



AGENDA

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 and times of agenda items listed are approximate and intended as a guideline for the Town Council.

MEETING OF THE MINTURN TOWN COUNCIL
Minturn Town Center 302 Pine Street
Minturn, CO 81645 • (970) 827-5645

Wednesday March 3, 2021

Meeting to be held via Zoom Conferencing and call-in.
Public welcome to join meeting using the following methods:

<https://us02web.zoom.us/j/82998687894>

Or join by phone:

US: +1 301 715 8592 or +1 651 372 8299

Webinar ID: 82909868-7894

Passcode: 473555

Executive Session – 5:30pm

Regular Session – 6:15pm

MAYOR – John Widerman

MAYOR PRO TEM – Earle Bidez

COUNCIL MEMBERS:

Terry Armistead

George Brodin

Brian Eggleton

Eric Gotthelf

Gusty Kanakis

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. 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.

The Minturn town Council will open the Regular Meeting at 5:30 for the purpose of convening into Executive Session. At approximately 6:15pm the Council will convene into Regular Session for the remainder of the meeting.

Regular Session – 5:30pm

1. Call to Order

- Roll Call
- Pledge of Allegiance

EXECUTIVE SESSION

2. An Executive Session for the purpose of determination of positions relative to matters that may be subject to negotiations, development of negotiations and instruction of negotiations under CRS Section 24-6-402(4)(e) – ERWSD/Battle Mountain

Town Council will convene in Regular Session from Executive Session at approximately 6:00pm.

REGULAR SESSION

3. Public comments on items which are ON the consent agenda or are otherwise NOT on the agenda as a public hearing or action item. (5-minute time limit per person)

4. Approval of Consent Agenda (5Min)

A Consent Agenda is contained in this meeting agenda. The consent agenda is designed to assist making the meeting more efficient. Items left on the Consent Agenda may not be discussed when the Consent Agenda comes before the Council. If any Council member wishes to discuss a Consent Agenda item please tell me now and I will remove the item from the Consent Agenda and place it in an appropriate place on the meeting agenda so it can be discussed when that item is taken up by the Board. Do any Council members request removal of a Consent Agenda item?

- February 17, 2021 Meeting Minutes Pg 4

5. Approval of Agenda

- Items to be Pulled or Added
- Declaration of Conflicts of Interest

6. Special Presentations

- Council Comments/Committee Reports
 - Water Report Pg 14

PUBLIC HEARINGS AND/OR ACTION ITEMS

7. Public Hearing/Action Item: Public Hearing regarding condition violations on the Happy Hammer Construction CUP – Metteer Pg 15

8. **Public Hearing/Action Item:** Resolution No. 09 – Series 2021 A Resolution creating a Town Procurement Policy – Metteer Pg 43
9. **Public Hearing/Action Item:** Ordinance No. 02 – Series 2021 (First Reading) An Ordinance creating a School District Land Dedication Policy – Metteer Pg 58

DISCUSSION/DIRECTION ITEMS

10. **Discussion/Action Item:** Exterior Illumination Standards – Metteer/Peterson-Cremer Pg 63

COUNCIL INFORMATION / UPDATES

11. Staff Updates (5 Min)

- Manager’s Report Pg 68
- Future Agenda Items Pg 70

MISCELLANEOUS ITEMS

12. Future Meeting Dates

- a) Council Meetings:
 - March 17, 2021
 - April 7, 2021
 - April 21, 2021

13. Other Dates:

14. Adjournment



OFFICIAL MINUTES

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 and times of agenda items listed are approximate and intended as a guideline for the Town Council.

MEETING OF THE MINTURN TOWN COUNCIL

Minturn Town Center 302 Pine Street
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Wednesday February 17, 2021

**Meeting to be held via Zoom Conferencing and call-in.
Public welcome to join meeting using the following methods:**

<https://us02web.zoom.us/j/87671850473>

Or iPhone one-tap:

+16513728299,,

+13017158592,,

Webinar ID: 876 7185 0473

Executive Session – 5:30pm

Regular Session – 6:00pm

MAYOR – John Widerman

MAYOR PRO TEM – Earle Bidez

COUNCIL MEMBERS:

Terry Armistead

George Brodin

Brian Eggleton

Eric Gotthelf

Gusty Kanakis

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/827-5645 302 Pine St. Minturn, CO 81645.

Executive Session – 5:30pm

The Minturn town Council will open the Regular Meeting at 5:30 for the purpose of convening into Executive Session. At 6:00pm the Council will convene into Regular Session for the remainder of the meeting.

1. Call to Order

- Roll Call

The meeting was called to order by Mayor Pro Tem Earle Bidez at 5:33pm using the ZOOM on-line meeting format.

Those present include: Mayor Pro Tem Earle Bidez and Town Council members Terry Armistead, George Brodin, and Gusty Kanakis. A quorum was established with four members. Note: Eric Gotthelf was excused absent and John W., Brian E., had already gone to the Executive Session Zoom Meeting.

Staff present: Town Manager Michelle Metteer, Town Planner Madison Harris, Town Attorney Michael Sawyer, and Town Treasurer/Town Clerk Jay Brunvand.

EXECUTIVE SESSION

2. An Executive Session for the purpose of conferencing with the Town Attorney for the purpose of receiving legal advice on a specific legal question under CRS Section 24-6-402(4)(b) – Eagle County Sheriff's Office

Motion by Earle B., second by George B., to convene in Executive Session for the purpose of conferencing with the Town Attorney for the purpose of receiving legal advice on a specific legal question under CRS Section 24-6-402(4)(b) – Eagle County Sheriff's Office. Motion passed 4-0. Note: Eric G. was excused absent and John W., Brian E., had already gone to the Executive Session Zoom Meeting.

Town Council convened in Regular Session from Executive Session at 6:28pm.

Those present include: Mayor John Widerman, Mayor Pro Tem Earle Bidez and Town Council members Terry Armistead, George Brodin, Brian Eggleton, and Gusty Kanakis. Note: Eric Gotthelf was excused absent.

Staff present: Town Manager Michelle Metteer, Town Planner Madison Harris, Town Attorney Michael Sawyer, and Town Treasurer/Town Clerk Jay Brunvand.

REGULAR SESSION

Regular Session – 6:00pm

- Pledge of Allegiance

3. Public comments on items which are ON the consent agenda or are otherwise NOT on the agenda as a public hearing or action item. (5-minute time limit per person)

4. Approval of Consent Agenda (5Min)

A Consent Agenda is contained in this meeting agenda. The consent agenda is designed to assist making the meeting more efficient. Items left on the Consent Agenda may not be discussed when the Consent Agenda comes before the Council. If any Council member wishes to discuss a Consent Agenda item please tell me now and I will remove the item from the Consent Agenda and place it in an appropriate place on the meeting agenda so it can be discussed when that item is taken up by the Board. Do any Council members request removal of a Consent Agenda item?

- February 3, 2021 Meeting Minutes
- Golden Aspen Leaf Inc, DBA Gourmet Cowboy Bar, annual renewal of a Hotel and Restaurant Liquor license; 455 Main St; Clifford Dorn III, Owner/President – Brunvand

Motion by Terry A., second by George B., to approve the Consent Agenda of February 17, 2021 as presented. Motion passed 6-0. Note: Eric G. was excused absent.

5. Approval of Agenda

- Items to be Pulled or Added

Motion by George B., second by Gusty K., to approve the Agenda of February 17, 2021 as presented. Motion passed 6-0. Note: Eric G. was excused absent.

- Declaration of Conflicts of Interest

6. Special Presentations

- Eagle County Vision and Strategy (VISTA) – Angelo Fernandez

Mr. Angelo Fernandez, Eagle County Government, noted the County is leading the soon-to-be launched Community Vision and Strategy project titled VISTA. This project is inviting community members to help identify solutions to challenges created by COVID-19. Mr. Fernandez will send out information to form a county wide group to enable this project.

Gusty K. noted how well the County has done to keep everyone informed and we are moving in the right direction.

Terry A. felt this project was great for Minturn and the County. She stated we are updating our Community Plan as well as other plans and this will fold in well together with the County project.

Brian E. expressed his support for this project and was excited to see what would come forward.

Michelle M. noted that Mr. Fernandez has been promoted to Chief Cultural Officer of the County and congratulated him on his promotion. She noted his significant contribution in the County.

- One Book One Valley – Lori A. Barnes

Ms. Lori Barnes, Vail Library, presented the One Book One Valley reading for 2021 and asked the Council to approve a Proclamation supporting the OBOV objective. She noted this is year 10 of this program and this year they received a grant in the amount of \$9,150 to promote the project and to purchase books to inject into the community. The 2021 book, Lab Girl, is available county wide. April 17th the author, Ms. Hope Jahren, will be speaking virtually on the book.

Ms. Barnes noted other activities available through the library.

John W. read the Proclamation into the record.

- Council Comments/Committee Reports
 - Water Report

Water loss computation for January came to 14.77%. This is the highest in several months, but is not overly alarming. Winter is when the Town has its lowest water use demand (no outdoor water use) and produces the lowest amounts of water from the Water Plant. The water loss computation is computed based on water produced at the plant and water totals from water meters. In the summer when a lot of water is produced and the metered water is compared with this, the percent loss will always be smaller because the produced water is so much greater.

Special thanks to Michelle, Isaiah, Arnold, Jay Brunvand, Jason Perrigaud from ERWSD, and Sibley Plumbing. There was a water line break under a house on Boulder Street this weekend and they all played a vital part in finding the Curb Stop and getting the leak repaired.

CURB STOPS: the water shut-off to the property.

Knowing where the curb stop is located is the property's owner responsibility. Please take this to heart. If this location had been known, far fewer people would have been involved and a lot of water could have been saved.

Michelle M. is diligently working through loan processes and grant opportunities for the Water Infrastructure Project.

Water Infrastructure Permitting, Design and Construction

Two weeks ago, Council approved the SGM Contract for this work. There are many sequential steps that must and will be taken and moving parts including wildlife assessments, CDPHE reviews, and other agencies that are required to be notified and engaged to weigh in on this endeavor including Ute Indian Tribes. The contract with SGM specified a monthly progress report. I anticipate there might be information outlining specific steps being taken and progress or waiting periods entered for an update in March.

There are many citizens that use the Water Plant Road for walking and dog exercising. There will be studies for the Elk, Deer, Moose and other wildlife that are found in this area. The obvious foot and dog traffic that is happening may negatively impact these studies. I would ask

citizens to please change their habits and find an alternate place. This will help wildlife survival and impact the Water Infrastructure Improvement progress.

On a more optimistic note; snow has been falling fairly regularly and this can only help for spring run-off and the drought condition we are experiencing.

Gusty K. attended a Colorado River Authority webinar and noted grants that might be available to the town. Gusty K. also noted the Minturn Matters held last night and some of the discussions held.

Earle B. noted the Rocky Mtn Challenge/Dowd Jct planning project and the interview process that was held with several Council Members.

Brian E. thanked those involved with the Rocky Mtn Challenge project. He asked about the focus on the Water Plant Road. George B. stated the road and platform are completed but there is concern some of this was done prior to any wildlife studies. We are working through those concerns. Michelle M. noted there have been other concerns from the Colo Dept of Wildlife regarding the disturbances caused by people and off leash dogs who hike the road. She is moving forward with meeting with USFS and CDOW to work through any issues.

John W. noted the Mayors and Managers meeting and railroad discussions taking place.

Terry A. noted there has been an impact study filed with the Surface Transport Board regarding the railroad. This is available on the STB website.

PUBLIC HEARINGS AND/OR ACTION ITEMS

The Council took a five-minute recess.

- 7. Public Hearing/Action Item:** Resolution 08 – Series 2021 A Resolution supporting a DOLA grant for the purpose of a Planning Grant Application – Metteer

Michelle M. noted the town is applying for grants for this project. The town would use the funds approved in the budget along with grant opportunities to complete the Planning items.

Brian E. expressed that we are in a great position for this grant opportunity and supported the efforts noting the flexibility with the potential grants.

Public Comment opened
No Comment
Public Comment Closed

Motion by Earle B., second by Brian E., to approve Resolution 08 – Series 2021 A Resolution supporting a DOLA grant for the purpose of a Planning Grant Application as presented. Motion passed 6-0. Note: Eric G. was excused absent.

8. Public Hearing/Action Item: Public Hearing regarding condition violations on the Burk Harrington Construction CUP – Metteer

Michelle M. stated Staff requests a public hearing for the purposes of following the process outlined in Resolution 28 – Series 2018, a Resolution approving conditional use permit application CU 03 – 2018 for Burke Harrington Construction, UPRR Railroad Ave, Town of Minturn.

Of recent issue, and the reason for a request for public hearing, is due to Burke Harrington Construction receiving a third violation notice within a 12-month period. As outlined and approved within Resolution 28 – Series 2018 condition #6, three violations within one-year trigger a recommendation to Council for revocation of the CUP.

In May of 2020 – The Town received several resident complaints regarding the storage of non-work-related vehicles, and the absence of fencing and/or green screening around lease area boundaries.

In June of 2020 – A site visit was conducted with Burke Harrington to discuss issues of non-compliance. From this visit a warning letter was sent detailing the specific areas of non-compliance and providing a warning period to correct the potential violations before official violation notices were sent.

By July 2020 the two warnings had not been addressed and therefore two violation notices were sent to Burke Harrington Construction for failure to remove a non-work-related vehicle and for failure to erect screened fencing.

In January 2021 Town staff received a complaint from a concerned resident regarding the storage of abandoned and/or unregistered vehicles within the CUP area. On Thursday, January 28, 2021 Town staff visited the CUP site and identified multiple vehicles with expired registrations as well as a vehicle which appeared to be non-work related. A second staff visit on February 2, 2021 found all vehicles in violation to still be present on the CUP property. (See attached Notice of Violation dated January 2021). As indicated by Condition #3 of the Conditional Use Permit; There shall be no inoperable/unlicensed vehicles kept on the property for longer than 5 days as required by the Minturn Municipal Code, Sec 7-2-70.

These violations were/are Burke Harrington Construction's third notice of violation. As identified in Resolution 28 – Series 2018, a third notice of violation in a 12-month period initiates staff to escalate the issue to the Council-level for recommended revocation of the CUP. Revocation is at the sole discretion of the Town Council.

She noted Mr. Harrington is not in attendance due to a conflict. This was learned 18 minutes prior to the meeting although he was given required advance notice of the meeting.

Michael S. recommended in light of Mr. Harrington's absence that Council ask questions on the

Staff Memo, open and hold the public hearing, and then he would have comments afterward.

George B. noted there were previous issues and were these prior or new issues; new. Michelle M. noted the previous issues of screening and other vehicles that were expired have been remedied, these are new violations. He asked about the notice of the meeting given to Mr. Harrington; it was sufficient and in line with municipal code.

Brian E. asked if we know to whom the vehicles in violation are registered too? Michelle M. noted she has been handling this CUP and noted the conditions. She noted a follow-up call from one of the owners and he would work to get the vehicle registered. She noted the intent is to remedy the permit violations not the unregistered vehicles necessarily. He asked if the vehicles are leasing parking from Mr. Harrington, with Mr. Harrington not in attendance that question could not be answered. Michelle M. noted she was not aware of any secondary parking arrangements with the vehicles on the permitted area.

Earle B. noted we were all there when this was approved and Mr. Harrington assured the Council he would not have any future violations when the permit was approved. Earle B. stated it appears Mr. Harrington is not being forthright and did not see why the Council should not revoke the permit.

Gusty K. noted the dates on the pictures were a week apart and asked if he was given notice of the violations during the interceding week. Michelle M. noted he was not, that is not part of the enforcement process.

Terry A. asked if the vehicles are behind the fencing and if they are obscured, how does this enforcement work? She expressed her frustration with being in this position and the importance of backing staff and the violation process. Michelle M. stated we are on a complaint basis for code enforcement, we did receive a complaint from a resident and it was followed up on. Michelle M. stated how she visited the site, observed the violations from outside the fence line, and upon entering the premise she observed other violations.

Public Comment opened

No Comment

Public Comment Closed

Michael S. commented the town's goal is compliance not enforcement. We give notice and try to work with the permit holder to resolve issues. He stated the remedies by the permit holder are simple. He recommended we obtain the Council comments, hold the Public Hearing, and then request staff to go back to Mr. Harrington with direction to attempt again compliance.

George B. expressed his disappointment and frustration and concurred with Michael S's recommendations.

Terry A. expressed compassion, noted it was spring break for the kids. She stated it is obvious he

is in the wrong and agreed that we should have teeth and that we follow Michael S's recommendation.

Earle B. stated there are 18 conditions, it is not hard to comply, and felt his lack of attendance was poor judgement with the opportunities of the online meeting. If we allow this to pass, we then must allow future violations the same extension. He stressed consistency with our enforcement policy.

John W. echoed all comments and frustrations.

George B. asked if we could suspend? Michael S. stated that would move it to a court issue and not where we wanted to go at this point.

Brian E. expressed disappointment and frustration. He felt Mr. Harrington is our neighbor and should have the opportunity to be part of the conversation. Because of this, he felt a second attempt to enforce compliance was appropriate.

Gusty K. agreed with all and desired Mr. Harrington to be in attendance for this issue. He was in support of extending the issue

Motion by George B., second by Terry A., continue the Public Hearing and action to the March 17 meeting. Motion passed 6-0. Note: Eric G. was excused absent.

Michael S. reminded Council this is a quasi-judicial issue and to avoid public discussion or discussion with Mr. Harrington.

COUNCIL INFORMATION / UPDATES

9. Staff Updates (5 Min)

- Manager's Report

Minturn Fitness Center

Cindy will be at the Minturn Fitness Center 20-hours a week starting February 16. Additionally, the MFC Board has approved the unsupervised use of the facility by the ERFPD Station 5 crews on M/W/F from 9-10 am.

Minturn Matters

Minturn Matters is scheduled for Tuesday, February 16th. This will be a zoom meeting.

Healthy Rivers Campaign

I've sought the collaboration of all Eagle County communities for the mutual goal of a coordinated "healthy rivers" campaign this summer. This is in direct response to Colorado being in Phase 3 of the Colorado Drought Plan and the need to keep water in our rivers. So far everyone has tentatively said they're on board (from a manager standpoint). I expect this to be comprised of coordinated

educational materials about the importance of keeping a healthy level of water in our streams and rivers. More to come.

Colorado Department of Wildlife

Devin Duvall, CPW, has asked for a meeting with me and Paula Peterson, USFS to discuss the road leading to the Minturn water tank. He is concerned about the number of off-leash dog walkers on road and the disturbance to the elk wintertime habitat. I anticipate this meeting to take place sometime in the next few weeks.

NAIOP Interviews

John, Earle, Scot Hunn and I took part in six hours of interviews with the students of DU and CU on Tuesday and Wednesday. It was a great exercise. We're encouraged by the conversations and I have a feeling some great ideas will be the result.

Community Plan Update – EIAF Grant Application

I have a meeting scheduled for Feb 12th with a grant writer that I'm hopeful can help complete the EIAF Tier 1 grant application for the update to the Community Plan. This application is due March 1st and I anticipate our application, which requires a 50% match, to be about \$150,000.

CDOT Revitalizing Main Street Grant

Minturn was recently awarded \$50,000 toward improvements to outdoor seating as part of the CDOT Revitalizing Main Street Grant that we applied for this last fall. This effort is to encourage folks to order take out at our local restaurants and eat at various outdoor locations in the downtown area. We anticipate the eating shelters to include local directories of activities, businesses, artwork (hopefully) and possibly lighting. These will be 3-season structures starting this spring.

Holy Cross Energy

USFS efforts are slowing starting to turn back around to the HCE transmission power line 299 permit application. I'm coordinating with their team now on the necessary paperwork for Minturn to remain a "cooperating agency" in this process.

Groundwater Modeling

I'm meeting with a firm on Tuesday, February 16th that can help Minturn model the groundwater movements in, around and adjacent to the superfund site. Particularly in the area Minturn would like to install the new wellfield. Prior to moving forward, we have to ensure groundwater from the superfund site will not compromise any newly established wells. As you'll all remember, Minturn had to cap off the original well 1 & 2 on Cross Creek due to groundwater contamination. More to come.

Michelle M. noted the other grants the town is working on which the deadlines are approaching on to assist with the water treatment plant work.

Michelle M. noted we are working on a procurement policy. We are working on a water SFE schedule as well that will be coming to the Council in the near future.

- Future Agenda Items

MISCELLANEOUS ITEMS

10. Future Meeting Dates

- a) Council Meetings:
- March 3, 2021
 - March 17, 2021
 - April 7, 2021

11. Other Dates:

-

12. Adjournment

Motion by Earle B., second by Brian E., to adjourn the meeting at 8:25pm.

Water Report

3 March 2021

Looking ahead:

Raw water from MW3 (Monitoring Well 3), has been the recent focus of attention on the proposed new well fields. The location of the test well, that has provided sample water quality data, is at the base of Battle Mountain, on the East side of the Railroad Tracks and Highway 24, approximately 1 mile south of the shooting range. The quality of this water is, so far, suitable to pipe to the new WTP (Water Treatment Plant) and treat to produce drinking water.

Modeling this proposed Well field and understanding how it will draw ground water is necessary for long term success. The science and study currently underway is to model or predict the effect of pulling well/ground water for an extended period. The real crux to this modeling is, in twenty or thirty years, will this well field begin pulling contaminated water from the Superfund site? The superfund site is about one half to three quarter of a mile west of the well field. There is a Highway Bed, and a river between the well field area and the superfund site. Modeling is being undertaken to predict where the water for the well will draw from over a long period, 30 plus years.

Looking ahead and learning from the past:

It has been frequently asked, “why does Minturn even need to develop the additional well field. The reasons are straight forward on face value, but, like all things water, complex when scrutinized. Redundancy of water source is prudent. A wildfire and/or flood could render the Cross Creek drainage unusable for a long period of time. The water flows in Cross Creek are subject to ever increasing dry climate/drought conditions. There is simply not an abundance of water available.

Water in the Colorado River watershed is of prime concern to everyone from the Colorado River headwaters to southern California. It is responsible planning to secure this source now for Minturn’s future community needs.



To: Mayor and Council
From: Madison Harris
Date: March 3, 2021
Agenda Item: Cozzens Construction Conditional Use Permit (CUP) Review

REQUEST:

Staff requests a public hearing for the purposes of following the process outlined in Resolution 27 – Series 2018, a Resolution approving conditional use permit application CU 02 – 2018 for Cozzens Construction, UPRR Railroad Ave, Town of Minturn.

INTRODUCTION:

A complete introduction and background of the Union Pacific Railroad (PUD Holding Zone) Conditional Use process can be reviewed within the Staff Report provided during the 2020 CUP review process and included as an attachment herein.

Of recent issue, and the reason for a request for public hearing, is due to Cozzens Construction receiving a third violation notice within a 12-month period. As outlined and approved within Resolution 27 – Series 2018 condition #6, three violations within one-year trigger a recommendation to Council for revocation of the CUP.

ANALYSIS:

In October of 2020 – The Town received a resident complaint regarding the storage of a non-work-related vehicle.

From October to December of 2020, two notices of violation had been sent to Sean Cozzens of Cozzens Construction for failure to remove a non-work-related vehicle.

In January 2021 Town staff received a complaint from a concerned resident regarding the storage of an abandoned and/or unregistered vehicle within the CUP area. On Thursday, January 28, 2021 Town staff visited the CUP site and identified the vehicle with expired registrations which appeared to be non-work related. A second staff visit on February 2, 2021 found the vehicle in violation to still be present on the CUP property. (See attached Notice of Violation dated February 2021). As indicated by Condition #3 of the Conditional Use Permit; There shall be no inoperable/unlicensed vehicles kept on the property for longer than 5 days as required by the Minturn Municipal Code, Sec 7-2-70.

These violations were/are Cozzens Construction’s third notice of violation. As identified in Resolution 27 – Series 2018, a third notice of violation in a 12-month period initiates staff to escalate the issue to the Council-level for recommended revocation of the CUP. Revocation is at the sole discretion of the Town Council.

COMMUNITY INPUT:

Significant – Many Minturn residents, a large number specifically from Taylor Ave, expressed their disapproval of activity in the railyard and identified preferable uses to include an open space area.

BUDGET / STAFF IMPACT:

Staff impact has been significant (at times) and remains ongoing.

STRATEGIC PLAN ALIGNMENT:

Following the process outlined in Resolution 27 – Series 2018 and publicly approved follows the Minturn Strategic Plan as follows:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT**RECOMMENDED ACTION OR PROPOSED MOTION:**

The process for addressing PUD Holding Zone Conditional Use Permits as outlined in Resolution 27 – Series 2018 requires staff to recommend revocation of the CUP – the Resolution provides no leeway on this matter. The Resolution does allow for the Council to hear the issues and make an independent determination based on all considerations – it does not require the Council to revoke the permit. Should Council determine not to revoke the permit, staff will look for direction on improved methods to ensure compliance, as violations may no longer be an impetus in and of themselves for a violating CUP holder to follow the conditions outlines.

ATTACHMENTS:

- October 2020 Notice of Violation to Cozzens Construction, CUP Holder
- December 2020 Notice of Second Violation to Cozzens Construction, CUP Holder
- 2021 Notice of Third Violation to Cozzens Construction, CUP holder
- Resolution 27 – Series 2018
- 2020 CUP Planning Dept Report

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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Lauren Dickie
Burke Harrington
Chris Manning
Jena Skinner

October 30, 2020

Sean Cozzens
PO Box 70
Minturn, CO 81645

Via: Certified Mail

Re: Happy Hammer CUP Notice of Violation

Sean Cozzens:

This is a formal notice of a violation to your Conditional Use Permit in relation to the storage of a non-work related, recreational vehicle. Inserted below are photos dated October 30, 2020 of an orange pop-up trailer that has expired tags. It needs to be removed by November 6, 2020. If it is not removed by the stated date, then a second violation notice will be sent out, and then a third if that second one is also not complied with. If your CUP accumulates 3 violations, then Town Staff will recommend to the Town Council that the Conditional Use Permit be revoked.

As a reminder, the terms governing your use of the lease areas under the Conditional Use Permit approved in 2018 are as follows:

1. Request that only business- related items related to the expressed business be located on leased property. No vehicle shall exceed 40' 2" in length.
2. **No recreational vehicles or ATV' s of any kind. Not limited to boats, snowmobiles, ATV' s, RV' s, campers, pop-ups, conversion vans, trailers, un-related work vehicles, etc.**
3. No inoperable / unlicensed vehicles kept on property for longer than five (5) days. Sec. 7-2-70.
4. Leased lots to be maintained in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Sec. 7-4-50.
5. Lessees are to maintain business in contained areas only.
6. Annual report by the Code Compliance Officer to Council — re: Violations
 - a. 3 violations in 1 year
 - b. Recommendation to Council to revoke CUP
7. Lessees to meet with Town Council every 3 years for CUP review.
 - a. Report from Code Compliance Office
 - b. Report from Planning Director
8. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
9. Maintain noise and vibration standards. Sec. 16-18-30

10. All leased areas to be fenced and screened (Green covering) on all perimeter fencing of leased property
11. Supplies, parking, vehicles, and equipment within fenced area or designated leased area only
12. Proper fuel containment/inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
13. All parking must be done within the fenced yard and/or building
14. Any chemical storage will require material safety data sheets. No chemical storage within 30' river setback
15. Emergency access of 20' through the yard and at both access gates
16. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
17. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
18. Town staff inspects the site for compliance at any time.

Please feel free to contact the Minturn Planning Department at (970) 827-5645, Extension 2 if you have questions, or if you would like to view the Conditional Use Permit.

Sincerely,



Madison Harris
Planner I





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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Lauren Dickie
Burke Harrington
Chris Manning
Jena Skinner

December 9, 2020

Sean Cozzens
PO Box 70
Minturn, CO 81645

Via: Certified Mail

Re: Happy Hammer CUP Notice of Violation

Sean Cozzens:

This is a formal notice of a second violation to your Conditional Use Permit in relation to the storage of a non-work related, recreational vehicle. Inserted below are photos dated November 19, 2020 of an orange pop-up trailer that has expired tags. It needs to be removed by December 16, 2020. If it is not removed by the stated date, then a third violation notice will be sent out. If your CUP accumulates 3 violations, then Town Staff will recommend to the Town Council that the Conditional Use Permit be revoked.

As a reminder, the terms governing your use of the lease areas under the Conditional Use Permit approved in 2018 are as follows:

1. Request that only business- related items related to the expressed business be located on leased property. No vehicle shall exceed 40' 2" in length.
2. **No recreational vehicles or ATV' s of any kind. Not limited to boats, snowmobiles, ATV' s, RV' s, campers, pop-ups, conversion vans, trailers, un-related work vehicles, etc.**
3. No inoperable / unlicensed vehicles kept on property for longer than five (5) days. Sec. 7-2-70.
4. Leased lots to be maintained in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Sec. 7-4-50.
5. Lessees are to maintain business in contained areas only.
6. Annual report by the Code Compliance Officer to Council — re: Violations
 - a. 3 violations in 1 year
 - b. Recommendation to Council to revoke CUP
7. Lessees to meet with Town Council every 3 years for CUP review.
 - a. Report from Code Compliance Office
 - b. Report from Planning Director
8. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
9. Maintain noise and vibration standards. Sec. 16-18-30

10. All leased areas to be fenced and screened (Green covering) on all perimeter fencing of leased property
11. Supplies, parking, vehicles, and equipment within fenced area or designated leased area only
12. Proper fuel containment/inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
13. All parking must be done within the fenced yard and/or building
14. Any chemical storage will require material safety data sheets. No chemical storage within 30' river setback
15. Emergency access of 20' through the yard and at both access gates
16. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
17. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
18. Town staff inspects the site for compliance at any time.

Please feel free to contact the Minturn Planning Department at (970) 827-5645, Extension 2 if you have questions, or if you would like to view the Conditional Use Permit.

Sincerely,



Madison Harris
Planner I





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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Lauren Dickie
Burke Harrington
Chris Manning
Jena Skinner

February 4, 2021

Sean Cozzens
PO Box 70
Minturn, CO 81645
seancozzens@gmail.com

Via: Certified Mail and Email

Re: Happy Hammer CUP Third and Final Notice of Violation and Recommendation for Revocation

Sean Cozzens:

This is the third and final notice of violation to your Conditional Use Permit (CUP) in relation to the storage of a non-work related, recreational vehicle within the permitted premises. Below are photographs dated January 28, 2021 of an orange pop-up trailer that has expired tags and remains within the permitted premises after two prior notices of violation. Recreational vehicles of any kind, including campers and pop-ups are not permitted within the permitted premises pursuant to CUP Condition Number 2 of your permit as set forth below. Further, unlicensed vehicles are not to remain on the property for a period greater than five days, pursuant to CUP Condition Number 3 of your permit as set forth below.

This is your third and final notice of this violation. Two prior notices of violation were sent to you via USPS mail on October 30, 2020 and December 9, 2020, which are incorporated herein by reference.

CUP Condition Number 6 set forth below directs staff to recommend revocation of a CUP to Town Council after three violations have accrued within a one-year period. **You are hereby notified that because this is your third notice of violation, pursuant to CUP Condition Number 6, Town staff is recommending to Town Council that your CUP be revoked. Town Council will take up this matter during a public hearing at its regular meeting on Wednesday February 17, 2021.** At this hearing, you will have the opportunity to respond to staff's recommendation and present evidence relating to these alleged violations during this hearing.

As a reminder, the terms governing your use of the lease areas under the Conditional Use Permit approved in 2018 are as follows:

1. Request that only business- related items related to the expressed business be located on leased property. No vehicle shall exceed 40' 2" in length.
2. **No recreational vehicles or ATV' s of any kind. Not limited to boats, snowmobiles,**

ATV' s, RV' s, campers, pop-ups, conversion vans, trailers, un-related work vehicles, etc.

- 3. No inoperable / unlicensed vehicles kept on property for longer than five (5) days. Sec. 7-2-70.**
4. Leased lots to be maintained in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Sec. 7- 4- 50.
5. Lessees are to maintain business in contained areas only.
- 6. Annual report by the Code Compliance Officer to Council — re: Violations**
 - a. 3 violations in 1 year**
 - b. Recommendation to Council to revoke CUP**
7. Lessees to meet with Town Council every 3 years for CUP review.
 - a. Report from Code Compliance Office
 - b. Report from Planning Director
8. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
9. Maintain noise and vibration standards. Sec. 16-18-30
10. All leased areas to be fenced and screened (Green covering) on all perimeter fencing of leased property
11. Supplies, parking, vehicles, and equipment within fenced area or designated leased area only
12. Proper fuel containment/inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
13. All parking must be done within the fenced yard and/or building
14. Any chemical storage will require material safety data sheets. No chemical storage within 30' river setback
15. Emergency access of 20' through the yard and at both access gates
16. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
17. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
18. Town staff inspects the site for compliance at any time.

Please feel free to contact the Minturn Planning Department at (970) 827-5645, Extension 2 if you have questions, or if you would like to view the Conditional Use Permit.

Sincerely,



Madison Harris
Planner I

Cc: Michelle Metteer, Town Manger
Scot Hunn, Town Planner
Richard Peterson-Cremer, Attorney
Michael J Sawyer, Attorney
Anna Dancer, Union Pacific Railroad



**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 27 – SERIES 2018**

**A RESOLUTION APPROVING CONDITIONAL USE APPLICATION CU 02 – 2018
FOR COZZENS CONSTRUCTION, UPRR RAILROAD AVE, TOWN OF MINTURN**

WHEREAS, Cozzens Construction has submitted a land use application for a Conditional Use Permit to allow for construction storage; and

WHEREAS, The Town of Minturn Town Council is commissioned with certain powers and duties contained in the Minturn Municipal Code Sec. 16.21.30; and

WHEREAS, public notice was given pursuant to Minturn Municipal Code Sec. 16.21.610; and

WHEREAS, on October 10, 2018 the Planning Commission held a public hearing on the application pursuant to Minturn Municipal Code Section 16.21.620 and approved the application as presented with conditions; and

WHEREAS, on November 7, 2018 the Town Council held a public hearing on the application pursuant to Minturn Municipal Code Section 16.21.620; and

WHEREAS, The Town Council may approve the application as submitted or may approve the application subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the application including the following findings:

- 1) Upon receipt of a completed and proper application, the Planning Director shall set a public hearing for the Planning Commission and give public notice as required by this Chapter.
- 2) Criteria; findings. Before acting on a conditional use permit application, the Planning Commission and Town Council shall consider the following factors with respect to the proposed use:
 - a. The relationship and impact of the use on the community development objectives of the Town.
 - b. The effect of the use on distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and public facility needs.
 - c. The effect upon traffic, with particular reference to congestion, automotive and pedestrian safety, traffic flow and control, access, maneuverability and snow removal.
 - d. The effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses, the

amount of noise, lighting and glare, dust and compatibility of the use with the Character Area it is in and surrounding areas.

e. Necessary findings. The Planning Commission and Town Council shall make the following findings before making a recommendation or decision that a conditional use permit be granted:

1. That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.
2. That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
3. That the proposed use will comply with each of the applicable provisions of this Chapter.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO HEREBY AND HEREWITH:


Section 1. that the application for a Conditional Use Permit for File No. CU 02 – 2018 be approved subject to the following conditions:

1. Request that only business-related items related to the expressed business be located on leased property. No vehicle shall exceed 40'2" in length.
2. No recreational vehicles or ATV's of any kind. Not limited to boats, snowmobiles, ATV's, RV's, campers, pop-ups, conversion vans, trailers, un-related work vehicles, etc.
3. No inoperable / unlicensed vehicles kept on property for longer than five (5) days. Sec.7-2-70.
4. Leased lots to be maintained in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Sec. 7-4-50.
5. Lessees are to maintain business in contained areas only.
6. Annual report by the Code Compliance Officer to Council – re: Violations
 - a. 3 violations in 1 year
 - b. Recommendation to Council to revoke CUP
7. Lessees to meet with Town Council every 3 years for CUP review.
 - a. Report from Code Compliance Office
 - b. Report from Planning Department


8. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
9. Maintain noise and vibration standards. Sec. 16-18-30
10. All leased areas to be fenced and screened (Green covering) on all perimeter fencing of leased property
11. Supplies, parking, vehicles, and equipment within fenced area or designated leased area only
12. Proper fuel containment / inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
13. All parking must be done within the fenced yard and/or building
14. Any chemical storage will require material safety data sheets. No chemical storage within 30' river setback
15. Emergency access of 20' through the yard and at both access gates
16. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
17. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
18. Town staff inspects the site for compliance at any time.

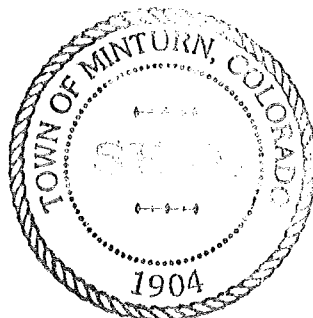
INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 7TH day of November, 2018.

TOWN OF MINTURN

By: 
Matt Scherr, Mayor

ATTEST:


Jay Brunvand, Town Clerk





2020 Union Pacific Railroad Property Conditional Use Permit Reviews

Overview of Zoning, the CUP Process, and Enforcement Issues

Zoning:	Game Creek Character Area PUD Holding Zone
Staff:	Scot Hunn, Planning Director Madison Harris, Planner I

Staff Report

I. Overview:

The following sections outline the Conditional Use Permit review process, the requirements and necessary findings of the Minturn Municipal Code, and a summary of enforcement chronology and issues associated with historic storage and parking uses on leased Union Pacific Railroad (UP) property located on the north side of the Town.

This overview is provided for the Council’s benefit and use in reviewing four separate CUPs for parking and contractor storage uses occurring on the UP property. Importantly, the standards and findings listed below are germane to each of the four CUP reviews before the Council at the October 21, 2020 regular meeting.

II. Summary of Process and Code Requirements:

This is a Conditional Use Permit (CUP) review by the Town of Minturn Town Council, acting as the Town of Minturn Zoning Board of Adjustment – the body responsible for review of CUPs in accordance with the standards, criteria and findings outlined in Section 16-21-620 – *Conditional Use*, Minturn Municipal Code. Any action of the Town of Minturn Town Council should be based on the following standards and findings:

(e) Conditions and procedure of issuance.

(1) The Town Council may approve the application as submitted or may approve the application subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the application

(d) Administrative procedure.

(1) Upon receipt of a completed and proper application, the Planning Director shall set a public hearing for the Planning Commission and give public notice as required by this Chapter.

(2) Criteria; findings. Before acting on a conditional use permit application, the Planning Commission and Town Council shall consider the following factors with respect to the proposed use:

a. The relationship and impact of the use on the community development objectives of the Town.

b. The effect of the use on distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and public facility needs.

c. The effect upon traffic, with particular reference to congestion, automotive and pedestrian safety, traffic flow and control, access, maneuverability and snow removal.

d. The effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses, the amount of noise, lighting and glare, dust and compatibility of the use with the Character Area it is in and surrounding areas.

e. Necessary findings. The Planning Commission and Town Council shall make the following findings before making a recommendation or decision that a conditional use permit be granted:

1. That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.

2. That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

3. That the proposed use will comply with each of the applicable provisions of this Chapter.”

III. Chronology/Background:

In 2017, the Minturn Town Council listed compliance and enforcement of the Minturn Municipal Code, as well as adherence to recommendations of the 2009 Community Plan, as a priority for the entire town. In doing so, the Council also focused on uses and, in certain instances, ongoing code enforcement and nuisance-related issues occurring at the UP properties located within the “Game Creek Character Area PUD Holding Zone District” which is generally situated north of the Eagle River Inn and Saloon buildings, west of Taylor Avenue, and east of the Eagle River.

In order to address such issues and concerns, the Town initiated outreach to existing leaseholders on UP property in 2017 with several existing lease holders operating contractor storage, as well as commercial uses (Turn Table Restaurant and lodging uses) on UP property with the goal to allow those uses to continue, but only via the approval of Conditional Use Permits (CUPs) as a means to regulate those uses more closely through the imposition and enforcement of “conditions” or standards for storage (fencing, screening, parking, hours of operation, for instance).

According to the Minturn Municipal Code, any uses occurring on the UP properties – located within the “Game Creek Character Area PUD Holding Zone District” - require the approval of a Planned Unit Development (PUD), or, if master planning the UP property is not proposed, a Conditional Use Permit. Unfortunately, UP has been largely uninvolved in the CUP process; typically, UP executes leases for various lease areas within the railroad property without communication with the Town, leaving the Town to discover 1) new leases and uses occurring in the railyard through code enforcement activity, and 2) changes in lessors (subleasing) making it difficult for the Town to determine who to contact as a matter of code compliance.

After an extensive public process with hours of public comments submitted, Conditional Use Permits were ultimately issued in late 2018 for the following business entities operating with leases on the UP property:

- Burke Harrington Construction (BHC)
- Happy Hammer Carpentry (Cozzens Construction)
- The Turntable Restaurant / Minturn Mountain Motel
- Minturn Builders Alliance Cooperative

The CUPs were approved with the following conditions or standards:

1. Request that only business- related items related to the expressed business be located on leased property. No vehicle shall exceed 40' 2" in length.
2. No recreational vehicles or ATV' s of any kind. Not limited to boats, snowmobiles, ATV' s. RV' s, campers, pop-ups, conversion vans, trailers, un-related work vehicles, etc.
3. No inoperable / unlicensed vehicles kept on property for longer than five (5) days. Sec. 7- 2-70.
4. Leased lots to be maintained in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. Sec. 7- 4- 50.
5. Lessees are to maintain business in contained areas only.
6. Annual report by the Code Compliance Officer to Council — re: Violations
 - a. 3 violations in 1 year

- b. Recommendation to Council to revoke CUP
7. Lessees to meet with Town Council every 3 years for CUP review.
 - a. Report from Code Compliance Office
 - b. Report from Planning Director
8. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
9. Maintain noise and vibration standards. Sec. 16-18-30
10. All leased areas to be fenced and screened (Green covering) on all perimeter fencing of leased property
11. Supplies, parking, vehicles, and equipment within fenced area or designated leased area only
12. Proper fuel containment/inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
13. All parking must be done within the fenced yard and/or building
14. Any chemical storage will require material safety data sheets. No chemical storage within 30' river setback
15. Emergency access of 20' through the yard and at both access gates
16. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
17. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
18. Town staff inspects the site for compliance at any time.

Following approval of the CUPs, no significant code enforcement investigations or actions (notices of violation) on UP property were taken in 2019.

However, in Spring 2020 the Town began receiving complaints from multiple parties regarding the state of some of the lease areas. Complaints and investigations by the Town identified issues related to:

- A lack of 100% screening (or lack of maintenance of green mesh fabric on fencing) of lease area boundaries
- Noise and/or hours of operation
- Use of sites for operation contractor yards rather than for “contractor storage”
- Parking outside of the approved leased areas
- Parking of unregistered/unlicensed vehicles
- Storage of non-business-related vehicles, trailers and equipment

Following investigations by the Town, two CUP holders – Burke Harrington Construction and Minturn Builders Alliance – were notified of violations of the terms of their respective Conditional Use Permits.

General Code Enforcement Chronology:

- **September 2017** – Correspondence was sent from the Town to UP representative Jason Mashek to notify UP of “review” of existing uses and permits on UP property and to request list of active, valid lease holders.
- **November 2017** – Correspondence was sent from Town to J. Mashek apprising UP of the Town’s intent to enforce Minturn Municipal Code (MMC) provisions and to gain compliance

of existing uses and businesses operating on UP property by “having all occupied addressed with the PUD Holding Zone properly permitted by April 1, 2018.”

- **January 2018** – Correspondence was sent from the Town to individual businesses operating on UP property that the Town had commenced the process to work with UP and individual business owners to enforce the provisions of the MMC and to bring businesses into compliance. A stated goal was to assist the UP and individual businesses in applying for Conditional Use Permits and to address or “eliminate” issues such “sub-leasing, outdoor storage of unapproved items, businesses without [conditional] use permits...or businesses in violation of their permit...”
- **February 2018** – Correspondence from the Town to J. Mashek appealing for cooperation in gaining compliance for existing lease holders and to get those businesses operating without CUPs to work with the Town to make application. This correspondence put the UP on notice that any businesses (leaseholders) operating without valid CUPs will not have their annual business licenses renewed (as of April 2018).
- **February 2018** – Additionally correspondence from the Town to individual business owners operating on UP property that the Town had commenced the process to work with UP and individual business owners to enforce the provisions of the MMC and to bring businesses into compliance. The correspondence included application forms for Conditional Use Permits.
- **February 2018** – Correspondence from J. Mashek (UP) stating that tenants of UP property were permitted to sub-lease, but only if approved by UP. Mr. Mashek clarified that no existing lessee has permission to sub-lease.
- **February 2018** – Correspondence from the Town to J. Mashek clarifying that intent of Town is to ensure that lease area boundaries are delineated and fenced (for screening and security purposes) and that the Town was interested in controlling traffic on the one access road traversing the UP property. In a response from J. Mashek to town staff, Mr. Mashek clarified that storage of extraneous vehicle storage (non-business related, inoperable, or unregistered vehicles) are “not allowed” but that that sub-leasing to allow for such storage is “difficult for us to monitor.” Mr. Mashek further inquired “If you can point to the tenants where you know (or have a good suspicion) are subleasing for trailer/auto/camper/boat storage, please let me know and I will get it handled.
- **September 2018** – Business owners operating on UP property applied for Conditional Use Permits to continue contractor storage/light industrial uses.
- **November 2018** – Following public hearings before the Planning Commission and Town Council, the Council signed resolutions permitting these uses conditional on adherence with the approved contractor standards.
- **May 2020** – The Town received several complaints regarding the storage of non-work-related vehicles, the absence of fencing and/or green screening around lease area boundaries, and the operation of machinery outside of specified operating hours 7am-7pm.
- **June 2020** – Site visits were conducted with Minturn Builders Alliance representative and Burke Harrington to discuss issues of non-compliance.
- **June 2020** – Letters were sent to these CUP holders (Minturn Builders Alliance and Burke Harrington Construction) detailing specific areas of non-compliance and providing a warning period to correct the potential violations before official violation notices were sent.
- **July 2020** – Two violation notices were sent to Burke Harrington Construction for failure to remove a non-work-related vehicle and for failure to erect screening fence.

Burke Harrington Construction Chronology:

- **Late 1990's** – BHC enters into a lease agreement with Union Pacific Railroad.
- **2017** – the Town commenced code enforcement actions to address the condition of the property (fencing and screening of storage areas) as well as suspected subleasing/storage of recreational vehicles occurring within the leased areas.
- **2018** – the Applicants applied for an amendment to the Conditional Use Permit.
- **December 2019** – Burke Harrington Construction obtains a new lease through Union Pacific Railroad but no update of a new lease or CUP application is received by the Town.
- **May 2020** – The Town received several complaints regarding the storage of non-work-related vehicles, the absence of fencing and/or green screening around lease area boundaries, and the operation of machinery outside of specified operating hours 7am-7pm.
- **June 2020** – Site visits were conducted with Minturn Builders Alliance representative and Burke Harrington to discuss issues of non-compliance.
- **June 2020** – Letters were sent to these CUP holders (Minturn Builders Alliance and Burke Harrington Construction) detailing specific areas of non-compliance and providing a warning period to correct the potential violations before official violation notices were sent.
- **July 2020** – Two violation notices were sent to Burke Harrington Construction for failure to remove a non-work-related vehicle and for failure to erect screening fence.
- **August 2020** – Burke Harrington Construction installs fencing and mesh screening material while also removing the offending vehicle on the existing CUP lease area.
- **August 2020** – Burke Harrington Construction applies for a new Conditional Use Permit for contractor storage at the proposed lease site.

Minturn Builders Alliance/Cooperative Chronology:

- **December 2005** – Rocky Mountain Custom Landscapes (RMCL) and Minturn Builders Alliance (MBA) were granted approval, with fourteen (14) conditions for a conditional use permit for a contractor storage yard and associated parking in a different location near Taylor Street.
- **March 2009** - The Minturn Builders Alliance Cooperative was formed, and the location of the previously approved CUP was moved to its current location along the Eagle River with administrative approval from the Town staff.
- **2013** - MBAC obtained an additional lease from Union Pacific Railroad for a small area located just to the east and across an internal access road from the MBA's main lease area. This additional area is currently being used/subleased for contractor storage and operations for a plant nursery and other storage uses.
- **2017** - The Town commenced code enforcement actions to address the condition of the property (fencing and screening of storage areas) as well as suspected sub-leasing/storage of recreational vehicles occurring within the leased areas.
- **2018** – The Applicants applied for an amendment to the Conditional Use Permit.
- **May 2020** – The Town received several complaints regarding the storage of non-work-related vehicles, the absence of fencing and/or green screening around lease area boundaries, and the operation of machinery outside of specified operating hours 7am-7pm.
- **June 2020** – Site visits were conducted with Minturn Builders Alliance representative and Burke Harrington to discuss issues of non-compliance.

- **June 2020** – Letters were sent to these CUP holders (Minturn Builders Alliance and Burke Harrington Construction) detailing specific areas of non-compliance and providing a warning period to correct the potential violations before official violation notices were sent.

Cozzens Constructions Chronology:

- **August 17, 2008** – Cozzens Construction enters into a lease agreement with Union Pacific Railroad.
- **2017** – The Town commenced code enforcement actions to address the condition of the property (fencing and screening of storage areas) as well as suspected sub-leasing/storage of recreational vehicles occurring within the leased areas.
- **2018** – The Applicants applied for an amendment to the Conditional Use Permit.

Turntable Restaurant & Motel Chronology:

- **June 2006** – The Turntable Restaurant and Motel uses were approval via CUP with twelve (12) conditions for the operation of the restaurant, motel and associated parking.
- **2016** – The ownership of the restaurant and motel changed.
- **2016** – A new liquor license for the restaurant was granted, along with a parking plan for restaurant and motel patrons and residents.
- **2017** – The Town commenced code enforcement actions to address sub-leasing of parking spaces within the designated parking areas for the restaurant and motel as well as storage and screening issues.
- **2018** – The Applicant applied for an amendment to the Conditional Use Permit and began actively cooperating with the Town to address issued identified by the Town.

IV. Zoning Analysis:

Zoning

The subject property is located within the “Game Creek Character Area” PUD Holding Zone District. The description and purposes of the PUD Holding Zone District are as follows:

Sec. 16-12-10. - Character Area characteristics.

The Game Creek Character Area is visually prominent from the north entryway into the Town. The area is predominantly devoted to railroad use and will require a comprehensive planning effort prior to redevelopment. In addition to the rail yard, the area contains the Taylor Avenue neighborhood, some commercial uses and a community parking lot. The area is bisected by the railroad right-of-way, which is intended to remain as a continuous transportation corridor. Most of the area lacks adequate street rights-of-way and utilities. The Community Plan has identified this area as an appropriate area for extension of the Old Town commercial core, mixed-use and residential development; however, high impact industrial uses are discouraged. Enhancement of the Eagle River corridor is a community priority.

- Town of Minturn Municipal Code Section 16-12-10

Sec. 16-12-30. - Game Creek PUD Holding Zone.

- (a) *This area is currently owned by the Union Pacific Railroad; however, trains are no longer utilizing the corridor or the rail yard. **The historic industrial zoning is no longer appropriate due to the probable abandonment of the rail line and potential conflict with future commercial and residential development.** Redevelopment of this area will have a significant impact on the future character and size of the Town.*

- (b) *It is an objective of the Town to plan and redevelop the rail yard as a master planned development that is compatible with the existing Town character. Future development and land use decisions for this area need to incorporate community input and involve an open public process. The PUD Holding Zone and the PUD review process will provide for the flexibility, innovation and public input necessary to achieve the goals and objectives of the Community Plan and this Chapter. This area has been identified in the Community Plan as an area suitable for expansion of Old Town and as a "potential Town Center" site. Development in this area needs to incorporate appropriate residential and low-impact land uses along Taylor Avenue to minimize impacts to the existing neighborhood. The rail corridor should be maintained and improved access to and across the Eagle River should be incorporated into proposed development plans.*

- (c) *PUD or special review required: Planned Unit Development master development plan for the PUD Holding Zone is the preferred review process for future development of the Game Creek Holding Zone. **If circumstances arise that do not provide for the submittal of a PUD master development plan for the entire Game Creek PUD Holding Zone, the owners may apply to the Town for a Planned Unit Development on a portion of the property or may apply for a special review use permit for consideration of a temporary use.***

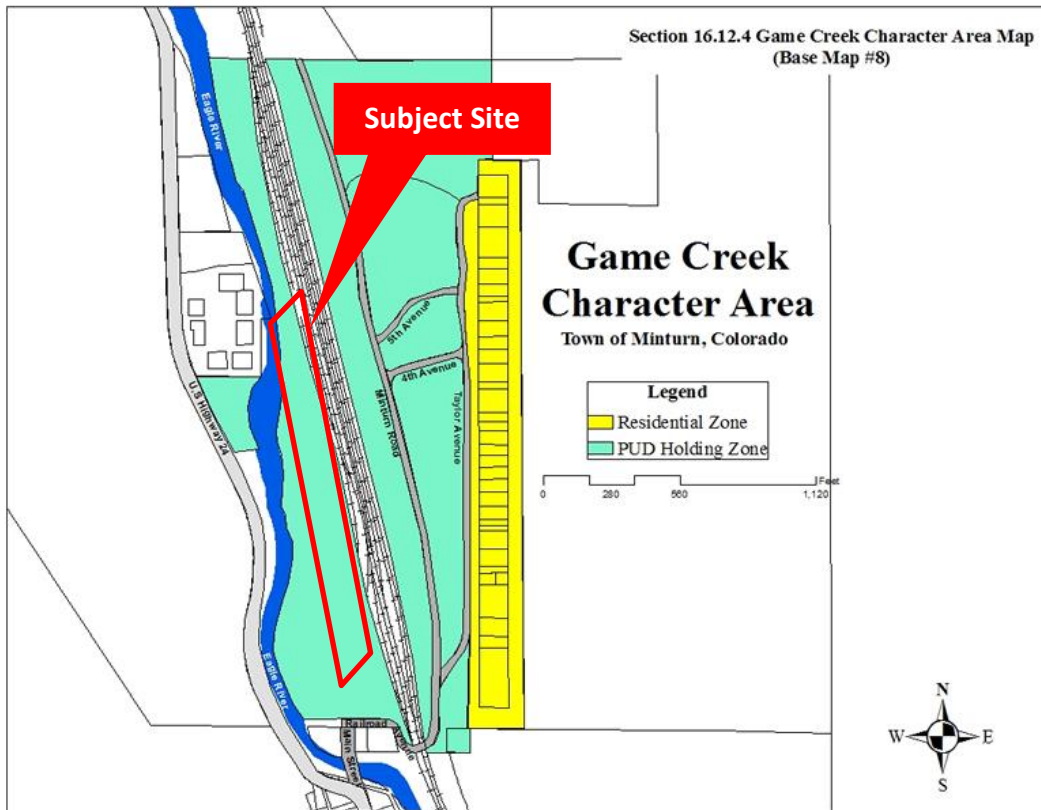


Figure 1: Game Creek Character Area Zoning Map

Dimensional Limitations and Development Standards

The only applicable dimensional limitation and/or development standard for the PUD Holding Zone is the 30’ river setback to be measured from the mean highwater mark on the Eagle River. The lease area boundary for the proposed Burke Harrington Construction Conditional Use Permit is located approximately 50 feet from the Eagle River.

Because it is anticipated by the Town that any future development or redevelopment of the holding zone will be master planned and reviewed as part of a Planned Unit Development (PUD) or special use permit, dimensional limitations and other standards are also anticipated to be established as part of any such review.

The Town of Minturn Design Standards and Guidelines, under Section C – *Design Criteria*, subsection ‘c’ – *Materials and Screening*, offers the following guidance:

c. Screening

Both residential and commercial areas within the Town shall be required to screen certain visually obtrusive areas, including, but not limited to, refuse storage, general storage, loading areas, mechanical equipment and parking areas.

“The screening may occur with landscaping, compliant with Sections 16-16-140, 16-16-150 and 16-16-160, or these uses may be screened with fencing or by

containing the uses within a structure or parapet walls. Fences shall not exceed 3-feet in height for opaque fences and 4 feet in height for fences with you can see through. Higher fences may be used to screen the sides and rear of the lot but should not exceed 6 feet in height. In no case shall a fence or screening structure obstruct a driver's view of an intersection."

V. Issues and Discussion Topics:

Visibility / Unsightliness

While a majority of equipment associated with the business is to be stored within an existing building, areas outside the building and within the lease area will be used for storage and parking of vehicles as well. This area is visible from certain vantage points from Taylor Avenue residential zone district and U.S. Highway 24.

Chain link fencing and green mesh screening have been installed around current approved leased areas that have CUPs attached to them. Certain conditions and standards directed at ensuring that the site is maintained in an orderly fashion and also limiting the storage of certain equipment and/or vehicle types and sizes apply.

VI. Staff Findings and Analysis:

The following section provides staff responses to each of the applicable Conditional Use criteria.

a. The relationship and impact of the use on the community development objectives of the Town.

Staff Response:

Under "Community Character / Urban Design" of the 2009 Community Plan (the Town's comprehensive plan), strategy number CCS 1.8 states – *"Enforce ordinances aimed at maintaining the health, safety, welfare and aesthetic of the town – snow, trash, nuisance abatement and zoning/land use."*

Under "Economy" of the 2009 Plan, the Economy vision statement states, in part, that *"A diverse mix of businesses catering to the local community and tourist are necessary for a stable, year-round economy. Special efforts should be made to promote the existing businesses in town and to also facilitate new business development."*

In 2018, the intent of the Town – working *with* existing lease holders to identify and propose solutions to existing conditions and issues – was to conduct the CUP process so that existing uses could continue as a means to protect existing business operations in the Town while also allowing the Town to regulate such uses and enforce Town Code provisions for safety, nuisances, and general aesthetics. Ultimately, the goals of this process were to:

- Maintain the diversity and mix of businesses
- Contribute to the year-round economy
- Protect the health, safety, welfare, and the aesthetics of the town.

Testimony and participation at public hearings before approval of the CUPs led to the development of the contractor storage standards and terms of use that were attached to the CUPs as conditions of approval.

However, in the interim year and a half, compliance with those conditions – and maintenance of the sites - has waned or was never fully realized in some instances. In other instances, original lease and CUP holders have since sub-leased their areas to secondary users who may or may not have been aware of the terms of use.

In 2020, this has resulted in numerous complaints being received by the Town and has caused the Town to spend considerable time and resources responding to those complaints while increasing monitoring of business operations and existing conditions at all of the existing CUP lease areas.

The UP property – and the lease areas - is one of the first things people see when they enter Town from the North, and often it is not an aesthetically pleasing sight. While it is true that this is a unique piece of land which allows light industrial/contractor storage uses that are not permitted elsewhere in Town and thus adds to the diversity and mix of businesses, it has become apparent that more work is needed to ensure that such uses can remain in this area while not becoming a detriment to the image of the town, the enjoyment of adjacent or nearby properties, or the resources and efficacy of the Town government.

In accordance with the terms of CUP approvals for the contractor storage uses on UP property, the Town is conducting reviews of each existing CUP, nearly two years following their original approval. Staff anticipates that as part of this review process the Town will re-examine the 18 conditions or standards/terms of use to better understand which standards are “working” or enforceable, and which are not.

- b. The effect of the use on distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and public facility needs.***

Staff Response:

The current operations on UP property, inclusive of parking and requested storage uses within the lease boundaries, have minimal material impact or effect on the distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and/or needs.

- c. The effect upon traffic, with particular reference to congestion, automotive and pedestrian safety, traffic flow and control, access, maneuverability and snow removal.***

Staff Response:

Use of the leased areas for contractor storage associated with an existing business in close proximity to an existing storage site does not result in a material increase in local traffic, congestion, pedestrian safety, traffic flow and control, access, maneuverability and snow removal in the immediate vicinity of the subject property.

- d. *The effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses, the amount of noise, lighting and glare, dust and compatibility of the use with the Character Area it is in and surrounding areas.*

Staff Response:

Until the late 1990's the character of the area in question had been a working railyard. This railyard was established prior to the town becoming incorporated in 1904 and prior to a majority of the homes being built along Taylor Avenue.

Staff believes that the main factor impacting the character of the surrounding area or, importantly, the compatibility of the use within the Game Creek Character Area is the visual or aesthetic quality of the lease area. Fencing/screening has already been erected around the leased areas boundaries.

- e. *Necessary findings. The Planning Commission and Town Council shall make the following findings before making a recommendation or decision that a conditional use permit be granted:*
1. *That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.*

Staff Response:

Generally, the subject site is located within a historically industrial and commercial area. Yet, the Town's master plan and guiding policy statements for the Game Creek Character PUD Holding Zone anticipate the discontinuance of industrial uses in favor of commercial and residential re-development:

"The Game Creek Character Area is visually prominent from the north entryway into the Town. The area is predominantly devoted to railroad use and will require a comprehensive planning effort prior to redevelopment. In addition to the rail yard, the area contains the Taylor Avenue neighborhood, some commercial uses and a community parking lot. The area is bisected by the railroad right-of-way, which is intended to remain as a continuous transportation corridor. Most of the area lacks adequate street rights-of-way and utilities. The Community Plan has identified this area as an appropriate area for extension of the Old Town commercial core, mixed-use and residential development; however, high impact industrial uses are discouraged. Enhancement of the Eagle River corridor is a community priority."

- Town of Minturn Municipal Code Section 16-12-10

It should be noted that the Community Plan does provide goals and strategies geared toward supporting existing businesses, and the uses proposed for these CUPs primarily include storage within leased areas. As such, staff suggests that the use does not constitute "high impact industrial uses."

A primary purpose of the Conditional Use Permit review is to ensure that permitted uses are, in effect, temporary and inspected on some regular basis for compliance; that, any such approval granted by the Town is valid so long as the terms and conditions are adhered to which has been an issue with existing contractor storage CUPs in recent months requiring more staff time than originally anticipated.

2. *That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

Staff Response:

Generally, the location and uses, if properly conditioned, should not be detrimental to the public health, safety or welfare, nor should they be materially injurious to the properties or improvements in the vicinity if the site is maintained in accordance with the standards of the Minturn Municipal Code and any conditions of approval.

3. *That the proposed use will comply with each of the applicable provisions of this Chapter.*

Staff Response:

If appropriate conditions of approval are attached with any granting of a CUP in this instance, and if such conditions are enforceable (jointly) by the Town and the Applicant, staff believes that this finding can be met.

VII. Staff Recommendation:

1. All material representations made by the Applicant as part of the application and during public hearings on the matter shall become conditions of approval and enforceable by the Town.
2. Only business-related items related to the expressed business shall be located on leased property. No vehicle shall exceed 40' 2" in length.
3. No recreational vehicles or ATV' s of any kind. Not limited to boats, snowmobiles, ATV' s, RV' s, campers, pop-ups, conversion vans, trailers, un-related work vehicles, etc.
4. No inoperable / unlicensed vehicles kept on property for longer than five (5) days (pursuant to Section 7-2-70 Minturn Municipal Code).
5. Leased lots to be maintained in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended (pursuant to Section 7- 4- 50 Minturn Municipal Code).
6. Lessees are to maintain and conduct business in contained areas only.
7. Annual report by the Code Compliance Officer to Council — re: Violations
 - a. 3 violations in 1 year
 - b. Recommendation to Council to revoke CUP
8. Lessees to meet with Town Council every 3 years for CUP review.
 - a. Report from Code Compliance Office
 - b. Report from Planning Director

9. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
10. Maintain noise and vibration standards (pursuant to Sec. 16-18-30, Minturn Municipal Code).
11. All leased areas to be fenced and screened (green mesh screening materials) on all perimeter fencing of leased property
12. Supplies, parking, vehicles, and equipment shall be located only within fenced areas or designated leased area only.
13. Proper fuel containment/inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) shall be required in OSHA approved containers.
14. All parking must be located within the fenced yard and/or building(s).
15. Any chemical storage will require material safety data sheets be maintained on the lease site at all times. No chemical storage is permitted within 30' river setback areas along the Eagle River.
16. Emergency access of 20' through the Union Pacific railyard and at both access gates shall be maintained.
17. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal.
18. Conditional Use Permit is granted conditional upon the applicant complying with these standards and so long as the grantee maintains a valid lease agreement with the owner of the property.
19. Town staff may inspect the site for compliance at any time.

Glenwood Springs – Main Office

201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen

323 W. Main Street
Suite 301
Aspen, CO 81611

Montrose

1544 Oxbow Drive
Suite 224
Montrose, CO 81402

Office: 970.945.2261

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[**Direct Mail to Glenwood Springs*](#)

DATE: February 26, 2021
TO: Minturn Mayor and Council
FROM: Karp Neu Hanlon, P.C.
RE: Procurement Policy

The attached resolution will set a Procurement Code for the Town to govern purchasing, solicitation for services, and disposal of surplus Town property. This code is based on similar codes we have prepared for other Towns, with modifications for Minturn. The Policy generally follows the existing Town Ethics Code and expenditure limits for employees and the Town Manager. It outlines the processes for Requests for Proposals, Requests for Qualifications, and Invitations to Bid, based on projected expenditures. There is also an appeal process to ensure that any complaints can be handled by the Town before going to court.

One area that Council may wish to discuss is in Section IV.m.2, the Eagle County resident business preference amount. As drafted, this policy provides a five percent discount off of the bid for the purposes of comparison with other bids. Cost is only one element of the selection process, so this will not be decisive in all situations, but can steer more Town expenditures to local businesses.

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 09 – SERIES 2021**

**A RESOLUTION OF THE TOWN OF MINTURN, COLORADO,
ADOPTING A PROCUREMENT POLICY AND PROCEDURES.**

WHEREAS, the Town of Minturn (“Minturn” or the “Town”) is a Home Rule Colorado municipality pursuant to Section XX of the Colorado Revised Statutes and with the authority set forth therein; and

WHEREAS, Town staff has determined that the adoption of a Procurement Policy and Procedures will provide clear guidelines for Town expenditures; and

WHEREAS, the Town Council finds and determines that it is in the interest of the Town to this Resolution as the Town’s Procurement Policy.

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

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

Section 2. The following provisions are adopted as the Town’s Procurement Policy.

Sec. I. General Provisions

- a) Purpose. The purpose of this Procurement Policy is to
 - 1. Provide for the fair and equitable treatment by the Town of all persons involved in public procurement.
 - 2. Maximize the purchasing value of public funds.
 - 3. Standardize the Town’s procurement rules for orderly and efficient administration.
 - 4. Provide safeguards for maintaining a procurement system of quality and integrity.
 - 5. Foster effective, broad-based competition within the free enterprise system.
- b) Scope.
 - 1. The Procurement Policy applies to the procurement of all goods and services required by the Town irrespective of the source of the Town funds.
 - 2. When the procurement involves the expenditure of state or federal assistance, grants or contract funds, the procurement shall be conducted in accordance with any applicable local, state or federal laws/regulations as they pertain to the state or federal assistance, grant or contract funds. In the event of a conflict with this Policy, the rules of the grantor agency shall govern.
 - 3. The Town may at times award pass-through federal funds to eligible community partners for the purpose of providing support for the performance of any portion of the substantive project or program for which the Town receives the award. Sub-awards of federal funds

passed through to community partners are subject to this Procurement Policy insofar as goods and services are purchased with the funds and shall comply with all applicable federal law.

4. All Town officials and employees are governed by the provisions of this Procurement Policy whether directly or indirectly involved in a procurement transaction. Violation of these provisions is grounds for disciplinary action, up to and including, termination of employment and/or referral for criminal action.
5. The Town is responsible for purchasing high quality goods and services, at a reasonable cost and in a timely manner, through a competitive selection process.
6. The Town is responsible to ensure fair and equitable treatment of all persons involved in providing goods, services and/or construction to the Town.
7. The Town is responsible for maintaining an open and competitive environment to all qualified vendors where sellers have access to Town business and that all procurement actions are conducted fairly and impartially in the best interest of the Town.
8. Competitive sealed bids or competitive proposals shall be used to facilitate contracts with nongovernmental contractors for the purchase or lease of goods and services in accordance with the limitations described herein.

Sec. II. Ethics

- a) All Town Officials and Employees shall abide by the Minturn Code of Ethics as set forth In Chapter 2, Article 4 of the Minturn Municipal Code.
- b) Vendor Requirements
 1. No bidder, vendor, potential supplier, contractor or subcontractor shall confer upon any public official or employee, participating in a procurement transaction, any payment, loan, subscription, advance, deposit of money, services, present or promised.
 2. All bidders, vendors, potential supplier, contractors, or subcontractors shall complete a disclosure of interest form to inform of any personal interest of any public official with respect to any Town procurement. Failure to make the required disclosure may result in disqualification, disbarment, suspension from bidding, rescission of contracts and/or other sanctions as appropriate.
 3. No contractor or subcontractor shall give, demand, or receive from any suppliers, subcontractors or competitors any bribe or kickback or anything of value in return for participation in a procurement transaction or agreeing not to compete in a transaction.
 4. Architects or engineers contracted by the Town may not furnish building materials, supplies or equipment for any structure on which they are providing professional services.
- c) Remedies and Consequences of Breach
 1. Any award made to a bidder, vendor, potential supplier, contractor, or subcontractor who has acted in violation of this Section, may be rescinded, contract terminated, or

modified, and the awardee subject to disbarment, further investigation, or sanctions under the law.

2. The value of anything transferred or received in a breach of ethical standards will be recoverable by the Town from the recipient in accordance with due process requirements and existing law.

Sec. III. Authority.

- a) Town Council

The Town Council shall establish the policy for all procurement conducted by Town government.

- b) Town Administrator

The Town Administrator is responsible for ensuring compliance with the Procurement Policy.

- c) Department Directors

Department Directors shall be delegated purchasing authority and responsibility as set forth. Department Directors may delegate purchasing authority to Department staff as required.

Sec. IV. Expenditure Approval and Source Selection Requirements.

The following table reflects expenditure approval and source selection requirements:

Table 4.0

Expenditure Amount	Expenditure Approval Level	Source Selection
Less than \$3,000	Department Director	No competitive bid required
\$3,000 - \$20,000	Town Administrator	No competitive bid required
\$20,001 - \$100,000	Town Council	Documented, competitive bid from at least three (3) sources
Greater than \$100,000	Town Council	Formal, advertised bid (IFB or RFP)

Table Notes:

- Town staff will exercise due diligence to ensure competitive pricing for all purchases.
- All thresholds above are per transaction not per item.
- Adequate current year budget appropriation required for all purchases.

- a) Purchasing Agent

The Purchasing Agent is responsible for:

1. Purchasing high quality goods and services at a reasonable cost in a timely manner;

2. Maintaining an open and competitive environment to ensure that qualified buyers and sellers have access to Town business and that purchasing actions are conducted fairly and impartially in the best interest of the Town; and
 3. Documenting the source selection file when an Invitation for Bid (IFB), Request for Proposal (RFP), or Request for Qualifications (RFQ) process is required. Each file will contain a copy of the bid or proposal solicitation, a copy of the advertisement, copies of the bids or proposals received from potential vendors, and a bid or proposal analysis sheet that justifies the selection process. The requesting Town Department shall maintain a file, per retention schedules, after award that includes contracts, purchase orders and relative bid or proposal documents.
- b) Documented Competitive Bids or Competitive Source Selection.
1. In competitive bidding pursuant to this Policy, the following shall be required, as applicable:
 - A. Instructions and information to bidders concerning the bid submission requirements, including the time and closing date and the address of the office to which bids are to be delivered;
 - B. The project description that includes the Specifications and/or Scope of Work (SOW) and all drawings;
 - C. The basis of award, delivery, or performance schedule, and inspection and acceptance requirements;
 - D. The proposed contract and all standard clauses, conditions, and attachments, as may be amended upon consultation with the Town Attorney; and
 - E. A schedule of all applicable deadlines and key dates.
 2. The procurement of goods or services exceeding an estimated annual expenditure of \$100,000 must be competitively solicited through a sealed Invitation for Bid (IFB) or Request for Proposal (RFP) process that is conducted by the Town Manager or designee.
 3. Colorado Statute 43-2-209 requires that proposed work on highways be advertised and that a formal competitive source selection process be conducted, for work requiring a contractor's bond.
- c) Sole Source Procurements
- If a competitive process is required, a purchase order or a contract may be awarded without competition when the Town Manager and Town Attorney determine, after conducting a good faith review of available sources, that there is only one feasible or practical source for the required goods or services. The Town Manager, with the assistance from the Director of the requesting department, may conduct negotiations, as appropriate, as to price, delivery, and other terms and conditions. Town Manager and Town Attorney shall document the justifications for any contract awarded under this section.
- d) Invitation for Bids (IFB)

An IFB is the formal process used to solicit competitive, sealed bids from qualified vendors for goods, and in some cases for services, when complete specifications or specific purchase descriptions are available. The specifications for the items to be procured are not subject to negotiation.

1. Requirements of an IFB

In consultation with the responsible Department, the Purchasing Agent will prepare and publish an IFB solicitation package that shall, at minimum, include:

- A. Instructions and information to bidders concerning the bid submission requirements, including the time and closing date and the address of the office to which bids are to be delivered;
- B. The proposed contract and all standard clauses, conditions, and attachments, as may be amended upon consultation with the Town Attorney;
- C. Accurate and thorough description of the Specifications and/or Scope of Work (SOW) and any drawings;
- D. The basis of award, delivery, or performance schedule, and inspection and acceptance requirements; and
- E. A schedule of all deadlines and key dates.

2. Competitive sealed bids shall be publicly opened in the presence of one or more witnesses at the time and place designated in the bid document. The amount of each bid, and other relevant information as deemed appropriate, shall be recorded. This record, as well as each bid received, shall be available for public inspection. Bids submitted by fax or other electronic media are considered to be sealed bids if the IFB document permits such submittals. Such electronically submitted bids shall be presented at the time and place of the IFB opening and given equal consideration.

3. All bids shall be unconditionally accepted without alteration or corrections, except as specifically authorized elsewhere in these procedures. Bids shall be evaluated based on the requirements set forth in the IFB document which may include consideration for such factors as: inspection, standardization, testing, references, quality, price, workmanship, delivery, functionality, and suitability for a particular purpose. Potential suppliers responding to an IFB may be contacted by the Purchasing Agent prior to award, for the purposes of obtaining clarification to assure a full understanding of, and conformance to, all IFB requirements. The Town can only use information submitted as a part of the suppliers IFB response to evaluate the merits of the quotation submitted.

e) Request for Proposals (RFP)

A RFP is the formal process used to solicit proposals from qualified vendors for services, and in some cases for goods, when the specifications are a desired outcome and recommendations about how to achieve that outcome are requested. The terms of the proposals upon submission are open to negotiation.

1. Requirements of an RFP

In consultation with the responsible Department, the Purchasing Agent will prepare and publish an RFP solicitation package that shall, at minimum, include:

- A. Instructions and information to the proposer concerning proposal submission requirements, including the time and closing date and the address of the office to which proposals are to be delivered;
 - B. The proposed contract and all standard clauses, conditions, and attachments, as may be amended upon consultation with the Town Attorney;
 - C. Accurate and thorough description of the Specifications and/or Scope of Work (SOW), any drawings, and any insurance/bonding requirements;
 - D. The evaluation factors and their relevant importance, and
 - E. A schedule of all deadlines and key dates.
2. The source selection process for RFP's is the same as identified for IFB's and RFQ's with two (2) exceptions:
- A. The register that is prepared, containing information on the proposals received and other associated information, shall not be disclosed until after award of the contract.
 - B. The identity of competing suppliers, and the associated information derived from their RFP response, shall not be disclosed to any competing RFP respondent prior to award of the contract. After award of a contract, information received from all vendors who responded to the RFP shall be considered public information and shall be made available for public review.
- f) Request for Qualifications (RFQ)
An RFQ is the formal process to solicit statements of qualifications of potential service providers.
1. Requirements of an RFQ
In consultation with the responsible Department, the Purchasing Agent will prepare and publish an RFQ solicitation package that shall, at minimum, include:
 - A. Instructions and information to the potential supplier concerning submission requirements, including the time and closing date and the address of the office to which responses are to be delivered.
- g) Public Notice of IFB, RFP, or RFQ
In cases where an IFB, RFP or RFQ is used, adequate public notice through advertisement in newspaper(s) of general circulation or posting by electronic means on the Town's website or Bidnet is required. Reasonable time shall be given to allow potential bidders an opportunity to respond to the respective IFB, RFP or RFQ document. Public notices for construction work must be published fourteen (14) days prior to the date set forth for the opening of such IFB, RFP or RFQ. Such public notice shall state the place, date, and time of the IFB, RFP or RFQ opening. Advertisement in additional publications is optional.
- h) Exceptions to Competitive Selection Requirements
The following are exempt from competitive source selection:

1. Notwithstanding any other provisions of the Town Procurement Policy, the Town Administrator may make, or authorize others to make, emergency procurements of goods or services up to an expenditure limit of \$50,000, when there exists a threat to public health, welfare or safety, and:
 - A. The emergency procurement is made with as much competition as is practical under the circumstances;
 - B. Sufficient budgeted and appropriated funds are available; and
 - C. The emergency purchase is placed on the next regularly scheduled Town Council meeting for ratification.
 2. Governmental agency agreements that facilitate payments (or reimbursements) between Town and other agencies for which an appropriation was determined by budget hearings whether conveyed under contract, grant or other means, and whether or not Town receives goods, services, or other values there under. (i.e. emergency search & rescues, cities, counties, public education institutions, etc.)
 3. Mileage and personal reimbursements to Town officials or employee or individuals for expenses paid out-of-pocket as stated in the Town Employee Handbook.
 4. Dues, meetings, and miscellaneous travel expenses for seminars or conventions.
 5. Education and training fees paid for training of Town officials or employees.
 6. Expert witness and transcript services for the Town Attorney or Prosecuting Attorney.
 7. Rent payments or leases for equipment, buildings, vehicles that are established by a negotiated and approved contract.
 8. Telephone bills.
 9. Utility bills for electrical, water, natural gas, and sewer services that are regulated by pricing schedules controlled through the Colorado Public Utilities Commission or other governmental entity.
 10. Licensed professionals such as attorneys, specialty engineers, architects, surveyors, and medical professionals.
 11. Intergovernmental Agreements and Memorandums of Understanding to receive specific services from other government entities.
 12. Perishable items that have a limited useful shelf life or are date sensitive.
 13. Goods or services that are ordered to be immediately purchased or performed by judicial authority.
- i) Waiver of Competitive Source Selection Requirements
1. Requirements outlined in these procedures may be waived by the Town Council when the same or similar supply or service has been put out to bid by the Town within the last six (6) months.
 2. The competitive source selection process may be waived by the Town Council or the Town Administrator upon a determination that the IFB or RFP requirements would

cause undue delay or hardship for a Town Department, a delay contributes to a public safety hazard, and/or such waiver is deemed to be in the best interest of the Town.

j) Cancellation of IFB, RFP or RFQ

An IFB, RFP, RFQ or other type of solicitation initiated by the Town may be canceled, or a solicitation response by a vendor may be rejected in whole or in part as specifically identified in the solicitation document or when it is in the best interest of the Town. Each solicitation issued by the Town shall state that the solicitation may be cancelled and that any response to a solicitation issued by the Town may be rejected in whole or in part when in the best interest of the Town.

k) Withdrawal of Bid

Withdrawal of a bid by a supplier may be permitted (up to the time of award) if the supplier provides a written request to withdraw a bid or if the supplier submits written proof that clearly and convincingly demonstrates that an error was made.

l) Award of Contract

Any contract or purchase order shall be awarded with reasonable promptness by appropriate notice to the most responsive, responsible, and best-value bidder, which may not necessarily be the lowest-price bidder being selected. If all bids received exceed available funds, the Purchasing Agent is authorized, in situations where time or economic considerations preclude the re-solicitation of bids, to attempt to negotiate an adjustment of the price and/or the Scope of Work.

m) Bid Preference for Eagle County Resident Bidder

1. For the purposes of this section, an Eagle County resident bidder is defined as a business, individual, union, committee, club, organization, or group of individuals which maintains a place of business and resident employees in Eagle County, Colorado.
2. When an award of a contract for goods or services is pending following a formal bid process, a resident Eagle County bidder shall be allowed a reduction of five percent (5%) to the cost or bid for purposes of comparing the prices, bids, or estimates with a non-resident bidder. Application of the reduction factor in the award of the contract or bid shall not actually reduce the amount ultimately paid by the Town to the successful bidder and/or selected contractor.
3. If it is determined by the Town Administrator that awarding a contract in compliance with the preference guidance in this section may cause denial of federal or state money which would otherwise be available, would otherwise be inconsistent with requirements of federal or state law, or cause delays in procurement action that would be perceived to compromise public safety, the resident preference in this section shall be suspended.

n) Bid Protests, Claims, Remedies, and Non-responsibility

1. Any bidder, submitter of a proposal, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest. Protestors shall initially seek resolution of their complaints with the Town Administrator. A protest with respect to an IFB, RFP or RFQ shall be submitted in writing prior to the opening of solicitations

or the closing date of solicitations, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date of proposals.

2. The protest shall be submitted in writing to the Town Administrator within seven (7) business days after such aggrieved person knows or should have known of the facts giving rise thereto. In the event of a timely protest, the Town Administrator shall call the matter to the Town Administrator's and the Town Council's attention immediately and ask for a determination of whether it is necessary to delay or to go forward on the project despite the objection.
 3. If prior to or after the bid opening or the closing date for receipt of proposals, the Town Administrator determines that a solicitation is in violation of state or federal law, the solicitation or proposed award shall be canceled or revised to comply with applicable law.
 4. If after an award the Town Administrator determines that a solicitation or award of a contract was in violation of applicable law, the contract is void.
 5. If for any reason, collusion or other anticompetitive practices are suspected among bidders or submitters of proposals, a notice of the relevant facts shall be transmitted to the Town Attorney's Office, which then may be transmitted to the Colorado Attorney General and/or the Eagle County District Attorney.
- o) Specifications and Scope of Work
Specifications and Scopes of Work (SOW) serve as the basis for the procurement process which includes planning, method of source selection and contract administration. Specifications and Scopes of Work identify the nature and work to be done so that a bid or proposal can be tailored accordingly. All Specifications and Scopes of Work shall be prepared to promote overall economy and encourage maximum competition in satisfying the Town's requirements.
1. Specifications emphasize the functional or performance criteria required to meet the Town's needs. Specifications are used in connection with IFB's where contract award is determined on the basis of the most responsive, responsible and best-value bid or offer.
 2. Scope of Work is a written description that identifies the result that the Town seeks to achieve upon contract completion. The Scope of Work is primarily used in conjunction with RFP's to provide a clear, accurate, and complete description of the work to be performed. The Scope of Work in the resulting contract defines what the Town expects from the Contractor and what the Contractor will expect from the Town.

Sec. V. Contract Administration.

- a) Contracts include Purchase Orders, Contracts for Professional Services, Professional Services Agreements, Capital Construction Contracts, and Procurement Card (P-Card) transactions that are used to acquire goods or services.

b) Contract Approval

\$0 - \$2,999:	Department Director
\$3,000 - \$20,000:	Town Administrator
\$20,001 or more:	Town Council

1. All contracts and agreements must include the Town's standard contractual terms as approved by the Town Attorney.
2. Annual contracts may include four (4) one (1) year extensions.
3. Multi-year contracts must be approved by the Town Council and are subject to annual appropriation.
4. Contracts and agreements shall not contain an evergreen clause that allows automatic extension without formal, written consent from the Town Administrator or Town Council, depending on the contract amount.

c) Professional Service Contracts

1. Professional Services Contracts, including the initial term and all available extension options, shall not exceed sixty (60) consecutive months unless approved by the Town Council.
2. Exceptions to Professional Services Contract terms:
 - A. Long term agreements with other government entities
 - B. Licensing agreements
 - C. As agreed to by the Town Administrator and the Town Council

d) Change Orders to Professional Services and Capital Construction Contracts

1. Professional Services and Construction contracts shall contain a defined procedure to document any change to the scope of work. The Town Contract Administrator identified in the contract shall be responsible for documenting the change and any resulting changes in the contract value. Contracts shall contain instructions which define the manner in which changes are documented.
2. The contract's identified Town Contract Administrator shall have full authority to initiate and approve changes that decrease the scope of work and/or the contract price.
3. The contract's identified Town Contract Administrator may incorporate changes that increase the scope of work and/or the contract price unless the proposed change exceeds the expenditure approval set forth herein. In the event that a Change Order exceeds such amount, the Change Order shall be considered by the Town Manager or Town Council pursuant to expenditure approval criteria.

e) Change Order Exceptions

In the event the policies and procedures cited above do not serve the best interests of the Town for a specific contract, the contract's identified Contract Administrator may propose an alternative solution to the Town Council for the specific contract only.

f) Contract Claims

All claims by a contractor against Town relating to a supply contract, except bid protests, shall be submitted in writing to the Town Administrator for a decision. The contractor may request a conference with the Town Administrator on the claim. Claims include, without limitation, disputes arising under a supply contract and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or cancellation.

g) Authority to Settle Bid Protests and Contract Claims

The Town Administrator and Town Attorney are authorized to settle any protest regarding the solicitation or award of a Town supply contract, or any claim arising out of the performance of a Town supply contract prior to an appeal to the Town Council or the commencement of an action in a court of competent jurisdiction.

1. The Town Administrator will review the contract claim and a written decision shall be promptly issued. The decision shall state the basis for the decision reached and shall inform the contractor of their appeal rights.
2. The Town Administrator's decision shall be final unless a written appeal is delivered to the Town Council within seven (7) business days from the date of the receipt of the Town Administrator's decision.
3. If the Town Administrator does not issue a written decision regarding any controversy within twenty (20) business days after written request for a final decision, or within a longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if an adverse decision had been received.

Sec. VI. Disposal of Surplus Property.

a) The final step in the procurement cycle is the disposal of surplus or obsolete items when it has been determined that these items have reached the end of their useful life to the Town. Any item of personal property must be designated as surplus before it may be sold. Personal property purchased by the Town at a cost of ten thousand dollars (\$10,000.00) or more must be declared surplus by the Town Council. The Town Administrator may declare all personal property purchased by the Town at a cost of less than ten thousand dollars (\$10,000.00) to be surplus, but nothing in this Section shall prohibit the Town Administrator from referring surplus designation decisions on such property to the Town Council. The Town Administrator shall destroy, dispose of, trade, solicit bids, sell, or auction surplus property purchased by the Town at a cost of less than ten thousand dollars (\$10,000.00) under the most cost-effective and beneficial option as determined by the Town Administrator in his or her sole discretion to obtain the best value from the market considering staff resources.

b) The following methods of disposal may be utilized, upon approval of the Town Administrator, to repurpose, recycle or dispose of surplus or obsolete items when it is in the best interest of the Town to do so:

1. Transfer items to another Town Department.
2. Sell items to the highest bidder at advertised public or online auctions after a minimum of ten (10) days' notice in the newspaper of current local circulation.

3. Donate items to other governmental entities or nonprofit organizations.
 4. Salvage or recycle scrap items and deposit proceeds back into the Fund in which the property originated.
 5. Town sponsored Surplus Property Sales.
- c) In the event that no monetary offers are received the Town Administrator may negotiate a sale, donate it to any person or entity, or dispose of it in any manner the Town Administrator deems fit.
- d) Town employees may bid on surplus property at advertised public auctions or sales, however, Town employees may not purchase surplus property through a negotiated sale of any type.
- e) The disposal of surplus property must be approved by the Town Administrator and coordinated through the Finance Department.
- f) The Town Administrator shall report to the Town Council within thirty (30) days of disposition the manner and terms of all completed dispositions of surplus property.

Sec. VII. Definitions.

For the interpretation of this Article, the following words and terms shall be construed as follows:

AWARD is the acceptance of a quote or proposal by the execution of a written agreement.

BIDDER is a business, individual, committee, club, organization or group of individuals that provide a competitive price offer and has the capability in all respects to perform fully the contract requirements.

TOWN COUNCIL is the Town board of elected officials (acting in any legal capacity) pursuant to Minturn Home Rule Charter Section 4.1 and Municipal Code Chapter 2, Article 2.

TOWN ADMINISTRATOR as defined in Minturn Home Rule Charter Section 5.1 and Municipal Code Chapter 2, Article 3 or his or her designee.

CONTRACT includes Purchase Orders, Contracts for Professional Services, Professional Services Agreements, Capital Construction Contracts, and Procurement Card (P-Card) transactions that are used to acquire goods or services.

CONTRACTOR is any person or company having a contract with Town.

INVITATION FOR BID (IFB) is the formal process used to solicit bids from qualified vendors for goods or services when complete specifications or specific purchase descriptions are available.

PROCUREMENT is the buying, purchasing, renting, leasing, or other acquisition of supplies/services that involve the expenditure of funds or the rendering of any consideration on the part of the Town. Though the terms "Procurement" and "Purchasing" are often used interchangeably, "Purchasing" is only one phase of the procurement cycle.

Procurement consists of:

- Planning and scheduling including defining the need, source selection, risk assessment and allocation of resources.
- Source selection (purchasing) is the process through which qualified providers are identified, solicited, evaluated, and selected.
- Contract administration includes finalization of terms and conditions, payment of invoices, and adherence to identified insurance requirements through contract completion.

PROCUREMENT PROCESS is the series of acts of defining requirements, solicitation of sources, issuing bid documents, source selection, preparation and award of contract, and administration of the contract.

PURCHASING AGENT is the Town agent(s) authorized to procure items and services via agreed upon procedures, whether decentralized or centralized.

REQUEST FOR INFORMATION (RFI) is a written request for contractors to provide non-proprietary product and/or service information. An RFI is issued by the Town for the purposes of allowing contractors an opportunity to make representations concerning products they sell or services they render; without any obligation on the part of the Town to purchase such goods or services.

REQUEST FOR PROPOSAL (RFP) is all written documents, whether attached or incorporated by reference, utilized for the solicitation of proposals. An RFP requires a contractor to propose a solution to Town based on the contractor's interpretation of the RFP specifications and statement of work.

REQUEST FOR QUALIFICATIONS (RFQ) is the formal process for the Town to solicit statements of qualifications of potential service providers allowing potential service providers an opportunity to make representations concerning services they render; without any obligation on the part of the Town to purchase such services.

SCOPE OF WORK (SOW) describes the specific service requirements and expectations applicable to a contractor concerning goods and/or services being procured by the Town. The SOW identifies responsibilities of both the Town and the Contractor.

SERVICES are the furnishing of labor, time, materials, tools and/or equipment by a contractor which involves the delivery of a specific end result related to the performance criteria in the contract.

SPECIFICATION is any description of the physical or functional characteristics or description of the unique nature of a product or service.

SURPLUS PROPERTY is any Town owned property that is no longer function (and is beyond repair), has been utilized for a period of time equal to its useful life, and/or is no longer of any use to any Town Department.

TOWN is the Town of Minturn, Colorado.

Town of Minturn, Colorado
Resolution No. 09 - Series 2021

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 3rd day of
March, 2021.**

TOWN OF MINTURN, COLORADO

By: _____
John Widerman, Mayor

ATTEST:

Jay Brunvand, Town Clerk

Glenwood Springs – Main Office

201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen

323 W. Main Street
Suite 301
Aspen, CO 81611

Montrose

1544 Oxbow Drive
Suite 224
Montrose, CO 81402

Office: 970.945.2261

Fax: 970.945.7336

[**Direct Mail to Glenwood Springs*](#)

DATE: February 26, 2021
TO: Minturn Mayor and Council
FROM: Karp Neu Hanlon, P.C.
RE: School Land Dedication or Fee in lieu

Many local governments require dedication of land to the local school district or a fee in lieu in order to offset impacts of additional density on school facilities. The attached ordinance adds such a requirement to the Town's subdivision code, Chapter 17, that the applicant for a subdivision either dedicate a certain amount of land to the school district or pay a fee in lieu thereof. The amount of land to be dedicated is determined by an equation in the ordinance based on the number of residential units being constructed on the subdivided lots. If the Town decides to collect a fee in lieu of land, that amount is determined by valuing the amount of land that would otherwise be dedicated based on an average land value set by the Town Council. That amount will be set at the next Council meeting by resolution.

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 02 – SERIES 2021**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO PROVIDING FOR THE DEDICATION OF
LAND OR CASH IN LIEU OF LAND TO THE SCHOOL
DISTRICT FOR THE PURPOSES OF OFFSETTING
IMPACTS OF INCREASED DENSITY ON THE SCHOOLS.**

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, a School Land Dedication requirement or fee in lieu thereof will ensure that subdivisions resulting in increased density offset impacts to the Eagle County School District; and

WHEREAS, the Minturn Town Council finds and believes that it is necessary and proper to amend the Minturn Municipal Code to provide for a School Land Dedication requirement or fee in lieu thereof for all subdivisions.

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. A new Section 17-7-30 of the Minturn Municipal Code is hereby adopted to read as follows. Sections of Chapter 17 which are not expressly described in this Ordinance are deemed to continue to be in full effect without change.

Sec. 17-7-30. - School Land Dedication.

- (a) Every approved residential subdivision, or subdivision for partial residential use, shall include a dedication of land to the Town, as determined by the Town Council, for use by the Eagle County School District RE50-J (“school district”), roughly proportional to school needs generated by the proposed residential uses. In the alternative, the Town Council may require the payment of cash in lieu of such dedication as further described below. The dedication of such land, or payment of cash in lieu thereof, shall be made at the time of approval of the final subdivision plat. Every subdivision which increases the number of dwelling units above that approved as of the effective date of the ordinance from which this section is derived shall make the additional dedication or fee payment based upon the increase number of units, as provided herein, at the time of approval of the final plat, or issuance of a major development permit, whichever may first occur.
- (b) Condition of land.

1. Dedicated land shall be suitable for use by the school district, and shall not contain steep slopes, rock formations, adverse topography, utility easements, restrictive covenants, pollution, or other features which may make the site unsuitable for use.

2. A minimum of 80 percent of the land dedicated shall have a slope of ten percent or less and shall lend itself to utilization for school district purposes.

3. Adequate water rights dedication must be provided for all school land dedicated.

4. Title to the school land dedicated or conveyed shall be good and its transfer rightful, and such land shall be free and clear of all liens and encumbrances whatsoever, except for current general property taxes and patent reservations.

(c) Amount. The owner of the land proposed for a subdivision for residential uses, or partial residential uses, shall dedicate land in an amount roughly proportional to the school needs generated by the proposed residential uses and the future inhabitants thereof. It shall be a rebuttable presumption that the application of the formulas set forth below provides for a land dedication that is roughly proportional to such school needs:

1. Single-family and duplex units: Number of units x .014495 = dedication requirement in acres.

2. Multifamily units; Number of units x .002676 = dedication requirement in acres.

3. The Town may consider a request by the land owner for a smaller dedication of school land when deemed appropriate because of size, location, or nature of the proposed development. Similarly, the Town may require a larger dedication of school lands when deemed necessary because of the size, location, density or nature of the proposed development.

(d) *Maintenance and use of dedicated land.*

1. When land is dedicated for the purpose of providing a site for a school, related recreational facilities, administration facilities, or other school district needs, the land shall be conveyed by the Town to the school district by general warranty deed, free and clear of any liens or encumbrances.

2. All lands conveyed by the Town to the school district pursuant to this section shall be maintained by the school district, and the school district may sell such land to a third party. All proceeds from such sale shall be held by the school district and shall be used for the acquisition of other school land or for the construction or expansion of school facilities.

(e) *Payment in lieu of dedication.*

1. When the dedication of sites and land areas for school needs are not reasonably necessary to serve the proposed subdivision and future residents thereof because of the size, location, proximity to existing facilities, topography or nature of the proposed development, the Town Council, upon recommendations from the school district and other

affected entities, shall require, in lieu of such dedication of land, the payment in cash by the applicant of an amount not to exceed the full market value of such sites and land areas.

2. The full market value shall mean the current market value of the unimproved land after completion of platting. Such value shall be set annually by resolution of the Town Council on a per acre basis after considering recommendations from the school district and other appropriate parties. The same value per acre shall be used throughout the Town.

3. If the applicant does not agree with the established value per acre, the applicant may submit the report of a qualified appraiser who is M.A.I. certified, which establishes a different value. The Town Council shall review the report and determine if such appraised value is reasonable. Based upon its review of the applicant's appraisal, and all other relevant information available to it, the Town Council shall then determine the value of such land for purpose of payment of cash in lieu of dedication.

4. When cash in lieu of a school land dedication is required, such funds shall be transferred to the school district within 60 days following payment to the Town for the acquisition of reasonably necessary sites for the construction of school facilities, or for the construction of employee housing required by the school district, or for the purchase of employee housing required by the school district, or for the development or capital improvements to school sites within the Town. If housing units are purchased, a deed restriction restricting their use to school district employee housing shall be required and ownership shall remain in the name of the school district.

5. All funds collected pursuant to this section shall be accounted for in the manner required by C.R.S. § 29-1-801 et seq., and other applicable law.

(f) *Limitations on use of dedicated school lands or cash paid in lieu thereof.*

1. Except as otherwise provided in this section, any dedicated school lands which are not utilized for the construction or expansion of school facilities within ten years from the date of dedication shall be refunded by the school district to the land owner making the dedication. Any fees paid in lieu of such land dedication which are not utilized for the acquisition, construction, or expansion of school facilities within ten years of the date of collection shall be refunded by the school district, with applicable interest, to the land owner from which the fees were collected. Any proceeds from the sale of the school lands pursuant to Subsection (d) of this section which are not utilized for the acquisition, construction, or expansion of school facilities within ten years from the date of dedication of the land sold shall be refunded by the school district, with applicable interest, to the land owner making such dedication. The school district shall give written notice by first class mail to the last address on file with the Town to the land owner entitled to such conveyance or refund. If such land owner does not file a written claim for such property or refund with the school district within 90 days of the mailing of such notice, such right to reconveyance or refund shall be deemed forfeited and such land or funds shall revert to the school district for any lawful purposes.

2. The school district may, for good cause shown, request the Town to extend the ten-year period of time specified in Subsection (f)(1) of this section. Such request shall be made at a public hearing held by the Town Council. The Council, in its discretion, for good cause shown, may extend such period of time for an additional period as the Town Council deems reasonable and necessary.

3. The Town is specifically exempted from the requirements of this section

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 3rd DAY OF MARCH, 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 17th DAY OF MARCH, 2021 AT 5:30p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

John Widerman IV, 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 17th DAY OF MARCH, 2021.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk



To: Mayor and Council
From: Michelle Metteer / Richard Peterson-Cremer
Date: March 3, 2021
Agenda Item: Exterior Illumination - Holiday Lighting

REQUEST:

A Minturn resident submitted a request for Council to review the outdoor lighting regulations as they pertain to holiday lighting. This request was submitted to a Town Council member and subsequently approved by the Mayor for addition to an upcoming agenda.

INTRODUCTION:

Minturn prides itself on its “small town, funky and eclectic” character. Many town documents cite this description and consequent pride our residents feel. However, because no town documents define funky or eclectic, its application on the ground is open to interpretation. Town residents are afforded room to interpret these concepts and the independence to define these descriptions for themselves.

The Minturn Municipal code is in place to afford this independence while creating over-arching boundaries toward maintaining pleasant living conditions between neighbors and within neighborhoods. The outdoor lighting section of the Minturn Municipal Code (Exterior Illumination Standards, Section 16-17-180) is an example of this effort as outlined under the purpose and intent of this code section:

Sec. 16-17-180. - Exterior illumination standards.

(a) Purpose and intent. The purpose of this Article is to establish rules and regulations governing the installation of outdoor lighting in the Town. These regulations are intended to:

- (1) Promote appropriate light for safety and security;
- (2) Help preserve the small town character;
- (3) Prevent inappropriate and poorly designed or installed outdoor lighting;
- (4) Reduce glaring and offensive light sources;
- (5) Reduce nighttime light pollution and protect the night sky;
- (6) Provide clear guidance pertaining to exterior light fixtures for developers and homeowners;
and
- (7) Phase out existing nonconforming fixtures that are in violation of this Article, including those owned by the Town.

(b) Definitions

Holiday/ornamental lighting means festoon-type lights.

ANALYSIS:

Within the illumination standards are a list of “exceptions” to the code. These exceptions include:

Sec. 16-17-180. - Exterior illumination standards.

(f) Exemptions. The following exterior light fixtures shall be exempt from the regulations contained in this Article:

- (1) Illumination of the United States flag, provided that such lighting does not interfere with the vision of drivers or pedestrians or otherwise create an unsafe condition for the public. No more than two (2) lights per pole are permitted.
- (2) Lights and lighting devices which are part of a Town event or public gathering, so long as the event or gathering is of a temporary nature.
- (3) Holiday/ornamental lighting.**
- (4) Construction lighting used for the purpose of illuminating construction work activities, provided that the illumination source is directed internally towards the project site and is turned off each night when work is halted.

Minturn does not currently have a date range limitation for holiday lighting – they are allowed year-round. There is also no timing limitation – holiday lights are allowed 24 hours/day. Holiday lights are also not required to reflect downward as other outdoor lighting must do for maintaining the dark sky requirements.

In almost all areas of town, holiday lights are used without issue (or at least without complaints to town). A quick drive down Main Street shows almost 30 properties utilizing some form of holiday lighting. This is an integral expression of character throughout town and typically valued within Minturn’s “funky and eclectic” community.

The exemption for the holiday/ornamental lighting is the root cause for the requested Council discussion. As is evident from the attached photos, this exception allows for the abuse in using such lighting when neighbor relations are strained. Complaints have been submitted pertaining to the highly illuminated deer on top of a 10’ post immediately outside of the next-door neighbor’s dining room window. Because holiday lights are exempt from municipal code enforcement, no action by the town has been taken.

Of question for this discussion is: Does the Council want to amend the code and enforce restrictions on holiday lighting? To that end, is a single neighborly dispute jeopardizing the ability for an entire town to utilize festive lighting? If the Council decides to amend the code, how would any restrictions be enforced?

Any restrictions on holiday lighting would need to be applied uniformly throughout the Town and be unrelated to the content of the lighting displays. Some Town codes include restrictions to Winter months, requirements that lights be turned off by a certain time, or limitations on the amount of space a display can occupy. Due to the widespread display of holiday lights throughout the Town and during all seasons, enforcement of any such limitations could quickly become a resource-consuming activity.

COMMUNITY INPUT:

The community has identified the desire to be an independent mountain town with a funky and eclectic atmosphere.

BUDGET / STAFF IMPACT:

unknown

STRATEGIC PLAN ALIGNMENT:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT

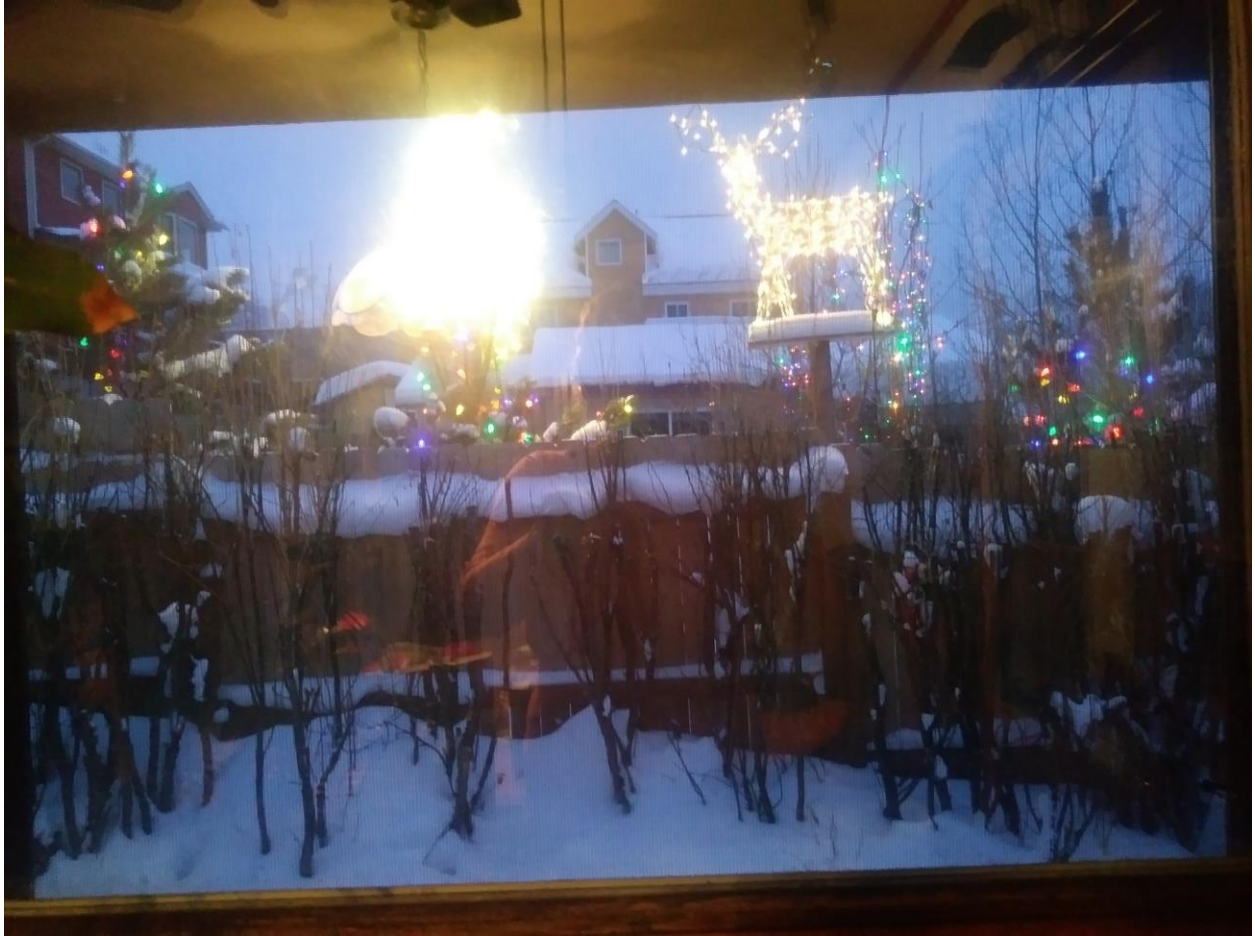
SUSTAIN AND INVEST IN THE THINGS THAT DEFINE MINTURN AS A PROUD, STURDY MOUNTAIN TOWN TO “KEEP MINTURN MINTURN”

RECOMMENDED ACTION OR PROPOSED MOTION:

Staff are concerned that a single neighborly dispute driving a code amendment for the entire Town is not an appropriate remedy to this situation. As noted, enforcement of any restrictions could become time-consuming and present challenges more akin to running a Homeowners Association. Staff recommend that the Town not amend the code to regulate holiday lighting at this time. Residents can investigate other remedies available by law to ensure that their individual rights are protected.

ATTACHMENTS:

- Holiday lighting issues - photos



Above: Two illuminated deer placed on stakes for viewing above the privacy fence. View from dining room window.



Above: Illumination after sunset.

Michelle Metteer
Town Manager
301 Boulder St. #309
Minturn, CO 81645
970-827-5645
manager@minturn.org
www.minturn.org



Town Council
Mayor – John Widerman
Mayor Pro Tem – Earle Bidez
Council Members:
Terry Armistead
George Brodin
Brian Eggleton
Eric Gotthelf
Gusty Kanakis

Town Manager Report

March 3, 2021

Infrastructure Input Session - Congressman Joe Neguse

Congressman Neguse's staff member, Jill Grano, held a listening session for western slope municipalities and counties on Monday, February 22nd. I participated on behalf of Minturn and provided feedback regarding the need for funds toward infrastructure relating to water systems and multi-modal transportation. Jill Grano has been a good connection to the Congressman's office, and anyone is encouraged to reach out directly: Jill.Grano@mail.house.gov

Minturn Small Businesses Grant Application Update

The small business grant application process was well received. Ten businesses applied for grant assistance and approximately \$21,000 was awarded.

Community Plan Update

The team is wrapping up the application for the Department of Local Affairs, Energy/Mineral Impact Assistance Fund grant which is due the first week in March. This grant will be a request for \$130,000 which would be matched with funds from the Town to complete the update to the 2009 Community Plan.

Wildland Fire Program

Eagle River Fire Protection District (ERFPD) Chief Karl Bauer updated the town managers of Eagle County on our bi-weekly call about the increasing risk of wildfires around our mountain-town communities. This discussion is closely related to the ongoing drought conversations and how communities can mitigate risk through a variety of action steps. Chief Bauer will be visiting the Minturn Town Council on April 7, 2021 to provide more information.

Of note in the wildland fire conversation was **the elimination of the USFS Upper Colorado River Fire Management Unit (UCR) Minturn Crew**. This was the crew that led the response during the 2018 Minturn Shooting Range fire. With this loss, the closest USFS responding agency for forest fires is in Summit County.

Drought Mitigation Coordination

I am currently leading an effort with all the town managers in the Eagle River Valley to create a coordinated message of support for healthy streams and watersheds. With the ongoing drought, water providers anticipate another dry summer – which means the need to educate residents on the importance of keeping as much water as possible in our rivers. The managers will be providing an update at the next Mayor, Manager, Commissioner and Partners meeting

on March 12th and will look for initial approval from the Mayors for the consideration by each community to support a joint Resolution around this effort. More to come.

Active Planned Unit Development (PUD) Applications

For anyone wanting information pertaining to Minturn’s current PUD applications, information has been uploaded to the Town’s website and can be found at:

<https://www.minturn.org/planning-zoning/pages/active-planning-applications>. This step is in line with the Council’s Strategic Plan goal of fostering transparent communication.

Minturn Scholarship Fund

Applications are now available for the Minturn Scholarship Fund at

<https://www.minturn.org/home/news/minturn-2021-scholarships>.

Colorado Department of Wildlife

Councilmember Armistead and I participated in a joint call with representatives from the Colorado Department of Wildlife and the United States Forest Service on efforts pertaining to the mitigation of off-leash dog walkers along the gated road leading to the Minturn water treatment plant. This area is a severe winter elk habitat range and an important location for elk to rest for the winter. Off-leash dog walkers have continued to cause disturbances in the area, so the town staff offered to assist with educating residents on this vital need for wildlife to not be disturbed. Minturn will be creating sandwich board signs with a goal of encouraging dog walkers to utilize less wildlife-sensitive areas for their off-leash dog walking.

Speed Feedback Sign (Sample Sign):

During the 2021 budget process last fall/winter, Council approved the purchase of a speed feedback sign for installation in the 1100-block of Main Street/HWY 24 in the westbound (north) direction. Staff has started the permitting process for this effort and will be purchasing the approved feedback sign. We are hopeful for a spring installation.



Railroad Activation Information

The towns of Minturn, Eagle, Avon and Red Cliff, in conjunction with Eagle County are seeking feedback from residents. Information and the ability to leave comments can be found at:

<https://engage.avon.org/tennessee-rail-line>

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 – John Widerman
 Mayor Pro Tem – Earle Bidez
 Council Members:
 Terry Armistead
 George Brodin
 Brian Eggleton
 Eric Gotthelf
 Gusty Kanakis

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
March 3, 2011
Public Hearing – Happy Hammer Carpentry Conditional Use Permit Review
Resolution No. 09 - Series 2021 (First Reading) – A Resolution creating a Town Procurement Policy
Discussion/Direction – Exterior Illumination Standards
Executive Session – For the purposes of discussing matters subject to negotiation – ERWSD/Battle Mountain
Ordinance No. 02 - Series 2021 (First Reading) – An Ordinance creating a School District Land Dedication Policy
March 17, 2011
Special Presentation – Eagle County Sheriff’s Office Annual Update
Public Hearing – Burke Harrington Construction Conditional Use Permit Review
Ordinance No. 02 - Series 2021 (Second Reading) – An Ordinance creating a School District Land Dedication Policy
Resolution ___ - Series 2021 A Resolution setting the fee for the School Dist Land Dedication Policy
April 7, 2021
Ordinance No. ___ - Series 2021 – (First Reading) An Ordinance setting the SFE Schedule within Chapter 13 of the Minturn Municipal Code
Special Presentation – Wildland Fire Program – Chief Karl Bauer, ERFPD
April 21, 2021
Ordinance No. ___ - Series 2021 (Second Reading) – An Ordinance setting the SFE Schedule within Chapter 13 of the Minturn Municipal Code
DATE TO BE DETERMINED
An Ordinance adopting Specified Sustainability Building Codes
Water Supply Plan Proposal – Metteer