilities as an accessory use. *Commercial accommodations* include inns, hostels, motels, hotels, boarding houses, lodging houses and dormitory housing.

*Commercial use* means an activity involving the sale of goods or services carried out for profit.

*Community center* means a building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

*Community character* means the image of a community or area as defined by such factors as its social and economic characteristics and the built environment, natural features and open space elements, type of housing, architectural style, infrastructure and the type and quality of public facilities and services.

*Community facilities* means a building or structure owned and operated by a governmental agency to provide a governmental service to the public.

*Community housing* – A Residential dwelling unit within the Town of Minturn that is deed restricted in accordance with the Town of Minturn’s Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with a deed restrictions approved by the Town of Minturn Town Council or its designee

*Community housing rental unit* – A Community Housing unit that is deed-restricted in accordance with the Town of Minturn’s Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with deed restrictions approved by the Town of Minturn Town Council or its designee, to establish a maximum rental prices, as well as residency, employment and income qualifications for owners and occupants.

*Community housing residency requirements and guidelines* means the requirements adopted by resolution by the Town Council, from time to time, which may include, but shall not be limited to, standards concerning the procedure for qualifying to own or rent Community Housing Units; the requirements (e.g. residency) for qualifying to own or rent Community Housing Units; forms of approved deed restrictions; limitations on appreciation of sales prices of Community Housing; procedures for sale of Community Housing; priorities for persons bidding to purchase Community Housing Units; maximum sales and rental rate increases; standards for the number of residents per dwelling unit; quality of construction requirements for new Community Housing Units; and possible incentives for the construction of Community Housing. The Community Housing requirements and guidelines, and amendments thereto, shall be adopted following a duly noticed public hearing at which such guidelines are considered.

*Community housing for sale unit* means a Community Housing unit that is deed-restricted in accordance with the Town of Minturn’s Community Housing Requirements and Guidelines, as approved and amended from time to time by resolution by the Town Council, and in accordance with a deed restrictions approved by the Town of Minturn Town Council or its designee to establish maximum initial sales and resale prices, as well as residency, employment and income qualifications for owners and occupants.

*Community-oriented building, facility or use* means a predominately noncommercial use established primarily for the benefit and service of the general public or the community in which it is located. Such facilities include, but are not limited to: community centers, art/performing arts or cultural centers, libraries, museums and other similar uses.

*Conditional use* means a use listed in the Character Area use tables and permitted upon approval of the Town Council upon showing that such use in a specified location will comply with the conditions and standards for the zone and location proposed.

*Conditional use permit* means a use permit issued by the Town stating that the conditional use meets all the standards and conditions set forth in this Chapter.

*Condominium* means a building or group of buildings in which dwelling units, offices or floor areas are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

*Contiguous* means sharing a common border at more than a single point of intersection and in such a manner that the shared boundaries are touching. Lands that are separated by a right-of-way that is dedicated in fee simple shall not be considered to be *contiguous*. Lands that touch at points of intersection shall also not be considered to be *contiguous*.

*Convenience store* means a small-scale food store less than two thousand five hundred (2,500) square feet in size, generally located in small neighborhood convenience centers. Such stores may have on-site service of food or drink for immediate consumption, and carry for sale general food items, as well as medicines, cosmetics and limited beer and wine items.

*Cottage industry: See Home occupation.*

*Day care center* means a licensed residence or facility which provides regular care and supervision, for an entire day or a portion of a day, for seven (7) or more children who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care.

*Day care home* means a licensed residence or facility which provides regular care and supervision, for an entire day or a portion of a day, for more than two (2) but not more than six (6) children who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care.

*Deed restriction* means a contract entered into between the Town and the owner or purchaser of real property identifying the conditions of occupancy and resale.

*Delicatessens and specialty food stores* means establishments selling specialty foods at retail and less than two thousand five hundred (2,500) square feet in size.

*Density* means a unit of measurement indicating the number of dwelling units per acre of land.

*Gross density* includes all the area within the boundaries of the particular area, excluding nothing.

*Net density* excludes the area within the one-hundred-year floodplain and slopes in excess of thirty percent (30%).

*Design continuity* means a unifying or connecting theme or physical feature of the Town or Character Area, provided by one (1) or more elements of the natural or created environment.

*Design fit* means consistency in scale, quality or character between new and existing development so as to avoid abrupt and/or severe differences.

*Design review* means the submission of a site or building design for review by the Town Design Review Board. See Appendix B to this Code.

*Design standards* means the Town's Design Standards and Guidelines defining parameters to be followed in site and/or building design and development. See Appendix B to this Code.

*Designated buildable area(s)* has the meaning stated in [Section 17-2-10](#).

*Development* means any man-made change to improved or unimproved real estate, including but not limited to construction, demolition, renovation, rehabilitation, mining, dredging, filling, grading, paving, excavation or drilling operations.

*Dormitory housing* means a building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery or other similar institutional use.

*Drive-in use* means an establishment that, by design, physical facilities, service or packaging procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

*Drive-through/drive-up establishment* means a place of business operated for the retail sale and purchase of food and other goods, services or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their automobiles, or which allows the consumption of food or beverages in automobiles on the premises or elsewhere on the premises, but outside any completely enclosed structures.

*Drugstores* and *pharmacies* means a retail store which sells prescription drugs and which may also sell other items at the retail level. A pharmacy may have a maximum gross floor area of five thousand (5,000) square feet. Prescription drugs may also be sold in department stores, variety stores and food stores, but such a store shall not be deemed to be a *pharmacy*.

*Dry cleaners* means an establishment engaged in providing laundry, dyeing and dry-cleaning services to individual customers.

*Duplex* means a structure that is used exclusively by two (2) families, each living as an independent house keeping unit. Joining Requirements: a shared roof line, buildings connected by a common roof, including covered walkways; or a minimum ten percent (10%) of a party wall; or a structure divided into two (2) living spaces by one (1) wall or floor. (See Illustration No. 16-5.)

*Duplex lot* means a lot located within a character area and zone that permits duplexes that has a minimum lot size of at least five thousand (5,000) square feet.

*Dwelling* means a structure or portion thereof that is used exclusively for human habitation.

*Dwelling, multiple-family* means a building containing three (3) or more dwelling units, including apartments, condominium units or townhouses, designed for and used by three (3) or more families each living as an independent housekeeping unit.

*Dwelling, single-family* means a building containing a single dwelling unit.

*Dwelling unit* means any room or group of rooms with not more than one (1) indoor kitchen facility designed for or used as a dwelling for one (1) family as an independent housekeeping unit. *Dwelling unit* shall include mobile and manufactured homes, but shall not include hotels, motels, clubs, boarding houses, dormitories or other institutions such as hospitals or jails.

*Dwelling unit, efficiency* means a dwelling unit consisting of not more than one (1) habitable room together with a kitchen or kitchenette and sanitary facilities.

*Easement* means a grant of one (1) or more of the property rights by the property owner to and/or for use by the public, a corporation or another person or entity.

*Eating and drinking establishment* means a commercial establishment other than a drive-through or fast food restaurant where food and drink are prepared, served and consumed primarily within the principal building.

*Educational facility* means public schools, nonpublic schools, colleges and universities, proprietary schools and schools administered and operated by the State. The following definitions shall apply to the various types of educational facilities:

*Colleges or universities* means such educational facilities under charter or license from the State.

*Nonpublic schools* means all private, parochial and independent schools which provide education for compulsory school-age pupils comparable to that provided in the public schools of the State.

*Proprietary facilities* means all privately owned and managed educational facilities which may include, but not be limited to, art, church, business colleges, trade schools, church camps and day camps.

*Public schools* means those schools administered by legally organized school districts.

*Employee/Qualified resident* means a person who is employed on the basis of a minimum of 1,500 hours worked per calendar year in the Employment Area, which averages thirty (30) hours per week for a minimum of ten (10) months per year, physically working the Employment Area and who resides in the Community Housing Unit as their sole and exclusive place of residence a minimum nine (9) months of a twelve (12) month period. Priority will be given to employees/qualified residents employed within the Town of Minturn boundaries.

*Employment area* means that portion of the Eagle River Valley located from Dotsero to Red Cliff, including Vail.

*Encroachment* means any obstruction or illegal or unauthorized intrusion in a setback or right-of-way or on adjacent land.

*Enlargement* means an increase in the size of an existing structure or use, including physical size of the property, building, parking and other improvements.

*Estate lot* has the meaning stated in [Section 17-2-10](#).

*Estate lot plat* has the meaning stated in [Section 17-2-10](#).

*Estate lot process* has the meaning stated in [Section 17-2-10](#).

*Exception* means permission to depart from the design standards in the design standards.

*Family* means any number of individuals living and cooking together, including domestic employees, as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability, but not exceeding four (4) unrelated individuals. A *single housekeeping unit* is defined as common use and access to all living and eating areas, bathrooms and food preparation and serving areas.

*Festival marketplace* means a retail center located in a unique architectural setting with a mix of small specialty shops and carts offering one-of-a-kind merchandise, with an emphasis on gifts and crafts supplied locally and food offerings.

*Fiscal impact analysis* means an analysis, also known as a cost-revenue analysis, of the costs and revenues to the Town associated with a specific development application.

*Flea market* means an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

*Funeral home* means a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

*Gas station* means any place where motor vehicle fuel is sold and dispensed as either a principal or incidental activity. Where the sale and dispensing of vehicle fuel is the principal activity, accessory activities may include the retail sale of lubricants, tires, batteries, motor

vehicle accessories and supplies, including minor installation services or repairs customarily incidental thereto.

*General development plan* means a plan showing general land use, circulation, open space, utilities, stormwater management, environmental factors, community facilities, housing, impacts and phasing for development proposed to be constructed as a Planned Unit Development.

*Grocery store* means a commercial establishment over two thousand five hundred (2,500) square feet in size, commonly known as a supermarket or food store, primarily engaged in the retail sale of canned foods and dry goods, fresh fruits and vegetables, fresh and prepared meats, fish and poultry.

*Gross income* means the total income, including alimony and child support, derived from a business, trust, employment and from income-producing property, before deductions for expenses, depreciation, taxes, and similar allowances.

*Gross leasable area (GLA)* means the total floor area for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use. *GLA* does not include public or common areas such as utility rooms, stairwells, malls and so on.

*Group home* means a residential building that is owned and operated by a nonprofit organization, or is owned and operated by an individual or group of individuals who actually reside at and maintain their primary place of residence in the group home, that is:

- a. Occupied by elderly persons. Is occupied by not more than eight (8) persons who are sixty (60) years of age or older who do not require skilled or intermediate care facilities.
- b. Occupied by developmentally disabled persons. Contains a state-licensed facility for the exclusive use of not more than eight (8) persons who are developmentally disabled due to their having cerebral palsy, multiple sclerosis, mental retardation, autism or epilepsy.
- c. Occupied by mentally ill persons. Contains a state-licensed facility for the exclusive use of not more than eight (8) persons who have been screened by a mental health professional and have been determined to be mentally ill. No person who has been determined to be not guilty of a violent offense by reason of insanity or who has been convicted of a felony shall be placed in a group home.

*Guest unit* means a room or suite of rooms without cooking facilities, suitable for separate occupancy in a motel, hotel, condominium, lodging unit or similar establishment, including a single-family or multi-family residence. If the unit is designed for and used by a person as an independent housekeeping unit, it shall be considered as a dwelling unit.

*Health/medical office* means a building, the principal use of which is for offices of health professionals, which contains facilities for the examination and treatment of patients but not

for their lodging. This includes physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.

*Home business* means the conduct of a business, occupation or trade as an accessory use entirely within a residential building or accessory structure for gain or support by residents of the dwelling and employees residing off the premises, which may serve patrons on the premises.

*Home occupation* means an occupation conducted within a building or a portion thereof by a resident of the premises. Such occupations include:

- a. An endeavor involving the production and sale of goods or services, which does not change the residential character of the area; and
- b. Contracting for services where such services are not provided on the premises, except on an appointment basis.

*Hospital* means an institution providing primary health services and medical or surgical care to persons, primarily inpatients suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities, training facilities, medical offices and staff housing.

*Hotel* means a facility offering transient lodging and accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment and recreational facilities.

*Impervious surface area* means any material that prevents absorption of water into the ground. The area of the lot covered by the following shall be considered as impervious surface in all character areas:

- a. The principal building, excluding roof overhangs.
- b. All accessory buildings, parking garages, carports and sheds.
- c. Porches, stairways, decks, elevated walkways, sheds and other structures, together with paved areas or areas otherwise covered with materials impervious to water.
- d. Parking areas, sidewalks and driveways regardless of surface materials.

*Inclusionary Community Housing* means the policy of requiring Community Housing in residential developments to ensure adequate housing stock for local residents and to maintain or increase the current ratio of primary to second home ownership in the Town of Minturn.

*Initial sales price* means the maximum price for which a price capped Community Housing For Sale Housing unit may be initially sold.

*Institutional use* means a religious or public use, such as a church, library, public or private school, hospital or government-owned or -operated building, structure or land used for public purposes.

*Junk* means any scrap, waste, reclaimable material or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of or other use or disposition.

*Junkyard* means any area, lot, land, parcel, building, structure or part thereof used for the storage, collection, processing, purchase, sale, salvage or disposal of junk.

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

*Kennel, commercial* means a commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold, all for a fee or compensation.

*Laundromat* means a business that provides home-type washing and drying machines for hire to be used by customers on the premises.

*Laundry* means an industrial establishment where washing and drying machines are used on a large scale for private facilities not open to the public.

*Legal lot of record* means any lot, parcel or tract of land that was filed in the records of the County Clerk and Recorder and complied with all applicable laws, ordinances and regulations in effect at that time.

*Limited review uses* means uses that are allowed in a specific zone, subject to limited review and approval by the Planning Director.

*Liquor store* means a facility principally for the retail sale of alcoholic beverages for off-premises consumption.

*Loading space* means an off-street space or berth, on the same lot with the building it serves, for the temporary parking of vehicles while loading or unloading merchandise or material and which has access to a street, alley or other appropriate means of ingress or egress.

*Lot* means a parcel of land as established by survey, plat or deed. (See Illustration No. 16-1 at [Section 16-2-30](#).)

*Lot area* means the number of square feet contained within a lot exclusive of any area in a street or public right-of-way, unless said street or public right-of-way was created as a result of either an act of condemnation under the eminent domain authorities of Articles 1 through 7, Title 38, C.R.S, or the grant of a deed to a condemning authority in lieu of condemnation.

*Lot depth* means the average distance from the median of the front property line to the median of the rear property line measured perpendicularly from one (1) of the sides.

*Lot, substandard* means a parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

*Lot, transition* means a lot in one (1) zoning district abutting another district.

*Lot width* means the average distance between the medians of the two (2) side lot lines, measured perpendicularly from one (1) of the sides.

*Low-impact commercial business* means a commercial use which complies with the parking standards and does not emit an excessive amount of traffic, noise, vibration, light, heat and/or fumes to be considered a nuisance to surrounding residential areas.

*Manufactured home* means factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. § 5401), commonly known as the HUD Code.

*Manufacturing, light* means an establishment engaged in manufacturing, assembly, compounding, processing, packaging, treatment or distribution of projects, including primary product production from raw materials or production of services, but excluding establishments which produce or emit toxic or noxious gases, odors or fumes, excessive noise, vibration or electrical interference or similar substances or conditions onto adjacent or other properties; or dangerous to the comfort, peace, enjoyment, health and safety of the community.

*Master map* means the map set forth in [Section 16-10-35](#), which map depicts all previously defined non-buildable area(s) within the mountaintop area that contain lynx denning and peregrine falcon nesting areas, view shed corridors, wetlands and stream corridors, and critical slopes greater than thirty percent (30%).

*Mixed-use development* means the development of a tract of land, building or structure with a variety of complementary and integrated uses such as, but not limited to, residential, office, manufacturing, retail, public or entertainment in a compact urban form.

*Mobile home* means a single-family dwelling built on a permanent chassis designed for long-term residential occupancy and containing complete electrical, plumbing and sanitary facilities and designed to be installed in a permanent or semi-permanent manner with or without a permanent foundation, which is capable of being drawn over public highways as a unit or in sections by special permit. (Section 38-12-201.5[2], C.R.S.)

*Mobile home park* means a site containing three (3) or more spaces with required improvements and utilities that are leased for the long-term placement of mobile homes and that may include services and facilities for the residence.

*Mobile or manufactured home sales* means the sale, lease or rental of new and used mobile homes, modular homes, manufactured homes, trailers and motor homes.

*Modular home* means a single-family dwelling which is partially or entirely manufactured in a manufacturing facility; is installed on an engineered permanent foundation;

has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and is certified pursuant to the adopted Building Code.

*Motel* means an establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

*Motor vehicle sales* means the sale, lease or rental of new and used automobiles, trucks, motor homes, recreational vehicles and trailers.

*Mountaintop area* has the meaning stated in [Section 17-2-10](#).

*Municipal property* means any chattels, structures, lots and/or parcels owned by the Town.

*Municipal use* means any use of land or structures by the Town.

*Nonconforming lot* means any lot which was lawfully established pursuant to the regulations in effect at the time of its development, but which does not conform to the minimum lot area standards of this Chapter for the zone district in which the lot is located.

*Nonconforming structure* means any structure which was lawfully established pursuant to the regulations in effect at the time of its development, but which does not conform to the standards of this Chapter for the zone district in which the structure is located regarding minimum setbacks, maximum height or maximum building lot coverage, the applicable standards for off-street parking or other applicable standards.

*Nonconforming use* means any use of a structure or land which was lawfully established pursuant to the regulations in effect at the time of its development, but which use is not designated in this Chapter as an allowed use, a use allowed by limited review or a use allowed by conditional review in the zone district in which it is located.

*Non-impervious surface* means area on a lot that consists of natural material that absorbs water, including storm water, and includes: wild ground cover, fescue sod, native grasses, wildflowers, xeriscape areas, trees, riparian areas, river and creek areas, wetlands, reservoirs, and other green plant life.

*Office use* means offices or studios of professional or service occupations or agencies which benefit from and contribute to an environment of semi-residential nature characterized by low traffic and pedestrian volumes, lack of distracting, irritating or sustained noise and low density of building developments, including accountant, appraiser, architect, engineer, insurance adjuster, landscape architect, lawyer, consultant, secretarial agency, bonding agency, travel agency, real estate, mortgage or title agency and investment agency.

*Open space* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants and their guests of land adjoining or neighboring such open space. Ownership of open space may be deeded or reserved to a property owner's

association, dedicated to the public or protected in other forms deemed acceptable to the Town Council.

*Open space, common* means land within or related to a project, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and guests of the development, and may include such complementary structures and improvements as are necessary and appropriate.

*Open space, green* means an open space area not occupied by any structures or impervious surfaces.

*Open space, private* means common open space, the use of which is normally limited to the occupants of a single dwelling or building or property.

*Open space, public* means open space owned by a public agency and maintained by it for the use and enjoyment of the general public.

*Open space ratio* means total area of open space divided by the total site area in which the open space is located.

Open Space Ratio =	$\frac{\text{Open Space Area}}{\text{Site Area}}$
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*Unusable open space* means land dedicated to conservation opportunities in which construction is limited to trails, bridges, irrigation structures, erosion protection devices, underground utilities and similar low-impact uses.

*Usable open space* means land dedicated to outdoor recreation which may include parks with play equipment, ball fields, lawn areas, walkways, soft and hard trails, sitting areas, courtyards and landscaping areas, tennis courts, swimming pools or other meaningful recreation facilities common to the residents.

*Ordinary high water mark* means that line on the bank established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris or other appropriate means that consider the characteristics of the surrounding areas. The ordinary high water mark shall be determined by a qualified and licensed professional chosen by the Town and paid for by the project applicant.

*Parcel* means a unit of land or a series of contiguous units of land held in common ownership. (See Illustration No. 16-1 at [Section 16-2-30.](#))

*Parking area* means any public or private area under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, garages, private driveways and legally designated areas of public streets.

*Parking area, private* means a parking area for the exclusive use of the owners, tenants, lessees or occupants of the lot on which the parking area is located, or their customers, employees or whomever else they permit to use the parking area.

*Parking area, public* means a parking area available to the public, with or without payment of a fee.

*Parking area, shared* means joint use of a parking area for more than one (1) use.

*Parking, off-street* means any parking area located off of any publicly or privately owned street and entirely within the boundaries of one (1) or more lots or parcels.

*Parking, on-site* means parking spaces located on the same lot or parcel as the land use generating the need for parking.

*Parking space* means space adequate to park a standard automobile, plus means of access.

*Parking structure* means a building or structure consisting of more than one (1) level and used to store motor vehicles.

*Party wall* means a common, shared wall between two (2) separate structures, buildings or dwelling units. (See Illustration No. 16-1 at [Section 16-2-30.](#))

*Pawnshop* means a place of business which takes or receives, by way of pledge, pawn or exchange, goods, wares, merchandise or any kind of personal property whatever, for the repayment or security of any money loaned thereon, or to loan money on deposit of personal property.

*Pedestrian scale* means the proportional relationship between an individual and his or her environment. *Pedestrian scale* suggests that the relationship between a person and the environment, whether natural or created, is comfortable and intimate and contributes to the individual's sense of accessibility.

*Personal services* means establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. *Personal services* include, but are not limited to, the following: laundry, linen supply, diaper service, beauty and barber shops, shoe repair, funeral service, steam baths, reducing salons and health clubs, clothing rental, locker rental, porter service and domestic services.

*Phasing* means development undertaken in a logical time and geographic sequence. See also the phasing standards at Section 16-17-230 of this Chapter.

*Photographic studios* means an establishment for taking and developing photos for sale.

*Planned Unit Development (PUD)* means an area of land controlled by one (1) or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, residential, commercial, educational, recreational or industrial uses or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, building lot coverage, open space or other restriction to the existing land use regulations. (Section 24-67-103(3), C.R.S.)

*Planning Director* means the Town Administrator or his or her designee.

*Plaza* means an open area that may be improved and landscaped; usually surrounded by streets and buildings.

*Preexisting use* means the use of a lot or structure prior to the time of the enactment of this Zoning Code.

*Principal use* means the primary purpose or function that a lot serves or is intended to serve.

*Professional activities* means the conduct of a business, profession, service or government where retail trade is not conducted.

*Professional offices* means a room or suite of rooms maintained for the practice of any generally recognized profession, including medical practitioners, dentists, lawyers, architects, engineers or similar professions.

*Public building or use* means any building open to the general use, participation or enjoyment of the public and owned by the Town, county, district, state or federal government or a public utility corporation.

*Public nuisance* means any place where people congregate, which encourages a disturbance of the peace, or where the conduct of persons in or about that place is such as to annoy or disturb the peace of the occupants of or persons attending such place, or the passerby on the public street or highway. (Section 16-14-304(1)(a), C.R.S.)

*Public utility* means a closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety and welfare. Facilities used for public utility purposes, including but not limited to an electric substation, a gas regulator station, a telephone exchange, a water or sewer pumping station or a water reservoir.

*Railroad yard* means an open area for the storage and repair of trains.

*Ranch lot* has the meaning stated in [Section 17-2-10](#).

*Ranch lot plat* has the meaning stated in [Section 17-2-10](#).

*Ranch lot process* has the meaning stated in [Section 17-2-10](#).

*Recreational facility* means a place designed and equipped for the conduct of sports and leisure-time activities.

*Recreational vehicle* means a vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

*Recreational vehicle park* means any lot or parcel of land upon which two (2) or more recreational vehicles sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

*Reservoir* means a pond, lake, tank or basin, natural or man-made, used for the storage, regulation and control of water.

*Resident occupied community housing* means housing with a deed restriction recorded against it requiring that it be owned or occupied by an Employee/Qualified Resident as its Primary Residence as set forth in the Town of Minturn Housing Guidelines and Administrative Procedures.

*Restaurant* means any establishment whose principal business is the sale of food for consumption at tables located on the premises.

*Retail store* means a building or part of a building where goods, merchandise, substances, articles or things are offered or kept for retail sale directly to the general public and includes storage on the store premises of limited quantities of such goods, merchandise, substances, articles or things sufficient only to service such store. Such a use may include outside display and sale.

*Right-of-way* means a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission line, oil or gas pipeline, water line, sanitary storm sewer and other similar uses. Generally, it is the right of one to pass over the property of another.

*Roadside stand* means a temporary structure designed or used for the display or sale of one-of-a-kind artwork and crafts, nursery, greenhouse, garden or other produce.

*Self-service storage facility* means a structure containing separate, individual and private storage spaces of varying size, leased or rented, on individual leases for varying periods of time.

*Self-service storage facilities* are often referred to as mini-warehouses and designed to serve both residential and commercial customers.

*Setback* means the distance required between the face of a building and the lot line opposite that building face, measured perpendicularly to the building.

*Shared or party driveway* means a single driveway, no more than eighteen (18) feet wide serving two (2) or more adjoining lots. (See Illustration No. 16-1 at [Section 16-2-30.](#))

*Site plan* means the scaled development plan for one (1) or more lots on which is shown the existing and proposed conditions of the lot. (See Illustration No. 16-4 at [Section 16-2-30.](#))

*Ski area* means an area developed for snow skiing and snowboarding, with trails and lifts, including ski and snowboard rental and sales, instruction, emergency medical and eating facilities.

*Ski resort* means a ski area that also includes sales, rental and services of related equipment and accessories, eating places, residences, hotels and motels.

*Small appliance repair shops, excluding furniture repair* means a center for the sale, repair, maintenance of or diagnosis upon small appliances, defined herein as a device or instrument designed to perform a specific function, especially an electrical device such as a toaster, for household use.

*Storage and utility area* means that portion of a building or lot designed or used or both, primarily for holding or safekeeping goods or machinery, or for the location or installation of mechanical devices to provide, generate or store utility service, including heat, water, cooling, electric power, propane gas and natural gas.

*Street* means any vehicular way that: (1) is an existing state, county or municipal roadway; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the County Clerk and Recorder's office. A street includes the land between the street lines, whether improved or unimproved.

*Street, private* means a street that has not been accepted by the Town or other governmental entity.

*Structure* means anything constructed or erected, the use of which requires location on or in the ground, including buildings, mobile homes, billboards, swimming pools or the like or part thereof. Utility poles, flagpoles or walls and fences less than four (4) feet high are excluded.

*Studio for arts and crafts* means the workshop of an artist, sculptor, photographer, crafts person or organization.

*Tailors and dressmakers* means a center for the repair or manufacturing of individual clothing or apparel on a small scale.

*Temporary structure* means a structure without any foundation or footings and that is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

*Temporary use* means a use established for not more than six (6) months with the intent to discontinue such use upon the expiration of the time period.

*Terminal* means a place where transfer between modes of transportation takes place.

*Theater* means a place of public assembly designed for the screening or viewing of motion pictures.

*Townhouse* means a single-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one (1) or more vertical, common fire-resistant walls.

*Traffic impact study* means a report analyzing anticipated street and roadway conditions within and without an applicant's development.

*Trailer* means a structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupancy, carrying of materials, goods or objects, or as a temporary office.

*Transitional use* means a permitted land use or structure of an intermediate intensity by level of activity or scale between a more intensive and less intensive use. Some examples of *transitional use* include professional offices located between retail and residential uses, duplex and townhouse units located between single-family detached and multi-family areas, and private clubs or low-intensity recreational uses between industrial and residential uses.

*Travel and ticket agency* means a sales or service establishment dealing in travel services.

*Use* means the purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

*Vested right* means a right that cannot be changed or altered by change in a regulation.

*Warehouse* means a building used primarily for the storage of goods and materials.

*Xeriscape* means a landscaping method developed especially for arid and semiarid climates that utilizes water-conserving techniques (such as the use of drought-tolerant plants, mulch, and efficient irrigation). Xeriscape areas must include at least fifty percent (50%) plants (as opposed to rocks under-laid by a landscape/soil barrier), and permit infiltration of stormwater into the underlying soil.

*Yard* means the space on the same lot as a building or structure that is unoccupied and open to the sky, except as provided herein.

*Yard, corner lot* means the yard on a lot that is bounded on two (2) sides by streets. The front yard is side of the lot where the front door is located as determined by the Planning Director. In addition to front, rear and side yard setbacks, a corner lot must meet the "clear vision" code. The application of side and rear yard setbacks shall be determined by the Planning Director.

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

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

*Yard, side* means all the yard between the front and rear yards, the width of which shall be the least distance between the side lot lines and the building.

(Prior code 16-2-2; Ord. 9-2002 §3; Ord. 15-2008 §1; Ord. 4-2011 §2; Ord. 1-2012 §1; Ord. [01-2015](#) §2; Ord. [1-2017](#) §§3, 5.1; Ord. [5-2018](#), §2)

## **ARTICLE 26 – Community Housing Standards and Guidelines.**

### **DIVISION 1 – Administration.**

#### **Sec. 16-26-10. – Purpose and Findings.**

- a. Purpose. The purpose and intent of the regulations set forth in this Article is to increase affordable housing choices for year-round residents and to preserve a balance between second homeowners and locals in accordance with adopted Housing Action Plans and the goals and policies of adopted Community Plans, including the following goals:
  - (1) To regulate and encourage the provision of locals only, or Community Housing in new and redevelopment residential, mixed-use and commercial projects;
  - (2) To ensure that the Town maintains a minimum percentage of its overall housing stock as available and occupied by locals who meet local eligibility guidelines;
  - (3) To seek out partnerships with local residents, developers and existing housing agencies such as the Eagle County Housing Authority to administer Community Housing deed restrictions and to provide assistance to qualified local housing renters and/or buyers;
  - (4) To ensure that a minimum percentage of new housing developed within the Town is available to those households earning between 80%-200% Area Median Income (AMI).
  
- b. Objectives. The following objectives are set forth to achieve the Community Housing goals of the Town:
  - (1) By 2030, the Town will secure twenty (20%) percent of the overall housing inventory as Resident Occupied deed restricted for residents meeting local residency guidelines in the Upper Eagle River Valley, with preference for those individuals and families working within the Town of Minturn;
  - (2) By 2030, the Town will secure ten (10%) percent of overall new for sale and for rent residential development for households with incomes ranging from 80%-200% AMI;

- (3) By 2025, the Town will create standards and incentives within the Minturn Municipal Code to increase and incentivize opportunities for residential and mixed-use infill development including single-family, duplex, townhouses, and accessory dwelling units in existing neighborhoods;
  - (4) The Town will continue to monitor year-round residency and create a year-round residency goal following the 2020 census to ensure the Town maintains a minimum percentage of year-round, local residents and to inform periodic updates to the Town’s Community Housing standards and guidelines.
- c. Findings. The Minturn Town Council has identified attainable housing for year-round locals as a top policy priority and finds that:
- (1) According to the 2018 Eagle Valley Housing Needs and Solutions report, the free market in the upper Eagle River Valley unlikely to produce housing affordable for those renters below 140% AMI and owners below 200% AMI without local intervention such as incentives, regulations, subsidies, and/or public/private partnerships;
  - (2) Minturn has maintained a high level of year-round residency (80% at the 2010 Census) compared to other municipalities in the upper Eagle River Valley;
  - (3) In recent years, this high level of year-round residency by locals is threatened by rising land, development and housing costs;
  - (4) The definition of “affordable” is that a household pays 30% or less of the income for housing
  - (5) There is now a shortage of affordable housing available for year-round local residents to rent or purchase;
  - (6) These regulations are necessary to ensure that the Town maintains its local resident housing goals.

**Sec. 16-26-20. - Authority.**

The regulations set forth in this Article are authorized by, inter alia, Sections 24-65.1-101, et seq., 31-23-101, et seq., 29-20-101, et seq., 24-32-111, Title 31, Article 15, C.R.S., and the Town of Minturn Home Rule Charter (Ord. 1-2018, §4(Exh. A))

**Sec. 16-26-30. - Applicability.**

These requirements for Community Housing apply to all residential and mixed-use developments proposing the construction of five (5) or more new dwelling units, and/or the creation of five or more residential lots within the corporate limits of the Town of Minturn after the effective date of these regulations. Incentives for Community Housing also apply to all residential developments over one (1) dwelling unit.

**Sec. 16-26-40. - Exemptions.**

These regulations shall not apply to any development approved by the Town on or before the effective date of these regulations. Further, any development proposing the creation of four (4) or fewer residential lots, and/or the construction of four (4) or fewer residential dwelling

**Commented [A1]:** Review to confirm CRS citations

**Commented [A2]:** This should correspond with 2020 ordinance number sequence

units shall be exempt from mandatory Community Housing deed restriction requirements. However, such exempted developments may voluntarily comply with these regulations as a means to qualify for incentives offered by the Town, as amended from time to time.

**Sec. 16-26-50. - Relationship of regulations to other requirements.**

Whenever these regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, or other enactment of the Town, the enactment imposing more restrictive standards or requirements shall control.

**DIVISION 2 – Community Housing Standards and Guidelines.**

**Sec. 16-26-100. – Requirements for Community Housing.**

To address and achieve the Town’s Community Housing goals, the Town has set the following mitigation rates, methods, and incentives for the provision of Community Housing for residential developments including mixed-use developments:

- a. Mitigation Methods for Residential Developments (Inclusionary Housing) Over Five (5) Dwelling Units.
  - i. Twenty (20%) percent of the total residential units in any new residential or mixed-use development proposing to create five (5) or more residential dwelling units shall be deed restricted for Resident Occupied Community Housing.
  - ii. Ten (10%) percent of the total residential units in any new residential or mixed-use development proposing to create five (5) or more residential dwelling units shall be deed restricted to limit the Initial Sales Price to no greater than that which is affordable to Households earning no more than 200% AMI; or to limit the Community housing rental unit rental prices in accordance with guidelines established by the Town and generally set at rates that are affordable to Households with incomes no higher than 80% AMI.
  - iii. Land donation of land meeting the following parameters:
    - a. Land shall be free of all liens and encumbrances and shall be conveyed by general warrantee deed.
    - b. Land should be properly entitled and capable of supporting the applicable number of Community Housing units.
    - c. Land should be buildable, have suitable soils and drainage and available utilities, and should not be within an area that has potential geologic hazards associated with development.
- b. Incentives for Residential Developments (Inclusionary Housing) Over One (1) Dwelling Unit.
  - i. Any residential or mixed-use development proposing to create one (1) or more residential dwelling units may be eligible for the following incentives when providing deed restricted Community Housing in the form of Resident Occupied Community Housing, For Sale Community Housing and/or Rental Community

Housing that is deed restricted in accordance with the Town's Community Housing Standards and Guidelines.

- a. Density Bonus. As part of any new residential or mixed-use development, the Town may offer a density bonus.
- b. Site Design Flexibility. Provided that the housing goals and eligibility requirements are met and provided that the intents and purposes of this Chapter 16 are not compromised, the Town may consider flexible application of design standards including, but not limited to minimum lot size, building height, lot coverage, impervious coverage, setbacks and landscaping.
- c. Public-Private Partnerships. The Town may participate in, or facilitate participation with other governmental entities regarding financing or purchasing of Community Housing units directly from the applicant or by other means of subsidy or participation.
- d. Tax Rebate or Reduction. The Town Council may at its sole discretion waive, reduce or rebate property, construction use, or other tax applicable to the project.

**Sec. 16-26.110. – Housing Plan.**

For all projects subject to the requirements for Community Housing, a housing plan shall be submitted as a component of the land use application. Execution of the Housing Plan shall be a condition of approval for the development permit and the Housing Plan shall include, at a minimum, the following information as deemed applicable by the Planning Director:

- a. Total number of market rate units and Community Housing units proposed in the development.
- b. Details regarding how the Standards and Guidelines will be met, including unit types, square footage, number of bedrooms per unit, targeted income category, and Initial Sales Price.
- c. Any proposed alternative method(s) of compliance with the Standards and Guidelines.

**Sec. 16-26.120. – Severability.**

If any provision, clause, sentence, or paragraph of the Guidelines or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of the Guidelines that can be given effect without the invalid provision or application, and to this end the provisions of the Guidelines are declared severable.

**Sec. 16-26.130. – Appeals.**

**Commented [A3]:** Complete by working with M. Sawyer and R. Peterson-Cremer.

**Sec. 16-26-140. – Enforcement.**

These Standards and Guidelines are hereby incorporated as a component of the Minturn Municipal Code. Enforcement of the Standards and Guidelines will be pursuant to [insert appropriate chapter, article and section], as amended, of the Minturn Municipal Code.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THE \_\_\_ DAY OF \_\_\_\_\_, 2020. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE \_\_\_ DAY OF \_\_\_\_\_, 2020 AT 6:30p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

\_\_\_\_\_  
John Widerman, Mayor

ATTEST:

By: \_\_\_\_\_  
Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS \_\_\_ DAY OF \_\_\_\_\_, 2020.

TOWN OF MINTURN, COLORADO

\_\_\_\_\_  
John Widerman, Mayor

ATTEST:

By: \_\_\_\_\_  
Jay Brunvand, Town Clerk