



Wednesday January 19, 2022 – 5:00PM

AGENDA

**Town Council Meeting
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO**

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order of agenda items listed are approximate. This agenda and meetings can be viewed at www.minturn.org.

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be a Zoom Meeting ONLY. Zoom Link: <https://us02web.zoom.us/j/82622889451>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 826 2288 9451**

Please note: all virtual participants are muted. In order to be called upon an unmuted, you will need to use the “raise hand” feature in the Zoom platform. When it’s your turn to speak, the moderator will unmute your line and you will have five (5) minutes for public comment.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

CALL TO ORDER

The Minturn Town Council will open the Regular Meeting at 5:00 for the purpose of convening into Executive Session. The Regular Meeting will convene in public AFTER the Executive Session.

ROLL CALL & PLEDGE OF ALLEGIANCE

EXECUTIVE SESSION

1. Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District, Battle Mountain – Winokur/Sawyer

APPROVAL OF AGENDA *Opportunity for amendment or deletions to the agenda.*

DECLARATION OF CONFLICTS OF INTEREST

PUBLIC COMMENT *Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

CONSENT AGENDA *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.*

1. January 5, 2022 Meeting Minutes Pg 3
2. January 13, 2022 Special Meeting Minutes Pg 10

SPECIAL PRESENTATIONS *Presentations are limited to 5 minutes. Invited presentations are limited to 10 minutes if prior arrangements are made with the Town Clerk.*

COUNCIL COMMENTS & COMMITTEE REPORTS

BUSINESS ITEMS *Items and/or Public Hearings are listed under Business may be old or new and may require review or action by the Council.*

1. Ordinance 01 – Series 2022 (Second Reading) an Ordinance regulating livestock within the Town of Minturn – Hunn Pg 12
2. Ordinance 02 – Series 2022 (First Reading) an Ordinance amending Chapter 16 of the Minturn Municipal Code for the purpose of aligning with state statute concerning day care homes – Hunn Pg 20

DISCUSSION / DIRECTION ITEMS

1. Review of an Intergovernmental Agreement between the Town of Minturn, Eagle River Water & Sanitation District and the Upper Eagle Regional Water Authority – Metteer/Sawyer/Winokur

STAFF REPORTS

1. Town Manager Update

FUTURE AGENDA ITEMS

ADJOURN

INFORMATIONAL ONLY ITEMS

Council Meetings:

- February 2, 2022
- February 16, 2022
- March 2, 2022



Wednesday January 5, 2022 – 5:30PM

OFFICIAL MINUTES

**Town Council Meeting
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO**

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order of agenda items listed are approximate. This agenda and meetings can be viewed at www.minturn.org.

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be a Zoom Meeting ONLY. Zoom Link: <https://us02web.zoom.us/j/85624249175>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 856 2424 9175**

Please note: all virtual participants are muted. In order to be called upon an unmuted, you will need to use the “raise hand” feature in the Zoom platform. When it’s your turn to speak, the moderator will unmute your line and you will have five (5) minutes for public comment.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

CALL TO ORDER

The Minturn Town Council will open the Regular Meeting at 5:30 for the purpose of convening into Executive Session. The Regular Meeting will convene in public AFTER the Executive Session.

The meeting was called to order by Mayor Earle Bidez at 5:34pm using the ZOOM on-line meeting format.

ROLL CALL & PLEDGE OF ALLEGIANCE

Those present include: Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, and Town Council members George Brodin, Lynn Feiger, Eric Gotthelf, Gusty Kanakis, and Tom Sullivan.

Staff present: Town Manager Michelle Metteer, Town Attorneys Michael Sawyer, Town Planners Scot Hunn and Madison Harris, and Town Treasurer/Town Clerk Jay Brunvand.

EXECUTIVE SESSION

1. Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District, Battle Mountain – Winokur/Sawyer

Motion by George B., second by Gusty K., to convene in Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District, Battle Mountain. Motion passed 7-0.

Those included in the Executive Session included the Council present, Michelle M., Michael S., Megan Winokur, and Ms. Lynn Brooks and Mr. Jason Cowles ERWSD/UERWA.

APPROVAL OF AGENDA *Opportunity for amendment or deletions to the agenda.*

Motion by Terry A., second by Eric G., to approve the agenda as presented. Motion passed 7-0.

DECLARATION OF CONFLICTS OF INTEREST

PUBLIC COMMENT *Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

CONSENT AGENDA *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.*

1. December 15, 2021 Meeting Minutes
2. Resolution 01 – Series 2022 A Resolution setting the official posting sites for the Town of Minturn
3. Resolution 03 – Series 2022 a Resolution approving the fleet maintenance contract with the Town of Avon.

Motion by George B., second by Gusty K., to approve the Consent Agenda of January 5, 2022 as presented. Motion passed 7-0.

SPECIAL PRESENTATIONS *Presentations are limited to 5 minutes. Invited presentations are limited to 10 minutes if prior arrangements are made with the Town Clerk.*

COUNCIL COMMENTS & COMMITTEE REPORTS

BUSINESS ITEMS *Items and/or Public Hearings are listed under Business may be old or new*

and may require review or action by the Council.

1. Ordinance 21 – Series 2021 (First Reading) an Ordinance amending the moratorium on DRB applications – Sawyer

The Minturn Market is the sixth largest tax revenue generating business in the town of Minturn. For this purpose, the Town and Market-area businesses have traditionally worked closely together to ensure an annually successful operation for both the market and the local business and property owners.

This amendment to the DRB moratorium was continued from the December 15, 2021, Council Meeting due to engineering and operational concerns before and during construction as they relate to the timing of the Minturn Market. Since the Dec 15, 2021, Council meeting, staff has worked with the project representatives to identify critical issues for mitigation and believe these issues can be addressed while ensuring a successful summer market season.

Town engineer, Jeff Spanel, has identified the requirements for a dewatering plan, boring for soil samples, micropyle shoring and retaining wall stabilization as items to be addressed through the DRB review process and conditions associated with building permit approvals.

Staff believes these items can be addressed, ensure a successful summer market, equally important is the historic building on the front of the lot at 151 Main Street will remain in tack. This cooperative effort in meeting a variety of needs will hopefully begin the process of building a positive relationship with the new property owners of 151 Main Street while securing successful summer tax revenue generation.

Michael S. noted this is a legislative decision as would be to amend the Ordinance. This considered amendment is based on the need to keep the area accessible for the Summer Market.

Note: Tom S. recused himself from the discussion due to a conflict of interest.

Michelle M. noted Town Engineer Jeff Spanel is available to answer questions if needed.

Earle B. asked Jeff S. how assured would we be that the construction would not be a significant concern. It was noted we would lose three market spaces for the summer. This amendment would allow them to get out of the ground thereby minimizing the complete impact. Jeff S. stated they have a lot of work to do before they can begin to dig and this might not completely help the situation.

Gusty K. asked if road cuts were necessary would they be patched in time? Jeff S. stated this was potentially possible but it is not definite that it would resolve anything.

George B. asked about the amendment the moratorium for this particular application. He asked if there were other potential applications that are also on hold due to the moratorium? Michelle M. stated we have a couple projects that have come through at conceptual plans that are now on hold and they might want to move forward. George B. was concerned that we set forth the moratorium and now we were cutting away at it.

Lynn F. felt the purpose of the moratorium was to protect the 100-block business district and this was not protecting our core business and market area. She felt this was undermining the moratorium and was counter to the spirit of the moratorium.

Terry A. noted two other conceptual plans that would put us in a precarious position at cutting away at the moratorium. The original Ordinance passed unanimously to establish a path and modifying the moratorium weakens the spirit of the moratorium.

Discussion continued on the process the potential developments would follow. Michael S. stated the moratorium could be lifted prior to September 1, 2022 once the historical and other issues are resolved. Scot H. stated it is possible but not probable that one would be able to receive the required DRB approvals and develop during the fall of 2022.

Public Hearing opened

Mr. Kyle Webb, project architect, stated their goal is to continue this project forward. If they are forced to wait until after Labor Day, they would be work with that.

Mr. Ken Mentz, 167 Williams St, was supportive of the comments made by the Council that amending the moratorium was a reversal of their direction for sake of one developer. He stated the proposed construction area on Williams St is at the narrowest choke point and moves against the traffic studies the town has. He felt we should have a master plan for the area, not approve developments one lot at a time without a uniform plan for the area and that there was a public safety matter.

Note: The following was received from an email sent to the Clerk at approximately 8pm:

The town council meeting has yet to start. Since it has not started 8PM MT, I am also submitting my comments for the Ordinance 21-Series 2021 item.

My name is Amanda Mire, I live at 414 Eagle River St., Minturn, CO I'm speaking against approval of Ordinance 21 – Series 2021. I have volunteered to be a community member for the Minturn Historic Preservation Formation Committee, which was organized by the town. Our first meeting is tomorrow, January 6th. As part of this first meeting, we have been asked to review both state and local material regarding preserving our town's architecture, culture and heritage, which includes both homes and districts. While I appreciate the applicants offer to move the building of 151 Main St., I believe this goes against the essence of a preservation ordinance. I respectfully ask the Council to table the exemption ordinance 21- series 2021 to provide appropriate time for the Historic Preservation committee to submit comments/feedback.

Public Hearing closed

Earle B. stated he agreed with the points made, we have invested a lot of time and effort in the Community Plan process and he encouraged developers to allow the process to evolve.

Motion by Terry A., second by Gusty K., to deny Ordinance 21 – Series 2021 (First Reading) an

Ordinance amending the moratorium on DRB applications as presented. Motion passed 6-0. Note: Tom S. had recused himself from the matter due to a conflict of interest.

Note: Tom S. resumed his participation in the meeting.

2. Ordinance 01 – Series 2022 (First Reading) an Ordinance regulating Fowl within the Town of Minturn – Hunn

Scot H. detailed the attached ordinance is presented for consideration by the Town Council. The ordinance addresses amendments/additions in the following sections of the Minturn Municipal Code, Chapter 16 – *Zoning*:

1. Section 16-2-20 - Definitions
2. Chapter 16, Article 17 - Supplemental Regulations and Standards

The Town Council has directed staff to bring forth an Ordinance addressing and regulating fowl within the Town of Minturn.

In reviewing the Ordinance, the Planning Commission considered the viability of different numbers and types of birds, as well as, coop size, a way to address noise issues, and the allowance of roosters.

Three members of the public spoke at the public hearing held by the Planning Commission on November 10, 2021 and five members of the public spoke at the public hearing held by the Planning Commission on December 8, 2021. Public notice was provided in accordance with the Minturn Municipal Code as a matter of posting of the official agenda and packet materials for public review prior to the hearing, as well as the requirements in Section 16-21-610 of the Minturn Municipal Code.

Lynn F. asked how many residents have requested legislative action? Scot H. stated they had one household complaint regarding noise/smell/flies, our code is silent on this matter, several more have commented through the process on how to better make the ordinance less restrictive. Lynn F. was very concerned that the only person in town complaining was not in attendance in the meeting.

Scot H. felt the code limit of 120sf should be held to the coop, not the coop and run combined. He also felt the quiet hours are called out in other sections of the code and that it should be referenced. Terry A. stated it is difficult to have quiet hour regulations on live animals. She also felt the processing of the animals for human consumption regulations may be interpreted to apply against any rendering and would extend to hunters.

Lynn F. felt if someone is keeping chickens in a dangerous our abusive situation that is one thing and we have remedies for that but she felt this was very far reaching and asked if we needed this today?

Michelle M. stated we tried to address this through the nuisance code but the code did not address this specific matter. Michael S. stated the nuisance code is rather general in content and application.

He stated it would be beneficial to have specific law to set some sort of parameter as it applies to this situation. He stated to prosecute under the code would require an egregious issue.

Terry A. stated she was not opposed to regulations but felt we were opening staff up to enforcing something that is complaint based. She asked Michelle M. if we had the bandwidth to enforce this ordinance if passed. Michelle M. stated at this time there is one complaint and staff is looking for direction that would allow Staff to address the matter. Michael S. stated the complaint party, in this case, is very forward in their complaint and it has taken time to manage.

Lynn F. was concerned that this Ordinance was so far reaching that it would affect hunters that process their birds and game in their garage. She stated we should keep the Ordinance at the ready but with only one complaint we are acting with too much regulation. She felt this was not a major concern and to address it in this manner was a mistake.

Terry A. stated when she considered raising chickens it was unregulated. The Planner at the time stated the code was silent. He recommended she work with her neighbors to proceed.

Earle B. stated we don't want to pass a law unless it is needed and felt this sets standards for staff to follow. He agreed with Terry A's concerns of allowing animal rendering and take out the reference to quiet hours/noise. Scot H. felt we attempt to manage lot density and that this should count toward the lot coverage/impervious coverage calculations. It was felt the controlling factor of how many sqft or birds should be regulated on the safety for the birds and potentially a building permit.

Terry A. read a comment from Mr. Kelly Toon that he was in support of allowing chickens.

George B. felt this Ordinance gave parameters for the homeowner to raise chickens.

Public Hearing Opened

No comments

Public Hearing Closed

Motion by Terry A., second by George B., to approve Ordinance 01 – Series 2022 (First Reading) an Ordinance regulating Fowl within the Town of Minturn as amended. Motion passed 6-1. Note: Lynn F. voted Nay.

Amendments:

- Strike E-6 the harvesting/processing of fowl
 - Strike E-8 quiet hours
 - Coops over 120sf to follow DRB/Building Permit process
3. Resolution 02 – Series 2022 a Resolution declaring a local disaster emergency relating to the COVID-19 pandemic – Metteer

Throughout the COVID epidemic, the Town of Minturn has mirrored Eagle County's lead as we navigate the on-going pandemic since the County is better equipped with a Public Health Dept. During the last week of December 2021, the County issued updated declarations due to the presence of the Delta and Omicron COVID variants. Further, by Minturn issuing our own emergency response we will be qualified for state and federal COVID relief funds should additional dollars need to be spent. No new mandates are being recommended by either Eagle County or the Town of Minturn. This is an administrative step should Minturn need to access funds for COVID relief.

Michael S. stated this declaration will allow Zoom meetings as necessary and stated all public meetings (Council and Planning Commission) will utilize the online format until the health order is rescinded.

Motion by Gusty K., second by Eric G., to approve Resolution 02 – Series 2022 a Resolution declaring a local disaster emergency relating to the COVID-19 pandemic as presented. Motion passed 7-0.

DISCUSSION / DIRECTION ITEMS

STAFF REPORTS

1. Town Manager Update

Michelle M. requested a Special Meeting to accommodate an Exec Session only on Thursday January 13 9:30am. This meeting would be to finalize the IGA with ERWSD/UERWA and would run about 2hours. Direction was to proceed with the Special Meeting.

Lynn F. asked if we needed to set time for mediation with Battle Mountain. Michael S. stated this would be set for a time in February.

FUTURE AGENDA ITEMS

ADJOURN

Motion by George B., second by Terry A., to adjourn at 9:35pm. Motion passed 7-0.

Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk



Thursday January 13, 2022 – 9:30AM

OFFICIAL MINUTES – SPECIAL MEETING

**Town Council Meeting
Minturn Town Hall / Council Chambers
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MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be a Zoom Meeting ONLY. Zoom Link:

<https://us02web.zoom.us/j/86560924405?pwd=MVZobUIYMk8vbHoydG81M3J2U2FLZz09>

Passcode: 077327

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 865-6092-4405**

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PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

CALL TO ORDER

The Minturn Town Council will open the Regular Meeting at 9:30am for the purpose of convening into Executive Session. The Regular Meeting will adjourn after the Executive Session.

The meeting was called to order by Mayor Earle Bidez at 9:30pm using the ZOOM on-line meeting format.

ROLL CALL & PLEDGE OF ALLEGIANCE

Those present include: Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, and Town Council members George Brodin, Lynn Feiger, Eric Gotthelf, and Gusty Kanakis. Note: Tom Sullivan was excused absent.

Staff present: Town Manager Michelle Metteer, Town Attorney Michael Sawyer,
EXECUTIVE SESSION

1. Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District/Upper Eagle Regional Water Authority IGA – Metteer/Sawyer

Motion by George B., second by Lynn F., to convene in to Executive Session pursuant to C.R.S. § CRS 24-6-402(4)(b) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Eagle River Water and Sanitation District/Upper Eagle Regional Water Authority IGA. Motion passed 6-0. Note: Tom S. was excused absent

ADJOURN

Motion by George B., second by Eric G., to adjourn at 12:18pm.



To: Mayor and Council

From: Madison Harris, Planner I
Scot Hunn, Planning Director

Date: January 13, 2022

Agenda Item: Ordinance No. 2, Series 2022

REQUEST:

Review of the Chapter 16 Amendment to provide for the rezoning of residential zone districts in relation to day care homes recommended to Council by the Planning Commission from their regular meeting of January 12, 2022.

INTRODUCTION:

The attached ordinance is presented for consideration by the Town Council. The ordinance addresses amendments/additions in the following sections of the Minturn Municipal Code, Chapter 16 – *Zoning*:

1. **Section 16-2-20 - Definitions**
2. **Section 16-6-80 - Old Town Character Area limited use standards**
3. **Section 16-7-70 - South Town Character Area limited use standards**
4. **Chapter 16, Article 17 - Supplemental Regulations and Standards**

ANALYSIS:

In reviewing the Ordinance, the Planning Commission considered the effects of this ordinance on existing child care businesses.

COMMUNITY INPUT:

No members of the public spoke at the public hearing. Public notice was provided in accordance with the Minturn Municipal Code as a matter of posting of the official agenda and packet materials for public review prior to the hearing, as well as the requirements in Section 16-21-610 of the Minturn Municipal Code.

BUDGET / STAFF IMPACT:

N/A.

STRATEGIC PLAN ALIGNMENT:

The Town Council’s review and approval of the ordinance aligns with the following key strategies:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT

THE TOWN WILL SEEK TO MAKE INFORMED, DATA-BASED DECISIONS WITH A STANDARD OF “DOING IT RIGHT.” WITH AN HONEST APPROACH TO ALL ASPECTS OF LOCAL GOVERNMENT AND A FOCUS ON THE PUBLIC PROCESS, THE TOWN COUNCIL AND STAFF ARE COMMITTED TO SERVING MINTURN WITH THE HONESTY AND INTEGRITY EXPECTED OF A SMALL-TOWN GOVERNMENT.

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

The ability for Minturn to approach development as **resilient, sustainable, creative and diverse** will allow the town to continue embracing what has **“made Minturn, Minturn.”** The town can further leverage its crossroads location as a valley-wide benefit and **competitive advantage**.

RECOMMENDED ACTION OR PROPOSED MOTION:

Approve the following ordinance:

“Ordinance No. 2, Series 2022, An ordinance of the Town of Minturn, Colorado amending Chapter 16 of the Minturn Municipal Code to provide for the rezoning of the Old Town Residential Zone District, the South Town Residential Zone District, the Martin Creek Residential Estate Zone District, the Cross Creek Residential Zone District and the Willow Creek, Rock Creek, and Holy Cross Residential Zone Districts for the purpose of aligning with state statute concerning day care homes.”

ATTACHMENTS:

- Staff memo to Planning Commission dated January 8, 2022
- Ordinance No. 2, Series 2022

Minturn Planning Department
Minturn Town Center
302 Pine Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Chris Manning
Tom Priest
Jena Skinner

To: Town of Minturn Planning Commission
From: Scot Hunn, Planning Director
Date: January 8, 2022
Re: Chapter 16 - “Family Child Care Home” Text and Zoning Amendment Ordinance

At the direction of the Minturn Town Council and the Town Attorney, staff is presenting a draft ordinance to amend certain sections of Chapter 16 - *Zoning*, of the Minturn Municipal Code to align with recently passed State of Colorado legislation.

In June, 2021, the State of Colorado Legislature passed HB-21-1222, an act to align “local governing authority regulations to expand opportunities to access child care in family child care homes.” Accordingly, this bill requires local jurisdictions to ensure that their land use regulations and zoning codes are aligned with the new state law.

Two primary areas of revision proposed within this ordinance will: 1) add a new section under Chapter 16, Article 17 - *Supplemental Regulations*, specifying that “Family Child Care Home” uses shall be treated as uses ‘by right’ within all residential zone districts; and, 2) revise existing definitions contained within Chapter 16, Article 2 - *Definitions*, in accordance with the State’s definitions.

HB-21-1222 and Allowing for Family Day Care Home Uses in Residential Zone Districts

In accordance with HB-21-1222, local governments are now required to make specific provisions within their land use regulations and zoning codes for “Family Child Care Homes” to expand access to such uses. Specifically, local governments are compelled to remove or reduce barriers to access to family child care homes; such uses are to be treated the same as residential uses. Per guidance provided by Ms. Joely Denkinger of the Town Attorney’s office:

“During the 2021 session, the legislature passed HB-21-1222 (available [here](#)), which requires local governing authorities to “treat family child care homes as residential property use in the application of local regulations,” including zoning, land use, development, fire & safety, sanitation, and building code regulations.

- *The law provides that “local governing authorities shall not impose any additional regulations governing family child care homes that do not also apply to other residential properties.”*

- *The law does preserve some local authority and allows local governments to, “on a case-by-case basis,” prohibit or manage the traffic and parking related to two large family child care homes immediately adjacent to one another.*

“For reference, Colorado law defines a “family child care home” as “a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen years who are not related to the head of such home.” (C.R.S. 26-6-102) (Note that this is different from a “child care center” which is usually a commercial or non-profit day care center that is run out of a separate facility, and not out of someone’s residence.)”

For this reason, this ordinance will amend Chapter 16 - *Zoning*, to ensure that “Family Child Care Homes” are permitted as uses ‘by right’ within each of the Town’s residential zone districts while not fundamentally changing the Town’s ability to regulate or treat “Day Care Centers” as commercial ventures.

Definitions

At the advice of the Town Attorney, this ordinance proposes to amend and/or add certain definitions within Chapter 16, Article 2 - *Definitions*, to align with new State law and the State’s definitions. Here is what changes:

- Replaced the definition of “Day Care Home” with a new definition for “Family Child Care Home”
- Updated the definition for “Day Care Center” to align with the most recent State definitions and requirements (reducing the threshold number of unrelated children in such commercial facilities from seven to five).

Supplemental Regulations

Article 17 - *Supplemental Regulations*, currently provides specific regulations and standards for certain uses and improvements within the Town of Minturn. In order to best meet the intent of the new State law, staff has been advised to add a new section of Article 17 specific to “Family Child Care Home” uses specifying that such uses shall be treated the same as residential uses. Therefore, this ordinance proposes to create Section 16-17-220 - *Family Child Care Homes* rather than adding the same as a line item to each of the various Use Tables that exist for each residential zone district in the current Chapter 16.

Day Care Center as Limited Review Use

Currently, Chapter 16 permits “Day Care Centers” by Limited Review Use in the Old Town and South Town Character Areas. In accordance with current State definitions of “Day Care Center” staff is proposing to amend specific Limited Review Use standards in both zone districts to reflect a change in the threshold number of children under care at such facility (the minimum number of children needed to classify the use as a “center”) from seven (7) to five (5). Such centers will still be regulated via the Limited Review Use process as a commercial venture.

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 2 – SERIES 2022**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO AMENDING CHAPTER 16 OF THE MINTURN
MUNICIPAL CODE TO PROVIDE FOR THE REZONING
OF THE OLD TOWN RESIDENTIAL ZONE DISTRICT,
THE SOUTH TOWN RESIDENTIAL ZONE DISTRICT, THE
MARTIN CREEK RESIDENTIAL ESTATE ZONE
DISTRICT, THE CROSS CREEK RESIDENTIAL ZONE
DISTRICT, GAME CREEK RESIDENTIAL ZONE
DISTRICT, AND THE WILLOW CREEK, ROCK CREEK,
AND HOLY CROSS RESIDENTIAL ZONE DISTRICTS FOR
THE PURPOSE OF ALIGNING WITH STATE STATUTE
CONCERNING DAY CARE HOMES.**

WHEREAS, the Town of Minturn (“Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council (“Town Council”) is authorized to act; and

WHEREAS, the State of Colorado passed into law HB-21-1222 to expand opportunities to access child care in family child care homes, which requires local governing authorities to “treat family child care homes as residential property use in the application of local regulations,” including zoning, land use, development, fire & safety, sanitation, and building code regulations; and

WHEREAS, the law provides that “local governing authorities shall not impose any additional regulations governing family child care homes that do not also apply to other residential properties;” and

WHEREAS, the law does preserve some local authority and allows local governments to, “on a case-by-case basis,” prohibit or manage the traffic and parking related to, two large family child care homes immediately adjacent to one another; and

WHEREAS, Town Council has directed staff to draft text amendments to Minturn Municipal Code Chapter 16, the Town Land Use Regulations, in accordance with HB-21-1222, as provided herein; and

WHEREAS, on January 12, 2022 the Minturn Planning Commission recommended approval of this ordinance; and

WHEREAS, the Minturn Planning Commission and Town Council have determined that the text amendments to the Land Use Regulations Chapter 16 as provided herein are necessary and proper.

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 is hereby amended 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.

ARTICLE 2 - Definitions, Illustrations and Lot Standards

* * *

Sec. 16-2-20. - Definitions.

~~*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.~~

Day care center means a licensed facility which provides regular care and supervision, for an entire day or a portion of a day, for ~~seven~~ five (75) 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.

Family child care home means a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for up to twelve (12) children who are not related to the person or persons providing the care, as defined and regulated by the Colorado Department of Human Services Child Care Facility Licensing regulations, whether such facility is operated with or without compensation for such care.

* * *

ARTICLE 6 - Old Town Character Area

* * *

Sec. 16-6-80. - Old Town Character Area limited use standards.

* * *

(h) Day care center.

* * *

(2) Size: ~~Seven~~ Five (75) or more children shall be permitted; however, the applicant shall demonstrate that the size of the facility is suitable for the number of children permitted.

* * *

ARTICLE 7 - South Town Character Area

* * *

Sec. 16-7-70. - South Town Character Area limited use standards.

* * *

(g) Day care center

* * *

(2) Size: ~~Seven~~ Five (75) or more children shall be permitted; however, the applicant shall demonstrate that the size of the facility is suitable for the number of children permitted.

* * *

ARTICLE 17 - Supplemental Regulations and Standards

* * *

Sec. 16-17-220. - Family child care homes.

Family child care homes will be treated as residential properties in all residential zone districts within the Town of Minturn.

* * *

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 19th DAY OF JANUARY 2022. 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 2nd DAY OF FEBRUARY, 2022 AT 5:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

Earl Bidez, 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 WEBSITE THIS 2ND DAY OF FEBRUARY, 2022.

TOWN OF MINTURN, COLORADO

Earl Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk



To: Mayor and Council

From: Madison Harris, Planner I
Scot Hunn, Planning Director

Date: January 13, 2022

Agenda Item: Ordinance No. 1, Series 2022

REQUEST:

Review of Ordinance No. 1, Series 2022 on second reading.

INTRODUCTION:

Ordinance No. 1 will amend the Minturn Municipal Code (MMC) to provide regulations, processes and standards for the keeping of chickens and other fowl within the Town of Minturn. Ordinance No. 1 was presented to the Council on first reading on January 5, 2022.

The ordinance amends the following sections of the Minturn Municipal Code, Chapter 16 – *Zoning*:

1. **Section 16-2-20 - Definitions**
2. **Chapter 16, Article 17 - Supplemental Regulations and Standards**

The Town Council has directed staff to bring forth an ordinance addressing and regulating fowl within the Town of Minturn.

ANALYSIS:

In reviewing the Ordinance at first reading, the Town Council gave direction to staff to:

- Remove the provisions for or restrictions on processing or harvesting fowl on permitted properties;
- Remove proposed language regulating “quiet hours;” and
- Revise proposed language related to maximum coop siz; coop structures are not to exceed 120 square feet, while the size or extent of runs will not be limited.

COMMUNITY INPUT:

No members of the public spoke at the public hearing held by the Town Council on January 5, 2022. Public notice was provided in accordance with the Minturn Municipal Code as a matter of posting of the official agenda and packet materials for public review prior to the hearing, as well as the requirements in Section 16-21-610 of the Minturn Municipal Code.

BUDGET / STAFF IMPACT:

N/A.

STRATEGIC PLAN ALIGNMENT:

The Town Council’s review and approval of the ordinance aligns with the following key strategies:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT

THE TOWN WILL SEEK TO MAKE INFORMED, DATA-BASED DECISIONS WITH A STANDARD OF “DOING IT RIGHT.” WITH AN HONEST APPROACH TO ALL ASPECTS OF LOCAL GOVERNMENT AND A FOCUS ON THE PUBLIC PROCESS, THE TOWN COUNCIL AND STAFF ARE COMMITTED TO SERVING MINTURN WITH THE HONESTY AND INTEGRITY EXPECTED OF A SMALL-TOWN GOVERNMENT.

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

The ability for Minturn to approach development as resilient, sustainable, creative and diverse will allow the town to continue embracing what has “made Minturn, Minturn.” The town can further leverage its crossroads location as a valley-wide benefit and competitive advantage.

RECOMMENDED ACTION OR PROPOSED MOTION:

Approve the following ordinance:

“Ordinance No. 1, Series 2022, An ordinance of the Town of Minturn, Colorado amending Chapter 16 of the Minturn Municipal Code to provide for the use and regulation of fowl in the Town.”

ATTACHMENTS:

- Ordinance No. 1, Series 2022 **UPDATED 01/13/22**

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 01 – SERIES 2022**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO AMENDING CHAPTER 16 OF THE MINTURN
MUNICIPAL CODE TO PROVIDE FOR THE USE AND
REGULATION OF FOWL IN THE TOWN.**

WHEREAS, the Town of Minturn (“Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council (“Town Council”) is authorized to act; and

WHEREAS, the land use of “fowl” is becoming increasingly popular; and

WHEREAS, the unregulated keeping of chickens, other fowl, or livestock can create a nuisance, attract wildlife, and generally detract from the health and safety of the Town; and

WHEREAS, on December 8, 2021 the Minturn Planning Commission recommended approval of this ordinance; and

WHEREAS, the Minturn Planning Commission and Town Council have determined that the text amendments to the Land Use Regulations Chapter 16 as provided herein are necessary and proper.

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 is hereby amended read as set forth in **Exhibit A**, with additions to Section 16-2-20 - Definitions shown in double underlined text and ~~strike through language~~ is deleted; and a new Section 16-17-210 added. Sections of Chapter 16 which are not expressly described in this Ordinance are deemed to continue to be in full effect without change.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 5th DAY OF JANUARY, 2021. 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 19th DAY OF JANUARY 2022 AT 5:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

Earl Bidez, 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 19th DAY OF JANUARY 2022.

TOWN OF MINTURN, COLORADO

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

ARTICLE 2 - Definitions, Illustrations and Lot Standards

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:

* * *

Coop means an enclosed and secured facility for housing fowl.

* * *

Free range means fowl being allowed to move about within an open area on the permitted property without the benefit of a coop or run.

Fowl means any fowl, including any chicken, duck, goose, turkey, pigeon or other fowl.

* * *

Permitted property means the property subject to and associated with the fowl permit.

* * *

Run means when associated with fowl, a “run” is an enclosed and secured facility where fowl are able to move around more freely than within a coop.

* * *

ARTICLE 17 - Supplemental Regulations and Standards

* * *

Sec. 16-17-210. - Keeping of fowl; limitations and requirements.

The following requirements, restrictions, and standards shall apply to the keeping of fowl within the Town of Minturn corporate limits. No other animals not otherwise allowed as “pet animals” by Article 9, Chapter 8 of this Code may be kept in the Town.

- (a) *Applicability.* The keeping of fowl and the erection of coops, runs and associated enclosures are allowed as an accessory use only on those parcels where the principal use of the parcel meets one (1) of the configurations listed in this Subparagraph. An existing coop shall cease to be allowed where the principal use of the parcel is altered to no longer meet one (1) of the following configurations:
- (1) Detached single-family dwelling;
 - (2) Detached single-family dwelling with either one (1) attached or one (1) detached accessory dwelling unit;
 - (3) A two-family dwelling (duplex); or
 - (4) A school or community centered board facility.
- (b) *Where Permitted.*
- (1) Fowl are allowed in all zone districts, subject to the restrictions in this Article.

- (2) Fowl are allowed within a planned unit development unless specifically identified as a prohibited use by the planned unit development.
- (3) Parcels must be a minimum of two thousand five hundred (2,500) square feet in size.

(c) *Number and type.*

- (1) No more than two (2) fowl permits shall be allowed per Permitted Property. If a parcel has more than one (1) dwelling unit, all adult residents (21 years of age or older) and the owners of the parcel must consent in writing, on a form provided by the Planning Director, to allow the keeping of fowl on the property. If a property contains a bona fide rental unit, tenants may be permitted to keep and maintain fowl so long as the property owner/authorized landlord approves in writing, on a form provided by the Planning Director, the use and permitting.
- (2) There shall be a maximum number of fowl allowed based on the square footage required in a coop per type of bird.
- (3) Roosters are allowed.

(d) *Site Layout and Design.*

- (1) A coop shall be located so that it has the least amount of impact to adjacent dwellings and properties. Coops and associated runs or other enclosures may be located in the front, side, or rear yards of the Permitted Property based on review by the Planning Director. Applicants for fowl permits are required to provide a site plan and other information detailing the location, size and layout of any coop, run or enclosed yard.
- (2) Neither the coop nor any portion of the run or other associated outdoor enclosure may be located less than five (5) feet from any abutting property line unless the property owner or keeper of the fowl obtains the written consent of the owners of all properties to which the enclosure is proposed to be closer than five feet from their property line; in which event, the agreed-upon location shall then be deemed acceptable to all such abutting property owners. The property owner or keeper of the fowl need only get permission from the original neighboring property owner. The consent, once obtained, lasts until the permit is relinquished or revoked.
- (3) The footprint of a coop shall not exceed one hundred and twenty (120) square feet. The maximum height of the coop shall be twelve (12) feet. Coops and runs shall be completely enclosed with wire or other material to contain the fowl and prevent wildlife intrusion.

(e) *Operation.*

- (1) Fowl must be confined at all times in a yard, coop or run. However, fowl may be permitted to roam, in a free range manner, outside the coop and/or run to allow for access to sunlight and open air described above so long as:

- (i) The entire perimeter of such free range area (a yard) is fenced in a manner to adequately confine the fowl;
 - (ii) Such area is part of the Permitted Property and within an area immediately surrounding the residence of the owner of the fowl.
- (2) All fowl must be provided with a covered, predator-resistant house or coop that is properly ventilated, designed to be easily accessed, cleaned and maintained and at least two (2) square feet per chicken in size, four (4) square feet per duck or pair of pigeons in size, six (6) square feet per turkey or goose in size, and no portion of the floor shall exceed six (6) feet from grade.
 - (3) During daylight hours, the fowl must have access to the coop, must have access to adequate fresh water, and must also have access to an enclosure that is screened on all sides and on top and adequate to protect them from predators.
 - (4) Fowl shall be further protected by being enclosed within the coop from dusk till dawn.
 - (5) Feed shall be kept within a rodent resistant container within the residence, garage, shed or other permitted structure so that it can be secured from rodents and other wildlife.
 - (6) Coops and runs shall be maintained in a clean fashion to prevent odors, and manure shall be removed and stored in a sealed container or removed from the property immediately. Spillage and leftover feed must be removed daily to prevent rodent propagation and odors.

(f) *Permit Procedures.*

- (1) *Application Requirements.* The owner shall submit an application on the form provided by the Planning Director and shall pay the application fee set by Town Council resolution.
 - (i) Applicants for fowl permit(s) may be required to provide a site plan of the subject property drawn to scale showing the location of proposed coop(s), run(s), and fencing and yard areas. Applicants will also be required to provide details of proposed coop, run, and fence designs, inclusive of structural dimensions and materials.
 - (ii) If the parcel upon which the keeping of fowl is proposed falls within the jurisdiction of a homeowners' association or similar covenant-based property owners' association, the requirements of this Article shall be considered minimum requirements. Any such association shall have the right to lawfully adopt more stringent fowl-keeping standards, including the outright prohibition of fowl-keeping, for any parcel within the regulatory authority of such association.
- (2) *Issuance of Permit.*

- i. All fowl keeping uses shall require a permit from the Planning Director. Such permit shall only be issued after the fowl application has been approved in accordance with the Municipal Code. The fowl permit shall specify any terms and conditions of the permit. All permits shall be issued to the owner of the property or approved tenant of a bona fide rental (dwelling) unit. A change in ownership shall necessitate issuance of a new permit.
 - ii. Any pre-existing keeping of fowl shall come into conformance by May 31, 2022 or be considered illegal and therefore must comply with this Section or be removed.
- (3) *Revocation of Permit.* A fowl permit may be revoked at any time by the Planning Director should it be determined that the use is not being operated in compliance with this Section or any other section of the Municipal Code.



To: Mayor and Council
From: Michelle Metteer
Date: January 19, 2021
Agenda Item: Proposed Intergovernmental Agreement (“Agreement”) between the Town of Minturn (“Town”), Eagle River Water & Sanitation District (“ERWSD” or “District”) and the Upper Eagle Regional Water Authority (“UERWA” or “Authority”)

REQUEST:

Minturn staff, consultants and attorneys request the Town Council begin a public discussion outlining the concepts and options being proposed through an Intergovernmental Agreement (Agreement) between the Town of Minturn, the District, and the Authority.

The draft Agreement is expected to be publicly available on Tuesday, January 18th for review. A copy of the Agreement will be emailed out to the subscription notification list as an update to the Town Council packet, posted to the town web page, and available in print at town hall.

The Agreement will be publicly discussed at the Minturn Town Council meeting on January 19th at 5:30 pm. The Council recognizes twenty-four hours is not enough time for public review prior to the Council considering a vote, therefore the meeting on the 19th will be for discussion purposes only. After the first discussion on the 19th, the public will have a week to review the Agreement materials and contact their Council representatives with questions and additional information prior to a first reading which will be held at a Special Council meeting scheduled for January 25th at 5:30 pm. Additional public discussion will take place during the Special meeting.

The Agreement will be reviewed as an Ordinance and will therefore have an additional discussion with a formal public hearing on February 2nd.

INTRODUCTION:

A proposed agreement between Minturn and the Eagle River Water District would provide for Minturn to receive significant valuable water rights, which rights would provide important water security to Minturn. Minturn will also receive a Recreational Covenant for Use of the Lake, when completed. In exchange, the District would get the use of Minturn's Bolt's Lake Easement and the cooperation of the Town.

If Minturn does not enter into this agreement, The District will, in all likelihood, obtain the easement by condemnation and Minturn would then be entitled to only the value of the easement as determined in Court. Minturn is currently in the process of obtaining an appraisal of the value of its Bolt's Lake Easement, and that appraisal will be available before the proposed agreement goes before Council for final consideration.

Battle North (formerly Battle Mountain or Ginn) signed a contract last year to sell land for Bolts Lake reservoir to the District and Authority via the [“Agreement Pertaining to Acquisition for Bolts Lake Reservoir Project.”](#) This Agreement includes a one-year due diligence period prior to execution. The due diligence period will be complete as of February 9, 2022.

Long-time residents may recall the multiple agreements with Battle North's predecessor, which voters approved in 2008 as part of the annexation procedures for the Battle North property to be incorporated into the Town of Minturn. Among other promises, the 2008 Agreements included Minturn acquiring an [easement for the Bolts Lake area](#), and Battle North developing the reservoir for use by a future Battle North project and the Town of Minturn, primarily for augmentation purposes.

The Town has provided legal notice of its intention to sue Battle North for breach of the various agreements pertaining to the Battle North property and [development approvals](#). Prior to filing the lawsuit, the Town and Battle North have agreed to mediation which will begin in March of 2022. The Town of Minturn, in all likelihood, does not have the ability to stop the sale of the Bolts Lake parcel because the District and Authority are prepared to file a condemnation act if necessary. The Town is still entitled to sue Battle North for damages.

If Minturn's easement is condemned, Minturn will receive the value of the easement as determined by the court. Minturn is in the process of obtaining an appraisal of the easement which should be received by early February.

ANALYSIS:

The District and Authority want to proceed with construction of Bolts Lake reservoir as quickly as possible, and to do so, have sought Minturn's cooperation. To this end, the District and Authority are willing to commit, among other things, certain augmentation use rights to Minturn. Staff and Council have been involved in intense negotiations with the District and Authority to obtain the best agreement possible. In exchange for the easement, Minturn will obtain the following benefits.

If the public is not supportive of the proposed Agreement the deal does not have to be finalized.

BENEFITS:

- **The District and Authority are offering Minturn a permanent supply of augmentation water not offered to other entities outside of their service area.**
- **Waiver of purchase price for 20-acre feet of permanent augmentation water (this is an \$860,000 cash value).**
 - The 20-acre feet is a perpetual augmentation supply as opposed to Minturn's current 40-year contract with the Colorado River Water Conservation District.
 - The reduction in annual operation, maintenance, and repair costs between the District/Authority supply and Minturn's current augmentation water contract over a 99-year time period equates to approximately \$280,000.
- **Eagle River Surface diversion water right for 4.0 cfs – Case 21CW3030**
 - With the approval of a Water Court Case 21CW3030 submitted by the District and Authority, Minturn will receive a surface diversion water right in the area of the confluence of Cross Creek and the Eagle River. This would allow Minturn to develop a fully redundant back up raw-water supply that could serve the entire Town and infill growth.
 - With the approval of Water Court Case 21CW3030 submitted by the District and Authority, Minturn would receive a water right at Dowd Junction (well field or surface diversion to still be determined).

- The District and Authority are paying for all fees associated with the Water Court application process (including attorney fees) at an estimated value of \$100,000 to \$250,000.
- **Option to Purchase Augmentation Water Supply**
 - 55-acre feet will be held in reserve by the District and Authority for up to 30-years from the date of the IGA for Minturn's right to purchase. The option to purchase will be phased as follows:
 - 30-acre feet will be made available when the District and Authorities decrees are entered by the Water Court.
 - 25-acre feet will be available once Bolts Reservoir is operational
 - This allows Minturn to reduce its current augmentation water contracts and direct the savings to other water system improvements.
- **Environmental Remediation of the Old Tailings Pile (part of the Eagle Mine Superfund Site)**
 - The District and Authority have agreed to pay for the remediation of the Old Tailings Pile.
- **Recreational Use at Bolts Reservoir**
 - The District and Authority would issue Minturn a recreational use covenant to allow public summer-time (approximately May – November) non-motorized use of the reservoir. This would include such activities as stand up paddleboarding, swimming, canoeing, and fishing.
- **Cooperation with the District & Authority**
 - The IGA would provide for cooperation between the Town and the District and Authority on a number of topics including: administration of water rights on Cross Creek, environmental remediation in the Bolts Lake area, provision of water to Dowd Junction, and a commitment that the District and Authority will not claim that Minturn has abandoned any portion of its water rights.

WHAT MINTURN IS GIVING TO THE DISTRICT

- **The right to enforce Minturn's Bolts Lake Easement**
 - Minturn will still have the right to sue Battle Mountain in the 2008 Water Services Agreement
- **Minturn would commit to not develop its conditional water right as it pertains to Bolts Reservoir in a way that would interfere with the operation of Bolts Reservoir.**
- **Release of the 2008 Water Service Agreement from the Bolts Lake Property**
- **Minturn would cooperate with the District and Authority with respect to the construction of Bolts Reservoir.**

TIMING

Minturn has until February 9, 2022 to either accept or reject the Agreement with the District and Authority. We anticipate Minturn will have the appraisal prior to any final decision being made by the Town Council.

COMMUNITY INPUT: Required

BUDGET / STAFF IMPACT: Tbd

STRATEGIC PLAN ALIGNMENT:

Practice fair, transparent and communicative local government

Advance decisions/projects/initiatives that expand future opportunity and viability for Minturn

RECOMMENDED ACTION OR PROPOSED MOTION:

This agenda item is for discussion purposes only. Council may provide direction to staff as appropriate at the conclusion of the discussion however no vote will be taken.

ATTACHMENTS:

- Question & Answer Handout
- Draft IGA between Minturn, the District and Authority (to be provided Jan 18, 2022)



Town of Minturn
301 Boulder St #309
Minturn, CO 81645
970-827-5645
council@minturn.org
www.minturn.org

Potential Intergovernmental Agreement (“Agreement”) between the Town of Minturn, Eagle River Water & Sanitation District (“District”) and Upper Eagle Regional Water Authority (“Authority”)

Frequently Asked Questions

Question	Answer
<i>Why does Minturn want augmentation water?</i>	Minturn has both senior and junior water rights. Augmentation is necessary for Minturn to use its junior water rights during dry periods when there is a “call” on the river. In drought conditions or years where there is less run-off, Minturn must use its junior water rights to provide sufficient water under certain conditions. Without augmentation water, Minturn can be denied the use of its junior water rights. Minturn’s senior water rights are insufficient to supply the Town in certain situations, even if there is no future development.
<i>Why does Minturn want water security?</i>	Minturn wants to ensure that it will be able to provide water to residents into an uncertain and likely drier future.
<i>Does the District & Authority deal help Minturn even if there is no more development in town?</i>	Yes, Minturn has had to rely on its junior water rights in the past and in order to use these, Minturn currently leases augmentation water from the Colorado River District. The augmentation water provided to Minturn by the District will permit Minturn the option to drop these contracts and eventually save as much as \$50,000to \$70,000/a year.
<i>Can the Town still sue Battle Mountain for selling Minturn’s Bolts Lake easement to the District & Authority?</i>	Yes. In lawsuits for breach of contract, the parties are required to “mitigate” (minimize) their damages. In entering into this Agreement with the District and Authority, Minturn would be mitigating its damages as required by the courts. Minturn will still be able to sue Battle Mountain for, among other issues, the difference in value between Minturn’s Bolts Lake easement and the value of the benefit received from this Agreement with the District and Authority.
<i>What is the difference between permanent and leased augmentation water?</i>	Permanent augmentation water is just that, permanent. The District and Authority are not usually willing to commit to permanent augmentation water contracts, but they are willing to make that commitment to Minturn if we do this deal. Until

this deal, Minturn has been unable to obtain permanent augmentation water. We currently spend \$108,500/year to lease augmentation water through long term leases with the Colorado River District. These leases are not automatically renewable and in a severe drought situation in the future, we could be denied the right to renew the leases.

Is the 55-acre feet of “option” augmentation water permanent?

Yes, it is permanent if purchased in the next 30 years.

Does the Agreement require Minturn residents to pay for water rights for future development?

No. One of the important cost savings and water security regardless of future development.

Will Minturn Residents have the right to use Bolts Lake for recreation?

Yes, summertime recreation will be allowed including activities such as paddle-boarding, swimming, kayaking, fishing and other non-motorized activities. The Town will be responsible for developing and managing the recreation facilities. The recreation use will be secondary to the use of the reservoir as an augmentation facility.

Why are we negotiating with the District & Authority before we know the value of the Bolts Lake easement we are giving up?

The Bolts Lake easement appraisal was requested months ago and with the pending deadline of February 9th, negotiations had to occur prior to receiving the appraisal for the value of the easement.

Isn't it better for Minturn to keep its Bolts Lake easement and use that to solve its water issues?

No, in all probability, Minturn will lose its Bolts Lake easement in a condemnation proceeding by the District and Authority if we do not do this deal. Minturn would then only be entitled to the cash value of the easement as determined by the court.

Will the District & Authority IGA result in a decrease in Minturn's water bills?

Minturn residents will pay less than they would otherwise. Unfortunately, with infrastructure improvements on the horizon, water bills will still be increasing in the future, but not to the extent they would without the deal.

How does this deal impact Minturn's ability to develop Dowd Junction?

The deal provides that the District and Authority may supply Dowd Junction with water if technically feasible. Additionally, the Agreement will allow a water right to be decreed at Dowd Junction as a secondary alternative for Minturn water service to Dowd should a pipeline not be feasible.

Why is the District and Authority in such a hurry?

Because of their prior Agreement with Battle North, the District must have an answer from Minturn before February 9th.

Jay Brunvand
 Clerk/Treasurer
 301 Pine St #309 ♦ 302 Pine St
 Minturn, CO 81645
 970-827-5645 x1
treasurer@minturn.org
www.minturn.org



Town Council
 Mayor – Earle Bidez
 Mayor Pro Tem – Terry Armistead
 Council Members:
 George Brodin
 Lynn Feiger
 Eric Gotthelf
 Gusty Kanakis
 Tom Sullivan

Below reflects proposed topics to be scheduled at future Town Council meetings and is informational only. Dates and topics are subject to change.

REGULAR TOWN COUNCIL MEETINGS
January 19, 2022
Ordinance No. ___ - Series 2022 (Second Reading) regarding livestock (Chickens)
February 2, 2022
February 16, 2022
DATE TO BE DETERMINED
30' River Setback Policy Review & Eagle River Park (MMC Sec. 16-2-50(b)) – waiting on Planning Commission review
2021-23 Strategic Plan Amendment – Building Code Updates
Ordinance regarding Livestock – Waiting on Planning Commission review
Potential legislation regarding Mobile homes
Car Idling