



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 October 20, 2021

The public is welcome to join the meeting in person or using the following methods:

<https://us02web.zoom.us/j/82713677686>

Or join by phone:

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

Webinar ID: 827 1367 7686

Regular Session – 5:30pm

MAYOR – Earle Bidez

MAYOR PRO TEM – Terry Armistead

COUNCIL MEMBERS:

George Brodin

Lynn Feiger

Eric Gotthelf

Gusty Kanakis

Tom Sullivan

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.

Regular Session – 5:30pm

1. Call to Order

- Roll Call
- Pledge of Allegiance

2. 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)

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?

3. Approval of Agenda

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

4. 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)

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5. Approval of the Consent Agenda

- October 6, 2021 Meeting Minutes Pg 5
- Liquor License – Shop N Hop #12, annual renewal of a Fermented Malt Beverage (Off Premises-City) Liquor license; 401 Main St; Terry Marcum, Owner/Operator Pg 19
- Resolution 39 – Series 2021 A Resolution to approve the national opioid settlement agreement Pg 22

6. Special Presentations

- Council Comments/Committee Reports (10 min)

PUBLIC HEARINGS AND/OR ACTION ITEMS

7. Public Hearing/Action Item: Ordinance 10 – Series 2021 (Second Reading) an Ordinance rezoning 504 Eagle River St and 502 Main St - Hunn Pg 107

8. Public Hearing/Action Item: Resolution 35 – Series 2021 A Resolution approving VAR 21-01 for 261 Main St regarding lot coverage – Harris Pg 129

9. Public Hearing/Action Item: Union Pacific Conditional Use Permit renewals – Metteer/Harris Pg 148

- Resolution 40 – Series 2021 a Resolution approving the renewal of Conditional Use Application CU 01-2018 for Minturn Builders Alliance Pg 157

- Resolution 41 – Series 2021 a Resolution approving the renewal of Conditional Use Application CU 02-2018 for Cozzens Construction Pg 161
- Resolution 42 – Series 2021 a Resolution approving the renewal of Conditional Use Application CU 03-2018 for Burk Harrington Construction Pg 165
- Resolution 43 – Series 2021 a Resolution approving the renewal of Conditional Use Application CU 01-2020 for Burk Harrington Construction and Darin Tucholke Pg 169

10. Public Hearing/Action Item: Resolution 44 – Series 2021 a Resolution approving the renewal of Conditional Use Application CU 04-2018 for Minturn Mountain Motel – Harris/Metteer Pg 173

11. Public Hearing/Action Item: Ordinance 11 – Series 2021 (First Reading) an Ordinance Amending Chapter 11 to provide for excavations of public streets in conformance with state standards. – Peterson-Cremer Pg 184

DISCUSSION / DIRECTION ITEMS

12. Discussion/Direction Item: Water Treatment Plant Mitigation Plan – Metteer/Fairfield-Smith Pg 194

13. Discussion/Direction: Short Term Rental Policy Review - Metteer Pg 204

14. Discussion/Direction Item: Regulation of Livestock – Peterson-Cremer Pg 221

15. Discussion/Direction Item: Council Committee assignments - Metteer Pg 221

16. Discussion/Direction Item: Discussion regarding Fiscal Year 2022 Budget – Brunvand/Metteer Pg 227

COUNCIL INFORMATION / UPDATES

17. Staff Updates (5 Min)

- Manager’s Report
- Future Agenda Items Pg 244

MISCELLANEOUS ITEMS

18. Future Meeting Dates

- a) Council Meetings:
- November 3, 2021
 - November 17, 2021
 - December 1, 2021
 - December 15, 2021

19. Other Dates:

- Minturn Halloween October 30, 2021
- Veteran's Day November 11, 2021 – Office Closed (Thursday)
- Thanksgiving November 25, 2021 – Office Closed (Thursday)
- Thanksgiving November 26, 2021 – Office Closed (Friday)

20. Adjournment



OFFICIAL MINUTES

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

Wednesday October 6, 2021

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<https://us02web.zoom.us/j/86498115864>

Or join by phone:

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

Webinar ID: 864 9811 5864

Regular Session – 4:30pm

MAYOR – Vacant
MAYOR PRO TEM – Earle Bidez

COUNCIL MEMBERS:

Terry Armistead
George Brodin
Eric Gotthelf
Gusty Kanakis
Tom Sullivan

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.

Regular Session – 4:30pm

The Minturn Town Council will open the Regular Meeting at 4:30 for the purpose of appointing a new mayor and council member (publicly) and then convening into Executive Session. At (approximately) 7:00pm the Council will convene back into Regular Session for the remainder of the meeting. The public is welcome to attend at 4:30 for the appointments of the new mayor and council member prior to Executive Session.

1. Call to Order

- Roll Call

The meeting was called to order by Mayor Pro Tem Earle Bidez at 4:32pm using a hybrid in-person and ZOOM on-line meeting format.

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

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

- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added

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

- Declaration of Conflicts of Interest

3. **Public Hearing/Action Item**: Resolution 32 – Series 2021 A Resolution appointing the Mayor for the Town of Minturn – Metteer (5 min)

Michelle M. outlined the nomination and voting process.

George B. nominated Earle B. (second by Gusty). In that there was only one nomination no ballot was necessary.

Motion by George B., second by Gusty K., to approve Resolution 32 – Series 2021 appointing the Mayor for the Town of Minturn as presented. Motion passed 6-0.

- Swear in of Mayor – Town Clerk

Town Clerk Jay B. swore in Earle B. as Mayor and he assumed the seat of the Mayor.

- Motion to appoint the Mayor Pro Tem

Motion by Earle B., second by Gusty K., to appoint Terry A. as Mayor Pro Tem. Motion passed 6-0.

4. **Public Hearing/Action Item**: Discuss and Interview applicants for the vacant Town Council seats – Brunvand

The qualified applicants that submitted Letters of Interest were:

Katherine Schifani – 550 Taylor St

Lynn D. Feiger – 344 Eagle St

David Clapp – 392 Taylor St (Via Zoom)

Greg Sparhawk – 245 Pine St (Withdrew his Letter of Interest at the meeting)

Casey McKenna – 661 Main St

Each candidate was allowed time to introduce themselves, why they would like to serve, and a Round Robin interview by the Council.

The first round of balloting resulted as follows:

Kate Schifani = 3
Lynn Feiger = 3

The second round of balloting resulted as follows:

Kate Schifani = 3
Lynn Feiger = 3

Council took time to ask more questions.

The Third round of balloting resulted as follows:

Kate Schifani = 3
Lynn Feiger = 3

Council took time to discuss amongst the Council. Concern was expressed that the town is facing long term legal decisions and Lynn Feiger was most qualified and would bring her legal expertise to the Council. It was noted both finalists have similar view points and experiences but only Ms. Feiger is an attorney.

The fourth round of balloting resulted as follows:

Kate Schifani = 1
Lynn Feiger = 5

5. Public Hearing/Action Item: Resolution 33 – Series 2021 consideration of a Resolution appointing an individual to the Minturn Town Council – Brunvand

Motion by Terry A., second by Tom S., to approve Resolution 33 – Series 2021 as presented appointing Lynn Feiger as Council Member. Motion passed 6-0.

- Swear in of Council Member – Mayor

Mayor Bidez swore in Ms. Lynn Feiger as Council Member and she assumed her seat at the Council dais.

6. Public Hearing/Action Item: Resolution 34 – Series 2021 consideration of a Resolution appointing authorized check signers for the Town of Minturn – Brunvand

Jay B. introduced the item and recommended the Check signers be Earle B., Terry A., George B., and Michelle M.

Motion by Terry A., second by Gusty K., to approve Resolution 34 – Series 2021 as presented appointing Earle B., Terry A., George B., and Michelle M. as check signers. Motion passed 7-0.

EXECUTIVE SESSION

7. **Executive Session:** An executive session to conference with the Town attorney for the purpose of consulting with the Town Attorney(s) under CRS 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Battle Mountain

Motion by Terry A., second by Eric G., to convene in Executive Session to conference with the Town attorney for the purpose of consulting with the Town Attorney(s) under CRS 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Battle Mountain as presented. Motion passed 7-0.

Those present in the Executive Session were the Council present, Town Manager Michelle M., Town Attorneys Michael S., Meghan Winokur, and Jeff Armisen.

Council reconvened from Executive Session at 7:55.

Direction given as a result of the Executive Session: No direction was given.

OPEN SESSION – APPROXIMATELY 7:00PM

8. **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)**

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9. **Public comment**

Ms. Liz Campbell, 512 Main St, spoke of violations along the 30-foot river setback and felt it is not being enforced equally.

10. **Approval of the Consent Agenda**

- September 15, 2021 Meeting Minutes

- Liquor License – The Bunkhouse, annual renewal of a Lodging & Entertainment (City) Liquor license; 175 Williams St; Nancy Richards, Owner/Manager – Brunvand
- Liquor License – Rocky Mountain Taco LLC, Modification of Premises for a Hotel and Restaurant (City) Liquor license; 291 Main St; Chris McGinnis, Owner/Manager – Brunvand
- Resolution 37 – Series 2021 A Resolution approving an update to the Town Manager Contract
- Resolution 38 – Series 2021 a Resolution authorizing the Mayor or his/her designee to sign a Municipal Advisor Engagement Letter with UMB Financial Services, Inc
- Direction to staff to initiate a quiet title lawsuit related to property located in NW1/4NE1/4 of Section 35, Township 5 South Range 81 West

Motion by Terry A., second by Gusty K., to approve the October 6, 2021 Consent Agenda as presented. Motion passed 7-0.

11. Special Presentations

- Council Comments/Committee Reports (10 min)

Terry A. noted the Minturn fitness center board meeting and updated on the proceedings to include no rate change, some new classes, and the wood staining of the building.

PUBLIC HEARINGS AND/OR ACTION ITEMS

- 12. Public Hearing/Action Item:** Ordinance 09 – Series 2021 (Second Reading) an ordinance authorizing a loan agreement with the Colorado Water Resources and Power Development Authority and a related bond for the purpose of financing improvements to the Town’s water storage system – Metteer

Michelle M. updated the Council on the matter and noted there are no changes from first reading.

Public Hearing Opened.

No Public Comment.

Public Hearing Closed.

Motion by Gusty K., second by George B., to approve Ordinance 09 – Series 2021 (Second Reading) an ordinance authorizing the execution and delivery of a loan agreement between the Colorado Water Resources and Power Development Authority and the Town of Minturn acting by and through the Town of Minturn Water and Sanitation Activity Enterprise and the issuance of a governmental agency bond in an aggregate principal amount not to exceed \$3,000,000 evidencing the obligation of the Town, acting by and through such enterprise under the loan agreement, and prescribing other details in connection therewith as presented. Motion passed 7-0.

13. Public Hearing/Action Item: Resolution 35 – Series 2021 A Resolution approving VAR 21-01 for 261 Main St regarding lot coverage – Hunn

Scot H. updated the Council in that the Applicant, Heather Faircloth, requests review of two variance requests associated with a proposed garage addition at 261 Main Street in the Old Town Mixed Use Zone District. The variance requests are for relief from the strict interpretation of the following standards of the Town of Minturn Municipal Code regarding Building Lot Coverage and Impervious Coverage. Surveys included for review with the final plans for the garage addition show that the existing residence (building footprint) is currently compliant with maximum allowable lot (building) coverage. Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable building coverage is approximately 1,687.5 sq. ft. (45% max.); existing lot coverage is estimated at approximately 1,526.9 sq. ft. (41%). The total allowable impervious coverage is approximately 2,026.5 sq. ft. (55% max.); existing impervious coverage is estimated at approximately 1,623.0875 sq. ft. (43%). However, the proposed 664.6 sq. ft. garage addition will result in a maximum building coverage of approximately 1,955.99 sq. ft. (52.16%) building coverage, and a maximum lot coverage of approximately 2,255.22 sq. ft. (60.14%) lot coverage with the new driveway and exterior stairs.

The Planning Commission granted final plan approval of the proposed garage addition and recommended approval of the variance requests with a vote of 4-1. Staff is recommending approval of the variance requests based on a finding that the variance requests meet the criteria for approval.

Mr. Tom Warzecha, representing the applicant, was on-line to present and answer any questions.

Gusty K. expressed concern that we are increasing density above what we have already modified the code to mitigate and was concerned that it was taking away parking on Boulder St. Mr. Warzecha expressed this is a very narrow and small lot and none of the houses in that area have no parking and have no on-site parking.

George B. noted the size of the lot and felt this would be a case all along that area. Discussion ensued that the prior owner did use the existing Main St garage but it is no longer used for parking as it has a difficult access from Main St. He felt this did not create a hardship.

Terry A. felt the garage is very small, parking on Main St is difficult, and felt this was actually a net gain. She stated the older houses are not designed to house the larger vehicles.

Gusty K. stated he could not see a plus parking for this request.

Michael S. stated a condition on the approval can be created requiring garage parking. Scot H. noted that would create an enforcement issue.

Earle B. asked about what would be under the proposed garage; a bed and bath making the house a 4bedroom.

Tom S. expressed concern that this would be a short-term rental and would exacerbate the parking further. It was noted the town regulates short term rentals but not long-term rentals.

Discussion ensued as to the impact of the neighborhood. It was noted the lower unit includes a kitchen making it a separate unit. Scot H. confirmed whether it is a bedroom or a separate unit the parking does not change.

Motion by Tom S., second by Terry A., to table to the October 20 Council meeting Resolution 35 – Series 2021 A Resolution approving VAR 21-01 for 261 Main St regarding lot coverage. Motion passed 7-0.

14. Public Hearing/Action Item: Resolution 36 – Series 2021 A Resolution approving VAR 21-02 for The Bunkhouse, 175 Williams St – Harris

The Applicant, Nancy Richards, owner of the Bunkhouse at 175 Williams Street, requests review of a variance to allow for the renting of 20 parking spaces from the Town in order to supplement and/or replace the on-site parking required by the Minturn Municipal Code (MMC). The variance was reviewed by the Planning Commission on September 22, 2021 with a forwarded recommendation of approval with conditions.

Staff and Planning Commission are recommending approval with conditions of the variance request for relief from the strict interpretation of the regulations for parking standards for a business located at 175 Williams Street.

- a) The Applicant shall work with the Town on a parking management and enforcement plan.
- b) The Bunkhouse will lease 20 non-exclusive parking spaces from the Town of Minturn at the municipal lot at the Town rate set by the Treasurer as may be updated from time to time.
- ~~c) The Bunkhouse will be responsible for all snow removal and maintenance of their rented section of the municipal town parking lot.~~
- ~~d) The Bunkhouse will place signs delineating their parking area at the far end of the municipal lot.~~
- e) The Bunkhouse will place a sign in front of the 2 designated check -in, drop -off, parking spaces, designating them as short-term check -in parking only.
- ~~f) The Bunkhouse will have valet parking to ensure all guest vehicles are parked in the Bunkhouse parking lot located at the far end of the municipal lot.~~
- g) The employee and manager will park in the 2 underground parking spaces or at the leased parking.
- h) The Bunkhouse will notify the Town of any changes to their lease agreement or change in size of operations.

Council commented that this has been a very ingenious operation that has been well received as a business model and any issues we have had at staff level have been handled quickly.

Public Hearing Opened.
No Public Comment.
Public Hearing Closed.

Motion by Gusty K., second by Terry A., to approve Resolution 36 – Series 2021 A Resolution approving VAR 21-02 for The Bunkhouse, 175 Williams St with the following conditions. Motion

passed 7-0.

- a) The Applicant shall work with the Town on a parking management and enforcement plan.
- b) The Bunkhouse will lease 20 non-exclusive parking spaces from the Town of Minturn at the Town rate set by the Treasurer as may be updated from time to time.
- c) The Bunkhouse will place a sign in front of the 2 designated check -in, drop -off, parking spaces, designating them as short-term check -in parking only.
- d) The employee and manager will park in the 2 underground parking spaces or at the leased parking.
- e) The Bunkhouse will notify the Town of any changes to their lease agreement or change in size of operations.

15. Public Hearing/Action Item: Council motion to formally accept the FY2022 Preliminary Budget – Brunvand

Jay B. outlined the preliminary Fiscal Year 2022 Annual Budget by highlighting various points. Over the past several months Council has reviewed many of the major projects included within the proposed budget to include the funding and construction of the water tanks, the Town Master Plan, the Capital Improvement Plans for both the General and Enterprise Funds, water rates, and anticipated developments scheduled to continue in 2022. It was noted the Council is being asked to accept the budget. This acceptance will allow the budget process to begin by the publication of the Notice of Budget which sets the Public Hearing for the Budget on November 3.

Public Hearing Opened
No Public Comment
Public Hearing Closed

Motion by Eric G., second by Gusty K., to accept the Fiscal Year 2022 Proposed Annual Budget and set a public hearing at 5:30 on November 3, 2021 to be held in the Council Chambers and on-line at 302 Pine St. Minturn as presented. Motion passed 7-0.

Note: A 5-minute recess was called.

16. Public Hearing/Action Item: Ordinance 10 – Series 2021 (First Reading) an Ordinance rezoning 504 Eagle River St and 502 Main St - Hunn

Scot H. stated the Applicants, Mr. Michael Boyd and Mr. Casey Rietz, propose to rezone their properties, located at 504 Eagle River Street and 502 Main Street, respectively, from Old Town Character Area Residential Zone District, to Old Town Character Area Mixed Use Zone District. The request was reviewed by the Planning Commission on September 22, 2021 with a forwarded recommendation to the Town Council of approval without conditions. Two adjacent neighbors spoke at the hearing in opposition to the proposed zone change. Their concerns included the potential impact of changing the residential character and nature of the existing residential neighborhood as well as concern over the existing and future uses of the subject properties. The

Planning Commission voted unanimously to recommend approval of the rezoning request. Staff and the Planning Commission are recommending **approval without conditions**.

Rezoning is in line with the 2009 Community Plan. The proximity of these two lots to the existing Mixed Use zone and closeness to a Commercial zone lends itself to being coherent with the mix of uses in the area. The housing action plan supports increasing housing opportunities which reflects what the property owner wants to do. The existing uses of the surrounding area is compatible. Currently on the lot is a single family home with the possibility to rent out short/long term which a lot of the surrounding lots also rent. If the Mixed Use zone district allows a slightly higher density, then that fits the changes in policy goals. Based on conversations with Council, there is a need to not lose commercial, this is changing residential to mixed-use. MU allows for professional, low-intensity retail uses which for the most part is only allowed by Limited or Conditional Use. Overall intent is to remain residential in nature. There is no development being requested at this time. There is a community need for additional housing units. This is not spot zoning because it is directly adjacent to the existing MU zone district. Both properties meet or exceed their parking requirements of the lots' uses.

Anna Boyd, 504 Eagle River St, agreed with Scot H. Given health issues, it would be smart to plan for the future, so it would be nice to have the ability to rent out the two apartments. There is a need for more housing in this community. All the units have been inspected. No immediate plans to rent out. Two neighbors submitted letters of support.

Public comment was opened.

Ms. Liz Campbell, 512 Main St., believes that not all of these buildings were permitted. One of the buildings sits an inch from her property line. Has been told that if the use changes then the building needs to come into conformance. Said there is a parking problem with his commercial business trucks when he brings them home.

Earle B. noted that this hearing is on the rezoning not previous issues.

Matt Scherr, 501 Main St, stated because the rezone would allow a higher use, it would allow more units? Scot H. discussed what could be allowed and not allowed.

Public comment was closed.

Eric G. asked if there was adequate parking. Scot H. said that they have adequate parking for all of the uses if all three units are used.

Lynn F. clarified that the issue today is not the parking or use, but instead whether MU zoning is appropriate. Historically, there was a logging mill on the property. All the neighbors that are directly impacted agree with this.

Motion by Tom S., second by Gusty K., to approve Ordinance 10 – Series 2021 an Ordinance of the Town of Minturn, Colorado rezoning NE 1/2 of lot 1, Boyd Property Subdivision and SW 1/2 of lot 1 Block 3, Booco's 2nd Subdivision, from residential to Mixed-use in conformance with the

Town of Minturn Master Plan and Land Use Code. Motion passed 7-0.

DISCUSSION / DIRECTION ITEMS

17. Discussion / Direction Item: Review of Minturn North PUD application for direction to staff (MMC Sec 16-15-180) – Hunn

Scot H. outlined the issues.

The Town of Minturn has been reviewing the Minturn North Preliminary Development Plan for Planned Unit Development (PUD) since November 2020. Minturn North PUD is a 100% residential development located on Union Pacific Railroad property, north of Railroad Avenue, east of Minturn Road, and west of Taylor Avenue on the Town's north side. The Applicant is Minturn Crossing, LLC. Since April 2021, the Minturn Planning Commission has held four public meetings to review the proposed Preliminary Plan, as well as companion zone change and Preliminary Plat applications. During the review period, and specifically as part of the Planning Commission's public hearing process, the Applicant and Town staff have identified and worked to resolve several outstanding issues related to legal access across Union Pacific Railroad property, street and utility design within the PUD, and off-site improvements required to serve the project. In several instances over that same period, the Applicant has redesigned aspects of the project to address areas of concern. On August 25, 2021, the Planning Commission held their last public hearing to consider the Preliminary application package and voted unanimously to recommend *denial* of the Preliminary Plan for PUD, while also recommending approval of the zone change and Preliminary Plat. Staff had recommended approval of the Preliminary Plan, with several detailed conditions requiring the Applicant to address prior to any Final Plan and Final Plat application (the last of three steps in the review and approval process). The Planning Commission's recommendation for denial of the Preliminary Plan was based, in part, on the Commission's finding that the Preliminary Plan did not comply with all applicable standards. Specifically, while the Commission members individually expressed support for the PUD, the Commission pointed to concerns regarding existing off-site conditions and safety at the "S-Curve" on Railroad Avenue and the potential for the Minturn North PUD to exacerbate those conditions – without further mitigation - as reasons for denial. Since that time, the Applicant has worked to update their overall plan layout and design in a manner that remains true to the original layout and design of the project, but which responds to and respects comments and concerns expressed by the staff, the Planning Commission as well as adjacent property owners. Items having to do with impacts to residents on Taylor Avenue, the Taylor Avenue/Minturn Road intersection design, and impacts to the Minturn Towne Homes' access, drainage and snow storage have been addressed in updated plans. Additionally, the Applicant has worked with the Town and the Union Pacific Railroad to identify potential mitigation solutions for the "S-Curve" and pedestrian safety along the Railroad Avenue corridor.

Typically, following Planning Commission review and action on a Preliminary Plan for PUD application, the file is forwarded with recommendations and conditions to the Town Council 'as is' for its review. However, because the Applicant now proposes revisions to the Preliminary Plan (following Planning Commission action), staff believes the Council must determine if the changes

made to the Preliminary Plan since Planning Commission action are “substantial” enough to warrant remanding the Preliminary Plan back to the Planning Commission for further review.

Staff does not believe the updated plan by the Applicant represents a substantial change or departure from the initial Preliminary Development Plan for PUD; rather, staff respectfully suggests that the changes now being proposed by the Applicant represent a refinement of the plan and, importantly, a direct response to stated concerns by the staff, adjacent neighbors and the Planning Commission while maintaining in a substantial manner the overall design, layout, intent and character of the Preliminary Plan that was presented to the Planning Commission initially. However, before the Applicant spends considerable time and financial resources to update their civil engineering drawings and any associated reports or technical studies to reflect the updated plan – something that will be required of the Applicant prior to any further review by the Town - staff and the Applicant request direction from the Town Council on the issue of “substantial change” in accordance with Section 16-15-180.

Terry A. asked what the steps are, Scot H. outlined the options.

Greg Sparhawk, developer, presented the changes and his request stating as we were given a recommendation for denial at the Commission level, we were faced with the decision to present one of three options to the Town Council.

- 1) Present the plan as presented previously, along with supportive evidence that the safety concern was not substantial.
- 2) Same as option 1: but provide additional solutions to the intersections.
- 3) Present minor modifications that not only address Commission concerns, but also allay additional concerns brought up from the public during the public hearing.

We have decided to move forward with the third option and are proposing a slight modification of the original plan. One that fixes the Minturn Rd – Taylor St intersection, as well as proposes steps to make the S-curve a safer condition. Additionally, we have reduced the core density by 17 units and have added alleys. The overall layout stays virtually the same, but this allows us to remove driveways from Taylor Street and allows us to greatly reduce driveways along Minturn Road. Removing driveways addresses the Taylor street residents concerns regarding parking and traffic. With the degree of work and offsite improvements that are required, we are unable to lose overall density within the project. It is for that reason that we are proposing eliminating the game creek crossing along with the 8 estate lots to the north and replacing these with a single multifamily parcel entitled for up to 40 deed restricted “locals-only” units, roughly 30% of the project. This results in a decrease in lots from 95 lots to 71 lots, but an overall increase in maximum potential density and SFE of 5%. Please remember these numbers assume every possible ADU and duplex would be built out. Regarding the slight increase in density, the loss of the more valuable lots requires the addition of a greater number of lots that are less valuable to maintain the economic viability of the project.

Lynn F. asked for the density requested for the north MF parcel. Mr. Sparhawk said they are asking for 40 units. If the mass of the building is a concern, then that is something that can be added to the design guidelines.

Terry A. asked if the parking on Taylor would be public. Mr. Sparhawk said they would be. Once

Taylor passes fifth street, Taylor will be angled to the west a little to give the northern lots on Taylor a little more room.

Tom S. asked how the water works. Mr. Sparhawk said that with the moratorium put in place, there were 70 SFEs set aside which takes care of the first phase, but while they are seeking preliminary approval of phase 2, there will not be final approval until water becomes available. They are asking between 130 units and 188 units. The 188 units would be if everyone built out their lot to the maximum potential.

Michael S. explained that there were significant engineering studies done in 2019 to see the physical capacity of producing water, along with our water rights. It was found that there were limits that need to be observed, and so a moratorium was enacted. Minturn North had already applied and were granted a reservation of 70 SFEs in exchange for the pre-payment of fees at Final Plat. Minturn North will not be able to fully develop until more water becomes available.

Lynn F. asked what Phase 1 is. Mr. Sparhawk said that it would be fourth street south.

Terry A. likes the plan, and the combination of the two parks. Is concerned about the 40 units at the north. Asked about the acreage of that lot. Mr. Sparhawk said it would be about 55,000-60,000 sq. ft.

Earle B. asked about parking. Mr. Sparhawk said that the single family lots will be held to the current code, as well as the multi-family. The public spaces are not counted towards the parking required for private lots.

Terry A. recommends a bus stop somewhere in the plan.

Discussion ensued regarding the changes and it was felt this was a good direction. It was ruled by Council this is not a substantial change and will move forward as presented.

18. Discussion / Direction Item: Default under Battle Mountain Annexation Agreement and Water Services Agreement – Sawyer and Metteer

Motion by Tom S., second by Terry A., to direct staff to take immediate action to perfect the Town's interest in the Bolt's Lake Reservoir Easement and to direct legal counsel to prepare a complaint for violations of the agreements between Battle Mountain and the Town of Minturn. Staff and legal counsel should reach out to Battle Mountain and offer an opportunity to discuss potential resolution of the defaults with the Town within the next 28 days. Motion passed 7-0.

COUNCIL INFORMATION / UPDATES

19. Staff Updates (5 Min)

- Manager's Report
- Joint meeting Council/Planning Commission; October 27th at 6:30 pm

Anchor Point Wildland Fire Assessment

At the September 15th meeting, Council requested Minturn provide comments for the next round of the USFS Holy Cross Energy Powerline application NEPA process. Included with that request was a deeper dive into the risks and vulnerabilities associated with threats from wildland fire attributable to powerlines in the area. Richard Peterson-Cremer and I had a call with Chris White of the Anchor Point Group to discuss their ability to model and assess such vulnerabilities for the Town of Minturn. The proposal by Anchor Point has been approved and they will begin work immediately on the modeling. This work product will supplement Richard's overall comment document for the NEPA submission. The proposal from Anchor Point is attached to this memo for review.

Minturn Evacuation Plan Prep

I had my first meeting with the Sheriff, Undersheriff, Deputies and Director of Eagle County Emergency Management to be the undertaking of creating a Minturn Evacuation Plan. Next steps will be to secure the necessary IGA's (or MOU's) for all services related to an evacuation. Rental of evacuation locations, contracts for nearby bus services, large equipment, etc. are all needed. It is important to have these contracts in place before an emergency arises. Much more to come on this matter.

Eagle River Fund Feasibility Report

Minturn is part of the Eagle River Fund Feasibility process. We had our second meeting this week and the team unanimously approved moving forward with the design work for the Fund. This Fund will be likened to a clearing house for financial contributions to go toward many of the projects already outlined in other watershed and river management plans. All of this is with the goal to improve the health and sustainability of the Eagle River. Moving forward I will be participating on the Fund's Governance committee.

Joint Meeting Request – Historic Preservation

The Planning Dept has worked to obtain information about the options available to Minturn for a potential historic designation program. This program can be set up in a variety of different ways. Staff is requesting Council's approval for a joint meeting of the Commission and Town Council at the regularly scheduled Planning Commission meeting on October 27th to see a presentation from Dr. Lindsey Fleewelling, Preservation Planner and Certified Local Government (CLG) Coordinator for History Colorado which will be followed by a discussion around the best program option for Minturn moving forward.

Community Plan Update – Steering Committee Formation

A call for letters of interest went out to residents for the formation of the Community Plan Update Steering Committee. We're excited to announce that staff has received quite a few letters of interest from willing residents. Council representatives for this committee are Gusto Kanakis and Terry Armistead.

CDOT Revitalizing Main Street Grant – 2nd Application

Jenna Siegel, Stolfus Engineering, and I met with representatives of CDOT to discuss Minturn's Revitalizing Main Street Grant application. Minturn was not one of the 16 applications chosen in the original application process however CDOT has identified that funding for a second round of applications will open in the coming months and they believe Minturn's application would be quite competitive. We will plan to submit an updated application when the second grant cycle opens.

- Future Agenda Items
 - Consideration of amendment to the Strategic Plan – Gotthelf
 - Short term rental review
 - Review the maintenance by property owners of the 30ft river set back.

Discussion ensued as to how the Council could be better informed of development items that are

discussed at staff level that have not yet made the Planning Commission or Council level.

MISCELLANEOUS ITEMS

20. Future Meeting Dates

- a) Council Meetings:
- October 20, 2021
 - November 3, 2021
 - November 17, 2021
 - December 1, 2021
 - December 15, 2021

21. Other Dates:

22. Adjournment

Motion by Eric G., second by Gusty K., to adjourn at 11:01pm. Motion passed 7-0.

Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk



To: Mayor and Council

From: Jay Brunvand

Date: October 13, 2021

Agenda Item: Annual renewal of a Fermented Malt Beverage Liquor License

REQUEST:

Staff is requesting Council to review and approve the attached annual renewal of a Fermented Malt Beverage-Off Premises Liquor License for The Shop N Hop located at 401 Main St.

INTRODUCTION:

This establishment has an existing Fermented Beverage-Off Premises License and this is the annual renewal.

ANALYSIS:

Not Applicable

COMMUNITY INPUT:

Not Applicable

BUDGET / STAFF IMPACT:

The applicant has submitted the required fee of \$53.75

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #4 the Town will advance decisions/projects/initiatives that expand future opportunity and viability for Minturn. Both as an employer and a sales tax contributor these businesses each help further Minturn.

RECOMMENDED ACTION OR PROPOSED MOTION:

This item is approved on the Consent Agenda, no separate motion is required.

ATTACHMENTS:

- Application and supporting documentation for the license renewal.

SHOP & HOP #12
P O BOX 866
EDWARDS CO 81632-0866

Fees Due		
Renewal Fee		96.25
Storage Permit	\$100 X _____	\$
Sidewalk Service Area	\$75.00	\$
Additional Optional Premise Hotel & Restaurant	\$100 X _____	\$
Related Facility - Campus Liquor Complex	\$160.00 per facility	\$
Amount Due/Paid		\$ 96.25

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name MARCUM TERRY S			Doing Business As Name (DBA) SHOP & HOP #12	
Liquor License # 23-31218-0002	License Type Fermented Malt	Sales Tax License # 023312180002	Expiration Date 11/01/2021	Due Date 09/17/2021
Business Address 401 MAIN STREET Minturn CO 81645				Phone Number 9708279855
Mailing Address P O BOX 866 EDWARDS CO 81632-0866			Email <i>Tmarcum.shopnhop@comcast.net</i>	
Operating Manager <i>Terry Marcum</i>	Date of Birth <i>8/1/53</i>	Home Address <i>139 N. Penstemon Lane Eagle, CO. 81631</i>		Phone Number <i>970 328 3448</i>
1. Do you have legal possession of the premises at the street address above? <input checked="" type="radio"/> Yes <input type="radio"/> No Are the premises owned or rented? <input checked="" type="radio"/> Owned <input type="radio"/> Rented* *If rented, expiration date of lease _____				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. Yes <input type="radio"/> No <input checked="" type="radio"/>				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes <input type="radio"/> No <input checked="" type="radio"/>				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes <input type="radio"/> No <input checked="" type="radio"/>				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. Yes <input type="radio"/> No <input checked="" type="radio"/>				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/>				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/>				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. <input checked="" type="radio"/> Yes <input type="radio"/> No <i>beer</i>				

*Shop atty #11 Gypsum CO
 Shop atty #13 Avon CO*

Affirmation & Consent		
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.		
Type or Print Name of Applicant/Authorized Agent of Business	Title <i>owner</i>	
Signature <i>Terry Marleen</i>	Date <i>9/10/21</i>	
Report & Approval of City or County Licensing Authority		
The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.		
Therefore this application is approved.		
Local Licensing Authority For <i>Town of Arapahoe</i>	Date <i>10/20/21</i>	
Signature	Title <i>Mayor</i>	Attest

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: October 14, 2021
TO: Minturn Mayor and Council
FROM: Karp Neu Hanlon, P.C.
RE: Opioid Settlement

Under cover of this memo for your consideration are several documents and agreements relating to the proposed national opioid settlement between state and local governments, and companies responsible for the opioid crisis, including Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson. The State of Colorado is set to receive up to \$400 million of settlement funds intended to abate the opioid crisis, and likely more from the bankruptcy proceedings of Purdue Pharma. The Colorado funds are to be distributed as follows: 10% to the state, 20% to local governments, 60% to regions (multi-jurisdiction councils), and 10% to infrastructure projects. The formula agreed upon for local government distribution is based on the severity of the opioid epidemic in that area. Municipality funds will be distributed through the counties on a default allocation. Additional funds are apportioned to counties and the regional council governing process. These settlement terms and formulas were negotiated by the Colorado Attorney General's Office, Colorado Municipal League, and Colorado Counties Inc. Below is a breakdown of how an assumed \$400 million state settlement will benefit Minturn over 18 years.

Town of Minturn	Eagle County	Region 5 (Garfield, Eagle, Pitkin, Summit, Lake Counties)
\$3,846	\$301,052	\$5,054,640

Even if a local government is not set to receive a significant direct payment, it is still important that all local governments participate at such a level as to meet the 95% participation threshold required under the settlement to release the funds. In the event that a municipality elects not to receive its allotted direct payment, it can still sign onto the settlement and transfer funds to the regional council.

Recommendation: Authorize the Mayor to sign the following agreements:

- Colorado Opioids Memorandum of Understanding with the Colorado Attorney General
- Exhibit K Settlement Participation Form: Janssen Settlement release
- Exhibit K Settlement Participation Form: Distributor Settlement release
- Colorado Subdivision Escrow Agreement authorizing Colorado Municipal League to act as escrow agent for the municipality

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 39 – SERIES 2021**

A RESOLUTION TO APPROVE A PROPOSED NATIONAL OPIOID SETTLEMENT BETWEEN THE FEDERAL GOVERNMENT, STATE OF COLORADO, LOCAL GOVERNMENTS, AND COMPANIES RESPONSIBLE FOR THE OPIOID CRISES, INCLUDING JOHNSON AND JOHNSON, AMERISOURCEBERGIN, CARDINAL HEALTH, AND MCKESSON

WHEREAS, the United States has experienced an all-encompassing opioid epidemic at all levels of our population, and;

WHEREAS, a proposed settlement has been reached by the Federal Government, states, and local Governments and Johnson & Johnson, AmerisourceBergen, Cardinal Health, and McKesson among others; and,

WHEREAS, The Town Council desires to participate in the proposed agreement.

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

1. The Minturn Town Council hereby approves the proposed national opioid settlement between state and local governments, and companies responsible for the opioid crisis and authorizes the Town Mayor or his designee to execute said agreement and other documents as necessary.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 20th day of October, 2021.

TOWN OF MINTURN

By: _____
Mayor

ATTEST:

Town Clerk

**COLORADO OPIOIDS SETTLEMENT MEMORANDUM OF UNDERSTANDING
("MOU")**

Thursday, August 26, 2021

August 25, 2021 Attorney General version

A. Definitions

As used in this MOU:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming, and services to abate the opioid epidemic as identified by the terms of any Settlement. If a Settlement is silent on Approved Purpose(s), then Approved Purpose(s) shall mean those forward-looking strategies to abate the opioid epidemic identified in **Exhibit A** or any supplemental forward-looking abatement strategies added to **Exhibit A** by the Abatement Council. Consistent with the terms of any Settlement, "Approved Purposes" shall also include the reasonable administrative costs associated with overseeing and administering Opioid Funds from each of the four (4) Shares described in Section (B)(2). Reimbursement by the State or Local Governments for past expenses are not Approved Purpose(s). "Approved Purposes" shall include attorneys' fees and expenses incurred in the course of the opioid litigation that are paid through the process discussed below.
2. "County Area" shall mean a county in the State of Colorado plus the Local Governments, or portion of any Local Government, within that county.
3. "Effective Date" shall mean the date on which a court of competent jurisdiction, including any bankruptcy court, enters the first Settlement by order or consent decree. The Parties anticipate that more than one Settlement will be administered according to the terms of this MOU, but that the first entered Settlement will trigger the formation of the Abatement Council in Section (C) and the Regional Councils in Section (F)(5).¹
4. "General Abatement Fund Council," or "Abatement Council," shall have the meaning described in Section (C), below.

¹ For the avoidance of doubt, the McKinsey Settlement and any other Settlement that precedes the finalization of drafting this MOU are not considered a trigger for purposes of the calculation of "Effective Date."

5. “Local Government(s)” shall mean all counties in the State of Colorado and the municipalities, towns, and county and city municipal corporations that are listed in **Exhibit B**.
6. “National Opioid Settlement Administrative Fund” shall mean any fund identified by a Settlement for the national distribution of Opioid Funds.
7. “Opioid Funds” shall mean damage awards obtained through a Settlement.
8. “Opioid Settling Defendant” shall mean any person or entity, or its affiliates, that engages in or has engaged in the manufacture, marketing, promotion, distribution, or dispensing of licit opioids.
9. “Participating Local Government(s)” shall mean all Local Governments that sign this MOU, and if required under terms of a particular Settlement, who have executed a release of claims with the Opioid Settlement Defendant(s). For the avoidance of doubt, a Local Government must sign this MOU to become a “Participating Local Government.” Local Governments may designate the appropriate individual from their entity to sign the MOU.
10. “Party” or “Parties” shall mean the State and/or Participating Local Government(s).
11. “Qualified Settlement Fund Account,” or “QSF Account,” shall mean an account set up as a qualified settlement fund, 468b fund, as authorized by Treasury Regulations 1.468B-1(c) (26 CFR §1.468B-1).
12. “Regional Council” shall have the meaning described in Section (F)(5), below.
13. “Settlement” shall mean the negotiated resolution of legal or equitable claims against an Opioid Settling Defendant when that resolution has been jointly entered into by the State and the Participating Local Governments, or by any individual Party or collection of Parties that opt to subject their Settlement to this MOU. Unless otherwise directed by an order from a United States Bankruptcy Court, “Settlement” shall also include distributions from any liquidation under Chapter 7 of the United States Bankruptcy Code or confirmed plan under Chapter 11 of the United States Bankruptcy Code that treats the claims of the State and Local Governments against an Opioid Settling Defendant.
14. “The State” shall mean the State of Colorado acting through its Attorney General and the Colorado Department of Law.

B. Allocation of Settlement Proceeds

1. All Opioid Funds shall be held in accordance with the terms of any Settlement. If a Settlement allows Opioid Funds to be held in a National Opioid Settlement Administrative Fund, then Opioid Funds shall be held in such National Opioid Settlement Administrative Fund. If a Settlement does not allow for Opioid Funds

to be held in a National Opioid Settlement Administrative Fund, Opioid Funds shall be held in a Colorado-specific QSF Account or, under the following limited circumstances, in the State’s Custodial Account: 1) if at the time of a Settlement, a Colorado-specific QSF Account is not yet established, although in such case, the Opioid Funds shall be transferred to the Colorado-specific QSF Account once it is established or 2) where the Abatement Fund Council determines Opioids Funds cannot be legally held in a Colorado-specific QSF Account. Regardless of whether Opioid Funds are held in a National Administrative Fund, a Colorado-specific QSF Account, or in the State’s Custodial Account, the Abatement Council shall appoint one of its members to serve as the point of contact in accordance Section (C)(4)(b)(i), below.

2. All Opioid Funds, at the time of a Settlement or at the time designated in the Settlement documents, shall be divided and distributed as follows:²
 - a. 10% directly to the State (“State Share”) for Approved Purposes in accordance with Section (D), below;
 - b. 20% directly to Participating Local Governments (“LG Share”) for Approved Purposes in accordance with Section (E), below;
 - c. 60% directly to Regions (“Regional Share”) for Approved Purposes in accordance with Section (F), below; and
 - d. 10% to specific abatement infrastructure projects (“Statewide Infrastructure Share”) for Approved Purposes in accordance with Section (G), below.
3. Distribution of the Shares in Section B(2)(a) – (d) shall be direct, meaning that funds held in accordance with Section B(1) shall be disbursed directly to the State, Participating Local Governments, Regions, and the Statewide Infrastructure Share according to the terms of this MOU.
4. All Opioid Funds, regardless of allocation, shall be used for Approved Purposes.
5. Participating Local Governments may elect to share, pool, or collaborate with their respective allocation of the LG or Regional Shares in any manner they choose, so long as such sharing, pooling, or collaboration is used for Approved Purposes and complies with the terms of this MOU and any Settlement.

C. General Abatement Fund Council

1. A General Abatement Fund Council (the “Abatement Council”), consisting of representatives appointed by the State and Participating Local Governments, shall

² This MOU treats multi-county health departments as county health departments for purposes of allocation and distribution of abatement proceeds and therefore multi-county health departments shall not receive any Opioid Funds directly. Third-Party Payors (“TPPs”) are not Parties to this MOU.

be created to ensure the distribution of Opioid Funds complies with the terms of any Settlement and to provide oversight of the Opioid Funds in accordance with the terms of this MOU.

2. **Membership:** The Abatement Council shall consist of the following thirteen (13) members, who shall serve in their official capacity only.

a. **State Members:** Seven (7) members shall be appointed by the State, as authorized volunteers of the State, as follows:

- (i) A Chair to serve as a non-voting member, except in the event of a tie;
- (ii) Two (2) members who are licensed professionals with significant experience in substance use disorders;
- (iii) Three (3) members who are professionals with significant experience in prevention, education, recovery, treatment, criminal justice, rural public health issues, or government administration related to substance use disorders; and
- (iv) One (1) member or family member affected directly by the opioid crisis.

b. **Local Government Members:** Six (6) members shall be appointed by the Participating Local Governments. Local Government Members shall be a County Commissioner, Mayor, City or Town Council Member, or a professional with significant experience in prevention, education, recovery, treatment, criminal justice, rural public health issues, or governmental administration related to substance use disorders. A Participating Local Government may determine which Local Government Members are eligible (or ineligible) to serve on the General Abatement Fund Council. County Commissioners, City or Town Council Members, and/or Mayors from the Regions identified in **Exhibit C** shall collaborate to appoint Local Government Members as follows:

- (i) Two (2) Members from Regions 1, 5, 13, 14, 15, 17, 18;
- (ii) Two (2) Members from Regions 2, 6, 7, 8, 9, 10, 11, 12, 16; and
- (iii) Two (2) Members from Regions 3, 4, 19.

c. **Terms:** The Abatement Council shall be established within ninety (90) days of the Effective Date. In order to do so, within sixty (60) days of the Effective Date, the State shall appoint the State Members in accordance with Section (C)(2)(a), and after conferral with the Local Governments, CCI and CML shall jointly appoint six (6) Local Government Members for an initial term not to exceed one year. Thereafter, Members shall be

appointed in accordance with this Section and Sections (C)(2)(a) and (b) and may serve no more than two (2) consecutive two-year terms, for a total of four (4) consecutive years. Except that, beginning in the second year only, two (2) State Members and two (2) Local Government members shall be appointed for a three-year term and may serve one consecutive two-year term thereafter. The Chair shall have no term but may be replaced at the State's discretion.

- (i) If a State or Local Government Member resigns or is otherwise removed from the Abatement Council prior to the expiration of their term, a replacement Member shall be appointed within sixty (60) days in accordance with Sections (C)(2)(a) and (b).
- (ii) If a Local Government Member vacancy exists for more than sixty (60) days, the State shall appoint a replacement Local Government Member to serve until the vacancy is filled in accordance with Section (C)(2)(b).

- 3. **Duties:** The Abatement Council is primarily responsible for ensuring that the distribution of Opioid Funds complies with the terms of this MOU. The Abatement Council is also responsible for oversight of Opioid Funds from the Regional Share in accordance with Section (F), below, and for developing processes and procedures for the distribution and oversight of Opioid Funds from the Statewide Infrastructure Share in accordance with Section (G) below.
- 4. **Governance:** The Abatement Council shall draft its own bylaws or other governing documents, which must include appropriate conflict of interest and dispute resolution provisions, in accordance with the terms of this MOU and the following principles:
 - a. **Authority:** The Abatement Council does not have rulemaking authority. The terms of this MOU and any Settlement, as entered by any court of competent jurisdiction, including any bankruptcy court, control the authority of the Abatement Council and the Abatement Council shall not stray outside the bounds of the authority and power vested by this MOU and any Settlement.
 - b. **Administration:** The Abatement Council shall be responsible for an accounting of all Opioid Funds. The Abatement Council shall be responsible for releasing Opioid Funds in accordance with Section (B)(1) for the Regional and Statewide Infrastructure Shares in Sections (B)(2)(c) and (d) and shall develop policies and procedures for the release and oversight of such funds in accordance with Sections (F) and (G). Should the Abatement Council require assistance with providing an accounting of Opioid Funds, it may seek assistance from the State.

- (i) The Abatement Council shall appoint one of its members to serve as a point of contact for the purpose of communicating with the entity holding Opioid Funds in accordance with Section (B)(1) and in that role shall only act as directed by the Abatement Council.
- c. **Transparency:** The Abatement Council shall operate with all reasonable transparency and operate in a manner consistent with all Colorado laws relating to open records and meetings regardless of whether the Abatement Council is otherwise obligated to comply with them.
 - (i) The Abatement Council shall develop a centralized public dashboard or other repository for the publication of expenditure data from any Party or Regional Council that receives Opioid Funds in accordance with Sections (D)-(G).
 - (ii) The Abatement Council may also require outcome related data from any Party or Regional Council that receives Opioid Funds in accordance with Sections (D)-(G) and may publish such outcome related data in the centralized public dashboard or other repository described above. In determining which outcome related data may be required, the Abatement Council shall work with all Parties and Regional Councils to identify appropriate data sets and develop reasonable procedures for collecting such data sets so that the administrative burden does not outweigh the benefit of producing such outcome related data.
 - (iii) For purposes of funding the centralized public dashboard or other repository described above, the Abatement Council shall make good faith efforts to seek funding from outside sources first, otherwise the State shall provide such funding.
- d. **Collaboration:** The Abatement Council shall facilitate collaboration between the State, Participating Local Governments, Regional Councils, and other stakeholders for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado.
- e. **Decision Making:** The Abatement Council shall seek to make all decisions by consensus. In the event consensus cannot be achieved, unless otherwise required in this MOU, the Abatement Council shall make decisions by a majority vote of its Members. The Chair shall only vote in the event of a tie.
- f. **Due Process:** The Abatement Council shall develop the due process procedures required by Section (G)(3)(d) for Parties to dispute or challenge remedial actions taken by the Abatement Council for Opioid Funds from the Statewide Infrastructure Share. The Abatement Council

shall also abide by the due process principles required by Section (F)(12)-(13) for Regions to dispute or challenge remedial actions taken by the Abatement Council for Opioid Funds from the Regional Share.

- g. **Legal Status:** The Abatement Council shall not constitute a separate legal entity.
- h. **Legal Representation:** To the extent permitted by law, the State shall provide legal counsel to State Members for all legal issues arising from those State Members' work on the Abatement Council. At all times, Local Government Members of the Abatement Council are entitled to receive legal representation from their respective governmental entities. In the event of a conflict, the Abatement Council and its members may retain the services of other legal counsel.
- i. **Compensation:** No member of the Abatement Council shall be compensated for their work related to the Abatement Council.

D. State Share

- 1. In accordance with Sections (B)(1) and (B)(2)(a), and the terms of any Settlement, the State Share shall be paid directly to the State in accordance with the terms of this Section (D).
- 2. The State maintains full discretion over distribution of the State Share anywhere within the State of Colorado, however, the State Share shall be used for Approved Purposes only. The State will work to reduce administrative costs as much as practicable.
- 3. On an annual basis, as determined by the Abatement Council, the State shall provide all expenditure data, including administrative costs, from the State Share to the Abatement Council for purposes of maintaining transparency in accordance with Section (C)(4)(c)(i). The Abatement Council may require the State to provide additional outcome-related data in accordance with Section (C)(4)(c)(ii) and the State shall comply with such requirements.
- 4. If the State disputes the amount of Opioid Funds it receives from the State Share, the State shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the State's right to seek recoupment of any deficiency in its State Share.

E. LG Share

- 1. In accordance with Sections (B)(1) and (B)(2)(b), and the terms of any Settlement, the LG Share shall be paid directly to Participating Local Governments in accordance with the terms of this Section (E).

2. Allocations to Participating Local Governments from the LG Share shall first be determined using the percentages shown in **Exhibit D**.
3. The LG Share for each County Area shall then be allocated among the county and the other Participating Local Governments within it. **Exhibit E** reflects the default allocation that will apply unless the Participating Local Governments within a County Area enter into a written agreement providing for a different allocation. The Participating Local Governments may elect to modify the allocation for a County Area in **Exhibit E**, but such modification to the allocation in **Exhibit E** shall not change a County Area's total allocation under Section (E)(2).
4. A Local Government that chooses not to become a Participating Local Government will not receive a direct allocation from the LG Share. The portion of the LG Share that would have been allocated to a Local Government that is not a Participating Local Government will instead be re-allocated to the Regional Share for the Region where the Local Government is located, in accordance with Section (F), below.
5. In the event a Participating Local Government dissolves or ceases to exist during the term of any Settlement, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, be re-allocated to the Regional Share for the Region in which the Participating Local Government was located, in accordance with Section (F). If a Participating Local Government merges with another Participating Local Government, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, shall be re-allocated to the successor Participating Local Government's allocation of the LG Share. If a Participating Local Government merges with a Local Government that is not a Participating Local Government, the allocation for that Participating Local Government from the LG Share shall be re-allocated as directed by any Settlement, and if not specified, be re-allocated to the Region in which the merging Participating Local Government was located, in accordance with Section (F), below.
6. A Participating Local Government may forego its allocation of the LG Share and direct its allocation to the Regional Share for the Region where the Participating Local Government is located, in accordance with Section (F) below, by affirmatively notifying the Abatement Council on an annual basis of its decision to forego its allocation of the LG Share. A Participating Local Government's election to forego its allocation of the LG Share shall carry over to the following year unless the Participating Local Government notifies the Abatement Council otherwise. If a Participating Local Government elects to forego its allocation of the LG Share, the Participating Local Government shall be excused from the reporting requirements required by Section (E)(8).
7. Participating Local Governments maintain full discretion over the distribution of their allocation of the LG Share anywhere within the State of Colorado, however,

all Participating Local Governments shall use their allocation from the LG Share for Approved Purposes only. Reasonable administrative costs for a Participating Local Government to administer its allocation of the LG Share shall not exceed actual costs or 10% of the Participating Local Government's allocation of the LG Share, whichever is less.

8. On an annual basis, as determined by the Abatement Council, all Participating Local Governments shall provide all expenditure data, including administrative costs, from their allocation of the LG Share to the Abatement Council for purposes of maintaining transparency in accordance with Section (C)(4)(c)(i). The Abatement Council may require Participating Local Governments to provide additional outcome related data in accordance with Section (C)(4)(c)(ii) and all Participating Local Governments shall comply with such requirements.
9. If any Participating Local Government disputes the amount of Opioid Funds it receives from its allocation of the LG Share, the Participating Local Government shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Participating Local Government's right to seek recoupment of any deficiency in its LG Share.

F. Regional Share

1. In accordance with Sections (B)(1) and (B)(2)(c), and the terms of any Settlement, the Regional Share shall be paid to the Regions in accordance with the terms of this Section (F).
2. Participating Local Governments shall organize themselves into the Regions depicted in **Exhibit C**. Municipalities located in multiple Regions may join all or some of the Regions in which they are located according to **Exhibit C**.
3. Allocations to Regions will be distributed according to **Exhibit F**. For multi-county Regions, each Region's share listed in **Exhibit F** is calculated by summing the individual percentage shares listed in **Exhibit D** for the counties within that Region. The percentages in **Exhibit F** are based on the assumption that every Local Government in each Region becomes a Participating Local Government.
4. In the event a city, town, or other municipality that is a Participating Local Government merges, dissolves, or ceases to exist during the term of any Settlement, the allocation of the Regional Share owed to the Region in which that Participating Local Government existed shall be re-allocated as directed by any Settlement, and if not specified, shall not be modified from **Exhibit F**. If a county that is a Participating Local Government merges with another county within its Region, the allocation of the Regional Share owed to the Region in which that county existed shall be re-allocated as directed by any Settlement, and if not specified, shall not be modified from **Exhibit F**. If a county that is a Participating Local Government merges with a county in a different Region during the term of

any Settlement, the allocation of the Regional Share owed to the Region in which that county existed shall be re-allocated as directed by any Settlement, and if not specified, shall be re-allocated to the Region in which that Participating Local Government merged in accordance with **Exhibit F**.

5. Each Region must create its own Regional Council while giving consideration to the regional governance models illustrated in **Exhibit G**. The Regional Council must be formed by the Participating Local Governments within the Region and each Regional Council shall designate a fiscal agent for the Region. Regional fiscal agents shall be county or municipal governments only. All funds from the Regional Share shall be distributed to the Regional Council's identified fiscal agent for the benefit of the entire Region.
 - a. Subject to this Section F(5), each Region may draft its own intra-regional agreements, bylaws, or other governing documents to determine how the Regional Council will operate. However, each voting member of a Regional Council shall be an employee or elected official of a Participating Local Government within the applicable Region. In the case of Denver, the voting members of its Regional Council shall be appointed by the Mayor. In the case of Broomfield, the voting members of its Regional Council shall be appointed by the Broomfield City and County Manager.
 - b. The Region shall not receive any Opioid Funds from the Regional Share until the Region certifies to the Abatement Council that its Regional Council has been formed and a fiscal agent has been designated. Such certification shall be in a simple form adopted by the Region and may be made via email, so long as it includes the names and affiliations of the Regional Council's members and the designated fiscal agent.
 - c. If a Region does not form and certify its Regional Council and designate its fiscal agent within one-hundred and eighty (180) days of the Effective Date, the Abatement Council shall appoint members to the Region's Regional Council. Regional Council members appointed by the Abatement Council shall serve until the Region certifies the formation of its Regional Council to the Abatement Council.
 - d. A Region shall submit a renewed certification required by Section (F)(5)(b), above, when its membership changes.
 - e. If a membership vacancy exists on a Regional Council for more than ninety (90) days and the Regional Council is unable to fill the vacancy by its regular procedures during that time, the Abatement Council shall appoint a replacement member to serve until the Region fills the vacancy.

6. A Local Government that chooses not to become a Participating Local Government shall not receive any Opioid Funds from the Regional Share or participate in the Regional Councils described in Section (F)(5) above.
7. Each Regional Council shall make requests to the Abatement Council for Opioid Funds from their allocation of the Regional Share. Each Regional Council's request for Opioid Funds from the Regional Share shall be accompanied by a 2-year plan identifying the Approved Purposes for which the requested funds will be used by the Region anywhere within the State of Colorado. A Regional Council's 2-year plan may be amended so long as such amendments comply with the terms of this MOU and any Settlement. Any Regional Council may seek assistance from the Abatement Council for purposes of developing its 2-year plan.
8. Reasonable administrative costs for a Regional Council to administer its Region's allocation of the Regional Share shall not exceed actual costs or 10% of the Region's allocation of the Regional Share, whichever is less.
9. The Abatement Council shall release funds requested by a Regional Council in accordance with Section (B)(1) if the Regional Council's 2-year plan complies with the Approved Purposes, the terms of this MOU, and the terms of any Settlement. The Abatement Council shall not deny any funding request from a Regional Council on the basis that the Abatement Council does not approve or agree with the Approved Purposes for which a Regional Council requests Opioid Funds from the Regional Share. Nor may the Abatement Council hold up, delay, or make unreasonable requests for additional or supporting information of the Regional Council prior to releasing the requested Opioid Funds. The purpose of this MOU is to facilitate Opioid Funds to their intended recipients quickly and efficiently with minimal administrative procedure.
10. On an annual basis, as determined by the Abatement Council, each Regional Council's fiscal agent shall provide to the Abatement Council the Regional Council's expenditure data, including administrative costs, from their allocation of the Regional Share and certify to the Abatement Council that the Regional Council's expenditures were for Approved Purposes and complied with its 2-year plan. The Regional Council shall subject itself to an accounting at the Abatement Council's discretion.
 - a. The Abatement Council shall review a Regional Council's expenditure data and certification to ensure compliance with the Regional Council's 2-year plan, the Approved Purposes, and the terms of this MOU and any Settlement.
 - b. The Abatement Council shall publish the Regional Council's expenditure data, including administrative costs, from the Regional Share in accordance with Section (C)(4)(c)(i). The Abatement Council may require Regional Councils to provide additional outcome related data in

accordance with Section (C)(4)(c)(ii) and all Regional Councils shall comply with such requirements.

11. If any Regional Council disputes the amount of Opioid Funds it receives from its allocation of the Regional Share, the Regional Council shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. Failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Regional Council's right to seek recoupment of any deficiency in its Regional Share.
12. If the Abatement Council has reason to believe a Region's expenditure of its allocation of the Regional Share did not comply with the Region's 2-year Plan, the Approved Purposes, the terms of this MOU or any Settlement, as described in this Section (F), or that the Region otherwise misused its allocation of the Regional Share, the Abatement Council may take remedial action against the alleged offending Region. Such remedial action is left to the discretion of the Abatement Council and may include but not be limited to, withholding future Opioids Funds owed to the offending Region or requiring the offending Region to reimburse improperly expended Opioid Funds to the Regional Share.
13. Within one hundred and twenty (120) days of the Abatement Council being formed, in accordance with Section (C)(2)(c) above, the Abatement Council shall develop and publish due process procedures for allowing a Region to challenge or dispute any remedial action taken by the Abatement Council, including timelines during which the Region may engage in such a challenge or dispute. Such due process procedures shall reflect, at a minimum, the following principles:
 - a. Upon learning of any conduct that may warrant remedial action against a Region, the Abatement Council shall first provide notice to the Region of the conduct at issue, provide the Region an opportunity to respond, and, if appropriate, cure the alleged offending conduct. If after providing the Region such notice and opportunities to respond and cure, the Abatement Council continues to believe remedial action is warranted, the Abatement Council may take such remedial action.
 - b. If the Abatement Council decides to take remedial action against an alleged offending Region, such action may only occur by a two-thirds supermajority vote of the Abatement Council. Thus, an Abatement Council made up of twelve (12) voting members requires a vote of eight (8) Members prior to taking remedial action against an alleged offending Region.
 - c. Prior to taking any remedial action against an alleged offending Region, the Abatement Council shall first provide notice to the alleged offending Region of the remedial action to be taken and the facts underlying such remedial action. The Abatement Council shall then provide the alleged

offending Region an opportunity to challenge or dispute the remedial action in accordance with, at a minimum, the principles below:

- i. The alleged offending Region may request revisions or modifications to the proposed remedial action;
 - ii. The alleged offending Region may submit a written response to and/or request a hearing before the Abatement Council, or a third-party hearing officer,³ regarding the alleged offending conduct and proposed remedial action; and
 - iii. After such written responses are submitted and reviewed and/or a hearing is conducted, the alleged offending Region may submit an appeal to the Abatement Council of the decision to take remedial action.
- d. Remedial actions taken by the Abatement Council, in accordance with the due process principles detailed above, shall be considered final non-appealable orders and offending Regions may not seek judicial relief from remedial action taken by the Abatement Council, except as provided in Section (H), below.
- e. Subject to Section (H)(2), below, if any Party(ies) believes the Abatement Council violated the terms of this MOU, such Party(ies) may seek to enforce the terms of this MOU.

14. If the Abatement Council has reason to believe a Region's conduct, or the conduct of any Participating Local Government or individual in that Region, amounts to a violation of any criminal law, the Abatement Council shall refer such matters to the appropriate authorities and may consider such conduct in its determination of any remedial action to be taken.

15. If the Abatement Council has reason to believe that an individual involved in the receipt or administration of Opioid Funds from the Regional Share has violated any applicable ethics rules or codes, the Abatement Council shall not attempt to adjudicate such a violation. In such instances, the Abatement Council shall lodge a complaint with the appropriate forum for handling such ethical matters, such as a local home rule municipality's ethics board.

16. Costs associated with the Abatement Council's distribution and oversight of the Regional Share, as described above in this Section (F), including costs associated with any remedial action by the Abatement Council, shall be paid from the Statewide

³ Only an alleged offending Region may request the appointment of a third-party hearing officer to review any written responses and conduct any requested hearings. If an alleged offending Region makes such a request, the Abatement Council has sole discretion to appoint the third-party hearing officer and the alleged offending Region shall bear the cost of such review and/or hearing by the third-party hearing officer.

Infrastructure Share. The Abatement Council shall make all good faith efforts to limit such costs to the greatest extent possible.

G. Statewide Infrastructure Share

1. In accordance with Sections B(1) and (B)(2)(d), and the terms of any Settlement, the Statewide Infrastructure Share shall be paid to any Party or Regional Council in accordance with this Section (G).
2. The purpose of the Statewide Infrastructure Share is to promote capital improvements and provide operational assistance for developing or improving the infrastructure necessary to abate the opioid crisis anywhere within the State of Colorado. The Statewide Infrastructure Share is intended to supplement Opioid Funds received by any Party or Region.
3. Prior to distributing any Opioid Funds from the Statewide Infrastructure Share, the Abatement Council shall establish and publish policies and procedures for the distribution and oversight of the Statewide Infrastructure Share, including processes for Parties or Regions to apply for Opioid Funds from the Statewide Infrastructure Share. The Abatement Council's policies and procedures shall, at a minimum, reflect the following principles:
 - a. Opioid Funds from the Statewide Infrastructure Share shall be used for Approved Purposes only;
 - b. Opioid Funds from the Statewide Infrastructure Share shall be paid directly to the appropriate state agencies (including but not limited to the Colorado Department of Law), Regional fiscal agents, or Participating Local Governments only;
 - c. Distribution and oversight of the Statewide Infrastructure Share shall comply with the terms of this MOU and any Settlement;
 - d. Appropriate processes for remedial action will be taken against Parties or Regions that misuse Opioid Funds from the Statewide Infrastructure Share. Such processes shall include procedures for alleged offending Parties or Regions to challenge or dispute such remedial action; and
 - e. Limitations on administrative costs to be expended by recipients for administering Opioid Funds received from the Statewide Infrastructure Fund, not to exceed actual costs expended by the recipient or 10% of the amount received, whichever is less.
4. The distribution and oversight policies and procedures developed by the Abatement Council, in accordance with Section (G)(3), shall be non-appealable orders and no Party or Region may seek judicial relief related to the distribution and oversight of the Statewide Infrastructure Share.

5. On an annual basis, as determined by the Abatement Council, any Party or Regional Council that receives funds from the Statewide Infrastructure Share shall provide all expenditure data, including administrative costs, related to any Opioid Funds it received from the Statewide Infrastructure Share and subject itself to an accounting as required by the Abatement Council. The Abatement Council shall publish all expenditure data from the Statewide Infrastructure Share in accordance with Section (C)(4)(c)(i). The Abatement Council may require the Parties or Regional Councils that receive funds from the Statewide Infrastructure Share to provide additional outcome related data in accordance with Section (C)(4)(c)(ii) and the Parties or Regional Councils shall comply with such requirements.
6. Costs associated with the Abatement Council's distribution and oversight of the Statewide Infrastructure Share, as described in this Section (G), shall be paid for from the Statewide Infrastructure Share. The Abatement Council shall make all good faith efforts to limit such costs to the greatest extent possible.

H. General Terms

1. All Parties and Regional Councils shall maintain all records related to the receipt and expenditure of Opioid Funds for no less than five (5) years and shall make such records available for review by the Abatement Council, any other Party or Regional Council, or the public. Records requested by the public shall be produced in accordance with Colorado's open records laws. Records requested by the Abatement Council or another Party or a Regional Council shall be produced within twenty-one (21) days of the date the record request was received. This requirement does not supplant any Party or Regional Council's obligations under Colorado's open records laws.
2. If any Party(ies) believes the Abatement Council has violated the terms of this MOU, the alleging Party(ies) may seek to enforce the terms of this MOU, provided the alleging Party(ies) first provides notice to the Abatement Council of the alleged violation and a reasonable opportunity to cure the alleged violation. In such an enforcement action, the alleging Party(ies) may only seek to enforce the terms of the MOU against the State and the Participating Local Governments from which the Local Government Members of the Abatement Council were appointed and may only seek declaratory and/or injunctive relief. In defense of such an enforcement action, the State's Members of the Abatement Council shall be represented by the State and the Local Government Members shall be represented by the Participating Local Governments from which the Local Government Members were appointed. In the event of a conflict, the Abatement Council and its Members may seek outside representation to defend itself against such an enforcement action.
3. If any Party(ies) believes another Party(ies), not including the Abatement Council, violated the terms of this MOU, the alleging Party(ies) may seek to enforce the terms of this MOU in the court in which any applicable Settlement(s) was entered, provided the alleging Party(ies) first provide the alleged offending Party(ies)

notice of the alleged violation(s) and a reasonable opportunity to cure the alleged violation(s). In such an enforcement action, any alleging Party or alleged offending Party(ies) may be represented by their respective public entity in accordance with Colorado law.

4. Nothing in this MOU shall be interpreted to waive the right of any Party to seek judicial relief for conduct occurring outside the scope of this MOU that violates any Colorado law. In such an action, the alleged offending Party(ies), including the Abatement Council, may be represented by their respective public entities in accordance with Colorado law. In the event of a conflict, any Party, including the Abatement Council and its Members, may seek outside representation to defend itself against such an action.
5. If any Party(ies) believes another Party(ies), Region(s), or individual(s) involved in the receipt, distribution, or administration of Opioids Funds has violated any applicable ethics codes or rules, a complaint shall be lodged with the appropriate forum for handling such matters, such as a local home rule municipality's ethics board.
6. If any Party(ies) believes another Party(ies), Region(s), or individual(s) involved in the receipt, distribution, or administration of Opioid Funds violated any Colorado criminal law, such conduct shall be reported to the appropriate criminal authorities.
7. Venue for any legal action related to this MOU shall be in a court of competent jurisdiction where any applicable Settlement(s) is entered.
8. Because recovery under the terms of different Settlement(s) may vary depending on the number of Parties required to effectuate a Settlement, the Parties may conditionally agree to sign on to the MOU through a letter of intent, resolution or similar written statement, declaration or pronouncement declaring their intent to sign on to the MOU if the threshold for Party participation in a specific Settlement is achieved.⁴
9. This MOU may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this MOU. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101, *et seq.* The Parties agree not to deny the legal effect or enforceability of the MOU solely because it is in electronic form or

⁴ For instance, the July 21, 2021 "Distributor Settlement Agreement" includes a "Subdivision Settlement Agreement Form" that, once filled out and executed, is meant to indicate that Local Government's (or Subdivision's) election to participate in that Distributor Settlement and also, to require that Local Government to take steps to formally release any claim it may have against the Settling Distributors. With regard to the Distributor Settlement Agreement or any other Settlements that include a form similar to the Subdivision Settlement Agreement Form, the Parties may still conditionally agree to sign on to the MOU if, for instance, the threshold for Party participation in a specific Settlement is achieved.

because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the MOU in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

10. Each party represents that all procedures necessary to authorize such Party's execution of this MOU have been performed and that the person signing for such Party has been authorized to execute the MOU.

I. Payment of Counsel and Litigation Expenses Through a Back-Stop Fund

1. Some Settlements, including the McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation (“Distributor”) and Johnson & Johnson/Janssen (“J&J”) settlements, may provide for the payment of all or a portion of the fees and litigation expenses owed by Participating Local Governments to counsel specifically retained to file suit in the opioid litigation. If any Settlement is insufficient to cover the fee obligations of the Participating Local Governments (as discussed and modified by Judge Polster’s Order of August 6 regarding fees for the Distributor and J&J settlements), the deficiencies will be covered as set forth in further detail below.
2. The Parties also recognize that, as in the Distributor and J&J settlements, certain Opioid Settling Defendants may offer premiums benefiting the entire state of Colorado when Participating Local Governments agree to the Settlement(s), thereby settling their claims in their on-going lawsuits. For example, below is the chart illustrating how Incentive Payment B (a 25% premium to the entire state) works in the Distributor Settlement at Section IV.F.2.b (p. 20):

Percentage of Litigating Subdivision Population that is Incentive B Eligible Subdivision Population⁵	Incentive Payment B Eligibility Percentage
Up to 85%	0%
85%+	30%
86+	40%
91+	50%
95+	60%
99%+	95%
100%	100%

3. If the court in *In Re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio), or if a Settlement establishes a common benefit fund or similar device to compensate attorneys for services rendered and expenses incurred that have benefited plaintiffs generally in the litigation (the “Common Benefit Fund”),

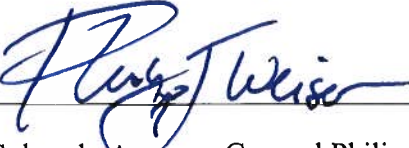
and/or requires certain governmental plaintiffs to pay a share of their recoveries from defendants into the Common Benefit Fund (“Court-Ordered Common Benefit Fund Assessment”), then the Participating Local Governments shall be required to first seek to have their attorneys’ fees and expenses paid through the Common Benefit Fund.

4. For the Distributor and J&J settlements only, counsel for Participating Local Governments shall have their expenses otherwise recoverable from Colorado Participating Local Governments compensated only through the Common Benefit Fund(s) established in those settlement(s). For the avoidance of doubt, counsel for Participating Local Governments may recover their attorneys’ fees through the Distributor and J&J settlements and through the other applicable provisions of this Section (I).
5. In addition, as a means of covering any deficiencies in paying counsel for Participating Local Governments, a supplemental Colorado Attorney Fee Back-Stop Fund shall be established. The Colorado Attorney Fee Back-Stop Fund is to be used to compensate counsel for Participating Local Governments that filed an initial complaint in the opioid litigation by September 1, 2020 (“Litigating Participating Local Governments”).
6. Payments out of the Colorado Attorney Fee Back-Stop Fund shall be determined by a committee (the “Opioid Fee and Expense Committee”). The Opioid Fee and Expense Committee shall consist of the following five (5) members:
 - a. One (1) member appointed by CCI from a litigating county or from a litigating county and city municipal corporation;
 - b. One (1) member appointed by CML from a litigating city;
 - c. One (1) member appointed jointly by CCI and CML from a non-litigating county or city;
 - d. One (1) member appointed by the Attorney General’s Office; and
 - e. One (1) neutral member jointly appointed by all of the other members listed above.
7. The Colorado Attorney Fee Back-Stop Fund shall be funded as follows from any Settlement, excluding settlements involving McKinsey and payments resulting from the Purdue or Mallinckrodt bankruptcy. For purposes only of calculating the funding of the Colorado Attorney Fee Back-Stop Fund, the Parties deem 58% of the total LG Share and Regional Share to be attributable to the Litigating Local Governments. The Colorado Attorney Fee Back-Stop Fund shall be funded by 8.7% of the total LG Share and 4.35% of the total Regional Share at the time such funds are actually received. No funds deposited into the Colorado Attorney Fee Back-Stop Fund will be taken from the Statewide Infrastructure Share or State Share.

8. Counsel for Litigating Participating Local Governments may apply to the Colorado Attorney Fee Back-Stop Fund only after applying to the Common Benefit Fund.
9. Counsel for Litigating Participating Local Governments may apply to the Colorado Attorney Fee Back-Stop Fund for only a shortfall – that is, the difference between what their fee agreements would entitle them to (as limited by this Section (I)) minus what they have already collected from the Common Benefit Fund (including both the “common benefit” and “contingency fee” calculations, if any). If they receive fees/costs for common benefit work in the national fee fund, these fees/costs will be allocated proportionately across all their local government opioid clients based on the allocation model used in the Negotiation Class website to allocate the appropriate portion to Colorado clients.
10. Counsel for Litigating Participating Local Governments are limited to being paid, at most, and assuming adequate funds are available in any Common Benefit Fund and Colorado Attorney Fee Back-Stop Fund, fees in an amount equal to 15% of the LG Share and 7.5% of the Regional Share attributable to their Colorado clients.
11. Any funds remaining in the Colorado Attorney Fee Back-Stop Fund in excess of the amounts needed to cover the fees and litigation expenses owed by Litigating Participating Local Governments to their respective counsel shall revert to the Participating Local Governments according to the allocations described in Sections (E) and (F). Every two years, the Opioid Fee and Expense Committee shall assess the amount remaining in the Colorado Attorney Fee Back-Stop Fund to determine if it is overfunded.
12. Despite the fact that a litigating entity bonus benefits the entire state, no portion of the State Share shall be used to fund the Colorado Attorney Fee Back-Stop Fund or in any other way to fund any Participating Local Government’s attorneys’ fees and expenses. Because the state did not hire outside counsel, any funds for attorneys fees that the state receives from the J&J and Distributor settlement will be deposited into the State Share.
13. To participate in the Colorado Attorney Fee Back-Stop Fund, counsel must follow the requirements of C.R.S. § 13-17-304.

This **Colorado Opioids Settlement Memorandum of Understanding** is signed

this 26 day of August, 2021 by:



Colorado Attorney General Philip J. Weiser

This **Colorado Opioids Settlement Memorandum of Understanding** is signed
this ___ day of _____, _____ by:

Name & Title _____

On behalf of _____

Exhibit A

POTENTIAL OPIOID ABATEMENT APPROVED PURPOSES

I. TREATMENT

A. TREATMENT OF OPIOID USE DISORDER AND ITS EFFECTS

1. Expand availability of treatment, including Medication-Assisted Treatment (MAT), for Opioid Use Disorder (OUD) and any co-occurring substance use or mental health issues.
2. Supportive housing, all forms of FDA-approved MAT, counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it.
3. Treatment of mental health trauma issues that resulted from the traumatic experiences of the opioid user (e.g., violence, sexual assault, human trafficking) and for family members (e.g., surviving family members after an overdose or overdose fatality).
4. Expand telehealth to increase access to OUD treatment, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
5. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
6. Scholarships for certified addiction counselors.
7. Clinicians to obtain training and a waiver under the federal Drug Addiction Treatment Act to prescribe MAT for OUD.
8. Training for health care providers, students, and other supporting professionals, such as peer recovery coaches/recovery outreach specialists, including but not limited to training relating to MAT and harm reduction.
9. Dissemination of accredited web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.
10. Development and dissemination of new accredited curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service Medication-Assisted Treatment.
11. Development of a multistate/nationally accessible database whereby health care providers can list currently available in-patient and out-patient OUD treatment services that are accessible on a real-time basis.

12. Support and reimburse services that include the full American Society of Addiction Medicine (ASAM) continuum of care for OUD.
13. Improve oversight of Opioid Treatment Programs (OTPs) to assure evidence-informed practices such as adequate methadone dosing.

B. INTERVENTION

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer, if necessary) a patient for OUD treatment.
2. Fund Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorder.
3. Training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on the late adolescence and young adulthood when transition from misuse to opioid disorder is most common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management and/or support services.
6. Support work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
7. Create school-based contacts whom parents can engage to seek immediate treatment services for their child.
8. Develop best practices on addressing OUD in the workplace.
9. Support assistance programs for health care providers with OUD.
10. Engage non-profits and faith community as a system to support outreach for treatment.

C. CRIMINAL-JUSTICE-INVOLVED PERSONS

1. Address the needs of persons involved in the criminal justice system who have OUD and any co-occurring substance use disorders or mental health (SUD/MH) issues.

2. Support pre-arrest diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH issues, including established strategies such as:
 - a. Self-referral strategies such as Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);
 - b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;
 - c. “Naloxone Plus” strategies, which work to ensure that individuals who have received Naloxone to reverse the effects of an overdose are then linked to treatment programs;
 - d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model; or
 - e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network.
3. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH issues to evidence-informed treatment, including MAT, and related services.
4. Support treatment and recovery courts for persons with OUD and any co-occurring SUD/MH issues, but only if they provide referrals to evidence-informed treatment, including MAT.
5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH issues who are incarcerated, on probation, or on parole.
6. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate re-entry services to individuals with OUD and any co-occurring SUD/MH issues who are leaving jail or prison or who have recently left jail or prison.
7. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.

D. WOMEN WHO ARE OR MAY BECOME PREGNANT

1. Evidence-informed treatment, including MAT, recovery, and prevention services for pregnant women or women who could become pregnant and have OUD.
2. Training for obstetricians and other healthcare personnel that work with pregnant women and their families regarding OUD treatment.

3. Other measures to address Neonatal Abstinence Syndrome, including prevention, care for addiction and education programs.
4. Child and family supports for parenting women with OUD.
5. Enhanced family supports and child care services for parents receiving treatment for OUD.

E. PEOPLE IN TREATMENT AND RECOVERY

1. The full continuum of care of recovery services for OUD and any co-occurring substance use or mental health issues, including supportive housing, residential treatment, medical detox services, peer support services and counseling, community navigators, case management, and connections to community-based services.
2. Identifying successful recovery programs such as physician, pilot, and college recovery programs, and providing support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
3. Training and development of procedures for government staff to appropriately interact and provide social and other services to current and recovering opioid users, including reducing stigma.
4. Community-wide stigma reduction regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
5. Engaging non-profits and faith community as a system to support family members in their efforts to help the opioid user in the family.

II. PREVENTION

F. PRESCRIBING PRACTICES

1. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
2. Academic counter-detailing.
3. Continuing Medical Education (CME) on prescribing of opioids.
4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Fund development of a multistate/national prescription drug monitoring program (PDMP) that permits information sharing while providing appropriate safeguards on sharing of private information, including but not limited to:

- a. Integration of PDMP data with electronic health records, overdose episodes, and decision support tools for health care providers relating to OUD.
 - b. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database.
6. Educating dispensers on appropriate opioid dispensing.

G. MISUSE OF OPIOIDS

1. Corrective advertising/affirmative public education campaigns.
2. Public education relating to drug disposal.
3. Drug take-back disposal or destruction programs.
4. Fund community anti-drug coalitions that engage in drug-abuse prevention efforts.
5. School-based programs that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
6. Support community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction – including staffing, educational campaigns, or training of coalitions in evidence-informed implementation.
7. School and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
8. Engaging non-profits and faith community as a system to support prevention.

H. OVERDOSE DEATHS AND OTHER HARMS

1. Increasing availability and distribution of naloxone and other drugs that treat overdoses to first responders, overdose patients, opioid users, families and friends of opioid users, schools, community navigators and outreach workers, drug offenders upon release from jail/prison, and other members of the general public.
2. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, and other members of the general public.

3. Developing data tracking software and applications for overdoses/naloxone revivals.
4. Public education relating to emergency responses to overdoses.
5. Free naloxone for anyone in the community.
6. Public education relating to immunity and Good Samaritan laws.
7. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.
8. Syringe service programs, including supplies, staffing, space, peer support services, and the full range of harm reduction and treatment services provided by these programs.
9. Expand access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.

III. ADDITIONAL AREAS

I. SERVICES FOR CHILDREN

1. Support for children's services: Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

J. FIRST RESPONDERS

1. Law enforcement expenditures relating to the opioid epidemic.
2. Educating first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
3. Increase electronic prescribing to prevent diversion and forgery.

K. COMMUNITY LEADERSHIP

1. Regional planning to identify goals for opioid reduction and support efforts or to identify areas and populations with the greatest needs for treatment intervention services.
2. Government dashboard to track key opioid-related indicators and supports as identified through collaborative community processes.

L. STAFFING AND TRAINING

1. Funding for programs and services regarding staff training and networking to improve staff capability to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-systems coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD (e.g., health care, primary care, pharmacies, PDMPs, etc.).

M. RESEARCH

1. Funding opioid abatement research.
2. Research improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to OUD.
3. Support research for novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
4. Support for innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
5. Expanded research for swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/7).
6. Research expanded modalities such as prescription methadone that can expand access to MAT.

N. OTHER

1. Administrative costs for any of the approved purposes on this list.

Exhibit B

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Adams County	Adams	County	
Arvada	Adams	City	2 counties
Aurora	Adams	City	3 counties
Bennett	Adams	City	2 counties
Brighton	Adams	City	2 counties
Commerce City	Adams	City	
Federal Heights	Adams	City	
Lochbuie	Adams	City	2 counties
Northglenn	Adams	City	2 counties
Thornton	Adams	City	2 counties
Westminster	Adams	City	2 counties
Alamosa County	Alamosa	County	
Alamosa	Alamosa	City	
Hooper	Alamosa	City	
Arapahoe County	Arapahoe	County	
Aurora	Arapahoe	City	3 counties
Bennett	Arapahoe	City	2 counties
Bow Mar	Arapahoe	City	2 counties
Centennial	Arapahoe	City	
Cherry Hills Village	Arapahoe	City	
Columbine Valley	Arapahoe	City	
Deer Trail	Arapahoe	City	
Englewood	Arapahoe	City	
Foxfield	Arapahoe	City	
Glendale	Arapahoe	City	
Greenwood Village	Arapahoe	City	
Littleton	Arapahoe	City	3 counties
Sheridan	Arapahoe	City	
Archuleta County	Archuleta	County	
Pagosa Springs	Archuleta	City	
Baca County	Baca	County	
Campo	Baca	City	
Pritchett	Baca	City	
Springfield	Baca	City	
Two Buttes	Baca	City	
Vilas	Baca	City	
Walsh	Baca	City	
Bent County	Bent	County	
Las Animas	Bent	City	
Boulder County	Boulder	County	
Boulder	Boulder	City	
Erie	Boulder	City	2 counties
Jamestown	Boulder	City	
Lafayette	Boulder	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Longmont	Boulder	City	2 counties
Louisville	Boulder	City	
Lyons	Boulder	City	
Nederland	Boulder	City	
Superior	Boulder	City	2 counties
Ward	Boulder	City	
Broomfield	Broomfield	City/County	
Chaffee County	Chaffee	County	
Buena Vista	Chaffee	City	
Poncha Springs	Chaffee	City	
Salida	Chaffee	City	
Cheyenne County	Cheyenne	County	
Cheyenne Wells	Cheyenne	City	
Kit Carson	Cheyenne	City	
Clear Creek County	Clear Creek	County	
Central City	Clear Creek	City	2 counties
Empire	Clear Creek	City	
Georgetown	Clear Creek	City	
Idaho Springs	Clear Creek	City	
Silver Plume	Clear Creek	City	
Conejos County	Conejos	County	
Antonito	Conejos	City	
La Jara	Conejos	City	
Manassa	Conejos	City	
Romeo	Conejos	City	
Sanford	Conejos	City	
Costilla County	Costilla	County	
Blanca	Costilla	City	
San Luis	Costilla	City	
Crowley County	Crowley	County	
Crowley	Crowley	City	
Olney Springs	Crowley	City	
Ordway	Crowley	City	
Sugar City	Crowley	City	
Custer County	Custer	County	
Silver Cliff	Custer	City	
Westcliffe	Custer	City	
Delta County	Delta	County	
Cedaredge	Delta	City	
Crawford	Delta	City	
Delta	Delta	City	
Hotchkiss	Delta	City	
Orchard City	Delta	City	
Paonia	Delta	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Denver	Denver	City/County	
Dolores County	Dolores	County	
Dove Creek	Dolores	City	
Rico	Dolores	City	
Douglas County	Douglas	County	
Aurora	Douglas	City	3 counties
Castle Pines	Douglas	City	
Castle Rock	Douglas	City	
Larkspur	Douglas	City	
Littleton	Douglas	City	3 counties
Lone Tree	Douglas	City	
Parker	Douglas	City	
Eagle County	Eagle	County	
Avon	Eagle	City	
Basalt	Eagle	City	2 counties
Eagle	Eagle	City	
Gypsum	Eagle	City	
Minturn	Eagle	City	
Red Cliff	Eagle	City	
Vail	Eagle	City	
El Paso County	El Paso	County	
Calhan	El Paso	City	
Colorado Springs	El Paso	City	
Fountain	El Paso	City	
Green Mountain Falls	El Paso	City	2 counties
Manitou Springs	El Paso	City	
Monument	El Paso	City	
Palmer Lake	El Paso	City	
Ramah	El Paso	City	
Elbert County	Elbert	County	
Elizabeth	Elbert	City	
Kiowa	Elbert	City	
Simla	Elbert	City	
Fremont County	Fremont	County	
Brookside	Fremont	City	
Cañon City	Fremont	City	
Coal Creek	Fremont	City	
Florence	Fremont	City	
Rockvale	Fremont	City	
Williamsburg	Fremont	City	
Garfield County	Garfield	County	
Carbondale	Garfield	City	
Glenwood Springs	Garfield	City	
New Castle	Garfield	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Parachute	Garfield	City	
Rifle	Garfield	City	
Silt	Garfield	City	
Gilpin County	Gilpin	County	
Black Hawk	Gilpin	City	
Central City	Gilpin	City	2 counties
Grand County	Grand	County	
Fraser	Grand	City	
Granby	Grand	City	
Grand Lake	Grand	City	
Hot Sulphur Springs	Grand	City	
Kremmling	Grand	City	
Winter Park	Grand	City	
Gunnison County	Gunnison	County	
Crested Butte	Gunnison	City	
Gunnison	Gunnison	City	
Marble	Gunnison	City	
Mount Crested Butte	Gunnison	City	
Pitkin	Gunnison	City	
Hinsdale County	Hinsdale	County	
Lake City	Hinsdale	City	
Huerfano County	Huerfano	County	
La Veta	Huerfano	City	
Walsenburg	Huerfano	City	
Jackson County	Jackson	County	
Walden	Jackson	City	
Jefferson County	Jefferson	County	
Arvada	Jefferson	City	2 counties
Bow Mar	Jefferson	City	2 counties
Edgewater	Jefferson	City	
Golden	Jefferson	City	
Lakeside	Jefferson	City	
Lakewood	Jefferson	City	
Littleton	Jefferson	City	3 counties
Morrison	Jefferson	City	
Mountain View	Jefferson	City	
Superior	Jefferson	City	2 counties
Westminster	Jefferson	City	2 counties
Wheat Ridge	Jefferson	City	
Kiowa County	Kiowa	County	
Eads	Kiowa	City	
Haswell	Kiowa	City	
Sheridan Lake	Kiowa	City	
Kit Carson County	Kit Carson	County	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Bethune	Kit Carson	City	
Burlington	Kit Carson	City	
Flagler	Kit Carson	City	
Seibert	Kit Carson	City	
Stratton	Kit Carson	City	
Vona	Kit Carson	City	
La Plata County	La Plata	County	
Bayfield	La Plata	City	
Durango	La Plata	City	
Ignacio	La Plata	City	
Lake County	Lake	County	
Leadville	Lake	City	
Larimer County	Larimer	County	
Berthoud	Larimer	City	2 counties
Estes Park	Larimer	City	
Fort Collins	Larimer	City	
Johnstown	Larimer	City	2 counties
Loveland	Larimer	City	
Timnath	Larimer	City	2 counties
Wellington	Larimer	City	
Windsor	Larimer	City	2 counties
Las Animas County	Las Animas	County	
Aguilar	Las Animas	City	
Branson	Las Animas	City	
Cokedale	Las Animas	City	
Kim	Las Animas	City	
Starkville	Las Animas	City	
Trinidad	Las Animas	City	
Lincoln County	Lincoln	County	
Arriba	Lincoln	City	
Genoa	Lincoln	City	
Hugo	Lincoln	City	
Limon	Lincoln	City	
Logan County	Logan	County	
Crook	Logan	City	
Fleming	Logan	City	
Iliff	Logan	City	
Merino	Logan	City	
Peetz	Logan	City	
Sterling	Logan	City	
Mesa County	Mesa	County	
Collbran	Mesa	City	
De Beque	Mesa	City	
Fruita	Mesa	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Grand Junction	Mesa	City	
Palisade	Mesa	City	
Mineral County	Mineral	County	
City of Creede	Mineral	City	
Moffat County	Moffat	County	
Craig	Moffat	City	
Dinosaur	Moffat	City	
Montezuma County	Montezuma	County	
Cortez	Montezuma	City	
Dolores	Montezuma	City	
Mancos	Montezuma	City	
Montrose County	Montrose	County	
Montrose	Montrose	City	
Naturita	Montrose	City	
Nucla	Montrose	City	
Olathe	Montrose	City	
Morgan County	Morgan	County	
Brush	Morgan	City	
Fort Morgan	Morgan	City	
Hillrose	Morgan	City	
Log Lane Village	Morgan	City	
Wiggins	Morgan	City	
Otero County	Otero	County	
Cheraw	Otero	City	
Fowler	Otero	City	
La Junta	Otero	City	
Manzanola	Otero	City	
Rocky Ford	Otero	City	
Swink	Otero	City	
Ouray County	Ouray	County	
Ouray	Ouray	City	
Ridgway	Ouray	City	
Park County	Park	County	
Alma	Park	City	
Fairplay	Park	City	
Phillips County	Phillips	County	
Haxtun	Phillips	City	
Holyoke	Phillips	City	
Paoli	Phillips	City	
Pitkin County	Pitkin	County	
Aspen	Pitkin	City	
Basalt	Pitkin	City	2 counties
Snowmass Village	Pitkin	City	
Prowers County	Prowers	County	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Granada	Prowers	City	
Hartman	Prowers	City	
Holly	Prowers	City	
Lamar	Prowers	City	
Wiley	Prowers	City	
Pueblo County	Pueblo	County	
Boone	Pueblo	City	
Pueblo	Pueblo	City	
Rye	Pueblo	City	
Rio Blanco County	Rio Blanco	County	
Meeker	Rio Blanco	City	
Rangely	Rio Blanco	City	
Rio Grande County	Rio Grande	County	
Center	Rio Grande	City	2 counties
Del Norte	Rio Grande	City	
Monte Vista	Rio Grande	City	
South Fork	Rio Grande	City	
Routt County	Routt	County	
Hayden	Routt	City	
Oak Creek	Routt	City	
Steamboat Springs	Routt	City	
Yampa	Routt	City	
Saguache County	Saguache	County	
Bonanza	Saguache	City	
Center	Saguache	City	2 counties
Crestone	Saguache	City	
Moffat	Saguache	City	
Saguache	Saguache	City	
San Juan County	San Juan	County	
Silverton	San Juan	City	
San Miguel County	San Miguel	County	
Mountain Village	San Miguel	City	
Norwood	San Miguel	City	
Ophir	San Miguel	City	
Sawpit	San Miguel	City	
Telluride	San Miguel	City	
Sedgwick County	Sedgwick	County	
Julesburg	Sedgwick	City	
Ovid	Sedgwick	City	
Sedgwick	Sedgwick	City	
Summit County	Summit	County	
Blue River	Summit	City	
Breckenridge	Summit	City	
Dillon	Summit	City	

Colorado Local Governments*

Government Name	County	Gov't Type	Multi-County
Frisco	Summit	City	
Montezuma	Summit	City	
Silverthorne	Summit	City	
Teller County	Teller	County	
Cripple Creek	Teller	City	
Green Mountain Falls	Teller	City	2 counties
Victor	Teller	City	
Woodland Park	Teller	City	
Washington County	Washington	County	
Akron	Washington	City	
Otis	Washington	City	
Weld County	Weld	County	
Ault	Weld	City	
Berthoud	Weld	City	2 counties
Brighton	Weld	City	2 counties
Dacono	Weld	City	
Eaton	Weld	City	
Erie	Weld	City	2 counties
Evans	Weld	City	
Firestone	Weld	City	
Fort Lupton	Weld	City	
Frederick	Weld	City	
Garden City	Weld	City	
Gilcrest	Weld	City	
Greeley	Weld	City	
Grover	Weld	City	
Hudson	Weld	City	
Johnstown	Weld	City	2 counties
Keenesburg	Weld	City	
Kersey	Weld	City	
La Salle	Weld	City	
Lochbuie	Weld	City	2 counties
Longmont	Weld	City	2 counties
Mead	Weld	City	
Milliken	Weld	City	
Northglenn	Weld	City	2 counties
Nunn	Weld	City	
Pierce	Weld	City	
Platteville	Weld	City	
Raymer (New Raymer)	Weld	City	
Severance	Weld	City	
Thornton	Weld	City	2 counties
Timnath	Weld	City	2 counties
Windsor	Weld	City	2 counties

Colorado Local Governments*

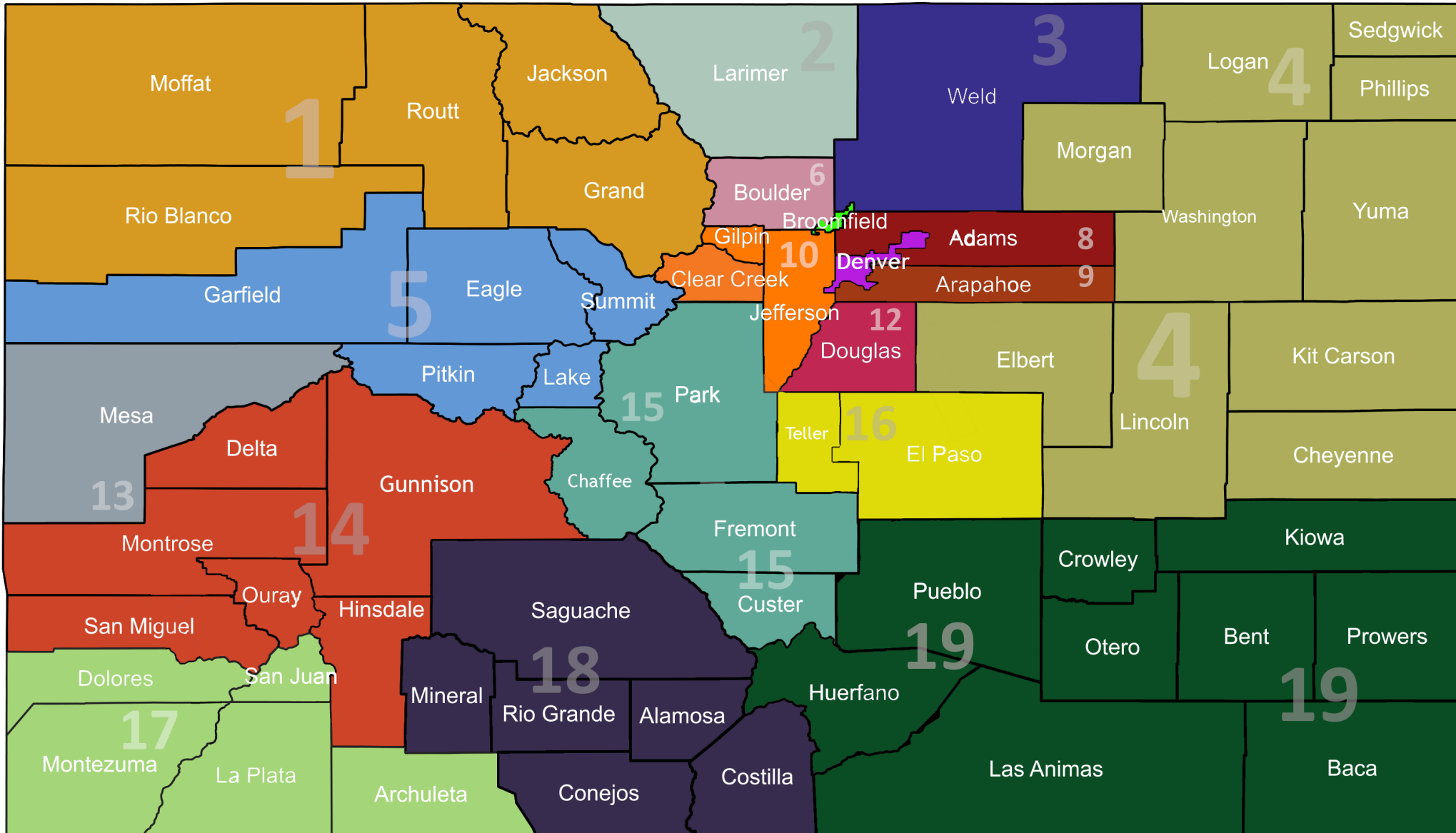
Government Name	County	Gov't Type	Multi-County
Yuma County	Yuma	County	
Eckley	Yuma	City	
Wray	Yuma	City	
Yuma	Yuma	City	

*This list includes all 64 Colorado counties and all 271 municipalities listed in the 2019 Census. Cities located in multiple counties are listed under each corresponding county subheading. City and County of Denver and City and County of Broomfield are counted in both the city and county totals. The City of Carbonate is not included in this list, as there was no population in the 2019 Census data.

This list will be reconciled as necessary to be consistent with the terms of Settlement(s) with Opioid Settling Defendant(s)

Exhibit C

Regions for the distribution of opioid settlement funds



Region 1	Region 5	Region 9	Region 13	Region 17
Region 2	Region 6	Region 10	Region 14	Region 18
Region 3	Region 7 (Broomfield)	Region 11 (Denver)	Region 15	Region 19
Region 4	Region 8	Region 12	Region 16	

Exhibit D

Exhibit D - Allocations to Colorado County Areas

County	Percentage of LG Share
Adams	9.4247%
Alamosa	0.5081%
Arapahoe	10.8071%
Archuleta	0.1370%
Baca	0.0592%
Bent	0.1133%
Boulder	5.7936%
Broomfield	1.0014%
Chaffee	0.3604%
Cheyenne	0.0159%
Clear Creek	0.1380%
Conejos	0.2108%
Costilla	0.0552%
Crowley	0.0934%
Custer	0.0412%
Delta	0.5440%
Denver	15.0042%
Dolores	0.0352%
Douglas	3.6696%
Eagle	0.6187%
El Paso	11.9897%
Elbert	0.2804%
Fremont	0.9937%
Garfield	0.8376%
Gilpin	0.0561%
Grand	0.2037%
Gunnison	0.1913%
Hinsdale	0.0112%
Huerfano	0.2505%
Jackson	0.0310%
Jefferson	10.5173%
Kiowa	0.0142%
Kit Carson	0.0940%
La Plata	0.8127%
Lake	0.0990%
Larimer	6.5211%
Las Animas	0.6304%
Lincoln	0.0819%
Logan	0.3815%
Mesa	2.8911%
Mineral	0.0039%
Moffat	0.2326%
Montezuma	0.4429%

Montrose	0.5695%
Morgan	0.4677%
Otero	0.4486%
Ouray	0.0535%
Park	0.1674%
Phillips	0.0714%
Pitkin	0.1747%
Prowers	0.1727%
Pueblo	5.6757%
Rio Blanco	0.1013%
Rio Grande	0.2526%
Routt	0.3837%
Saguache	0.0666%
San Juan	0.0097%
San Miguel	0.1005%
Sedgwick	0.0618%
Summit	0.3761%
Teller	0.6219%
Washington	0.0357%
Weld	3.8908%
Yuma	0.0992%
TOTAL	100.0000%

Exhibit E

Exhibit E - Intracounty Allocations^{1,2}

The below chart depicts the default percentage that each Local Government will receive from the LG Share amount attributed to its County Area, as described in Section (E)(3) of the MOU. The chart assumes full participation by all Local Governments

Government Name	Intracounty Share
Adams County	68.3372%
Arvada (2 Counties)	0.2632%
Aurora (3 Counties)	4.6336%
Bennett (2 Counties)	0.1670%
Brighton (2 Counties)	1.4527%
Commerce City	4.7314%
Federal Heights	1.1457%
Lochbuie (2 Counties)	0.0001%
Northglenn (2 Counties)	2.0913%
Thornton (2 Counties)	10.6435%
Westminster (2 Counties)	6.5342%

Alamosa County	85.3075%
Alamosa	14.6818%
Hooper	0.0108%

Arapahoe County	42.7003%
Aurora (3 Counties)	35.5997%
Bennett (2 Counties)	0.0324%
Bow Mar (2 Counties)	0.0159%
Centennial	0.4411%
Cherry Hills Village	0.6685%
Columbine Valley	0.1601%
Deer Trail	0.0003%
Englewood	5.5850%
Foxfield	0.0372%
Glendale	1.2289%
Greenwood Village	2.8305%
Littleton (3 Counties)	8.5654%
Sheridan	2.1347%

Archuleta County	90.0864%
Pagosa Springs	9.9136%

Baca County	85.9800%
Campo	2.4443%
Pritchett	1.5680%
Springfield	7.0100%

Government Name	Intracounty Share
Two Buttes	0.4766%
Vilas	0.9070%
Walsh	1.6141%

Bent County	80.9608%
Las Animas	19.0392%

Boulder County	47.6311%
Boulder	31.7629%
Erie (2 Counties)	0.3634%
Jamestown	0.0086%
Lafayette	3.3203%
Longmont (2 Counties)	14.6833%
Louisville	1.4455%
Lyons	0.5916%
Nederland	0.1646%
Superior (2 Counties)	0.0258%
Ward	0.0030%

Broomfield County/City	100.0000%
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Chaffee County	74.8440%
Buena Vista	5.8841%
Poncha Springs	4.2369%
Salida	15.0350%

Cheyenne County	66.8002%
Cheyenne Wells	0.8586%
Kit Carson	32.3412%

Clear Creek County	92.2164%
Central City (2 Counties)	0.0000%
Empire	0.3364%
Georgetown	1.9063%
Idaho Springs	4.7625%
Silver Plume	0.7784%

Conejos County	77.1204%
Antonito	4.6338%
La Jara	2.4313%
Manassa	1.0062%
Romeo	2.4270%
Sanford	12.3812%

Government Name	Intracounty Share
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Costilla County	97.3454%
Blanca	1.2036%
San Luis	1.4509%

Crowley County	80.7081%
Crowley	4.3597%
Olney Springs	8.3683%
Ordway	0.1853%
Sugar City	6.3786%

Custer County	96.6858%
Silver Cliff	0.7954%
Westcliffe	2.5188%

Delta County	76.3512%
Cedaredge	3.6221%
Crawford	0.4938%
Delta	16.2658%
Hotchkiss	1.0963%
Orchard City	0.1473%
Paonia	2.0236%

Denver County/City	100.0000%
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Dolores County	76.3307%
Dove Creek	17.3127%
Rico	6.3566%

Douglas County	71.8404%
Aurora (3 Counties)	0.2099%
Castle Pines	0.2007%
Castle Rock	13.5204%
Larkspur	0.0856%
Littleton (3 Counties)	0.0156%
Lone Tree	5.2786%
Parker	8.8487%

Eagle County	60.8236%
Avon	7.6631%
Basalt (2 Counties)	2.2311%
Eagle	3.1376%
Gypsum	1.7469%
Minturn	0.7771%

Government Name	Intracounty Share
Red Cliff	0.0957%
Vail	23.5250%

El Paso County	18.4181%
Calhan	0.0228%
Colorado Springs	80.1161%
Fountain	0.9892%
Green Mountain Falls (2 Counties)	0.0149%
Manitou Springs	0.2411%
Monument	0.1492%
Palmer Lake	0.0455%
Ramah	0.0033%

Elbert County	86.5840%
Elizabeth	10.2633%
Kiowa	1.5455%
Simla	1.6072%

Fremont County	60.7882%
Brookside	0.0348%
Cañon City	30.9017%
Coal Creek	0.0476%
Florence	8.0681%
Rockvale	0.0687%
Williamsburg	0.0907%

Garfield County	76.3371%
Carbondale	2.4698%
Glenwood Springs	11.8141%
New Castle	1.4295%
Parachute	1.0653%
Rifle	5.2733%
Silt	1.6110%

Gilpin County	46.8613%
Black Hawk	46.3909%
Central City (2 Counties)	6.7478%

Grand County	80.1046%
Fraser	2.4903%
Granby	5.4008%
Grand Lake	0.3174%
Hot Sulphur Springs	0.1431%
Kremmling	2.9284%

Government Name	Intracounty Share
Winter Park	8.6154%

Gunnison County	88.9185%
Crested Butte	2.3562%
Gunnison	5.9501%
Marble	0.1714%
Mount Crested Butte	2.5657%
Pitkin	0.0381%

Hinsdale County	76.0940%
Lake City	23.9060%

Huerfano County	68.2709%
La Veta	11.0719%
Walsenburg	20.6572%

Jackson County	61.5339%
Walden	38.4661%

Jefferson County	58.2140%
Arvada (2 Counties)	11.9733%
Bow Mar (2 Counties)	0.0087%
Edgewater	0.6604%
Golden	3.4815%
Lakeside	0.0030%
Lakewood	15.9399%
Littleton (3 Counties)	0.6176%
Morrison	0.2205%
Mountain View	0.1344%
Superior (2 Counties)	0.0000%
Westminster (2 Counties)	5.4779%
Wheat Ridge	3.2689%

Kiowa County	93.2138%
Eads	5.3777%
Haswell	0.6402%
Sheridan Lake	0.7682%

Kit Carson County	86.3178%
Bethune	0.1841%
Burlington	12.0640%
Flagler	0.4264%
Seibert	0.0291%
Stratton	0.9012%

Government Name	Intracounty Share
Vona	0.0775%

La Plata County	66.8874%
Bayfield	1.6292%
Durango	29.2985%
Ignacio	2.1849%

Lake County	73.4523%
Leadville	26.5477%

Larimer County	56.0589%
Berthoud (2 Counties)	0.4139%
Estes Park	0.3502%
Fort Collins	18.5702%
Johnstown (2 Counties)	0.0711%
Loveland	23.4493%
Timnath (2 Counties)	0.2964%
Wellington	0.3653%
Windsor (2 Counties)	0.4248%

Las Animas County	77.8076%
Aguilar	0.0751%
Branson	0.0101%
Cokedale	0.0188%
Kim	0.0101%
Starkville	0.0087%
Trinidad	22.0696%

Lincoln County	91.3222%
Arriba	0.3444%
Genoa	0.2222%
Hugo	1.4778%
Limon	6.6333%

Logan County	72.7982%
Crook	0.0931%
Fleming	0.3413%
Iliff	0.0095%
Merino	0.4702%
Peetz	0.2029%
Sterling	26.0848%

Mesa County	60.8549%
Collbran	0.0920%

Government Name	Intracounty Share
De Beque	0.0123%
Fruita	1.6696%
Grand Junction	37.1505%
Palisade	0.2208%

Mineral County	87.6744%
City of Creede	12.3256%

Moffat County	91.7981%
Craig	8.1862%
Dinosaur	0.0157%

Montezuma County	79.6682%
Cortez	18.6459%
Dolores	0.6106%
Mancos	1.0753%

Montrose County	92.8648%
Montrose	6.5980%
Naturita	0.1551%
Nucla	0.0703%
Olathe	0.3118%

Morgan County	61.6991%
Brush	8.5522%
Fort Morgan	27.8214%
Hillrose	0.1986%
Log Lane Village	0.6424%
Wiggins	1.0863%

Otero County	60.8168%
Cheraw	0.1888%
Fowler	1.0413%
La Junta	25.9225%
Manzanola	0.6983%
Rocky Ford	8.8215%
Swink	2.5109%

Ouray County	76.0810%
Ouray	17.6541%
Ridgway	6.2649%

Park County	96.3983%
Alma	0.7780%

Government Name	Intracounty Share
Fairplay	2.8237%

Phillips County	52.3463%
Haxtun	13.9505%
Holyoke	33.1803%
Paoli	0.5228%

Pitkin County	47.1379%
Aspen	42.0707%
Basalt (2 Counties)	1.1156%
Snowmass Village	9.6757%

Prowers County	70.4524%
Granada	0.9965%
Hartman	0.3164%
Holly	4.9826%
Lamar	21.5860%
Wiley	1.6661%

Pueblo County	54.6622%
Boone	0.0019%
Pueblo	45.3350%
Rye	0.0008%

Rio Blanco County	78.2831%
Meeker	9.1326%
Rangely	12.5843%

Rio Grande County	68.0724%
Center (2 Counties)	0.7713%
Del Norte	6.7762%
Monte Vista	20.4513%
South Fork	3.9288%

Routt County	58.5353%
Hayden	1.0679%
Oak Creek	0.6360%
Steamboat Springs	39.4499%
Yampa	0.3109%

Saguache County	92.8796%
Bonanza	0.1367%
Center (2 Counties)	6.3687%
Crestone	0.0137%

Government Name	Intracounty Share
Moffat	0.3553%
Saguache	0.2460%

San Juan County	87.0423%
Silverton	12.9577%

San Miguel County	48.7493%
Mountain Village	25.7930%
Norwood	0.4078%
Ophir	0.0816%
Sawpit	0.0272%
Telluride	24.9411%

Sedgwick County	98.7331%
Julesburg	0.3830%
Ovid	0.0295%
Sedgwick	0.8544%

Summit County	57.0567%
Blue River	0.5011%
Breckenridge	26.1112%
Dillon	4.1421%
Frisco	6.5096%
Montezuma	0.0169%
Silverthorne	5.6623%

Teller County	66.1557%
Cripple Creek	17.2992%
Green Mountain Falls (2 Counties)	0.0322%
Victor	3.1685%
Woodland Park	13.3445%

Washington County	99.1320%
Akron	0.7659%
Otis	0.1021%

Weld County	51.9387%
Ault	0.3202%
Berthoud (2 Counties)	0.0061%
Brighton (2 Counties)	0.0927%
Dacono	0.6104%
Eaton	0.4573%
Erie (2 Counties)	0.8591%
Evans	4.5121%

Government Name	Intracounty Share
Firestone	1.4648%
Fort Lupton	0.8502%
Frederick	1.2228%
Garden City	0.1514%
Gilcrest	0.1580%
Greeley	30.6922%
Grover	0.0852%
Hudson	0.0066%
Johnstown (2 Counties)	1.5416%
Keenesburg	0.0215%
Kersey	0.1378%
La Salle	0.4128%
Lochbuie (2 Counties)	0.4004%
Longmont (2 Counties)	0.0154%
Mead	0.0941%
Milliken	1.5373%
Northglenn (2 Counties)	0.0030%
Nunn	0.2558%
Pierce	0.0948%
Platteville	0.3712%
Raymer (New Raymer)	0.0597%
Severance	0.0403%
Thornton (2 Counties)	0.0000%
Timnath (2 Counties)	0.0000%
Windsor (2 Counties)	1.5865%

Yuma County	75.5598%
Eckley	2.5422%
Wray	10.2148%
Yuma	11.6832%

¹These allocations are based on the allocation model used in the Negotiation Class website. The allocation model is the product of prolonged and intensive research, analysis, and discussion by and among members of the court-appointed Plaintiffs' Executive Committee and Settlement Committee and their retained public health and health economics experts, as well as a series of meetings with scores of cities, counties and subdivisions. Additional information about the allocation model is available on the Negotiation Class website.

The allocations in the Negotiation Class website use two different methodologies:

County-Level Allocation

The allocation model uses three factors, based on reliable, detailed, and objective data collected and reported by the federal government, to determine the share of a settlement fund that each county will receive. The three factors are: (1) the amount of opioids shipped to the county, (2) the number of opioid deaths in that county, and (3) the number of people who suffer opioid use disorder in that county.

County/Municipal-Level Allocation

The county/municipal-level allocation is a default allocation to be used if another agreement is not reached between the county and its constituent cities. The formula uses U.S. Census Bureau data on local government spending. This data covers cities and counties for 98% of the U.S. population. If a jurisdiction lacked this data, it was extrapolated based on available data.

²The municipalities of Bow Mar, Johnstown, and Timnath were not reflected as being in multiple counties in the Negotiation Class website. The estimated allocations to those cities are based on the same methodology used in the website, in consultation with the expert. For cities in multiple counties, please see each county in which that city lies.

Exhibit F

Regional Allocations		
Region Number	Region Description	Total State Share
1	Northwest	0.9522%
2	Larimer	6.5211%
3	Weld	3.8908%
4	Logan	1.5896%
5	North Central	2.1061%
6	Boulder	5.7936%
7	Broomfield	1.0014%
8	Adams	9.4247%
9	Arapahoe	10.8071%
10	Jefferson	10.7114%
11	Denver	15.0042%
12	Douglas	3.6696%
13	Mesa	2.8911%
14	Southwest	1.4700%
15	Central	1.5627%
16	El Paso/Teller	12.6116%
17	Southwest Corner	1.4375%
18	South Central	1.0973%
19	Southeast	7.4580%
Total		100.0000%

Exhibit G

Regional Governance Models

A. Membership Structure

Single-County Regions

1. Voting Members (Recommended List: Participating Local Governments to Decide)
 - 1 or 2 representatives appointed by the county (can be commissioners)
 - 1 representative appointed from the public health department
 - 1 representative from the county human services department
 - 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - 1 representative appointed from a municipal or county court system within region
 - 1-3 representatives (total) appointed by the cities within the county (or other city or cities agreed upon) (can be councilmembers and mayors)
 - Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)
2. Non-Voting Members (Optional but strongly encouraged)
 - Representatives from behavioral health providers
 - Representatives from health care providers
 - Recovery/treatment experts
 - Other county or city representatives
 - A representative from the Attorney General's Office
 - Community representative(s), preferably those with lived experience with the opioid crisis
 - Harm reduction experts

Multi-County Regions

1. Voting Members (Recommended List: Participating Local Governments to Decide)
 - 1 representative appointed by each county (can be commissioners)
 - 1 representative appointed by a rotating city within each county (or other city agreed upon) (can be councilmembers and mayors)
 - 1 representative from each public health department within the region
 - 1 representative from a county human services department
 - At least 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - 1 representative from a municipal or county court system within region
 - Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)
2. Non-Voting Members (Optional)
 - Representatives from behavioral health providers

- Representatives from health care providers
- Recovery/treatment experts
- Other county or city representatives
- A representative from the Attorney General’s Office
- Community representative(s), preferably those with lived experience with the opioid crisis.
- Harm reduction experts

Single-County Single-City Regions (Denver & Broomfield)

1. Voting Members (Recommended List: Participating Local Government to Decide)¹

- 1 representative appointed by the city and county
- 1 representative appointed from the public health department
- 1 representative from the county human services department
- 1 representative appointed from law enforcement within region (sheriff, police, district attorney, etc.)
- 1 representative appointed from a municipal or county court system within region
- Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of funds)

2. Non-Voting Members (Optional)

- Representatives from behavioral health providers
- Representatives from health care providers
- Recovery/treatment experts
- Other county or city representatives
- A representative from the Attorney General’s Office
- Community representative(s), preferably those with lived experience with the opioid crisis.
- Harm reduction experts

B. Member Terms

- Regions may establish terms of appointment for members. Appointment terms may be staggered.

C. Procedures

- Regions will be governed by an intergovernmental agreement (“IGA”) or memorandum of understanding (“MOU”).
- Regions may adopt the Model Colorado Regional Opioid Intergovernmental Agreement, attached here as Exhibit G-1, in its entirety or alter or amend it as they deem appropriate.

¹ In Denver, the Mayor shall make voting member appointments to the Regional Council. In Broomfield, the City and County Manager shall make voting member appointments to the Regional Council.

- Regions may establish their own procedures through adoption of bylaws (model bylaws to be made available).
- Meetings of regional board/committee shall be open to the public and comply with the Colorado Open Meetings Law (including requirement to keep minutes).

D. Financial Responsibility/Controls

- A local government entity shall nominate and designate a fiscal agent for the Region.
- A Regional fiscal agent must be appointed by the Regional Council on an annual basis. A Regional fiscal agent may serve as long as the Regional Council determines is appropriate, including the length of any Settlement that contemplates the distribution of Opioid Funds within Colorado. However, the Regional fiscal agent also can change over time.
- Regional fiscal agents must be a board of county commissioners or a city or town council or executive department, such as a department of finance.
- Yearly reporting by fiscal agent (using standard form) to the Abatement Council.
- All documents subject to CORA.

E. Conflicts of Interest

- Voting members shall abide by the conflict-of-interest rules applicable to local government officials under state law.

F. Ethics Laws

- Voting members shall abide by applicable state or local ethics laws, as appropriate.

G. Authority

- The Regional Council for each region shall have authority to decide how funds allocated to the region shall be distributed in accordance with the Colorado MOU and shall direct the fiscal agent accordingly.
- Any necessary contracts will be entered into by the fiscal agent, subject to approval by the Regional Council.

H. Legal Status

- The region shall not be considered a separate legal entity, unless the Participating Local Governments decide, through an IGA, to create a separate governmental entity.

Exhibit G-1

MODEL COLORADO REGIONAL OPIOID
INTERGOVERNMENTAL AGREEMENT²

THIS MODEL COLORADO REGIONAL OPIOID INTERGOVERNMENTAL AGREEMENT (the “Regional Agreement”) is made between _____, a Participating Local Government, as defined in the Colorado MOU, in the _____ Region (“_____”) and _____, a Participating Local Government in the _____ Region, (“_____”), individually herein a “Regional PLG” and collectively the “Regional PLGs.””

RECITALS

WHEREAS, the State of Colorado and Participating Local Governments executed the Colorado Opioids Summary Memorandum of Understanding on _____ 2021 (the “Colorado MOU”), establishing the manner in which Opioid Funds shall be divided and distributed within the State of Colorado;

WHEREAS, the Regional Agreement assumes and incorporates the definitions and provisions contained in the Colorado MOU, and the Regional Agreement shall be construed in conformity with the Colorado MOU³;

WHEREAS, all Opioid Funds, regardless of allocation, shall be used for Approved Purposes;

WHEREAS, Participating Local Governments shall organize themselves into Regions, as further depicted in **Exhibit E** to the Colorado MOU;

² This Model Regional Agreement is meant to serve as an example for the various Regions and to facilitate the flow of Opioid Funds to their intended purposes. Regions are free to adopt this Regional Agreement in its entirety or alter or amend it as they deem appropriate.

³ When drafting agreements like this Regional Agreement, Regional PLGs should be conscious of the definitions used therein so as not to confuse such definitions with those used in the Colorado MOU. The Definitions in the Colorado MOU shall supersede any definitions used by Regional PLGs in a Regional Agreement.

WHEREAS, Regions may consist of Single-County Regions, Multi-County Regions, or Single County-Single City Regions (Denver and Broomfield).

WHEREAS, there shall be a 60% direct allocation of Opioid Funds to Regions through a Regional Share;

WHEREAS, each Region shall be eligible to receive a Regional Share according to **Exhibit C** to the Colorado MOU;

WHEREAS, the Colorado MOU establishes the procedures by which each Region shall be entitled to Opioid Funds from the Abatement Council and administer its Regional Share allocation;

WHEREAS, the procedures established by the Colorado MOU include a requirement that each Region shall create its own Regional Council;

WHEREAS, all aspects of the creation, administration, and operation of the Regional Council shall proceed in accordance with the provisions of the Colorado MOU;

WHEREAS, each such Regional Council shall designate a fiscal agent from a county or municipal government within that Region;

WHEREAS, each such Regional Council shall submit a two-year plan to the Abatement Council that identifies the Approved Purposes for which the requested funds will be used, and the Regional Council's fiscal agent shall provide data and a certification to the Abatement Council regarding compliance with its two-year plan on an annual basis;

WHEREAS, the Regional Agreement pertains to the procedures for the Regional PLGs to establish a Regional Council, designate a fiscal agent, and request and administer Opioid Funds in a manner consistent with the Colorado MOU;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Regional PLGs incorporate the recitals set forth above and agree as follows:

1. **DEFINITIONS**. The defined terms used in this Regional Agreement shall have the same meanings as in the Colorado MOU⁴. Capitalized terms used herein and not otherwise defined within the Regional Agreement or in the Colorado MOU shall have the meanings ascribed to them in the body of the Regional Agreement.
2. **OBLIGATIONS OF THE REGIONAL PLGS**. The Regional PLGs shall perform their respective obligations as set forth in the Regional Agreement, the Colorado MOU and the accompanying exhibits to the Colorado MOU and incorporated herein by reference.
3. **REGIONAL COUNCIL**.
 - 3.1. **Purpose:** In accordance with the Colorado MOU, a Regional Council, consisting of representatives appointed by the Regional PLGs, shall be created to oversee the procedures by which a Region may request Opioid Funds from the Abatement Council and the procedures by which the allocation of its Region's Share of Opioid Funds are administered.
 - 3.2. **Membership:** The Regional Council of a Multi-County or Single County Region shall consist of the following:
 - a. **Multi-County Region:**
 - (i) **Voting Members.** Voting Members shall be appointed by the Regional PLGs. The Regional PLGs shall collaborate to appoint Regional Council members and to the extent practicable, Voting Members shall be selected from different counties and cities. No single county or city should dominate the make-up of the Regional Council. Voting Members shall be selected as follows:
 - (1) 1 representative appointed by each county (can be commissioners).
 - (2) 1 representative appointed from a rotating city within each county (or other city agreed upon) (can be councilmembers and mayors). A rotating city member shall be selected by majority vote of the cities within each county who do not have a Voting Member currently sitting on the Regional

⁴ See FN 2, *supra*.

Council.

- (3) 1 representative from each public health department within the region.
- (4) 1 representative from a county human services department.
- (5) At least 1 representative appointed from law enforcement within the region (sheriff, police, local city or town district attorney, etc.).
- (6) 1 representative from a municipal or county court system within the region.

b. Single-County Region:

- (i) **Voting Members.** Voting Members shall be appointed by the Regional PLGs. The Regional PLGs shall collaborate to appoint Regional Council members and to the extent practicable, Voting Members shall be selected from different cities within the region. No single city should dominate the make-up of the Regional Council. Voting Members shall be selected as follows:
 - (1) 1 or 2 representatives appointed by the county (can be commissioners)
 - (2) 1 representative appointed from the public health department
 - (3) 1 representative from the county human services department
 - (4) 1 representative appointed from law enforcement within region (sheriff, police, local city or town district attorney, etc.)
 - (5) 1 representative appointed from a municipal or county court system within region
 - (6) 1-3 representatives (total) appointed by rotating cities within the county (or other city or cities agreed upon) (can be councilmembers and mayors). Rotating city members shall be selected by majority vote of the cities who do not have a Voting Member currently sitting on the Regional Council.
 - (7) Such other representatives as participating counties/cities agree on (not to include providers who may be recipients of

funds)

- c. **Non-Voting Members.** For both Multi-County and Single County Regions, Non-Voting Members are optional but are strongly encouraged. Non-voting members shall serve in an advisory capacity. Any Non-Voting Members shall be appointed by the Regional PLGs and may be comprised of all or some of the following, not to include potential recipients of funds:
- (i) Representatives from behavioral health providers.
 - (ii) Representatives from health care providers.
 - (iii) Recovery/treatment experts.
 - (iv) Other county or city representatives.
 - (v) A representative from the Attorney General's Office.
 - (vi) Community representative(s), preferably those with lived experience with the opioid crisis.
 - (vii) Harm reduction experts.
- d. **Acting Chair:** The Voting Members for both Multi-County and Single-County Regions shall appoint one member to serve as Acting Chair of the Regional Council. The Acting Chair's primary responsibilities shall be to schedule periodic meetings and votes of the Regional Council as needed and to serve as the point of contact for disputes within the Region. The Acting Chair must be either a Member from a county within a Region, such as a county commissioner or their designee, or a Member from a city or town within a Region, such as a mayor or city or town council member or their designee.
- e. **Non-Participation:** A Local Government that chooses not to become a Participating Local Government in the Colorado MOU shall not receive any Opioid Funds from the Regional Share or participate in the Regional Council.
- f. **Terms:** The Regional Council shall be established within ninety (90) days of the first Settlement being entered by a court of competent jurisdiction, including any bankruptcy court. In order to do so, within sixty (60) days of the first Settlement being entered, CCI and CML shall jointly recommend six (6) Voting Members, and so long as such recommendations comply with the terms of Section 3.2 (a) or (b), the Regional Council shall consist of CCI/CML's recommended Members for

an initial term not to exceed one year.⁵ Thereafter, Voting Members shall be appointed in accordance with Section 3.2 (a) or (b) and shall serve two-year terms. Following the expiration of that two-year term, the Regional PLGs, working in concert, shall reappoint that Voting Member, or appoint a new Voting Member according to Section 3.2 (a) or (b).

- (i) If a Voting Member resigns or is otherwise removed from the Regional Council prior to the expiration of their term, a replacement Voting Member shall be appointed within sixty (60) days in accordance with Section 3.2 (a) or (b) to serve the remainder of the term. If the Regional PLGs are unable to fill a Voting Member vacancy within sixty (60) days, the existing Voting Members of the Regional Council at the time of the vacancy shall work collectively to appoint a replacement Voting Member in accordance with Section 3.2 (a) or (b). At the end of his or her term, the individual serving as that replacement Voting Member may be reappointed by the Regional PLGs to serve a full term consistent with this Section.
- (ii) The purpose of the two-year term is to allow Regional PLGs an increased opportunity to serve on the Regional Council. However, Regional Council members who have already served on the Regional Council may be appointed more than once and may serve consecutive terms if appointed to do so by the Regional Council.

3.3. Duties: The Regional Council is primarily responsible for engaging with the Abatement Council on behalf of its Region and following the procedures outlined in the Colorado MOU for requesting Opioid Funds from the Regional Share, which shall include developing 2-year plans, amending those plans as appropriate, and providing the Abatement Council with data through its fiscal agent regarding Opioid Fund expenditures. Upon request from the Abatement Council, the Regional Council may also be subject to an accounting from the Abatement Council.

3.4. Governance: A Regional Council may establish its own procedures through adoption of bylaws if needed. Any governing documents must be consistent with the other provisions in this section and the Colorado MOU.

3.5. Authority: The terms of the Colorado MOU control the authority of a Regional Council and a Regional Council shall not stray outside the bounds of the authority and power vested by the Colorado MOU. Should a Regional Council require legal assistance in determining its authority,

⁵ Local Governments within Multi-County or Single County Regions may decide to select initial Voting Members of the Regional Council between themselves and without CCI and CML involvement. However, the Regional Council must be established within ninety (90) days of the first Settlement being entered by a court of competent jurisdiction, including any bankruptcy court.

it may seek guidance from the legal counsel of the county or municipal government of the Regional Council's fiscal agent at the time the issue arises.

3.6. Collaboration: The Regional Council shall facilitate collaboration between the State, Participating Local Governments within its Region, the Abatement Council, and other stakeholders within its Region for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado.

3.7. Transparency: The Regional Council shall operate with all reasonable transparency and abide by all Colorado laws relating to open records and meetings. To the extent the Abatement Council requests outcome-related data from the Regional Council, the Regional Council shall provide such data in an effort to determine best methods for abating the opioid crisis in Colorado.

3.8. Conflicts of Interest: Voting Members shall abide by the conflict-of-interest rules applicable to local government officials under state law.

3.9. Ethics Laws: Voting Members shall abide by their local ethics laws or, if no such ethics laws exist, by applicable state ethics laws.

3.10. Decision Making: The Regional Council shall seek to make all decisions by consensus. In the event consensus cannot be achieved, the Regional Council shall make decisions by a majority vote of its Members.

4. REGIONAL FISCAL AGENT

4.1. Purpose: According to the Colorado MOU, the Regional Council must designate a fiscal agent for the Region prior to the Region receiving any Opioid funds from the Regional Share. All funds from the Regional Share shall be distributed to the Regional Council's fiscal agent for the benefit of the entire Region.

4.2. Designation: The Regional Council shall nominate and designate a fiscal agent for the Region by majority vote. Regional fiscal agents must be a board of county commissioners or a city or town council or executive department, such as a department of finance.

4.3. Term: A Regional fiscal agent must be appointed by the Regional Council on an annual basis. A Regional fiscal agent may serve as long as the Regional Council determines is appropriate, including the length of any Settlement that contemplates the distribution of Opioid Funds within Colorado.

4.4. Duties: The Regional fiscal agent shall receive, deposit, and make available Opioid Funds distributed from the Abatement Council and provide expenditure reporting data to the

Abatement Council on an annual basis. In addition, the Regional fiscal agent shall perform certain recordkeeping duties outlined below.

- a. **Opioid Funds:** The Regional fiscal agent shall receive all Opioid Funds as distributed by the Abatement Council. Upon direction by the Regional Council, the Regional fiscal agent shall make any such Opioid Funds available to the Regional Council.
- b. **Reporting:** On an annual basis, as determined by the Abatement Council, the Regional fiscal agent shall provide to the Abatement Council the Regional Council's expenditure data from their allocation of the Regional Share and certify to the Abatement Council that the Regional Council's expenditures were for Approved Purposes and complied with its 2-year plan.
- c. **Recordkeeping:** The Regional fiscal agent shall maintain necessary records with regard the Regional Council's meetings, decisions, plans, and expenditure data.

4.5. Authority: The fiscal agent serves at the direction of the Regional Council and in service to the entire Region. The terms of the Colorado MOU control the authority of a Regional Council, and by extension, the Regional fiscal agent. A Regional fiscal agent shall not stray outside the bounds of the authority and power vested by the Colorado MOU.

5. REGIONAL TWO-YEAR PLAN

5.1. Purpose: According to the Colorado MOU, as part of a Regional Council's request to the Abatement Council for Opioid Funds from its Regional Share, the Regional Council must submit a 2-year plan identifying the Approved Purposes for which the requested funds will be used.

5.2 Development of 2-Year Plan: In developing a 2-year plan, the Regional Council shall solicit recommendations and information from all Regional PLGs and other stakeholders within its Region for the purposes of sharing data, outcomes, strategies, and other relevant information related to abating the opioid crisis in Colorado. At its discretion, a Regional Council may seek assistance from the Abatement Council for purposes of developing a 2-year plan.

5.3 Amendment: At any point, a Regional Council's 2-year plan may be amended so long as such amendments comply with the terms of the Colorado MOU and any Settlement.

6. DISPUTES WITHIN REGION. In the event that any Regional PLG disagrees with a decision of the Regional Council, or there is a dispute regarding the appointment of Voting or Non-Voting Members to the Regional Council, that Regional PLG shall inform the Acting Chair of its dispute at the earliest

possible opportunity. In Response, the Regional Council shall gather any information necessary to resolve the dispute. Within fourteen (14) days of the Regional PLG informing the Acting Chair of its dispute, the Regional Council shall issue a decision with respect to the dispute. In reaching its decision, the Regional Council may hold a vote of Voting Members, with the Acting Chair serving as the tie-breaker, or the Regional Council may devise its own dispute resolution process. However, in any disputes regarding the appointment of a Voting Member, that Voting Member will be recused from voting on the dispute. The decision of the Regional Council is a final decision.

7. **DISPUTES WITH ABATEMENT COUNCIL.** If the Regional Council disputes the amount of Opioid Funds it receives from its allocation of the Regional Share, the Regional Council shall alert the Abatement Council within sixty (60) days of discovering the information underlying the dispute. However, the failure to alert the Abatement Council within this time frame shall not constitute a waiver of the Regional Council's right to seek recoupment of any deficiency in its Regional Share.
8. **RECORDKEEPING.** The acting Regional fiscal agent shall be responsible for maintaining records consistent with the Regional Agreement.
9. **AUTHORIZED REPRESENTATIVES.** Each Regional PLGs' representative designated below shall be the point of contact to coordinate the obligations as provided herein. The Regional PLGs designate their authorized representatives under this Regional Agreement as follows:
 - 9.1. _____ designates the ____ of the _____ or their designee(s).
 - 9.2. _____ designates the ____ of the _____ or their designee(s).
10. **OBLIGATIONS OF THE REGIONAL PLGS.** The Regional PLGs shall perform their respective obligations as set forth in the Regional Agreement, the Colorado MOU and the accompanying exhibits to the Colorado MOU and incorporated herein by reference.
11. **TERM.** The Regional Agreement will commence on _____, and shall expire on the date the last action is taken by the Region, consistent with the terms of the Colorado MOU and any Settlement. (the "Term").
12. **INFORMATIONAL OBLIGATIONS.** Each Regional PLG hereto will meet its obligations as set forth in § 29-1-205, C.R.S., as amended, to include information about this Regional Agreement in a filing with the Colorado Division of Local Government; however, failure to do so shall in no way affect the validity of this Regional Agreement or any remedies available to the Regional PLGs hereunder.
13. **CONFIDENTIALITY.** The Regional PLGs, for themselves, their agents, employees and representatives, agree that they will not divulge any confidential or proprietary information they receive from another Regional PLG or otherwise have access to, except as may be required by law. Nothing in this Regional

Agreement shall in any way limit the ability of the Regional PLGs to comply with any laws or legal process concerning disclosures by public entities. The Regional PLGs understand that all materials exchanged under this Regional Agreement, including confidential information or proprietary information, may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, C.R.S., (the “Act”). In the event of a request to a Regional PLG for disclosure of confidential materials, the Regional PLG shall advise the Regional PLGs of such request in order to give the Regional PLGs the opportunity to object to the disclosure of any of its materials which it marked as, or otherwise asserts is, proprietary or confidential. If a Regional PLG objects to disclosure of any of its material, the Regional PLG shall identify the legal basis under the Act for any right to withhold. In the event of any action or the filing of a lawsuit to compel disclosure, the Regional PLG agrees to intervene in such action or lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. If the matter is not resolved, the Regional PLGs may tender all material to the court for judicial determination of the issue of disclosure.

14. GOVERNING LAW; VENUE. This Regional Agreement shall be governed by the laws of the State of Colorado. Venue for any legal action relating solely to this Regional Agreement will be in the applicable District Court of the State of Colorado for the county of the Region’s fiscal agent. Venue for any legal action relating to the Colorado MOU shall be in a court of competent jurisdiction where a Settlement or consent decree was entered, as those terms are described or defined in the Colorado MOU. If a legal action relates to both a Regional Agreement and the Colorado MOU, venue shall also be in a court of competent jurisdiction where a Settlement or consent decree was entered.

15. TERMINATION. The Regional PLGs enter into this Regional Agreement to serve the public interest. If this Regional Agreement ceases to further the public interest, a Regional PLG, in its discretion, may terminate their participation in the Regional Agreement, in whole or in part, upon written notice to the other Regional PLGs. Each Regional PLG also has the right to terminate the Regional Agreement with cause upon written notice effective immediately, and without cause upon thirty (30) days prior written notice to the other Regional PLGs. A Regional PLG’s decision to terminate this Regional Agreement, with or without cause, shall have no impact on the other Regional PLGs present or future administration of its Opioid Funds and the other procedures outlined in this Regional Agreement. Rather, a Regional PLG’s decision to terminate this Regional Agreement shall have the same effect as non-participation, as outlined in Section 3.2 (e).

16. NOTICES. “Key Notices” under this Regional Agreement are notices regarding default, disputes, or termination of the Regional Agreement. Key Notices shall be given in writing and shall be deemed

received if given by confirmed electronic transmission that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding facsimile transmissions and texts when transmitted, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission; certified mail, return receipt requested, postage prepaid, three business days after being deposited in the United States mail; or overnight carrier service or personal delivery, when received. For Key Notices, the Regional PLGs will follow up any electronic transmission with a hard copy of the communication by the means described above. All other communications or notices between the Regional PLGs that are not Key Notices may be done via electronic transmission. The Regional PLGs agree that any notice or communication transmitted by electronic transmission shall be treated in all manner and respects as an original written document; any such notice or communication shall be considered to have the same binding and legal effect as an original document. All Key Notices shall include a reference to the Regional Agreement, and Key Notices shall be given to the Regional PLGs at the following addresses:

17. GENERAL TERMS AND CONDITIONS

- 17.1. Independent Entities.** The Regional PLGs enter into this Regional Agreement as separate, independent governmental entities and shall maintain such status throughout.
- 17.2. Assignment.** This Regional Agreement shall not be assigned by any Regional PLG without the prior written consent of all Regional PLGs. Any assignment or subcontracting without such consent will be ineffective and void and will be cause for termination of this Regional Agreement.
- 17.3. Integration and Amendment.** This Regional Agreement represents the entire agreement between the Regional PLGs and terminates any oral or collateral agreement or understandings. This Regional Agreement may be amended only by a writing signed by the Regional PLGs. If any provision of this Regional Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and the remaining provision of this Regional Agreement shall continue in full force and effect.

- 17.4. No Construction Against Drafting Party.** The Regional PLGs and their respective counsel have had the opportunity to review the Regional Agreement, and the Regional Agreement will not be construed against any Regional PLG merely because any provisions of the Regional Agreement were prepared by a particular Regional PLG.
- 17.5. Captions and References.** The captions and headings in this Regional Agreement are for convenience of reference only and shall not be used to interpret, define, or limit its provisions. All references in this Regional Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.
- 17.6. Statutes, Regulations, and Other Authority.** Any reference in this Regional Agreement to a statute, regulation, policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the execution of this Regional Agreement.
- 17.7. Conflict of Interest.** No Regional PLG shall knowingly perform any act that would conflict in any manner with said Regional PLG's obligations hereunder. Each Regional PLG certifies that it is not engaged in any current project or business transaction, directly or indirectly, nor has it any interest, direct or indirect, with any person or business that might result in a conflict of interest in the performance of its obligations hereunder. No elected or employed member of any Regional PLG shall be paid or receive, directly or indirectly, any share or part of this Regional Agreement or any benefit that may arise therefrom.
- 17.8. Inurement.** The rights and obligations of the Regional PLGs to the Regional Agreement inure to the benefit of and shall be binding upon the Regional PLGs and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Regional Agreement.
- 17.9. Survival.** Notwithstanding anything to the contrary, the Regional PLGs understand and agree that all terms and conditions of this Regional Agreement and any exhibits that require continued performance or compliance beyond the termination or expiration of this Regional Agreement shall survive such termination or expiration and shall be enforceable against a Regional PLG if such Regional PLG fails to perform or comply with such term or condition.
- 17.10. Waiver of Rights and Remedies.** This Regional Agreement or any of its provisions may not be waived except in writing by a Regional PLG's authorized representative. The failure of a

Regional PLG to enforce any right arising under this Regional Agreement on one or more occasions will not operate as a waiver of that or any other right on that or any other occasion.

17.11. No Third-Party Beneficiaries. Enforcement of the terms of the Regional Agreement and all rights of action relating to enforcement are strictly reserved to the Regional PLGs. Nothing contained in the Regional Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the Regional PLGs receiving services or benefits pursuant to the Regional Agreement is an incidental beneficiary only.

17.12. Records Retention. The Regional PLGs shall maintain all records, including working papers, notes, and financial records in accordance with their applicable record retention schedules and policies. Copies of such records shall be furnished to the Parties request.

17.13. Execution by Counterparts; Electronic Signatures and Records. This Regional Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Regional PLGs approve the use of electronic signatures for execution of this Regional Agreement. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101, *et seq.* The Regional PLGs agree not to deny the legal effect or enforceability of the Regional Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Regional PLGs agree not to object to the admissibility of the Regional Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

17.14. Authority to Execute. Each Regional PLG represents that all procedures necessary to authorize such Regional PLG's execution of this Regional Agreement have been performed and that the person signing for such Regional PLG has been authorized to execute the Regional Agreement.

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EXHIBIT K

Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“Governmental Entity”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 (“Janssen Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.
7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the Janssen Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Janssen Settlement.

10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.

I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

EXHIBIT K

Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 (“*Distributor Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributor Settlement, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Distributor Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Distributor Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Distributor Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Distributor Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Distributor Settlement.

7. The Governmental Entity has the right to enforce the Distributor Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributor Settlement, including, but not limited to, all provisions of Part XI, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributor Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributor Settlement.
10. In connection with the releases provided for in the Distributor Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributor Settlement.

11. Nothing herein is intended to modify in any way the terms of the Distributor Settlement, to which Governmental Entity hereby agrees. To the extent this Participation Form is interpreted differently from the Distributor Settlement in any respect, the Distributor Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

Colorado Subdivision Escrow Agreement

Governmental Entity:	State: CO
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”) hereby provides Colorado Counties, Inc. (for counties) or the Colorado Municipal League (for municipalities) (“*Escrow Agent*”) the enclosed copies of the Governmental Entity’s endorsed Subdivision Settlement Participation Forms and the Colorado Opioids Settlement Memorandum of Understanding (“Colorado MOU”), to be held in escrow. The Subdivision Settlement Participation Forms apply respectively to (1) the National Settlement Agreement with McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation, dated July 21, 2021 (“*Distributor Settlement*”); and (2) the National Settlement Agreement with Janssen Pharmaceuticals, Inc., and its parent company Johnson & Johnson, dated July 21, 2021 (“*J&J Settlement*”). Pursuant to this Agreement, the Subdivision Settlement Participation Forms and the Colorado MOU will be released only if there is 95% participation by local governments in Colorado as further explained below.

Purpose of this Agreement

By endorsing a Subdivision Settlement Participation Form in the Distributor Settlement and the J&J Settlement, a governmental entity agrees to participate in those settlements and release any legal claims it has or may have against those settling pharmaceutical companies. This Colorado Subdivision Escrow Agreement is meant to ensure that the legal claims of governmental entities in Colorado will be released only when 95% participation by certain governmental entities has been reached. That 95% participation threshold is important because it signals to the settling pharmaceutical companies that the settlement has wide acceptance which will then secure significant incentive payments under these settlement agreements.

Escrow

The Escrow Agent shall promptly report the receipt of any Governmental Entity’s endorsed Subdivision Settlement Participation Forms and Colorado MOUs to the Colorado Attorney General’s Office and to the law firm of Keller Rohrback L.L.P. These documents shall be released by the Escrow Agent to the Colorado Attorney General’s Office if and when the Escrow Agent is notified by the Attorney General’s Office and Keller Rohrback that that the threshold 95% participation levels have been reached for both the Distributor Settlement and the J&J Settlement, as further described below. If by December 29, 2021, the Escrow Agent has not received notification that the threshold 95% levels have been reached for both the Distributor Settlement and the J&J Settlements, then the documents being escrowed shall be returned to the Governmental Entities and all copies shall be destroyed.

Distributor Settlement

The Attorney General’s Office and Keller Rohrback shall jointly submit a written notification to the Escrow Agent when it has been determined that the percentages of populations eligible for Incentives B and C, as described in Sections IV.F.2 and IV.F.3 of the Distributor Settlement, are each 95% or more. For purposes of this Escrow Agreement, the percentages of populations eligible for Incentives B and C under the Distributor Settlement will include governmental entities that sign a Subdivision Settlement Participation Form subject to an escrow agreement and governmental entities that sign a Subdivision Settlement Participation Form that is not subject to an escrow agreement.

J&J Settlement

The Attorney General’s Office and Keller Rohrback shall jointly submit a written notification to the Escrow Agent when it has been determined that the Participation or Case-Specific Resolution Levels for Incentives B and C, as described in Sections V.E.5 and V.E.6 of the J&J Settlement, are each 95% or more. For purposes of this Escrow Agreement, the percentages or populations eligible for Incentives B and C under the J&J Settlement will include governmental entities that sign a Subdivision Settlement Participation Form subject to an escrow agreement and governmental entities that sign a Subdivision Settlement Participation Form that is not subject to an escrow agreement.

Colorado Subdivision Name _____

Authorized Signature

Date

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



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

To: Town Council
From: Scot Hunn, Planning Director
Madison Harris, Planner I
Date: September 30, 2021
Re: 504 Eagle River Street and 502 Main Street Rezoning from Old Town Residential to Old Town Mixed Use - Ordinance 10 - Series 2021

This is an addendum to the Planning Commission staff report presented at the September 22, 2021 regular meeting which is also in this packet.

The Applicants, Mr. Michael Boyd and Mr. Casey Rietz, propose to rezone their properties, located at 504 Eagle River Street and 502 Main Street, respectively, from Old Town Character Area Residential Zone District, to Old Town Character Area Mixed Use Zone District. The request was reviewed by the Planning Commission on September 22, 2021 with a forwarded recommendation to the Town Council of approval without conditions.

Summary of Discussion at September 22, 2021 Meeting:

Two adjacent neighbors spoke at the hearing in opposition to the proposed zone change. Their concerns included the potential impact of changing the residential character and nature of the existing residential neighborhood as well as concern over the existing and future uses of the subject properties. The Planning Commission voted unanimously to recommend approval of the rezoning request.

Staff and the Planning Commission are recommending **approval without conditions**.

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



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

Planning Commission Hearing

Boyd / Rietz Rezoning Proposal 504 Eagle River Street & 502 Main Street

Hearing Date:	September 22, 2021
File Name and Process:	Rezoning Proposal
Owner/Applicant:	Michael Boyd and Casey Rietz
Representative:	Michael Boyd and Casey Rietz
Legal Description:	Boyd Property NE ½ Lot 1, Bocco’s 2nd, Block 3 Rietz Property SW ½ Lot 1, Bocco’s 2nd Block 3
Existing Zoning:	Old Town Character Area - Residential Zone District
Proposed Zoning:	Old Town Character Area - Mixed Use Zone District
Staff Member:	Scot Hunn, Planning Director
Recommendation:	Approval

Staff Report

I. Summary of Request:

The Applicants, Mr. Michael Boyd and Mr. Casey Rietz, propose to rezone their properties, located at 504 Eagle River Street and 502 Main Street, respectively, from Old Town Character Area Residential Zone District, to Old Town Character Area Mixed Use Zone District.

II. Summary of Process and Code Requirements:

The following section sets forth those sections of the Town of Minturn Municipal Code applicable to the processing and review of amendments to the text of the Land Use Regulations (Chapter 16 - *Zoning*), or the official zone district map for the Town.

Section 16-21-410 - Amendments to text of Land Use Regulations or Character Area and Zone District Map.

All amendments to the text of these Land Use Regulations or amendments to the Character Area Zoning Map shall comply with the following procedures and meet the standards set forth in this Division.

Section 16-21-420 - Purpose.

The purpose of this Division is to provide a means for changing the boundaries or any other map incorporated herein by reference, and for changing the text of these Land Use Regulations. It is not intended to relieve particular hardships or to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions.

Sec. 16-21-430 - Initiation.

- (a) Map amendment. An application for an amendment to the Character Area Zoning Map or any other map incorporated in these Land Use Regulations may be proposed by the Town Council, the Planning Commission, the Planning Director or the owner or another person having a recognized interest in the land affected by a proposed amendment, or his or her authorized agent.*
- (b) Regulation amendment. An application for an amendment to the text of these Land Use Regulations may be proposed by the Town Council, the Planning Commission, the Planning Director, the owner or another person having a recognized interest in land in the Town or his or her authorized agent, or any citizen of the Town.*
- (c) Application contents. An application for an amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or an application for an amendment to the text of these Land Use Regulations shall contain the materials specified in [Section 16-21-690](#) of this Article and the following additional materials:*
 - (1) Precise wording. If the application is for an amendment to the text, the precise wording of the proposed change shall be provided.*
 - (2) Map amendment. If the application requests an amendment to the Character Area Zoning Map or any other map incorporated in these Land Use Regulations, it shall include a map showing the present Character Area and zoning, and other designations of the subject property and of all adjacent properties. For a proposed amendment to the Character Area Zoning Map, the map shall be a survey that accurately describes the dimensions of the subject property, including its size in square feet or acres. This survey shall be accompanied by a written statement or map describing the existing uses of the subject property and on adjacent properties and a conceptual site plan showing, in general terms, the property's proposed layout, use, density and the timing for its development.*

Staff Response:

An application has been filed by the two property owners having a recognized interest in the land affected by a proposed amendment. As part of the application, the Applicants have provided survey's of both affected properties. No development is proposed. Both properties are currently developed and being used for residential purposes. 504 Eagle River Street currently has three (3) dwelling units that have been approved, constructed and inspected by the Town, while 502 Main Street has two units (primary residence with apartment) according to the Eagle County Assessor's information.

Section 16-21-440 - Procedure.

- (a) Review of applications. The submission of an application for an amendment, determination of its sufficiency, staff review and notice and scheduling of a public hearing for an application for amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations shall comply with the procedures established in this Chapter.*
- (b) Review and recommendation of Planning Commission. The Planning Commission shall conduct a public hearing on an application for amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the staff report and the public testimony given at the public hearing. After the close of the public hearing, the Planning Commission shall recommend to the Town Council either to approve or disapprove the application based on the standards in this Chapter and forward the application to the Town Council.*
- (c) Action by Town Council. After receipt of the recommendation from the Planning Commission, the Town Council shall conduct a public hearing on the application. At the public hearing, the Town Council shall consider the application, the relevant support materials, the staff report, the Planning Commission recommendation and the public testimony given at the public hearing. After the close of the public hearing, the Town Council, by a majority vote of the quorum present, shall either approve or disapprove the application based on the standards in this Chapter. Any amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations approved by the Town Council shall be adopted by ordinance.*

Staff Response:

Public notice was provided for public hearings before the Planning Commission on September 22, 2021 and Town Council on October 6, 2021 in accordance with the requirements of the MMC.

Section 16-21-450 - Standards

The wisdom of amending the text of these Land Use Regulations, the Character Area Zoning Map or any other map incorporated in these Land Use Regulations is a matter committed to

the legislative discretion of the Town Council and is not controlled by any one (1) factor. In determining whether to adopt, adopt with modifications or disapprove the proposed amendment, the Town Council shall consider the following:

- (1) Consistency with Master Plan. Whether and the extent to which the proposed amendment is consistent with the purposes, goals, policies and Character Area Zoning Map of the Master Plan.*

Staff Response:

Staff believes that the 2009 Minturn Community Plan generally supports this request. The “Community Character/Urban Design” goal area of the Plan sets forth the following:

“Established in 1904, Minturn is one of the oldest communities in Eagle County. It is a diverse community comprising a mix of year-round residents and second home owners. Residents value the “small town” feel of Minturn and its unique identity (as identified in the community vision statement) which is quite distinct from the surrounding resort towns...”

From the Land Use/Transportation goal area of the Plan, staff suggests that the Town seeks balance within development proposals and amongst individual properties and neighborhoods:

“In order for a community to thrive economically, socially and culturally, there must exist a balance of compatibly located places for residents to live, work, recreate and shop for the things they need on a day-to-day basis.”

Additionally, staff believes that the proposed rezoning which will permit the use of a third dwelling unit (again, a unit that has previously been approved and inspected by the Town but never used as a third dwelling unit by anyone other than the Applicant) directly addresses or responds to the following strategy found on page 17 of the Community Plan, under “Affordable Housing” goal area:

“Goal (AHG 1): Promote Affordable Housing

“(AHS 1.1) Promote the development of housing opportunities for all income levels throughout all areas of town.”

The Town adopted its first housing action plan in 2019 for the purpose of addressing and completing a goal of the 2009 Community Plan. The overarching goal of the Housing Action Plan was to create more opportunities for locals housing through incentives to create or protect diverse housing types such as Accessory Dwelling Units:

“In creating this Housing Action Plan, our goal is to preserve the economic and social diversity of Minturn through a combination of incentives, regulations, partnerships, and Town initiatives, that ensure Minturn retains its historical status as a full-time resident population center.”

“Increasing infill opportunities such as duplexes, townhouses, and accessory dwelling units in existing neighborhoods”

Staff believes that the proposed rezoning of these two properties abutting the existing MU zone district - a zone district that promotes slightly higher residential densities along with other neighborhood commercial uses (many of which are only permitted after limited or conditional review processes to ensure compatibility) will generally promote the goals and policies of the Town.

Furthermore, in the case of 504 Eagle River Street, staff suggests that the rezoning will create additional rental opportunities for local residents and/or for visitors (if the property owner chooses to to apply for a Short Term Rental license of one of his three existing units in the future). Staff is not aware of any plans by the owner of 502 Main Street to change the existing use of his property or to introduce any of the neighborhood commercial uses listed in the Old Town Character Area table of uses. Likewise, staff is not aware of any plans by the owner of 504 Eagle River Street to convert his existing primary residence into a business or commercial use of any kind. Staff believes such conversion would be impractical and unlikely in the future given the design and construction of the existing residential uses on the property.

- (2) *Compatible with surrounding uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate Character Area and zone district for the land, considering its consistency with the purpose and standards of the proposed zone district.*

Staff Response:

The Old Town Character Area Residential Zone District permits single-family uses as uses ‘by right,’ along with “Accessory Apartments” and “Accessory Dwelling Units” as uses that are permitted via the Limited Review Use permit process. The Mixed-Use Zone District also requires a Limited Review Use permit for Accessory Apartments and Accessory Dwelling Units.

The subject properties already have Accessory Apartments and staff believes several of the surrounding residential or mixed-use zoned properties in the vicinity - to the north, south, and west - also have pre-existing Accessory Apartments or dwelling units in addition to single-family uses. Therefore, from a density perspective, the proposed uses located at 504 Eagle River Street (to continue use of the primary residential dwelling unit and to fully utilize two additional dwelling units that have previously been designed, approved and inspected by the Town)- will not be at all out of character with the surrounding uses and characteristics of nearby properties that are zoned Mixed Use and Residential. Parking for 504 Eagle River Street appears to meet or exceed the requirements of the Minturn Municipal Code. Likewise, the existing residential use at 502 Main Street is to continue.

This rezoning request is being proposed, in part, to allow for the use of a third dwelling unit at 504 Eagle River Street that has been approved by the Town in the past.

The Old Town Character Area Mixed Use Zone District covers a large area of Old Town on both sides of Hwy. 24, from Toledo Avenue to the north, to Pine and Boulder Streets to the west, and Meek Avenue /Eagle River Street to the east and south. The subject properties are contiguous with the southern boundary of the MU Zone District. The MU Zone District permits a wider variety of residential, professional office and commercial (both service and retail oriented) uses. Importantly, while low impact professional service and office uses are permitted “by right,” other, potentially more impactful retail or service commercial uses are only permitted in the MU Zone District via the limited or, in most cases, the Conditional Use Permit (CUP) process to ensure that uses are scrutinized and that any potential impacts are mitigated or fully addressed.

Based on this analysis and with consideration for the amount and type of existing residential uses mixed with commercial and service uses already occurring in the immediate vicinity of the subject properties, staff believes that the proposed rezoning of these two properties - as logical book ends to the existing MU Zone District abutting their properties - will be compatible and in character with existing and proposed surrounding uses.

- (3) *Changed conditions. Whether and the extent to which there are changed conditions that require an amendment to modify the use, density or intensity.*

Staff Response:

Staff respectfully suggests that, since the time that the subject properties were zoned Residential, several conditions of strategic importance to the Town have changed.

From a policy perspective, the Town has adopted a Housing Action Plan in response to ongoing and seemingly increasing pressures on local housing and land development costs and availability. The Town has also approved an inclusionary zoning ordinance requiring new developments over five (5) units to mitigate their impacts on local’s housing by providing “Locals Only” or resident occupied housing units, as well as providing deed restricted, price or rent capped units aimed at certain local income levels. This is in response to the significant increase in housing and land values locally and a general lack of housing based on real estate listing and housing “needs assessments” completed by Eagle County on a periodic basis. Simply, there is an ongoing and ever-increasing need for diverse housing offerings including the provision of more Accessory Dwelling Units.

Rezoning the subject properties to allow, among other potential uses, additional dwelling units is viewed by staff as conforming with the Town’s goals and policies in response to changing conditions.

Additionally, the Town Council has consistently indicated that those areas fronting, or adjacent to, U.S. Hwy. 24 (Main Street) should be protected and treated - through zoning and development standards - as sales tax generated areas; meaning, that the Town should continue to review its zoning map and associated development standards as they apply to the Hwy. 24 corridor to ensure that zoning regulations and development standards

encourage rather than discourage additional commercial and mixed uses to ensure the viability and sustainability of Town.

- (4) *Effect on natural environment. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife habitat, vegetation and wetlands.*

Staff Response:

No development is proposed with this rezoning request and staff does not believe the rezoning request will have any adverse impact on the natural environment.

- (5) *Community need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.*

Staff Response:

For reasons stated above, staff believes that the proposed rezoning does address a community need - to expand the MU Zone District to permit additional opportunities for infill housing - by permitting “multi-family” housing (more than two dwelling units) where appropriate.

- (6) *Development patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning, and whether the resulting development can logically be provided with necessary public facilities and services.*

Staff Response:

Staff believes this standard addresses one of the more compelling aspects of the proposed rezoning; that being the location of the subject properties relative existing MU Zone District boundaries as well as their proximity to the sale tax-generating areas of the Old Town Commercial Zone District (located along the 400 Block of Main Street). Designation of 502 Main Street and 504 Eagle River Street as MU will provide a logical extension of the MU Zone District. Further, both properties enjoy adequate access to public streets, have ample parking and proximity to public facilities and services, and are located within 200-300 feet of an existing bus stop.

- (7) *Public interest. Whether and the extent to which the area to which the proposed amendment would apply has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area.*

Staff Response:

(See staff response to items/criteria number(s) 3 and 5 above).

Section 16-21-460 - Action by Planning Commission.

For each application heard by the Planning Commission, the Planning Commission shall forward within thirty (30) days after the public hearing one (1) of the following recommendations to the Town Council, or it may table an application for a maximum of forty (40) days to receive additional information. No public hearing shall continue for more than forty (40) days from the date of commencement without the written consent of the applicant.

- (1) Recommend approval of the application as submitted or with certain conditions as stated;*
- or*
- (2) Recommend denial of the application with all reasons clearly stated.*

III. Zoning Analysis:

The subject properties are located within the “Old Town Character Area” Residential Zone District. In fact, their properties form the northern boundary of the Residential zone district on the east side of Hwy. 24. Directly to the north, the two properties abut Meek Avenue/Eagle River Street and the Mixed-Use zone district.

The description and purpose of the Old Town Residential Zone District are as follows:

- “(a) The neighborhood is bisected by Highway 24 and is **characterized by single-family residences with a mix of business and institutional uses.** The residences are typically one (1) and two (2) stories, with outbuildings and minimal setback between structures.*
- “(b) The purpose of this zone is to provide for **continued residential use and redevelopment that preserves the unique character and scale of the neighborhood.** An objective is to retain the historically residential areas as quiet and safe neighborhoods while allowing for limited home-based occupations and home-based businesses to encourage permanent residency. This area can accommodate reasonable growth where land and services are available.”*

- Town of Minturn Town Code Section 16-6-20

Similarly, the description and purpose of the Old Town Mixed Use Zone District are as follows:

- “(a) This area **allows a compatible mix of residential uses, low-impact commercial uses and institutional uses that serve residents and visitors.** The Old Town Mixed-Use Zone can accommodate various types of development if found not to significantly impact nearby properties.*
- “(b) The Old Town Mixed-Use Zone is intended to **provide sites for combined residential and low-impact commercial and service uses which maintain a predominantly residential appearance.** This area can accommodate reasonable growth where land*

and services are available and when services and amenities are needed for residents and visitors.”

- Town of Minturn Town Code Section 16-6-40

Staff respectfully suggests that the proposed rezoning from Residential to Mixed Use Zone District, particularly given the current nature, scale and character of residential structures located on the subject properties, will accomplish objectives of *both* the Residential and MU Zone Districts. Specifically, while the rezoning theoretically provides “sites for combined residential and low-impact commercial and services uses which maintain a predominantly residential appearance” to serve residents and visitors, the two properties and the neighborhood in general will likely continue to be characterized by “single-family residences with a mix of business and institutional uses” in a manner that “preserves the unique character and scale of the neighborhood.”

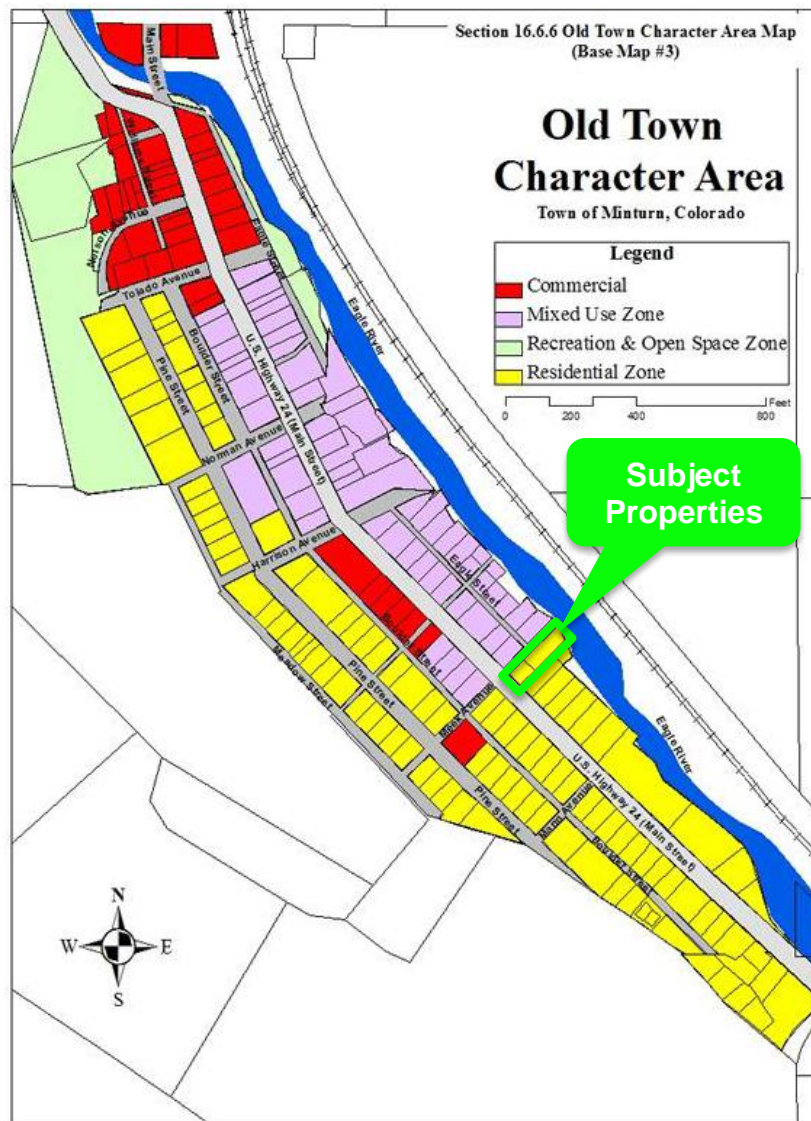


Figure 1: Old Town Character Area Zoning Map

VI. Staff Recommendation: Approval

Staff is recommending **approval** of the proposed rezoning request for 504 Eagle River Street and 502 Main Street based on the analysis provided in this report.

With the Planning Commission’s recommendation, staff will present Ordinance No. (TBD), Series 2021 to the Town Council at their regularly scheduled meeting of Wednesday, October 6, 2021.

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 10 - SERIES OF 2021**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO, REZONING NE ½ OF LOT 1, BOYD
PROPERTY SUBDIVISION AND SW ½ OF LOT 1, BLOCK
3, BOOCO'S 2ND SUBDIVISION, FROM RESIDENTIAL TO
MIXED-USE IN CONFORMANCE WITH THE TOWN OF
MINTURN MASTER PLAN AND LAND USE CODE**

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

WHEREAS, the Boyd Property Subdivision Final Plat was recorded in the Office of the Eagle County Clerk and Recorder on September 9, 1997 at Reception No. 632503, attached hereto as **Exhibit A**; and

WHEREAS, the SW ½ of Lot 1, Block 3, Booco's 2nd Addition was platted in 1904; and

WHEREAS, Minturn Municipal Code (the "Code") Sec. 16-6-20 and 16-6-40 describe the Old Town Residential Zone and Old Town Mixed-Use Zone; and

WHEREAS, Code Sec. 16-21-410 through 450 provides for the consideration of amendments to the Town's Character Area Zoning Map; and

WHEREAS, the Planning Director has determined that it is appropriate and has accepted an application for certain real property known as NE 1/2 of Lot 1, Boyd Property Subdivision, otherwise known as 504 Eagle River Street, and the SW ½ of Lot 1, Block 3, Booco's 2nd Subdivision, otherwise known as 502 Main Street (hereinafter the "Property") located in the Old Town Character Area to be rezoned from Residential Zone to Mixed-Use Zone; and

WHEREAS, the proposed Mixed-Use zoning for the Property provides for single-family residential uses, accessory residential uses as well as complimentary and compatible professional office, service and commercial uses; and

WHEREAS, on September 22, 2021, the Town of Minturn Planning Commission considered the application for rezoning the Property and recommended that the Town Council rezone the Property from Residential Zone to Mixed-Use Zone; and

WHEREAS, the Town of Minturn Planning Commission and the Minturn Town Council have held duly-noticed public hearings as required by the Minturn Municipal Code, and the Town Council now wishes to rezone the Property.

WHEREAS, Town of Minturn Planning Commission and the Minturn Town Council have

determined that the rezoning provided for herein is in conformance with the Minturn Land Use Regulations and Master Plan.

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. The following property is hereby rezoned to South Town Residential Zone:

NE ½ OF LOT 1, BOYD PROPERTY SUBDIVISION AND SW ½ OF LOT 1, BLOCK 3, BOOCO'S 2ND SUBDIVISION

As depicted on the Final Plat recorded in the Office of the Eagle County Clerk and Recorder on September 9, 1997 at Reception No. 632503 and platted in 1904

SECTION 3. Within thirty (30) days after the effective date of this Ordinance, the Town Clerk shall cause a printed copy of the amendment to the Town Zoning District Map to be made, which shall be dated and signed by the Mayor and attested to by the Town Clerk, and which shall bear the seal of the Town. The amended map shall include the number of this Ordinance. The signed original printed copy of the Zoning Map shall be filed with the Town Clerk. The Clerk shall also record a certified copy of this Ordinance with the Eagle County Clerk and Recorder. The Town staff is further directed to comply with all provisions of the Minturn Land Use Regulations, Minturn Municipal Code Chapter 16, to implement the provisions of this Ordinance.

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 6th DAY OF OCTOBER, 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 20TH DAY OF OCTOBER, 2021 AT 5:30p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

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 20TH DAY OF OCTOBER, 2021.

TOWN OF MINTURN, COLORADO

Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

Exhibit A



LAND DEVELOPMENT APPLICATION

TOWN OF MINTURN PLANNING AND ZONING DEPARTMENT

P.O. Box 309 302 Pine Street

Minturn, Colorado 81645-0309

Phone: 970-827-5645 Ext. 2

Email: planner1@minturn.org

APPLICANT: Michael Boyd	ADDRESS: 504 E and 502 1/2 Eagle St. Minturn, CO 81645	SIGNATURE:
	PHONE: 970 390 6702 FAX:	NAME: Michael Boyd
	EMAIL: mastersealers@comcast.net	TITLE:
OWNER(S) OF RECORD: Michael Boyd	ADDRESS: 504 and 502 1/2 Eagle St. Minturn, CO 81645	SIGNATURE:
	PHONE: 970 390 6702 FAX:	NAME: Michael Boyd
	EMAIL: mastersealers@comcast.net	TITLE:
OWNER(S) OF RECORD: Casey and Karen Rietz, James and Kimberly Caveth	ADDRESS: 502 Main St Minturn, CO 81645	SIGNATURE:
	PHONE: 6302918606 FAX:	NAME: CASEY RIETZ
	EMAIL: CRIETZ355@YAHOO.COM	TITLE:
ENGINEERING FIRM: N/A	ADDRESS:	CONTACT PERSON:
	PHONE:	FAX:
	EMAIL:	

Presubmittal Date	Presubmittal Planner: Madison Harris
Parcel ID Number	2103-263-22-001, 2103-263-01-014 (Example: 210326325001) from your full card printout
Address or Intersection	502 1/2 Eagle St, 502 Main St Minturn, CO 81645
Brief Legal Description	Subdivision: Boyd Property Lot: 1 NE 1/2
Subdivision Name & Filing #	Subdivision: Bobco 2ND Block: 3 Lot: 1 Parcel in SW 1/2
Project Description	Rezone 502 1/2 Eagle and 502 Main from Residential to Mixed Use.

	Existing	Proposed:
Zoning:	Residential	Mixed Use
Land Use:	Residential	Residential
Total Acres:	.261	.261
F.A.R./Density:		
Project Name:	Boyd Rezoning	Boyd Rezoning
Related Case #'s:		

CASE TYPE			
<input type="checkbox"/> PUD CDP: Concept Dev. Plan	<input type="checkbox"/> PP: Prelim. Subdivision Plat	<input type="checkbox"/> DRB - P: Des. Rev. Bd. Prelim	<input type="checkbox"/> A-FP: Fence Permit
<input type="checkbox"/> PUD PDP: Prelim. Dev. Plan	<input type="checkbox"/> FP: Final Subdivision Plat	<input type="checkbox"/> DRB - F: Des. Rev. Bd. Final	<input type="checkbox"/> A-MOD: Modification/Add
<input type="checkbox"/> PUD FDP: Final Dev. Plan	<input type="checkbox"/> MS: Minor Subdivision	<input type="checkbox"/> ADM: Admin. Des. Review	<input type="checkbox"/> A-MIN: Minor Ext. Mod.
<input type="checkbox"/> PUD ASP: Admin. Site Plan	<input type="checkbox"/> ASR: Admin. Subdivision Replat	<input type="checkbox"/> A-SIGN: Admin. Sign Review	<input type="checkbox"/> ANNEX: Annexation
<input type="checkbox"/> PUD FDP A: Amendment	<input type="checkbox"/> V: Vacation of Easement	<input type="checkbox"/> A-DIG: Admin. Dig Permit	<input type="checkbox"/> TU: Temporary Use
<input type="checkbox"/> LU-V: Land Use - Variance	<input type="checkbox"/> R.O.W. Vacation	<input type="checkbox"/> A-DEMO: Admin. Demo Per.	<input type="checkbox"/> CU: Conditional Use
<input type="checkbox"/> NU -V: Non Use - Variance	<input checked="" type="checkbox"/> REZ -Rezoning -Straight Zoned	<input type="checkbox"/> A-LTD: Admin. Limited Use	<input type="checkbox"/> APPLS: Appeals

This section for OFFICE USE ONLY

Case No:	Case Mgr.	Case Eng.
Fees Paid	Y N \$ 1000	Dates Referred Out
Dates to be Returned		Planning Comm Date:

This development application shall be accompanied with the applicable fee and shall not be considered valid until the total application fee is received. If the application type requires a deposit, minimum deposit balances must be maintained or replenished upon notice by the Town. Submittal of this application does not mean you will receive automatic approval, nor does it establish a vested property right in accordance with C.R.S. 24-68-105(1). Further processing and review of this application may require additional information, and/or meetings, as outlined in the Town of Minturn Zoning and Development Code

To: Town of Minturn

From : Michael Boyd

Attn. Maddison Harris, Scott Hunn

This is a letter of intent for zoning change application for 502 1/2/504 Eagle Street and 502 Main Street.

The intent is to change the zoning to Mixed use to the end of Eagle street making it continuous front and back to match.

The Boyd property currently has two ADU units both of which have been inspected with final CO'S and we are just trying to clean up the zoning map.

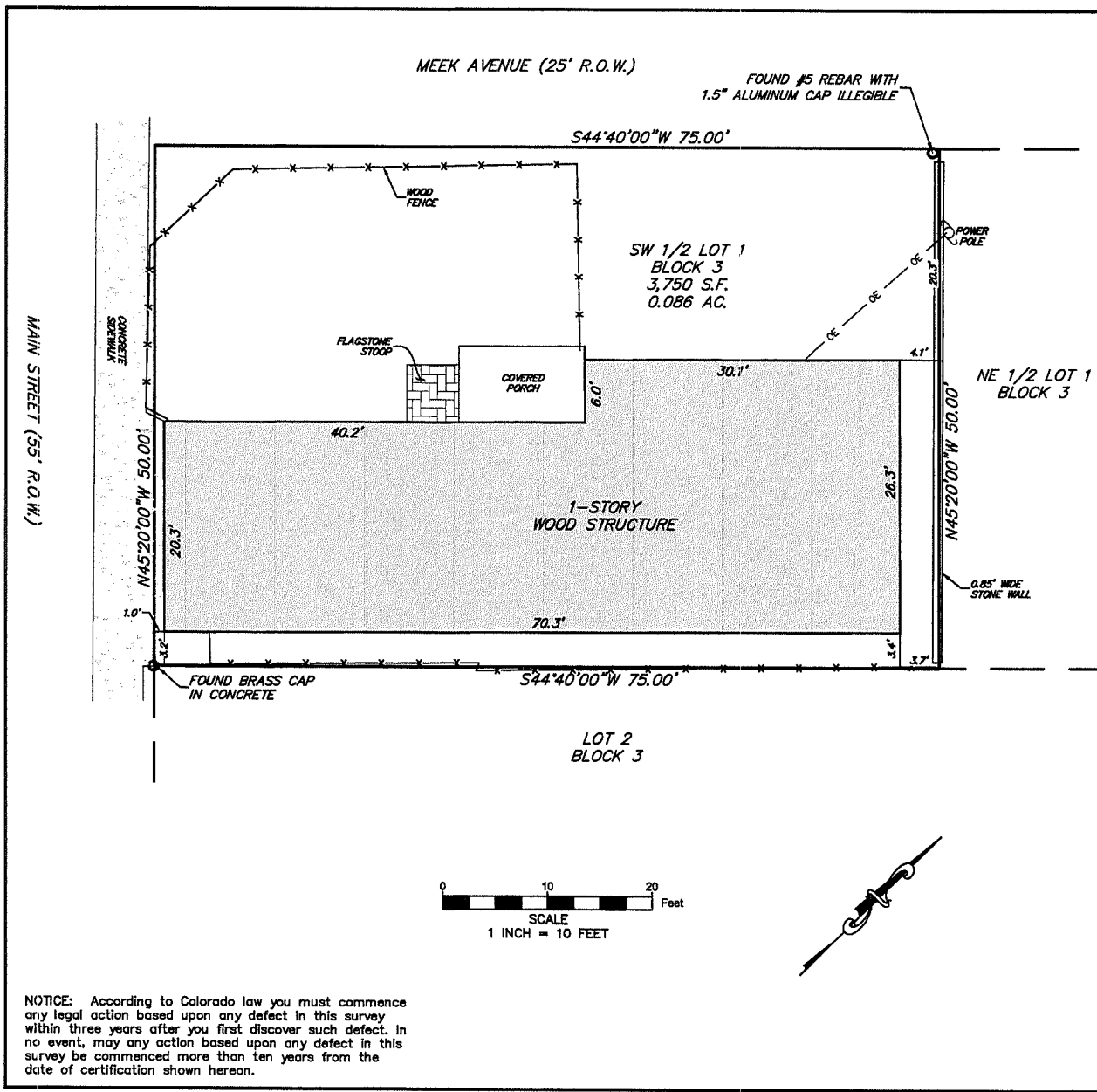
In addition as neighbors and joint applicants to make this match front and back as the rest of Main and Eagle Street we authorize as owners of 502 Main Street for Michael Boyd to be the point person on this application.

Please copy us on any emails or correspondence.

X 

Casey & Karen Rietz

C:\Dropbox (IMB)\CAD\CH\31\600001\600001_01.dwg



NOTES

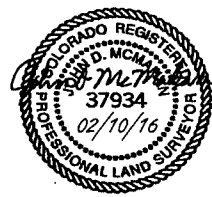
1. Due to the presence of 3.0' of snow at the time of field work, some physical features may not have been located.
2. Due to positional discrepancies of monuments found a boundary survey is recommended.
3. The Legal Description is the SW 1/2 of Lot 1, Block 3, Booco's 2nd Addition to the Town of Minturn, County of Eagle, State of Colorado.
4. The address is posted 502 Main Street.

CERTIFICATION

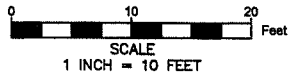
I hereby certify that this improvement location certificate was prepared for Karen Briggs and Land Title Guarantee Company, that it is not a land survey plat or improvement survey plat, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines.

I further certify that the improvements on the above described parcel on February 9, 2016, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted.

This certificate does not constitute a title search by Inter-Mountain Engineering to determine ownership or easements of record. For all information regarding easements, rights-of-way or title of record, Inter-Mountain relied upon Land Title Guarantee Company Title Commitment No. V50043190 having an effective date of January 29, 2016.



John D. McMahan P.L.S. No. 37934
 Colorado Licensed Professional Land Surveyor
 On behalf of Inter-Mountain Engineering



NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.

Inter-Mountain ENGINEERING
 Civil Engineers & Surveyors
 170 WEST MAIN STREET, SUITE 200, BOOCO, CO 80401
 970.426.1111 FAX: 970.426.1112

CLIENT KAREN BRIGGS
 This document was prepared by the undersigned on the date stated hereon. It is not a land survey or improvement survey plat. It is not to be relied upon for the establishment of fence, building, or other future improvement lines. It is not to be used as evidence of title or as a basis for any claim. It is not to be used as a basis for any claim. It is not to be used as a basis for any claim.

IMPROVEMENT LOCATION CERTIFICATE
 SW 1/2 OF LOT 1, BLOCK 3
 BOOCO'S 2ND ADDITION TO THE TOWN OF MINTURN
 TOWN OF MINTURN, EAGLE COUNTY, COLORADO

SHEET NO. 001
TOTAL SHEETS 1
DATE ISSUED 2-10-16
PROJECT NO. 16-0005
SCALE
1 OF 1

Madison Harris

From: Contact form at Minturn CO <cmsmailer@civicplus.com>
Sent: Friday, September 17, 2021 5:00 PM
To: Madison Harris
Subject: [Minturn CO] Re-zoning (Sent by Heather Douglas , Hdouglas03@gmail.com)

Hello mharris,

Heather Douglas (Hdouglas03@gmail.com) has sent you a message via your contact form (<https://www.minturn.org/user/353/contact>) at Minturn CO.

If you don't want to receive such e-mails, you can change your settings at <https://www.minturn.org/user/353/edit>.

Message:

Hi Madison,

I went to the Minturn website thinking I could find your email and this is what I came up with. My name is Heather Douglas. My husband Cameron and I own 482 Main St. We support the re-zoning of 504 Eagle River St. and 502 Main St. We do not see a problem with this. Would you please consider this as our vote?

Thank you!
Heather Douglas

Madison Harris

From: Scot Hunn <scot@hunnplanning.com>
Sent: Thursday, September 16, 2021 8:33 PM
To: Madison Harris
Subject: Fwd: 592/504 main

Please respond to Mr. Calabrese and add his email to the public record for the rezoning.

Thank you!

Scot Hunn, AICP/MPA
Principal/Owner
Hunn Planning & Policy LLC.
scot@hunnplanning.com
(970) 343-2161

----- Forwarded message -----

From: Mike Calabrese <mike.calabrese9@gmail.com>
Date: Thu, Sep 16, 2021 at 6:13 PM
Subject: 592/504 main
To: <Planner@minturn.org>
Cc: Michael Boyd <mastersealers@comcast.net>

Hello

I am the owner at 494 eagle at and I would like to go on the record supporting the zoning change for the Boyd property - such that it matches the rest of the street

Please let me know if you have any questions

Thanks

Mike calabrese

Sent from my iPhone

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



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

To: Planning Commission
From: Madison Harris, Planner I
Date: October 15, 2021
Re: 261 Main Street – Faircloth Residence Variance Continued

This is an addendum to the staff report from October 6, 2021 which is also in this packet.

The Applicant, Heather Faircloth, owner of 261 Main Street, requests continued review of the variance to allow for an increased amount of lot and impervious coverage. The variance was first reviewed by the Town Council on October 6, 2021 and was continued to October 20, 2021. The Applicant's Representative is Tom Warzecha.

Summary of Discussion at October 6, 2021 Meeting:

There was concern about the parking situation, as well as concern expressed about the living area below the garage becoming a separate unit and being rented out as a short term rental which would exacerbate the parking situation. The Applicant's Representative received instructions to remove the kitchen from the plans and provide confirmation from the property owner that she will not rent out this living space on a short term basis.

Update:

The Applicant's Representative submitted new plans that have removed the kitchen, as well as provided a letter from the property owner stating that there are no intentions to rent any part of the lot.

Staff is recommending **approval**.

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



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

Town Council Hearing

Faircloth Residence Garage Addition / Variance Request 261 Main Street

Hearing Date: October 6, 2021

File Name and Process: Faircloth Garage Addition / Variance Request

Owner/Applicant: Heather Faircloth

Representative: Tom Warzecha

Legal Description: BOOCO Subdivision, Block F, Lot 12 and Part of Lot 13

Address: 261 Main Street

Zoning: Old Town Mixed-Use (Old Town Character Area)

Staff Member: Scot Hunn, Planning Director
Madison Harris, Planner I

Recommendation: **Approval**

Staff Report

I. Summary of Request:

The Applicant, Heather Faircloth, requests review of two variance requests associated with a proposed garage addition at 261 Main Street in the Old Town Mixed Use Zone District. The variance requests are for relief from the strict interpretation of the following standards of the Town of Minturn Municipal Code:

- 1. Building Lot Coverage**
- 2. Impervious Coverage**

The Town of Minturn Planning Commission reviewed the variance requests at their regular meeting of August 25, 2021 along with final plans for a two-car garage addition (to be accessed at the rear of the lot, from Boulder Street) with habitable space below the new garage. The property is non-conforming with regard to the size of the lot in the Mixed-Use Zone District and there is an existing single-family residence on the lot.

The lot currently is in conformance with the Old Town Character Area, Mixed-Used Zone District lot coverage and impervious coverage limits which allow for:

- Up to 45% lot coverage by buildings
- Up to 55% lot coverage by impervious surfaces (sidewalks, driveways, decks)

Analysis:

Surveys included for review with the final plans for the garage addition show that the existing residence (building footprint) is currently compliant with maximum allowable lot (building) coverage. Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable building coverage is approximately 1,687.5 sq. ft. (45% max.); existing lot coverage is estimated at approximately 1,526.9 sq. ft. (41%). The total allowable impervious coverage is approximately 2,026.5 sq. ft. (55% max.); existing impervious coverage is estimated at approximately 1,623.0875 sq. ft. (43%).

However, the proposed 664.6 sq. ft. garage addition will result in a maximum building coverage of approximately 1,955.99 sq. ft. (52.16%) building coverage, and a maximum lot coverage of approximately 2,255.22 sq. ft. (60.14%) lot coverage with the new driveway and exterior stairs.

The Applicant is requesting a variance from the following:

- **Building Lot Coverage** - Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable building coverage is approximately 1,687.5 sq. ft. (45% max.); existing lot coverage is estimated at approximately 1,526.9 sq. ft. (41%). However, the proposed 664.6 sq. ft. garage addition will result in a maximum building coverage of approximately 1,955.99 sq. ft., or approximately **52% lot coverage by buildings**.
- **Impervious Surface Coverage** - Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable impervious coverage is approximately 2,026.5 sq. ft. (55% max.); existing impervious coverage is estimated at approximately 1,623.0875 sq. ft. (43%). However, with the proposed 664.6 sq. ft. garage addition, the new driveway and the exterior stairs there is a maximum lot and impervious coverage of approximately 2,255.22 sq. ft., or approximately **60% lot coverage by impervious surfaces**.

The Planning Commission granted final plan approval of the proposed garage addition and recommended approval of the variance requests with a vote of 4-1.

Staff is recommending approval of the variance requests based on a finding that the variance requests meet the criteria for approval.

II. Summary of Process and Code Requirements:

The Town Council is responsible for reviewing the variance request and for making a decision to approve or deny the variance request based on criteria for approval and specific “findings” listed within Section 16-21- 690 – *Variations* of the Town Code (detailed below under Section IV with staff analysis).

III. Zoning Analysis:

Zoning

The subject property is located within the “Old Town Character Area” Mixed-Use Zone District. The purpose of the Old Town Mixed-Use Zone District is to:

- a. *This area allows a compatible mix of **residential uses**, low-impact commercial uses and institutional uses that serve residents and visitors. The Old Town Mixed-Use Zone can accommodate various types of development if found not to significantly impact nearby properties.*
- b. *The Old Town Mixed-Use Zone is intended to **provide sites for combined residential and low-impact commercial and service uses which maintain a predominantly residential appearance. This area can accommodate reasonable growth where land and services are available and when services and amenities are needed for residents and visitors.***

- Town of Minturn Town Code Section 16-6-40

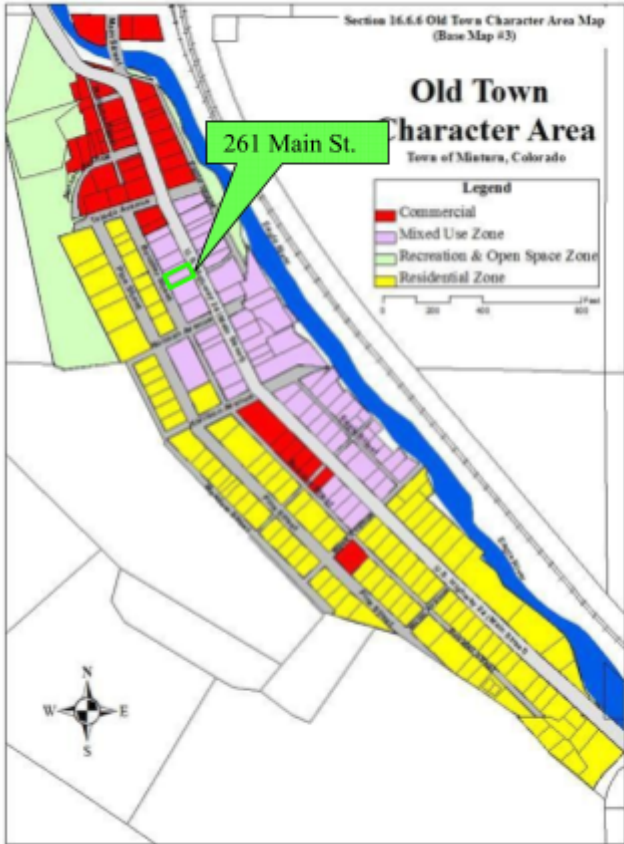


Figure 1: Old Town Character Area Zoning Map

Dimensional Limitations and Development Standards

The following table summarizes the lot, development and dimensional standards and limitations applicable to the subject property pursuant to Sections 16-2-40. - *General lot requirements and dimensional standards* and 16-16-20 – *Parking Required for Residential and Lodging Uses*.

Regulation	Allowed/Required	Proposed/Existing
Minimum Lot Area:	5,000 sq. ft.	3750 sq. ft.
Maximum Building Height:	28 feet	22.5 feet
Minimum Front Setback:	10 feet	No Change
Minimum Side Setback:	5 feet	5 feet
Minimum Rear Setback:	10 feet	10 feet
Maximum Lot Coverage:	45% (1687.5 sq. ft.)	1,526.9 sq. ft. (41%) Existing 1,955.99 sq. ft. (52%) Proposed
Maximum Impervious Coverage:	55% (2,062.5 sq. ft.)	1,623.0875 sq. ft. (43%) Existing 2,255.22 sq. ft. (60%) Proposed
Minimum Snow Storage Area:	5% of Driveway Area (20.2235 sq. ft.)	75 sq. ft. (18%)
Parking:	3 spaces	4 spaces

Note: the above calculations are based on the following:

$$\text{Lot 12 and part of 13} = .086 \text{ acres} \times 43,560 \text{ sq. ft./acre} = 3,750 \text{ sq. ft.}$$

IV. Applicable Standards and Design Guideline Criteria:

Variance

The Town Code provides the following purpose, intent and criteria for the approval of a variance:

Sec. 16-21-690. - Variances.

(a) Purpose of provisions; limitations.

- (1) *In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this Chapter as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.*
- (2) *Variances may be granted only with respect to the development standards prescribed for each zone, including lot area and site dimensions, setbacks, distances between buildings, height, density, site coverage, usable open space, landscaping, site development and parking and loading requirements.*

(3) *The power to extend variances does not extend to the use regulations prescribed for each district because the flexibility necessary to avoid results inconsistent with the objectives of this Chapter is provided by Sections 16-21-620, Conditional Use Permits, and Division 3 of this Article, Amendments to text of Land Use Regulations or Character Area and Zone District Map.”*

(c) Approval criteria. *Before acting on a variance application, the Planning Commission and the Zoning Board of Appeals shall consider the following factors with respect to the requested variance:*

- (1) The relationship of the requested variance to other existing or potential uses and structures in the vicinity;*
- (2) The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of this Chapter without grant of special privilege;*
- (3) The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities and public safety; and*
- (4) Such other factors and criteria as the Planning Commission and Zoning Board of Appeals deem applicable to the proposed variance.*

(d) Findings required. *The Planning Commission and Zoning Board of Appeals shall make the following findings before granting a variance:*

- (1) There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;*
- (2) The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter;*
- (3) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of this Chapter.*
- (4) There is no substantial impairment to the public that would result from the granting of the variance.”*

Staff Response:

As noted above, the Town Council must make positive findings for all four variance criteria. Although no one criterion should be weighted differently or considered more important, the first two criteria are typically the most difficult to establish.

In this instance, the Applicant will be required to demonstrate an ‘extraordinary circumstance,’ ‘physical hardship,’ and/or ‘practical difficulty’ when the regulations are applied strictly and literally to their property. The Planning Commission found that the design of the garage addition was functional, beneficial to the surrounding area (as a

means to accommodate off street parking), and appropriate for the site and the surrounding area from the standpoint of design and character. The Planning Commission, therefore found that the literal enforcement of the regulations would result in an unnecessary physical hardship (reducing the size, benefit and functionality of the garage) and that there would be no substantial impairment to the public or the purposes of the Town's zoning regulations.

Last, staff suggests that while the subject property is not unlike other lots in the vicinity with regard to its shape, topography, it is, however, an undersized lot (the lot is 3,750 sq. ft. instead of the required 5,000 sq. ft.).

V. Staff Recommendation and Suggested Conditions:

Staff is **recommending approval** of the variance requests for relief from the strict interpretation of the regulations for lot and impervious coverage for property located at 261 Main Street.

Town of Minturn
Attention: Town Council
P.O.Box 309
Minturn, CO 81645

Regarding: Faircloth Residence

Location: 261 Main Street
Minturn, CO

The purpose of this variance application is for the approval of a two-car garage with habitable space below. This will provide four onsite parking spaces compliant with code 16-16-10 (off street parking requirements).

The lot is undersized (3750 square feet instead of the required 5000 square feet), therefore, there is a case for physical hardship and/or practical difficulty associated with this property that construction of a typical sized garage isn't possible without a variance.

The construction of the garage is inside the setback requirements.

We are asking for minimal relief to construct the garage and have followed the recommendations and suggestions from both the Planning Commission and Town Council to achieve the objective of providing onsite parking.

Respectfully,

Tom Warzecha

Madison Harris

From: Madison Harris
Sent: Thursday, October 7, 2021 3:17 PM
To: Scot Hunn
Subject: FW: Non rental at 261 Main

From: wei04@comcast.net [mailto:wei04@comcast.net]
Sent: Thursday, October 7, 2021 2:42 PM
To: Madison Harris <planner1@minturn.org>
Subject: FW: Non rental at 261 Main

From: Heather Faircloth <denverheather@kentwood.com>
Sent: Thursday, October 7, 2021 2:34 PM
To: Tom Warzecha <wei04@comcast.net>
Subject: Non rental at 261 Main

Dear Tom and whomever it may concern,

I do not wish to rent any part of my home at 261 Main Street in Minturn or the addition under the garage. I never have wanted to do so. It will be used for personal use for my growing family. I do not need the kitchen in the space. I would like a bathroom so we can use the space to entertain or as an office or as a bunk room for grandchildren.

Let me know if there are any other questions or concerns.

Heather Ehret- Faircloth
Kentwood Real Estate
Residence XXV
Denverheather@kentwood.com
720-320-9333 cell

Security Warning ~ We will never send wiring instructions via email

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 35 – SERIES 2021**

**A RESOLUTION APPROVING LAND USE APPLICATION
VARIANCE 21-01**

WHEREAS, on or about June 22, 2021 Heather Faircloth (hereinafter, the “Applicant”) properly applied for the review of a variance from building lot coverage and impervious lot coverage standards pursuant to the Minturn Municipal Code (hereinafter, the “Code”), Section 16-21-690, Variances; and,

WHEREAS, the Applicant requests relief from the strict interpretation of Section 16-2-40 of the Code to allow for up to fifty-two (52%) percent building lot coverage and to allow for up to sixty (60%) percent impervious lot coverage on a pre-existing non-conforming lot located within the Old Town Character Area Mixed-Use Zone District; and,

WHEREAS, public notice was properly given pursuant to the Code, Section 16-21-610, Public Notice, for a public hearing held by the Town of Minturn Planning Commission (hereinafter, the “Commission”) on August 25, 2021 to consider the variance requests; and,

WHEREAS, at their regular meeting of August 25, 2021, the Commission acted to recommend approval of the variance requests to the Minturn Town Council;

WHEREAS, at their regular meeting of August 25, 2021, the Commission, acting as the design review board, also reviewed proposed building plans for a garage addition to be constructed on the subject property; and,

WHEREAS, at the regular meeting on October 20, 2021, the Minturn Town Council (hereinafter, the “Council”) acting as the Zoning Board of Appeals, held a public hearing on the variance application and to consider the Commission’s recommendation, pursuant to the Code, Section 16-21-690(e); and,

WHEREAS, the Council is commissioned with certain powers and duties contained in the Minturn Municipal Code Section 16-21-30; and,

WHEREAS, at the regular meeting on October 20, 2021, the Council, acting as the Zoning Board of Appeals, voted to confirm the action of the Commission; and,

WHEREAS, pursuant to the Minturn Municipal Code Section 16-1-20, the most appropriate use of the subject property is allowed via the granting of a variance; and,

WHEREAS, pursuant to Minturn Municipal Code Section 16-21-690(d), Finding Required, the Council makes the following findings:

- (1) There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;

- (2) The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter;
- (3) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of this Chapter.
- (4) There is no substantial impairment to the public that would result from the granting of the variance.

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

THAT, the application variances for 261 Main Street, BOOCO Subdivision, Block F, Lot 12 and Part of Lot 13, File No. VAR 21-01, for relief from maximum allowable building lot coverage and maximum allowable impervious coverage, be approved with no conditions.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS 20th DAY OF OCTOBER, 2021.

TOWN OF MINTURN, COLORADO:

Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk



VARIANCE APPLICATION

TOWN OF MINTURN PLANNING AND ZONING DEPARTMENT
P.O. Box 309 302 Pine Street Minturn, Colorado 81649-0309
Phone: 970-827-5645 Fax: 970-827-5545 Email: planner@minturn.org

Project Name:

Faircloth Garage addition

Project Location**Street Address:**

261 Main Street Minturn.Co

Zoning:

Mixed use

Parcel Number(s):**Application Request:**

To provide onsite parking by adding a garage with a living space below. The garage will be accessed from Boulder Street.

Applicant:**Name:**

Wei Construction

Mailing Address:

P.O.Box 1384 Vail,Co 81645

Phone:

970-390-3674

Email:

wei04@comcast.net

Property Owner:**Name:**

Heather Ehrhardt Faircloth

Mailing Address:

216 Main street

Phone:

720-320-9333

Email:

Faircloth@gamil.com

Required Information:

Lot Size: 3750	Type of Residence (Single Family, ADU, Duplex) redidence	# of Bedrooms 3	# On-site Parking Spaces 1
# of Stories: 2	Snow storage sq ft: 75sqft	Building Footprint sq ft: 1958.76	Total sq ft Impervious Surface: 2148.41

Signature:

Fee Paid: \$575-

Date Received: 6/22/21

Planner: Madison Hurns

VARIANCE APPLICATION

SUBMITTAL CHECKLIST REQUIREMENTS (TO BE INCLUDED WITH APPLICATION)

Applicant Staff

Application Fee (Non-Refundable application fee shall be collected)

- Planning Commission Review - \$575 + Costs attributable to the review by consultant time are billed at actual hourly rates. Cost assessed after first hour.

RESPOND TO THE FOLLOWING QUESTIONS:

1. **Please describe the nature of the requested variance:** _____

To build on site parking inside the set backs but over the allowable lot coverage.

2. **Are there exceptional or extraordinary circumstances or conditions applicable to the site of the variance that does not apply generally to other properties in the same zone? (If yes, please elaborate):** _____

The lot is small 3750 sqft.

The code is based on a 5000sqft lot so the percentage of the lot coverage is increased by the smaller lot size.

3. **Do the exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zone code! (if yes, please elaborate):** _____

The code is based on 5000sqft.lot resulting in the lot coeverage to be increased and over the allowable coverage.

Also the adjacent properties are over there lot coverage

So the project seems to be consitent with neighborhood

Vicinity Map

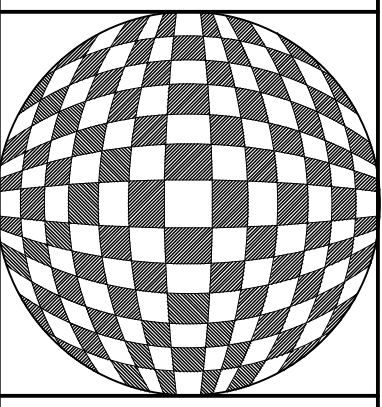
-- Directional Map indicating how to get to the Property involved in the request.

- Zoning of Property

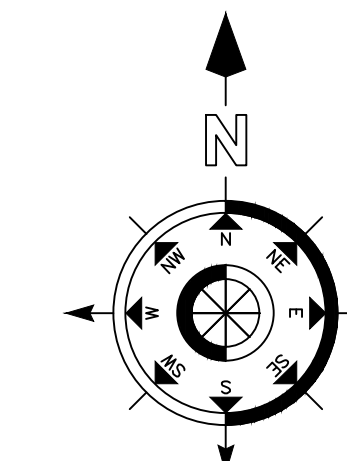
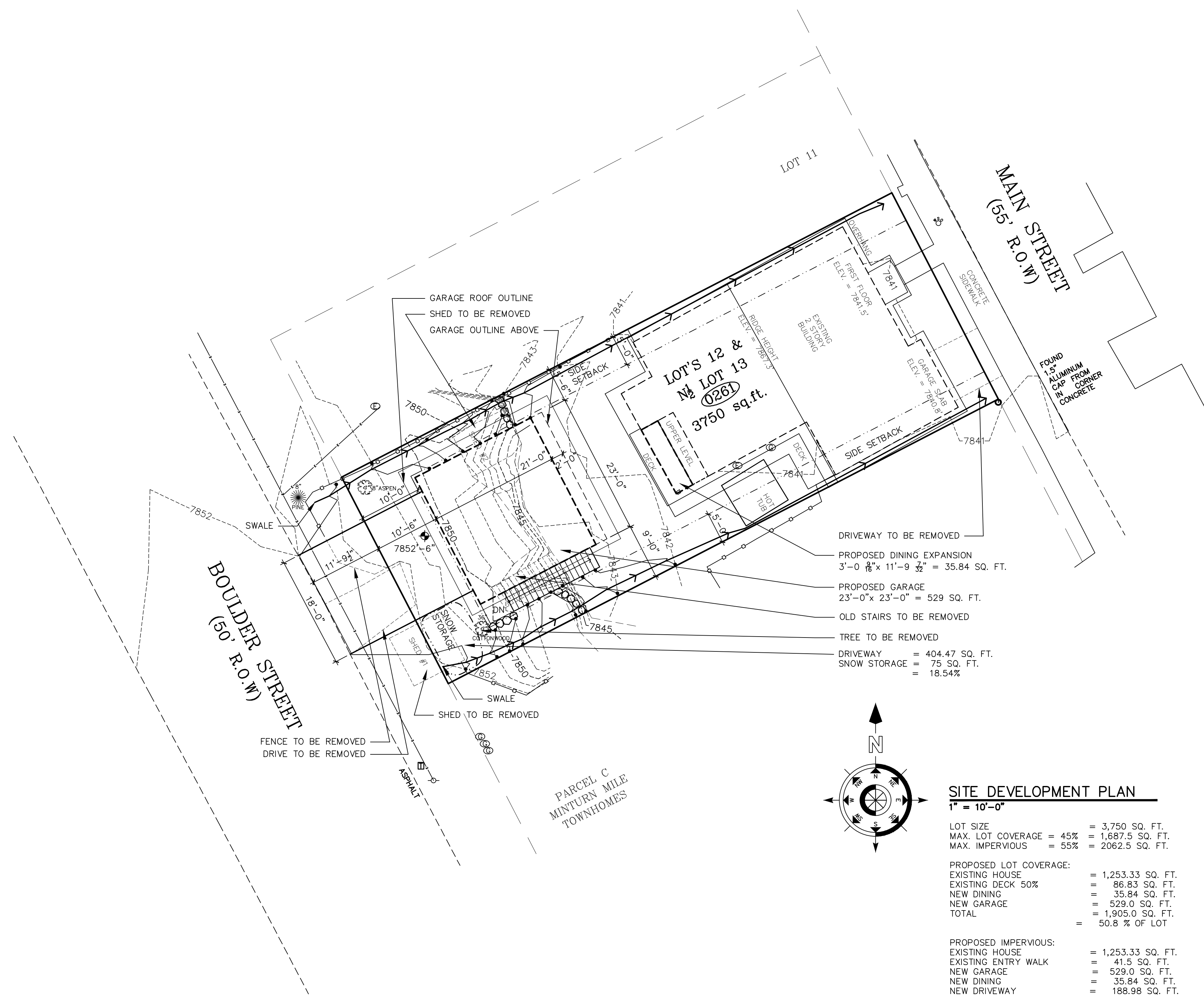
Improvement Location Certificate of Survey (ILC or ILS)

Site Plan showing Precise Nature of the Proposed Use – To Scale

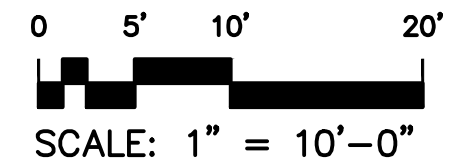
- Scaled Drawings of Proposed Design of Structure
 - Plan View and Sections
- Building Heights – all 4 directions N/S/E/W
- Topography



GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645

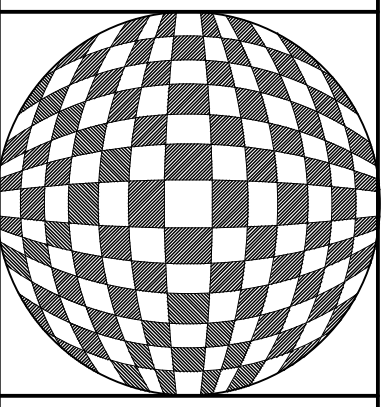


SITE DEVELOPMENT PLAN
 1" = 10'-0"

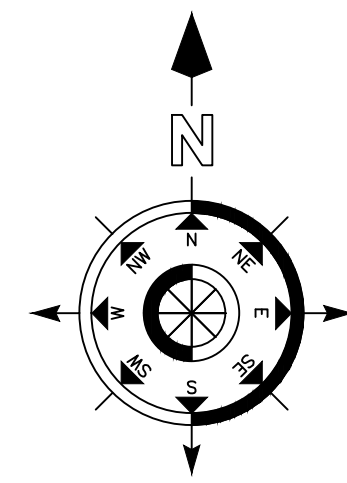
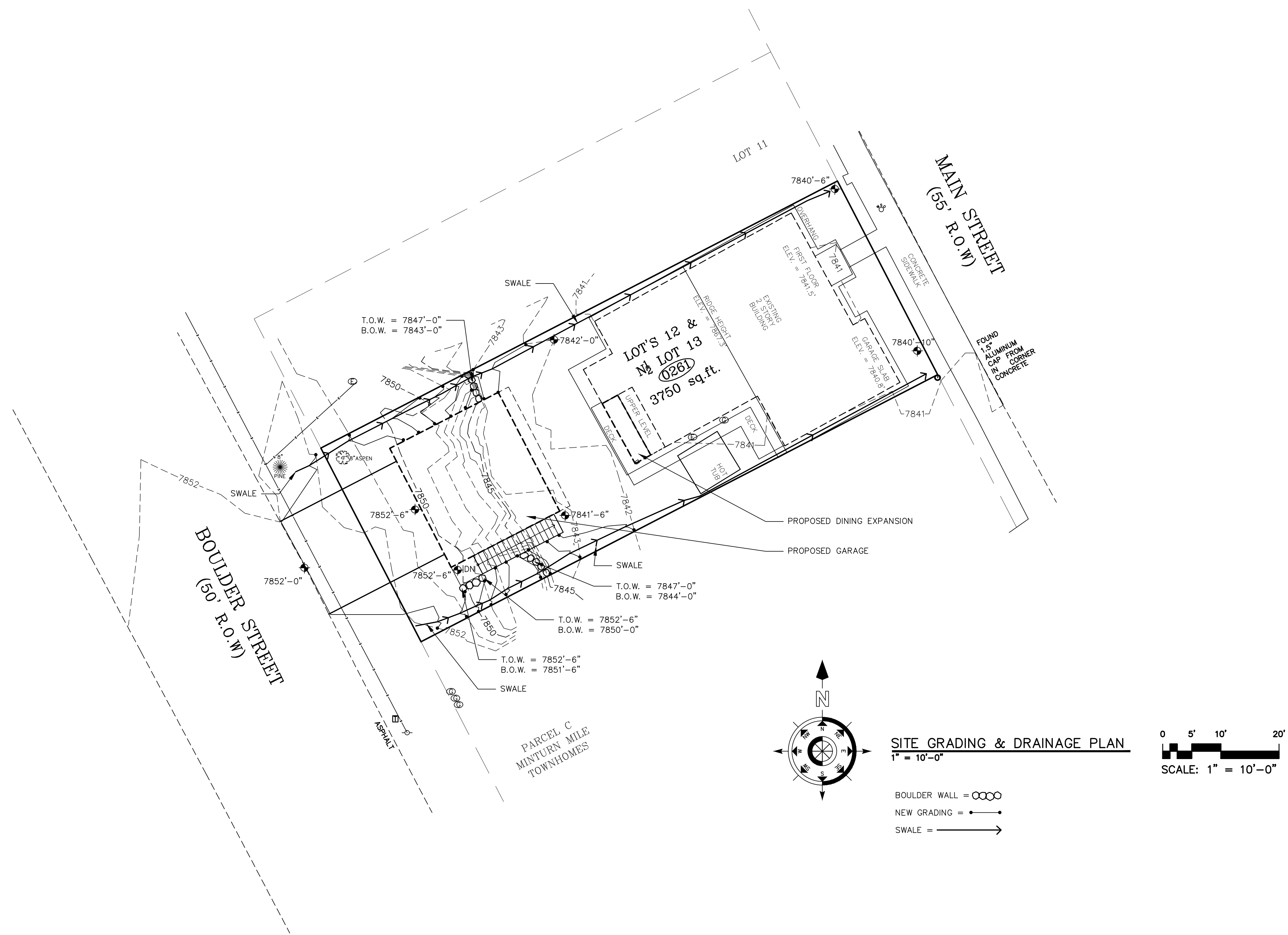


LOT SIZE	=	3,750 SQ. FT.
MAX. LOT COVERAGE = 45%	=	1,687.5 SQ. FT.
MAX. IMPERVIOUS = 55%	=	2062.5 SQ. FT.
PROPOSED LOT COVERAGE:		
EXISTING HOUSE	=	1,253.33 SQ. FT.
EXISTING DECK 50%	=	86.83 SQ. FT.
NEW DINING	=	35.84 SQ. FT.
NEW GARAGE	=	529.0 SQ. FT.
TOTAL	=	1,905.0 SQ. FT.
	=	50.8 % OF LOT
PROPOSED IMPERVIOUS:		
EXISTING HOUSE	=	1,253.33 SQ. FT.
EXISTING ENTRY WALK	=	41.5 SQ. FT.
NEW GARAGE	=	529.0 SQ. FT.
NEW DINING	=	35.84 SQ. FT.
NEW DRIVEWAY	=	188.98 SQ. FT.
TOTAL	=	2,048.65 SQ. FT.
	=	54.63% OF LOT

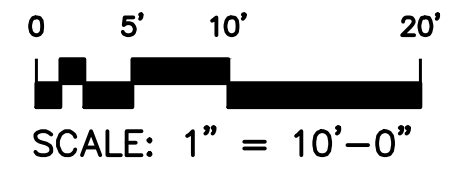
JOB NUMBER	20-5
DRAWN BY	TH
DATE	OCTOBER 7, 2021
TITLE	VARIANCE
REVISION DATE	INITIAL



GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645



SITE GRADING & DRAINAGE PLAN
 1" = 10'-0"



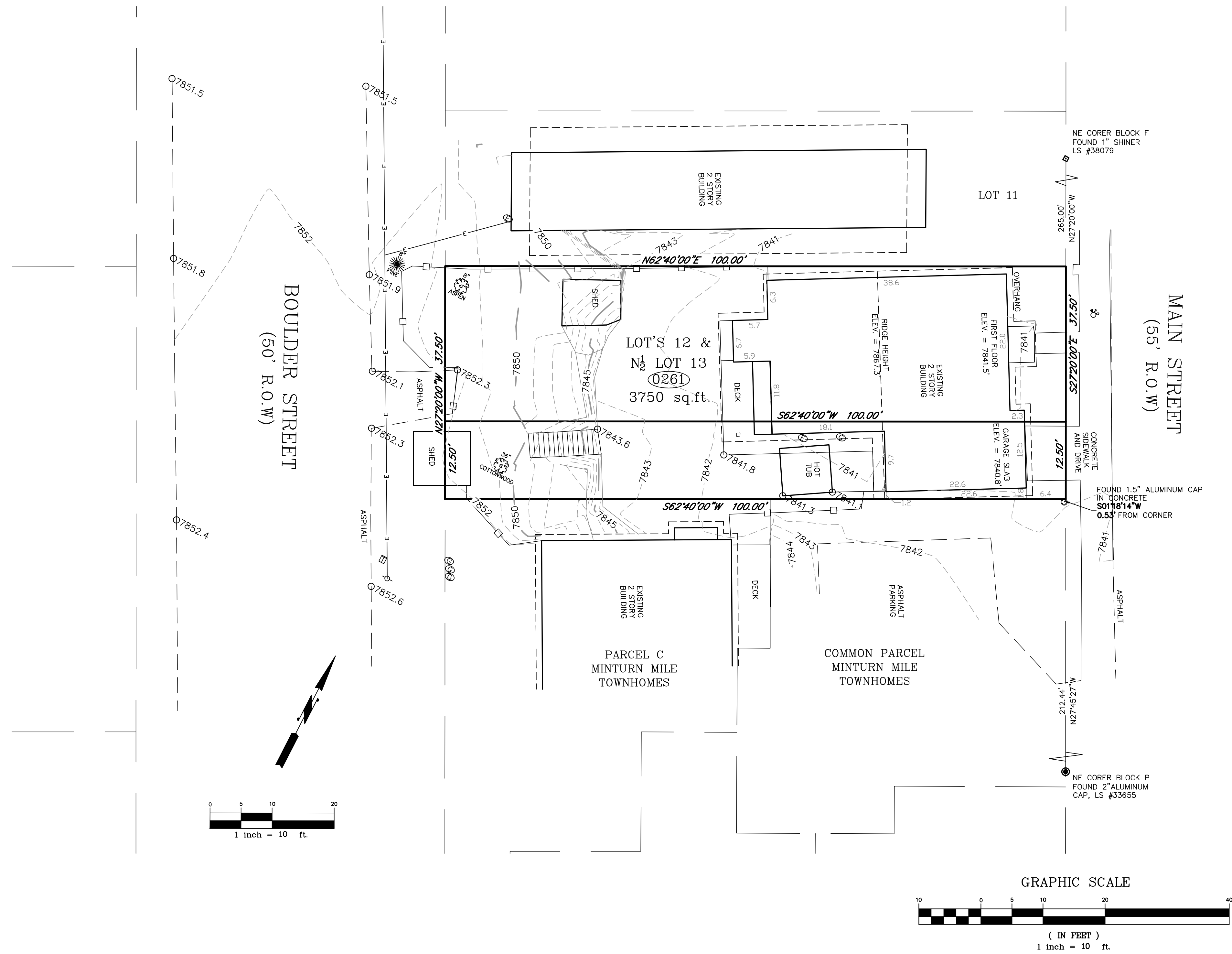
- BOULDER WALL = ○○○○
- NEW GRADING = ●—●
- SWALE = ———>

JOB NUMBER	20-5
DRAWN BY	TH
DATE	OCTOBER 7, 2021
TITLE	VARIANCE
REVISION DATE	INITIAL

TOPOGRAPHIC SURVEY

Lot 12 and N $\frac{1}{2}$ LOT 13, Block F, Booco's Addition To Minturn

Located in Section 26, T5S, R81W, 6th P.M.
Town of Minturn, Eagle County, Colorado



LEGAL DESCRIPTION:
 Lot 12 and the Northerly $\frac{1}{2}$ Lot 13, Block F, Plat of Booco's Addition to Minturn, dated February 14, 1891, according to the plat thereof, recorded under Reception No. 9109, in the Office of the Clerk and Recorder, Eagle County, Colorado.

NOTES:

- 1) Survey Date: June 14, 2018.
- 2) Street Address: 261 Main Street. (posted)
- 4) Record easements, legal description, and rights-of-way shown hereon were derived from above referenced Final Plat, monuments found at the time of the survey and Warranty Deed Reception No. 201606076. This survey does not constitute a boundary survey nor any investigation into record easements or encumbrances associated with this property.
- 5) This survey was performed using U.S. Survey Feet.
- 6) This is not a monumented survey, Land Survey Plat, or Improvement Survey plat. No boundary resolution was performed in making this survey. All lot lines, setback lines, and easement lines shown hereon should be considered approximate and should not be relied upon for the placement of any future improvements.
- 7) Notice: According to Colorado Law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect, in no event, may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.
- 8) Benchmark: Derived from NGS S-280 with an Elevation = 7894.5 and the first floor elevation shown hereon is relative thereto.

CERTIFICATION

I, Randall P. Kipp, a Registered Professional Land Surveyor in the State of Colorado, hereby certify that this TOPOGRAPHIC SURVEY was done by me or under my direct supervision, and that it was performed using the standard care and practice used in the area at the time of the survey. The Notes hereon are a part of this certification.



Randall P. Kipp
 P.L.S. No. 38079
 Colorado Professional
 Land Surveyor

NOTICE: According to Colorado law you MUST commence any legal action based upon any defect in this survey within three years after you first discovered such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.

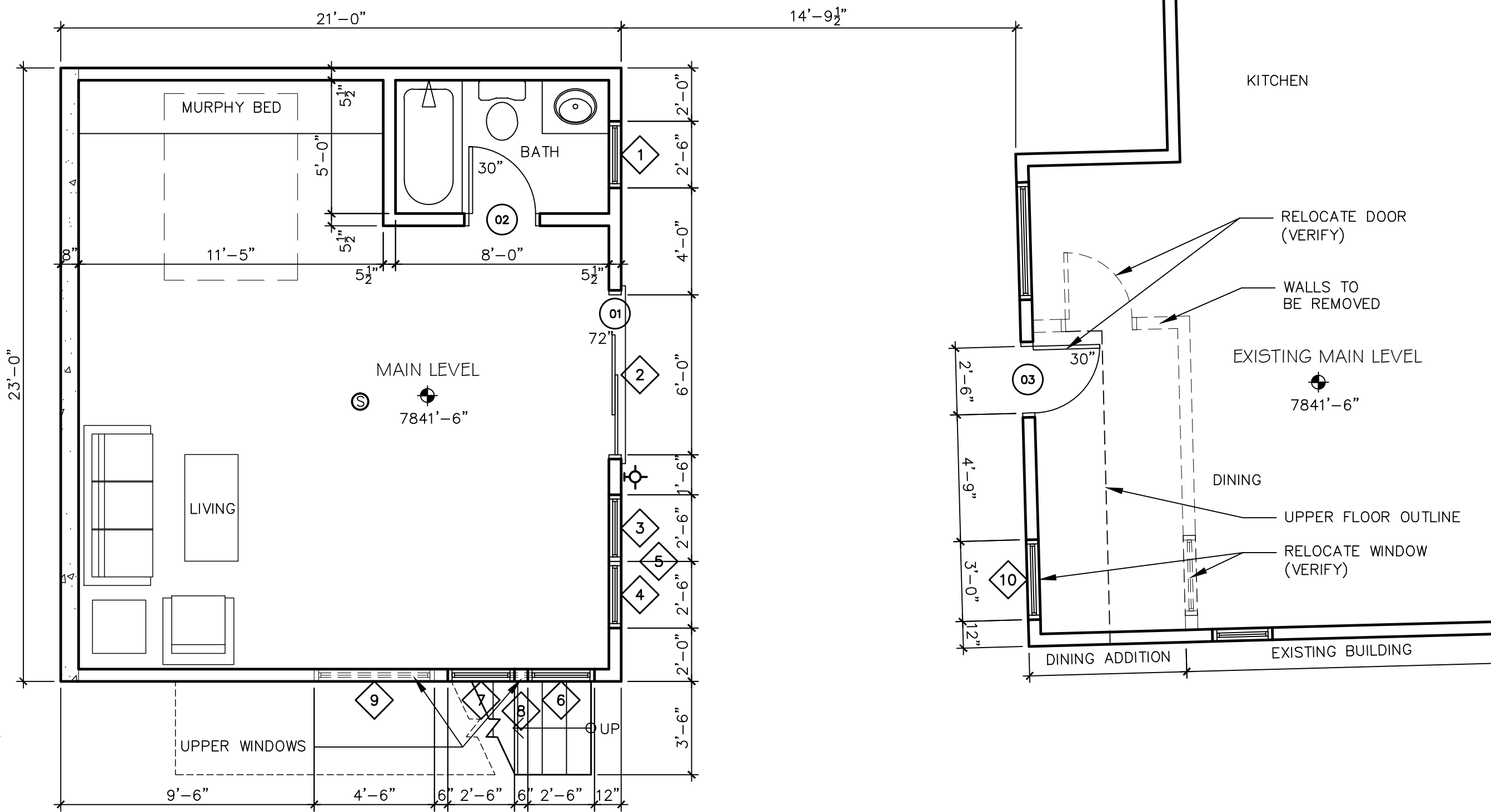
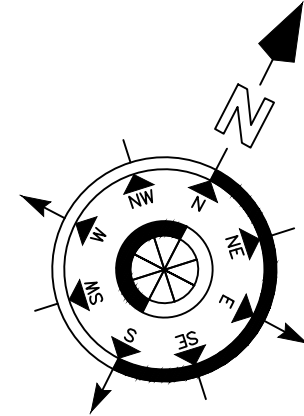
KIPP LAND SURVEYING		TOPOGRAPHIC SURVEY	
RANDY KIPP P.L.S. P.O. Box 3154 Eagle, CO 81631 (970) 390-9540 email: randy@kipplandsurveying.com web: kipplandsurveying.com		LOT 12 AND N $\frac{1}{2}$ LOT 13, BLOCK F Booco's Addition To Minturn Town of Minturn, Eagle County, Colorado	
DRAWN BY: RPK	DATE: 6/18/18		
SHEET: 1 OF 1		18116 L12N13 TOPO DWG NO.:	

MAIN LEVEL DOOR SCHEDULE

MARK	DOOR		Style	FIRE RATING LABEL	NOTES
	SIZE				
	WD	HGT			
1	6'-0"	7'-0"	Sliding - Double - Full Lite	--	--
2	2'-6"	7'-0"	Hinged - Single	--	--
3	2'-6"	7'-0"	Hinged - Single - Half Lite	--	Existing, relocate

MAIN LEVEL WINDOW SCHEDULE

MARK	SIZE		Style	Sill Height	NOTES
	WIDTH	HEIGHT			
1	2'-6"	3'-6"	Casement	3'-6"	--
2	6'-4"	1'-6"	Picture	7'-6"	--
3	2'-6"	3'-6"	Casement	3'-6"	--
4	2'-6"	3'-6"	Casement	3'-6"	--
5	5'-0"	1'-6"	Picture	7'-6"	--
6	2'-6"	3'-6"	Casement	3'-6"	--
7	2'-6"	2'-6"	Casement	4'-6"	--
8	5'-6"	1'-6"	Picture	7'-6"	--
9	4'-6"	1'-6"	Picture	7'-6"	--
10	3'-0"	4'-0"	Casement	3'-0"	Existing, relocate



MAIN LEVEL FLOOR PLAN

1/4" = 1'-0"

MAIN LEVEL = 483.00 SQ. FT.
DINING = 35.84 SQ. FT.
TOTAL = 518.84 SQ. FT.

NOTE: RE: A2.01 BUILDING ELEVATIONS FOR UPPER WINDOW LOCATIONS

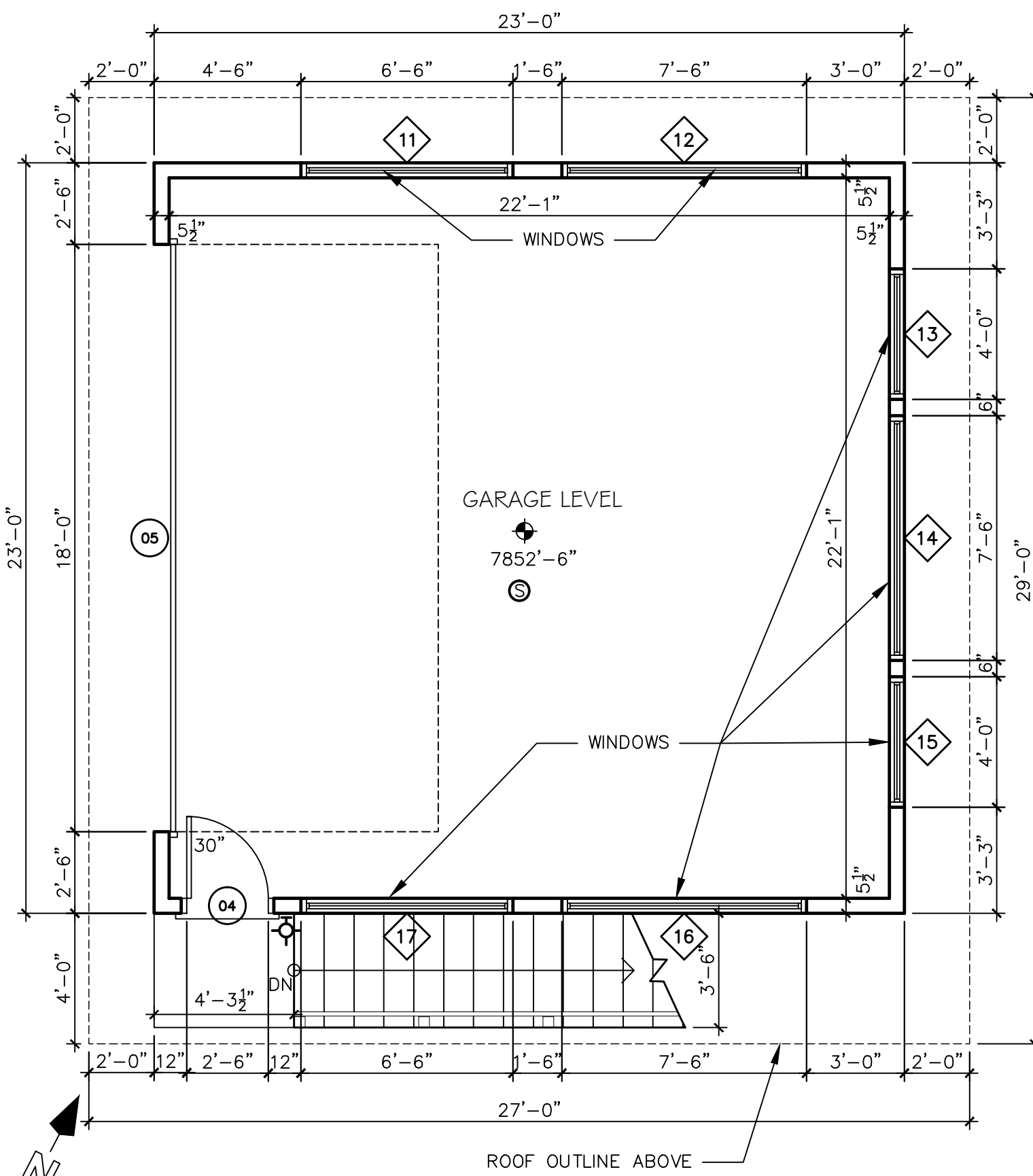
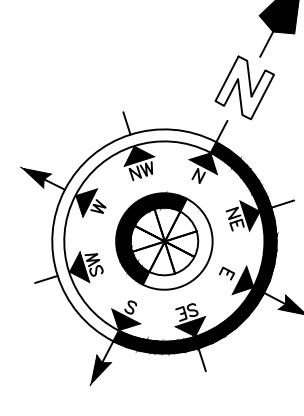
- ⊛ EXTERIOR LIGHTING - VERIFY W/OWNER/ARCHITECT
- ⊛ EXTERIOR WALL SCONCE: KICHLER 97070Z MOUNT VERNON SMALL O.A.E.
- ⊙ SMOKE DETECTOR/CARBON MONOXIDE-SILHOUETTE LOW-PROFILE SMOKE ALARM O.A.E.

UPPER LEVEL DOOR SCHEDULE

MARK	DOOR		Style	FIRE RATING LABEL	NOTES
	SIZE				
	WD	HGT			
4	2'-6"	8'-0"	Hinged - Single - Exterior Half Lite	20 MIN.	W/closer
5	18'-0"	8'-0"	Overhead - Sectional	--	--

UPPER LEVEL WINDOW SCHEDULE

MARK	SIZE		Style	Sill Height	NOTES
	WIDTH	HEIGHT			
11	6'-6"	4'-0"	Picture	4'-0"	--
12	7'-6"	4'-0"	Picture	4'-0"	--
13	4'-0"	4'-0"	Casement	4'-0"	--
14	7'-6"	4'-0"	Picture	4'-0"	--
15	4'-0"	4'-0"	Casement	4'-0"	--
16	7'-6"	4'-0"	Picture	4'-0"	--
17	6'-6"	4'-0"	Picture	4'-0"	--

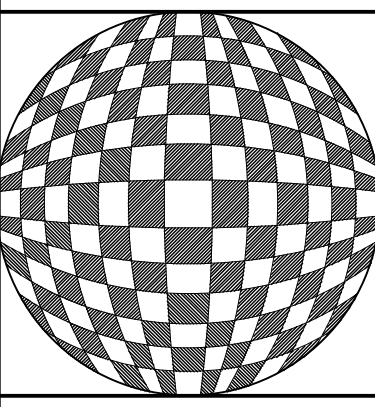


GARAGE LEVEL FLOOR PLAN

1/4" = 1'-0"

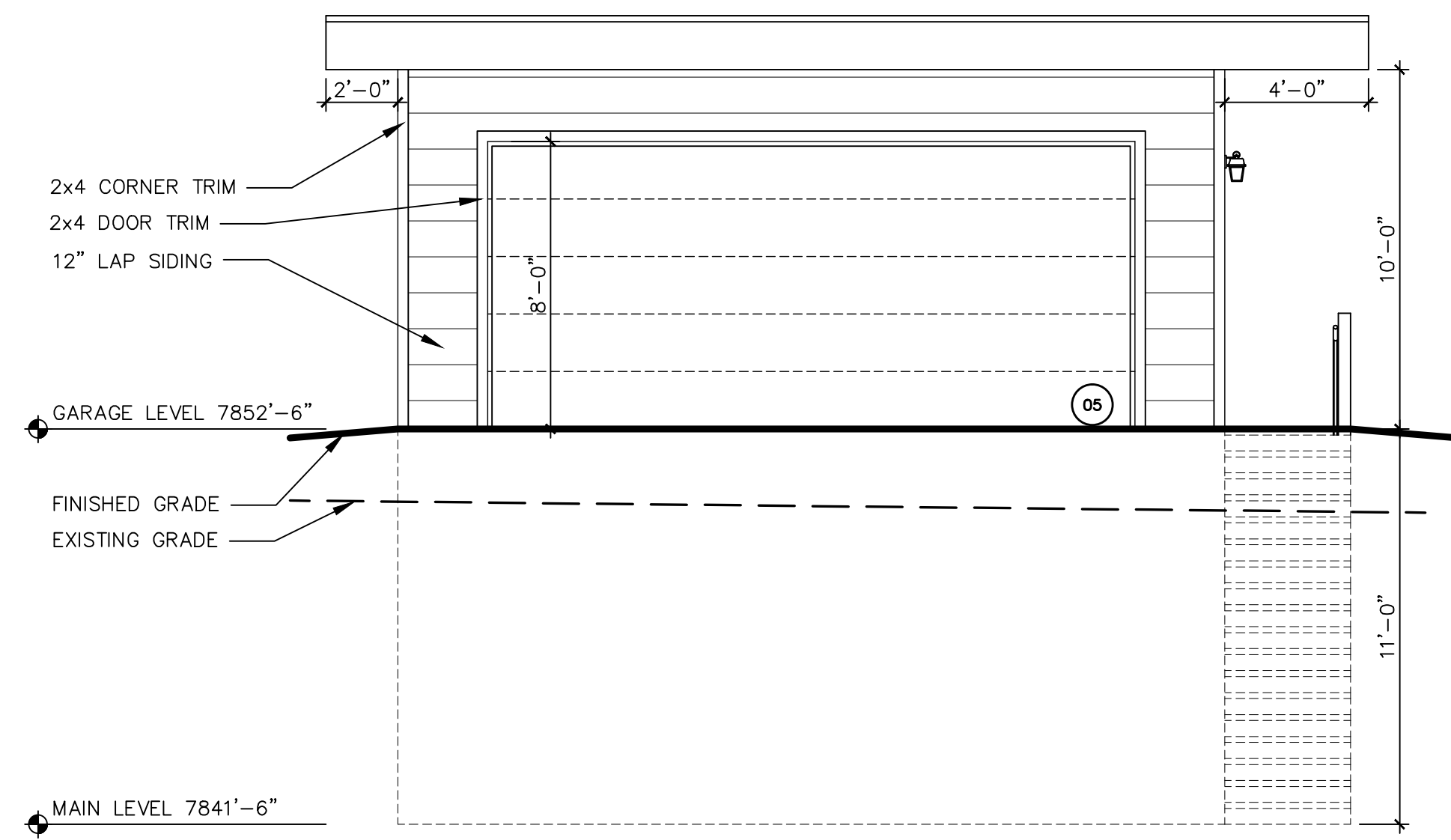
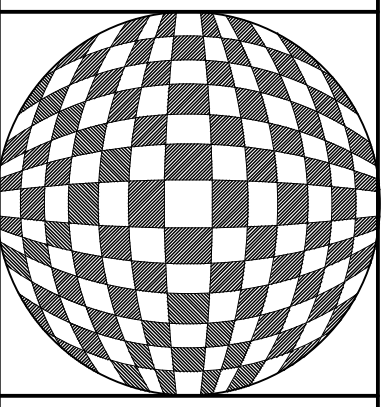
GARAGE = 529 SQ. FT.

- ⊛ EXTERIOR LIGHTING - VERIFY W/OWNER/ARCHITECT
- ⊛ EXTERIOR WALL SCONCE: KICHLER 97070Z MOUNT VERNON SMALL O.A.E.
- ⊙ SMOKE DETECTOR/CARBON MONOXIDE-SILHOUETTE LOW-PROFILE SMOKE ALARM O.A.E.

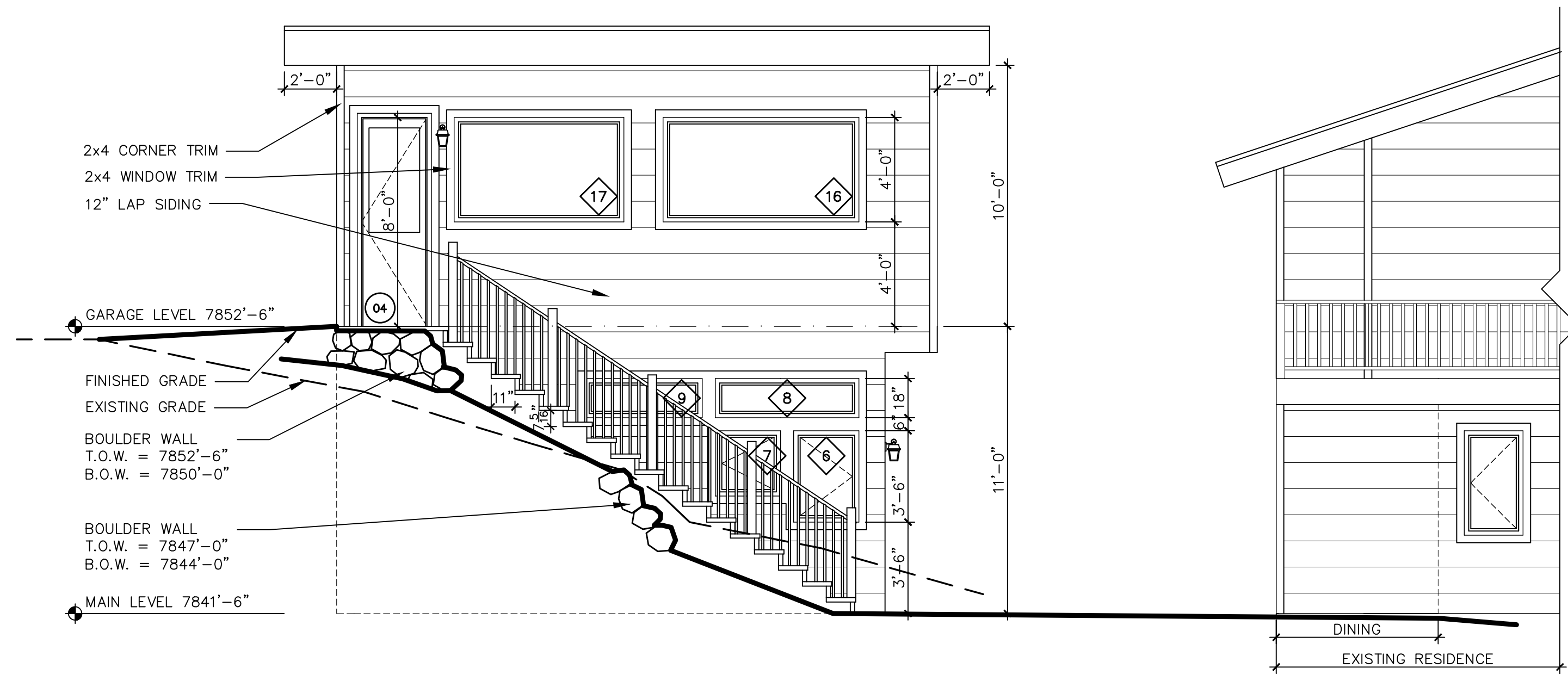


GARAGE ADDITION
261 MAIN STREET
MINTURN COLORADO 81645

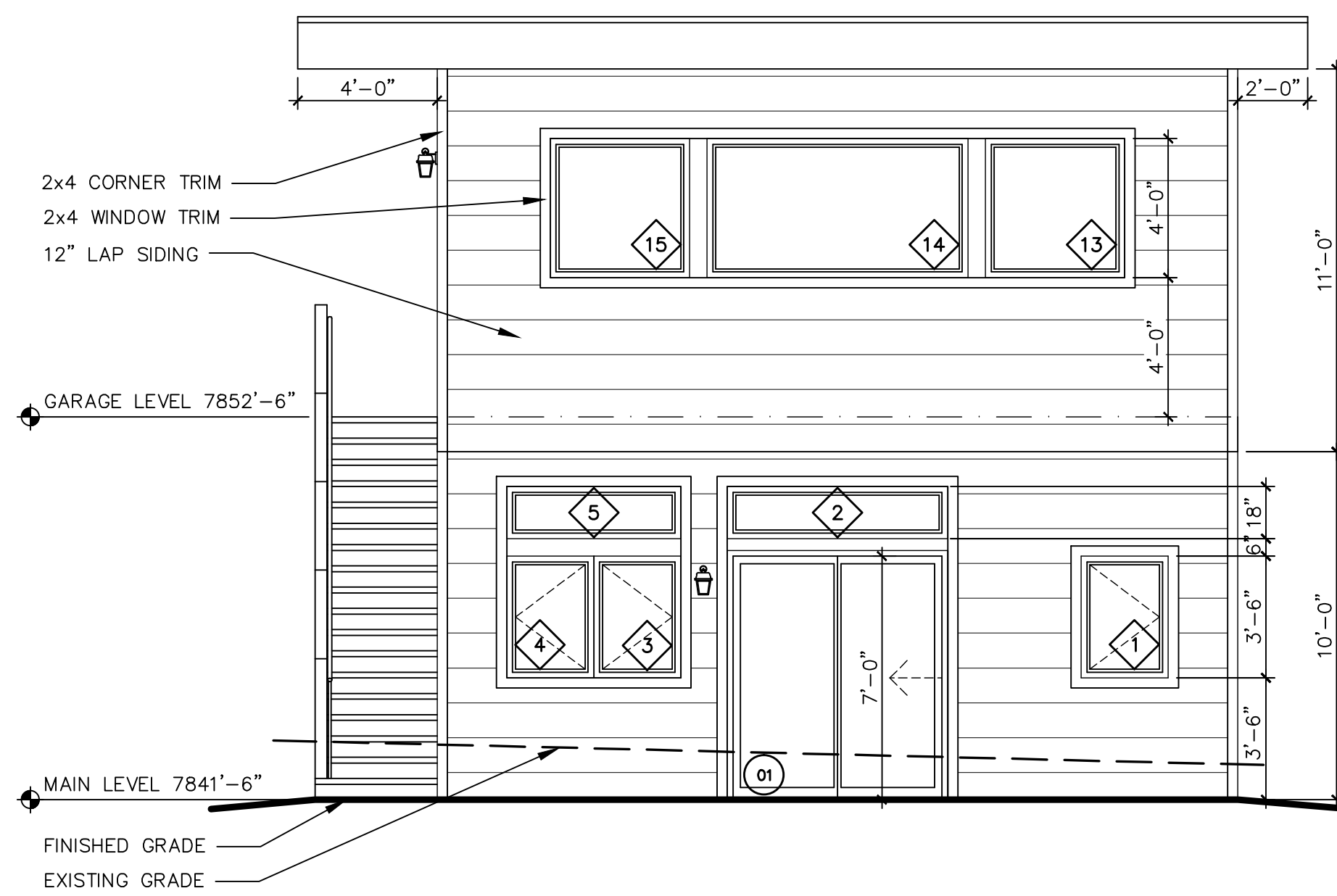
JOB NUMBER	20-5
DRAWN BY	TH
DATE	OCTOBER 7, 2021
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REVISION DATE	INITIAL



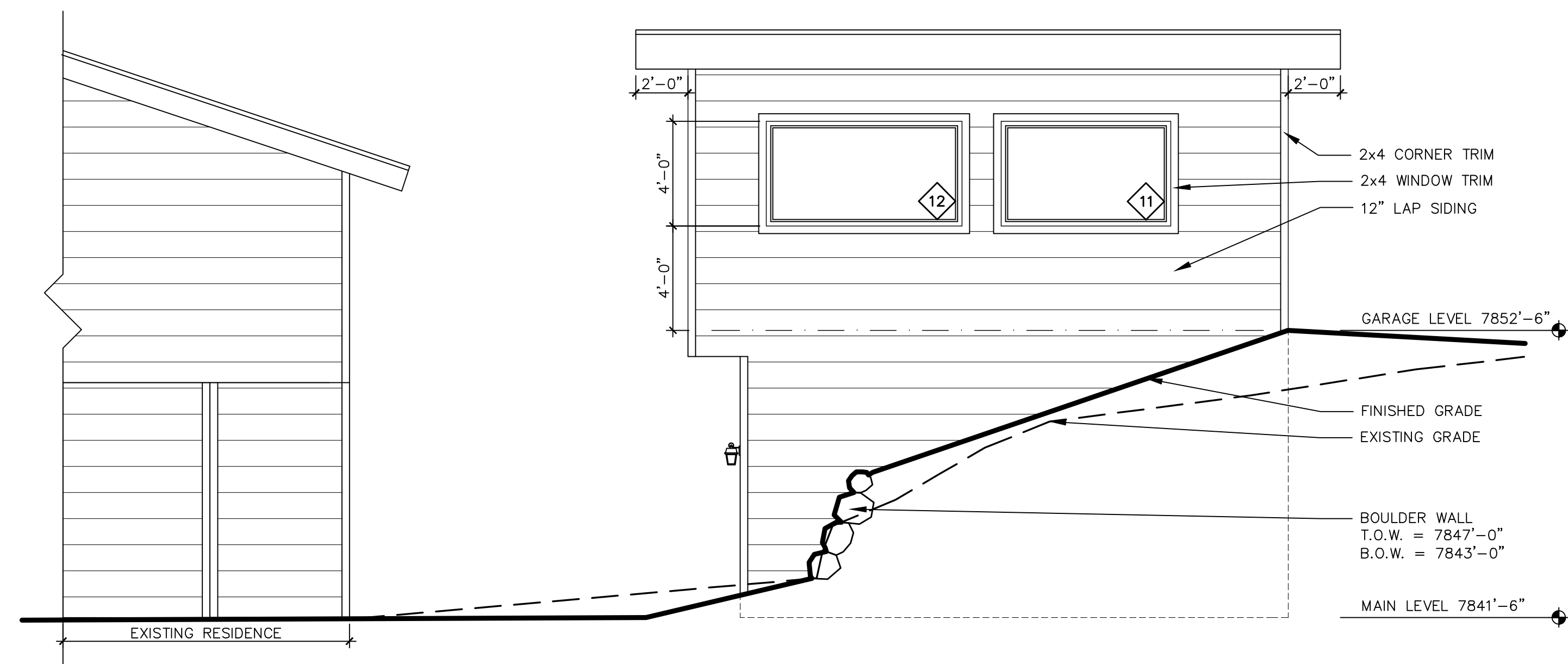
1 **SOUTHWEST GARAGE ELEVATION**
 1/4" = 1'-0"
 NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
 SIDING, TRIM, ROOFING ECT.



2 **SOUTHEAST GARAGE ELEVATION**
 1/4" = 1'-0"
 NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
 SIDING, TRIM, ROOFING ECT.



3 **NORTHEAST GARAGE ELEVATION**
 1/4" = 1'-0"
 NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
 SIDING, TRIM, ROOFING ECT.



4 **NORTHWEST GARAGE ELEVATION**
 1/4" = 1'-0"
 NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
 SIDING, TRIM, ROOFING ECT.

GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645

JOB NUMBER	20-5
DRAWN BY	TH
DATE	OCTOBER 7, 2021
ROLE	VARIANCE
REVISION DATE	INITIAL





To: Mayor and Council
From: Madison Harris, Planner I
Date: October 14, 2021

Agenda Item: Review of Conditional Use Permits held on the Railroad Property

REQUEST:

Discuss current Conditional Use Permits (CUP) held on the Railroad Property.

INTRODUCTION:

As agreed upon in the terms attached to each Conditional Use Permit held on the Railroad Property that was issued in 2018 and 2020, there is an *“Annual report by the Code Compliance Officer to Council”*. The last one was held on October 21, 2020. Also part of terms is *“Lessees to meet with Town Council every 3 years for CUP review.”* It has been 3 years since the approval of the CUPs.

ANALYSIS:

Staff suggests that there be a review of the Conditional Use Permits that are held on the Railroad Property and for it to be determined whether or not the proposed new conditions are clear and communicative on how to address any issues that should arise for both the CUP holders as well as Staff.

COMMUNITY INPUT:

Extensive.

BUDGET / STAFF IMPACT:

TBD.

STRATEGIC PLAN ALIGNMENT:

The Town Council’s actions with regard to the public process of reviewing these Conditional Use Permits, particularly when focused on ensuring that conditions attached support a realistic, fair and consistent treatment aligns with the following key strategies:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT

The Town will seek to make **informed, data-based decisions** with a **standard** of **“doing it right.”** With an **honest** approach to all aspects of local government and a focus on the **public process**, the Town Council and staff are committed to serving Minturn with the honesty and integrity expected of a small-town government.

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

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

RECOMMENDED ACTION OR PROPOSED MOTION:

Approve the following resolutions:

1. Resolution 40 – Series 2021: A resolution renewing and amending Conditional Use Application CU 01 – 2018 for Minturn Builders Alliance Cooperative
2. Resolution 41 – Series 2021: A resolution renewing and amending Conditional Use Application CU 02 – 2018 for Cozzens Construction
3. Resolution 42 – Series 2021: A resolution renewing and amending Conditional Use Application CU 03 – 2018 for Burke Harrington Construction
4. Resolution 43 – Series 2021: A resolution renewing and amending Conditional Use Application CU 01 – 2020 for Burke Harrington Construction and Darin Tucholke

ATTACHMENTS:

- Staff report
- Resolution 40 – Series 2021
- Resolution 41 – Series 2021
- Resolution 42 – Series 2021
- Resolution 43 – Series 2021



2021 Union Pacific Railroad Property Conditional Use Permit Reviews Burke Harrington Construction, Darin Tucholke, Minturn Builders Alliance, and Cozzens Construction

Overview of Zoning, the CUP Process, and Enforcement Issues

Zoning: Game Creek Character Area PUD Holding Zone

Staff: 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 20, 2021 regular meeting.

II. 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 (MBA)

Three CUPs (BHC, Cozzens Construction, and MBA) 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.

One CUP (BHC/Darin Tucholke – Issued 2020) was approved with the following conditions or standards:

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 activities approved with this CUP shall be located on leased property. No vehicle shall exceed 40' 2" in length. This restriction does not apply to storage containers that may be used for storage of materials and equipment associated with or incidental to the business operations approved under this CUP. Such container(s) must be maintained in an orderly manner; must be contained and screened to the greatest extent possible with fencing and green mesh screening materials; and, shall not be stacked.
3. No recreational vehicles or ATVs of any kind are permitted within lease areas. Such restriction includes but is not limited to boats, snowmobiles, ATVs, RV's, campers, pop-ups campers, conversion vans, as well as trailers, and/or vehicles unrelated to the permitted business activities.
4. No inoperable or unlicensed vehicles are to be kept on the property for longer than five (5) days (pursuant to Section 7-2-70 Minturn Municipal Code).
5. Leased lots associated with the CUP are 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. CUP holders are to maintain and conduct business within the lease areas associated with the approved and valid CUP only.
7. Each CUP will be subject to annual review by the Town staff with regard to compliance with the terms of use and conditions of approval associated with the CUP. The Town staff shall provide a report to the Town Council following such annual review. The report shall, in a general manner, provide updates on the following:
 - a. Any violations or other incidences requiring staff response and Town resources out of the ordinary course of Town business and services.
 - b. Compliance with the overall terms of use permitted by the CUP as well as observations regarding the condition of the lease/CUP area.
 - c. Any changes in i) Lessee/Sub-Lessee; and, ii) uses within CUP area.
 - d. Any recommendation to Council to amend, suspend or revoke the CUP.

8. Lessees are required to meet with the Town Council every three (3) years for CUP review. The review shall include but not be limited to inspections by Town staff and the following reporting:
 - a. Report from Code Compliance Office
 - b. Report from Planning Director
9. Hours of operation: 6 days per week (M-Sat); 7:00 a.m. to 7:00 p.m., unless otherwise approved by the Town Council as part of the CUP approval and terms of use on a case by case basis.
10. All uses and occupancy associated with activities approved for each individual CUP shall adhere at all times with the noise and vibration standards of the Town (pursuant to Section 16-18-30, Minturn Municipal Code).
11. All leased areas associated with the CUP must be fenced and screened (green mesh screening materials) along the perimeter of leased property.
12. Supplies, parking, vehicles, and equipment associated with the approved CUP and business activities therein shall be located only within fenced and screened areas.
13. Proper fuel containment (to be inspected by Eagle River Fire Protection District for small volumes (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) associated with the approved CUP.
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 the 30' live stream setback areas along the Eagle River and/or Game Creek.
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.

III. 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.

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. Staff has put forth amended conditions or standards/terms of use.

- 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.”

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.

IV. Staff Recommendation:

Approval with conditions.

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 40 – SERIES 2021**

**A RESOLUTION RENEWING AND AMENDING CONDITIONAL USE APPLICATION
CU 01 – 2018 FOR MINTURN BUILDERS ALLIANCE COOPERATIVE, UPRR
RAILROAD AVE, TOWN OF MINUTURN**

WHEREAS, The Minturn Builders Alliance Cooperative submitted a land use application for a Conditional Use Permit (“CUP”) to allow for construction storage in August of 2018; and

WHEREAS, the Town of Minturn (the “Town”) granted the requested CUP through Resolution 26 – Series 2018; and

WHEREAS, The 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, condition 7 of Resolution 26 – Series 2018 requires review and renewal of the CUP on a 3 year basis; and

WHEREAS, The Town Council may approve the renewal as submitted or may approve the renewal subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the renewal 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 renewal for a Conditional Use Permit for File No. CU 01 – 2018 be approved subject to the following conditions:

1. No vehicle shall exceed 40'2" in length. This restriction does not apply to storage containers that may be used for storage of materials and equipment associated with or incidental to the business operations approved under this CUP. Such container(s) must be maintained in an orderly manner; must be contained and screened to the greatest extent possible with fencing and green mesh screening materials; and, shall not be stacked.
2. No storage of RV's, campers, pop-ups, conversion vans, trailers, or similar camping related vehicles is permitted. Storage of snowmobiles, ATV's, dirt bikes, and other personal recreational vehicles is permitted.
3. No inoperable or unlicensed vehicles are to be kept on the property for longer than five (5) days. (Pursuant to Section 7-2-70 Minturn Municipal Code).
4. Leased lots associated with the CUP are 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).
5. CUP holders are to maintain and conduct business within the lease areas associated with the approved and valid CUP only.
6. Violations. The following schedule of fines for violations not remedied within 30 days:
 - a. The first violation will be fined \$100.

- b. The second violation will be fined \$250.
 - c. The third and subsequent violations will be fined \$500.
7. Each CUP will be subject to annual review by the Town staff with regard to compliance with the terms of use and conditions of approval associated with the CUP. The Town staff shall provide a report to the Town Council following such annual review. The report shall, in a general manner, provide updates on the following:
 - a. Any violations or other incidences requiring staff response and Town resources out of the ordinary course of Town business and services. A violation will only be counted if the infraction has not been corrected within 30 days of notice being sent to the CUP holder.
 - b. Compliance with the overall terms of use permitted by the CUP as well as observations regarding the condition of the lease/CUP area.
 - c. Any changes in i) Lessee/Sub-Lessee; and, ii) uses within CUP area.
 - d. At staff's discretion, a recommendation may be made to Council to revoke the CUP having accumulated three violations in a calendar year (Jan 1 to Dec 31).
8. Lessees are required to meet with the Town Council every three (3) years for CUP review. The review shall include but not be limited to inspections by Town staff and the following reporting:
 - a. Report from Code Compliance Office
 - b. Report from Planning Department
9. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
10. Uses must be in compliance with the applicable laws, including Minturn Municipal Code, state and federal law. A violation of any law within the permitted premises shall be considered a violation of the CUP.
11. All uses and occupancy associated with activities approved for each individual CUP shall adhere at all times with the noise and vibration standards of the Town (pursuant to Section 16-18-30, Minturn Municipal Code).
12. All leased areas associated with the CUP must be fenced and screened (green mesh screening materials) along the perimeter of leased property.
13. Supplies, parking, vehicles, truck containers, and equipment within fenced area or designated leased area only
14. Proper fuel containment / inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
15. All overnight parking must be done within the fenced yard and/or building(s) associated with the approved CUP.

16. Any chemical storage will require material safety data sheets. No chemical storage within 30' live stream setback areas along the Eagle River and/or Game Creek.
17. Emergency access of 20' through the Union Pacific railyard and at both access gates shall be maintained.
18. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
19. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
20. Town staff inspects the site for compliance at any time.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 20TH day of October, 2021.

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 41 – SERIES 2021**

**A RESOLUTION RENEWING AND AMENDING CONDITIONAL USE APPLICATION
CU 02 – 2018 FOR COZZENS CONSTRUCTION, UPRR RAILROAD AVE, TOWN OF
MINUTURN**

WHEREAS, Cozzens Construction submitted a land use application for a Conditional Use Permit (“CUP”) to allow for construction storage in August of 2018; and

WHEREAS, the Town of Minturn (the “Town”) granted the requested CUP through Resolution 27 – Series 2018; and

WHEREAS, The 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, condition 7 of Resolution 27 – Series 2018 requires review and renewal of the CUP on a 3 year basis; and

WHEREAS, The Town Council may approve the renewal as submitted or may approve the renewal subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the renewal 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 renewal for a Conditional Use Permit for File No. CU 02 – 2018 be approved subject to the following conditions:

1. No vehicle shall exceed 40'2" in length. This restriction does not apply to storage containers that may be used for storage of materials and equipment associated with or incidental to the business operations approved under this CUP. Such container(s) must be maintained in an orderly manner; must be contained and screened to the greatest extent possible with fencing and green mesh screening materials; and, shall not be stacked.
2. No storage of RV's, campers, pop-ups, conversion vans, trailers, or similar camping related vehicles is permitted. Storage of snowmobiles, ATV's, dirt bikes, and other personal recreational vehicles is permitted.
3. No inoperable or unlicensed vehicles are to be kept on the property for longer than five (5) days. (Pursuant to Section 7-2-70 Minturn Municipal Code).
4. Leased lots associated with the CUP are 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).
5. CUP holders are to maintain and conduct business within the lease areas associated with the approved and valid CUP only.
6. Violations. The following schedule of fines for violations not remedied within 30 days:
 - a. The first violation will be fined \$100.

- b. The second violation will be fined \$250.
 - c. The third and subsequent violations will be fined \$500.
7. Each CUP will be subject to annual review by the Town staff with regard to compliance with the terms of use and conditions of approval associated with the CUP. The Town staff shall provide a report to the Town Council following such annual review. The report shall, in a general manner, provide updates on the following:
- a. Any violations or other incidences requiring staff response and Town resources out of the ordinary course of Town business and services. A violation will only be counted if the infraction has not been corrected within 30 days of notice being sent to the CUP holder.
 - b. Compliance with the overall terms of use permitted by the CUP as well as observations regarding the condition of the lease/CUP area.
 - c. Any changes in i) Lessee/Sub-Lessee; and, ii) uses within CUP area.
 - d. At staff's discretion, a recommendation may be made to Council to revoke the CUP having accumulated three violations in a calendar year (Jan 1 to Dec 31).
8. Lessees are required to meet with the Town Council every three (3) years for CUP review. The review shall include but not be limited to inspections by Town staff and the following reporting:
- a. Report from Code Compliance Office
 - b. Report from Planning Department
9. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
10. Uses must be in compliance with the applicable laws, including Minturn Municipal Code, state and federal law. A violation of any law within the permitted premises shall be considered a violation of the CUP.
11. All uses and occupancy associated with activities approved for each individual CUP shall adhere at all times with the noise and vibration standards of the Town (pursuant to Section 16-18-30, Minturn Municipal Code).
12. All leased areas associated with the CUP must be fenced and screened (green mesh screening materials) along the perimeter of leased property.
13. Supplies, parking, vehicles, truck containers, and equipment within fenced area or designated leased area only
14. Proper fuel containment / inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
15. All overnight parking must be done within the fenced yard and/or building(s) associated with the approved CUP.

16. Any chemical storage will require material safety data sheets. No chemical storage within 30' live stream setback areas along the Eagle River and/or Game Creek.
17. Emergency access of 20' through the Union Pacific railyard and at both access gates shall be maintained.
18. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
19. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
20. Town staff inspects the site for compliance at any time.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 20TH day of October, 2021.

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 42 – SERIES 2021**

**A RESOLUTION RENEWING AND AMENDING CONDITIONAL USE APPLICATION
CU 03 – 2018 FOR BURKE HARRINGTON CONSTRUCTION, UPRR RAILROAD
AVE, TOWN OF MINUTURN**

WHEREAS, Burke Harrington Construction submitted a land use application for a Conditional Use Permit (“CUP”) to allow for construction storage in August of 2018; and

WHEREAS, the Town of Minturn (the “Town”) granted the requested CUP through Resolution 28 – Series 2018; and

WHEREAS, The 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, condition 7 of Resolution 28 – Series 2018 requires review and renewal of the CUP on a 3 year basis; and

WHEREAS, The Town Council may approve the renewal as submitted or may approve the renewal subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the renewal 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 renewal for a Conditional Use Permit for File No. CU 03 – 2018 be approved subject to the following conditions:

1. No vehicle shall exceed 40'2" in length. This restriction does not apply to storage containers that may be used for storage of materials and equipment associated with or incidental to the business operations approved under this CUP. Such container(s) must be maintained in an orderly manner; must be contained and screened to the greatest extent possible with fencing and green mesh screening materials; and, shall not be stacked.
2. No storage of RV's, campers, pop-ups, conversion vans, trailers, or similar camping related vehicles is permitted. Storage of snowmobiles, ATV's, dirt bikes, and other personal recreational vehicles is permitted.
3. No inoperable or unlicensed vehicles are to be kept on the property for longer than five (5) days. (Pursuant to Section 7-2-70 Minturn Municipal Code).
4. Leased lots associated with the CUP are 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).
5. CUP holders are to maintain and conduct business within the lease areas associated with the approved and valid CUP only.
6. Violations. The following schedule of fines for violations not remedied within 30 days:
 - a. The first violation will be fined \$100.

- b. The second violation will be fined \$250.
 - c. The third and subsequent violations will be fined \$500.
7. Each CUP will be subject to annual review by the Town staff with regard to compliance with the terms of use and conditions of approval associated with the CUP. The Town staff shall provide a report to the Town Council following such annual review. The report shall, in a general manner, provide updates on the following:
- a. Any violations or other incidences requiring staff response and Town resources out of the ordinary course of Town business and services. A violation will only be counted if the infraction has not been corrected within 30 days of notice being sent to the CUP holder.
 - b. Compliance with the overall terms of use permitted by the CUP as well as observations regarding the condition of the lease/CUP area.
 - c. Any changes in i) Lessee/Sub-Lessee; and, ii) uses within CUP area.
 - d. At staff's discretion, a recommendation may be made to Council to revoke the CUP having accumulated three violations in a calendar year (Jan 1 to Dec 31).
8. Lessees are required to meet with the Town Council every three (3) years for CUP review. The review shall include but not be limited to inspections by Town staff and the following reporting:
- a. Report from Code Compliance Office
 - b. Report from Planning Department
9. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
10. Uses must be in compliance with the applicable laws, including Minturn Municipal Code, state and federal law. A violation of any law within the permitted premises shall be considered a violation of the CUP.
11. All uses and occupancy associated with activities approved for each individual CUP shall adhere at all times with the noise and vibration standards of the Town (pursuant to Section 16-18-30, Minturn Municipal Code).
12. All leased areas associated with the CUP must be fenced and screened (green mesh screening materials) along the perimeter of leased property.
13. Supplies, parking, vehicles, truck containers, and equipment within fenced area or designated leased area only
14. Proper fuel containment / inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
15. All overnight parking must be done within the fenced yard and/or building(s) associated with the approved CUP.

16. Any chemical storage will require material safety data sheets. No chemical storage within 30' live stream setback areas along the Eagle River and/or Game Creek.
17. Emergency access of 20' through the Union Pacific railyard and at both access gates shall be maintained.
18. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
19. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
20. Town staff inspects the site for compliance at any time.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 20TH day of October, 2021.

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 43 – SERIES 2021**

**A RESOLUTION RENEWING AND AMENDING CONDITIONAL USE APPLICATION
CU 01 – 2020 FOR BURKE HARRINGTON CONSTRUCTION AND DARIN
TUCHOLKE, UPRR RAILROAD AVE, TOWN OF MINUTURN**

WHEREAS, Burke Harrington Construction and Darin Tucholke submitted a land use application for a Conditional Use Permit (“CUP”) to allow for construction storage in July of 2020; and

WHEREAS, the Town of Minturn (the “Town”) granted the requested CUP through Resolution 24 – Series 2020; and

WHEREAS, The 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, condition 7 of Resolution 24 – Series 2020 requires review and renewal of the CUP on a 3 year basis; and

WHEREAS, The Town Council may approve the renewal as submitted or may approve the renewal subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the renewal 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 renewal for a Conditional Use Permit for File No. CU 01 – 2020 be approved subject to the following conditions:

1. No vehicle shall exceed 40'2" in length. This restriction does not apply to storage containers that may be used for storage of materials and equipment associated with or incidental to the business operations approved under this CUP. Such container(s) must be maintained in an orderly manner; must be contained and screened to the greatest extent possible with fencing and green mesh screening materials; and, shall not be stacked.
2. No storage of RV's, campers, pop-ups, conversion vans, trailers, or similar camping related vehicles is permitted. Storage of snowmobiles, ATV's, dirt bikes, and other personal recreational vehicles is permitted.
3. No inoperable or unlicensed vehicles are to be kept on the property for longer than five (5) days. (Pursuant to Section 7-2-70 Minturn Municipal Code).
4. Leased lots associated with the CUP are 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).
5. CUP holders are to maintain and conduct business within the lease areas associated with the approved and valid CUP only.

6. Violations. The following schedule of fines for violations not remedied within 30 days:
 - a. The first violation will be fined \$100.
 - b. The second violation will be fined \$250.
 - c. The third and subsequent violations will be fined \$500.
7. Each CUP will be subject to annual review by the Town staff with regard to compliance with the terms of use and conditions of approval associated with the CUP. The Town staff shall provide a report to the Town Council following such annual review. The report shall, in a general manner, provide updates on the following:
 - a. Any violations or other incidences requiring staff response and Town resources out of the ordinary course of Town business and services. A violation will only be counted if the infraction has not been corrected within 30 days of notice being sent to the CUP holder.
 - b. Compliance with the overall terms of use permitted by the CUP as well as observations regarding the condition of the lease/CUP area.
 - c. Any changes in i) Lessee/Sub-Lessee; and, ii) uses within CUP area.
 - d. At staff's discretion, a recommendation may be made to Council to revoke the CUP having accumulated three violations in a calendar year (Jan 1 to Dec 31).
8. Lessees are required to meet with the Town Council every three (3) years for CUP review. The review shall include but not be limited to inspections by Town staff and the following reporting:
 - a. Report from Code Compliance Office
 - b. Report from Planning Department
9. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
10. Uses must be in compliance with the applicable laws, including Minturn Municipal Code, state and federal law. A violation of any law within the permitted premises shall be considered a violation of the CUP.
11. All uses and occupancy associated with activities approved for each individual CUP shall adhere at all times with the noise and vibration standards of the Town (pursuant to Section 16-18-30, Minturn Municipal Code).
12. All leased areas associated with the CUP must be fenced and screened (green mesh screening materials) along the perimeter of leased property.
13. Supplies, parking, vehicles, truck containers, and equipment within fenced area or designated leased area only
14. Proper fuel containment / inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.
15. All overnight parking must be done within the fenced yard and/or building(s) associated with the approved CUP.

16. Any chemical storage will require material safety data sheets. No chemical storage within 30' live stream setback areas along the Eagle River and/or Game Creek.
17. Emergency access of 20' through the Union Pacific railyard and at both access gates shall be maintained.
18. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
19. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
20. Town staff inspects the site for compliance at any time.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 20TH day of October, 2021.

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk



To: Mayor and Council
From: Madison Harris, Planner I
Date: October 15, 2021
Agenda Item: Review of Minturn Mountain Motel Conditional Use Permit held on the Railroad Property

REQUEST:

Discuss current Conditional Use Permit (CUP) held on the Railroad Property.

INTRODUCTION:

As agreed upon in the terms attached to the Conditional Use Permit held by the Minturn Mountain Motel that was issued in 2018, there is an *“Annual report by the Code Compliance Officer to Council”*. The last one was held on October 21, 2020. Also part of terms is *“Lessees to meet with Town Council every 3 years for CUP review.”* It has been 3 years since the approval of the CUP.

ANALYSIS:

Staff suggests that there be a review of the Conditional Use Permit that is held by the Minturn Mountain Motel and for it to be determined whether or not the proposed new conditions are clear and communicative on how to address any issues that should arise for both the CUP holder as well as Staff.

COMMUNITY INPUT:

Extensive.

BUDGET / STAFF IMPACT:

TBD.

STRATEGIC PLAN ALIGNMENT:

The Town Council’s actions with regard to the public process of reviewing this Conditional Use Permit, particularly when focused on ensuring that conditions attached support a realistic, fair and consistent treatment aligns with the following key strategies:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT

The Town will seek to make **informed, data-based decisions** with a **standard** of **“doing it right.”** With an **honest** approach to all aspects of local government and a focus on the **public process**, the Town Council and staff are committed to serving Minturn with the honesty and integrity expected of a small-town government.

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

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

RECOMMENDED ACTION OR PROPOSED MOTION:

Approve the following resolution:

1. Resolution 44 – Series 2021: A resolution renewing and amending Conditional Use Application CU 04 – 2018 for Minturn Mountain Motel

ATTACHMENTS:

- Staff report
- Resolution 44 – Series 2021



2021 Union Pacific Railroad Property Conditional Use Permit Review Minturn Mountain Motel

Overview of Zoning, the CUP Process, and Enforcement Issues

Zoning:	Game Creek Character Area PUD Holding Zone
Staff:	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 a CUP for vehicle storage uses occurring on the UP property on a lease held by the Minturn Mountain Motel. Importantly, the standards and findings listed below are germane to the CUP review before the Council at the October 20, 2021 regular meeting.

II. 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 (MBA)

The Turntable Restaurant/Minturn Mountain Motel was approved with the following conditions or standards:

1. All parking must be within the leased area;
2. The restaurant and motel cannot be sub-leased as stated in the lease contract without prior consent of the Union Pacific Railroad;
3. Restaurant and Motel must maintain the required number of parking spaces as required by Chapter 16, Article 16 (Off-Street Parking and Loading) of the Town of Minturn Municipal Code. (The purpose is to ensure that the use is served by an adequate supply of well-planned and designed parking, and to assure that the owner/operator of the use provides sufficient parking spaces for the use);
4. The restaurant and motel must be maintained in accordance with Chapter 7, Article 2 (Nuisances) of the Town of Minturn Municipal Code (The purpose is to ensure that the use operates in a manner that is not harmful to the surrounding uses and the process in which a nuisance is declared for a specific use);
5. Emergency access of 20’ through the leased area;
6. Any dumpsters containing or temporarily storing refuse/trash material outside the restaurant and motel must be stored on property and must be properly screened;
7. The leased area used for parking must be policed and maintained by the lessee (restaurant and motel owner);
8. Trash and junk accumulating in the parking area must be picked up and disposed properly within seven (7) days;
9. The parking area must not be used for repair, maintenance or storage of vehicles;
10. Letter stating the hour and dates of operation to staff;
11. All-season use will require site storage of snow and keeping emergency access cleared.
12. 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.

13. No inoperable / unlicensed vehicles kept on property for longer than five (5) days. Sec.7-2-70
14. Annual report by the Code Compliance Officer to Council – re: Violations
 - a. 3 violations in 1 year
 - b. Recommendation to Council to revoke CUP
15. Lessees to meet with Town Council every 3 years for CUP review.
 - a. Report from Code Compliance Office
 - b. Report from Planning Department

III. 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.

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. Staff has put forth amended conditions or standards/terms of use.

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.”

- 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.

IV. Staff Recommendation:

Approval with conditions.

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 44 – SERIES 2021**

**A RESOLUTION RENEWING AND AMENDING AN EXISTING CONDITIONAL USE
APPLICATION CU 04 – SERIES 2018 FOR MINTURN MOUNTAIN MOTEL, UPRR
RAILROAD AVE, TOWN OF MINUTURN**

WHEREAS, The Minturn Mountain Motel has submitted a land use application for renewal and modification of a Conditional Use Permit to allow subleasing for vehicle and recreational equipment storage; and

WHEREAS, the applicant applied for and received a Conditional Use Permit (“CUP”) by virtue of Resolution No. 29, Series 2018; 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 20, 2021 the Town Council conducted the three year review required by the approved Conditional Use Permit; and

WHEREAS, The Town Council may approve the renewal as submitted or may approve the renewal subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the renewal 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 04-2018 be approved with the following conditions:

1. All parking must be within the leased area;
2. The restaurant and motel cannot be sub-leased as stated in the lease contract without prior consent of the Union Pacific Railroad;
3. Restaurant and Motel must maintain the required number of parking spaces as required by Chapter 16, Article 16 (Off-Street Parking and Loading) of the Town of Minturn Municipal Code. (The purpose is to ensure that the use is served by an adequate supply of well-planned and designed parking, and to assure that the owner/operator of the use provides sufficient parking spaces for the use);
4. The restaurant and motel must be maintained in accordance with Chapter 7, Article 2 (Nuisances) of the Town of Minturn Municipal Code (The purpose is to ensure that the use operates in a manner that is not harmful to the surrounding uses and the process in which a nuisance is declared for a specific use);
5. Emergency access of 20' through the leased area shall be maintained;
6. Any dumpsters containing or temporarily storing refuse/trash material outside the restaurant and motel must be stored on property and must be properly screened;

7. The leased area used for parking must be policed and maintained by the lessee (restaurant and motel owner);
8. Trash and junk accumulating in the parking area must be picked up and disposed properly within seven (7) days;
9. The parking area must not be used for repair, maintenance or storage of vehicles;
10. Letter stating the hour and dates of operation to staff;
11. All-season use will require site storage of snow and keeping emergency access cleared.
12. No recreational vehicles or ATV's of any kind. Not limited to boats, snowmobiles, ATV's. RV's, campers, pop-ups, conversion vans, trailers, non-work-related vehicles, etc.
13. No inoperable or unlicensed vehicles kept on property for longer than five (5) days. Sec.7-2-70.
14. Violations. The following schedule of fines shall apply for violations not remedied within 30 days:
 - a. The first violation will be fined \$100.
 - b. The second violation will be fined \$250.
 - c. The third and subsequent violations will be fined \$500.
15. Each CUP will be subject to annual review by the Town staff with regard to compliance with the terms of use and conditions of approval associated with the CUP. The Town staff shall provide a report to the Town Council following such annual review. The report shall, in a general manner, provide updates on the following:
 - a. Any violations or other incidences requiring staff response and Town resources out of the ordinary course of Town business and services. A violation will only be counted if the infraction has not been corrected within 30 days of notice being sent to the CUP holder.
 - b. Compliance with the overall terms of use permitted by the CUP as well as observations regarding the condition of the lease/CUP area.
 - c. Any changes in i) Lessee/Sub-Lessee; and, ii) uses within CUP area.

At staff's discretion, a recommendation may be made to Council to revoke the CUP having accumulated three violations in a calendar year (Jan 1 to Dec 31).
16. Lessees are required to meet with the Town Council every three (3) years for CUP review. The review shall include but not be limited to inspections by Town staff and the following reporting:
 - a. Report from Code Compliance Office
 - b. Report from Planning Department

17. Uses must be in compliance with the applicable laws, including Minturn Municipal Code, state and federal law. A violation of any law within the permitted premises shall be considered a violation of the CUP.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 20th day of October, 2021.

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

Karp Neu Hanlon^{PC}

ATTORNEYS AT LAW

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Montrose, CO 81402

Office: 970.945.2261
Fax: 970.945.7336
**Direct Mail to Glenwood Springs*

DATE: October 15, 2021
TO: Minturn Mayor and Council
FROM: Karp Neu Hanlon, P.C.
RE: Ordinance No. 11 - Excavations

Under cover of this memo is an ordinance to amend Article 2, of Chapter 11, Minturn Municipal Code. The Town Public Works Director has worked with the Town Engineer to update standards for excavations on Town property – most importantly within Town right-of-way. Minturn’s harsh climate requires that higher standards for fill be used in order to protect the Town’s investments in its roads. These revisions reflect a more up-to-date and protective standard that will ensure that the fill used around water lines and in other types of excavations is durable and matched to the town’s conditions.

Unlike some towns, Minturn’s Public Works Manual is codified in the municipal code, instead of being amendable by resolution.

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 11 – SERIES 2021**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO PROVIDING FOR THE AMENDMENT OF
THE MINTURN MUNICIPAL CODE RELATING TO
EXCAVATIONS ON TOWN PROPERTY.**

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, Minturn Municipal Code (the “Code”) Chapter 11, Streets, Sidewalks and Public Property contains rules and standards relating to the public’s use of Town property, including the excavation of such property from time to time; and

WHEREAS, the Town Public Works Director and Town Engineer have determined that certain standards contained in Article 2, Chapter 11 require revisions; and

WHEREAS, the Minturn Town Council finds and believes that it is necessary and proper to amend the Minturn Municipal Code to provide for the amendment of Article 2, Chapter 11 of the Minturn Municipal Code relating to excavations on Town property.

**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. Article 2, Chapter 11 of the Minturn Municipal Code is hereby amended read as set forth in **Exhibit A** to this Ordinance, with additions shown in double underlined text and ~~strike through language~~ is deleted. Sections of Chapter 11 which are not expressly described in this Ordinance are deemed to continue to be in full effect without change.

**INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND
ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL
TOWN WEBSITE THE 20TH DAY OF OCTOBER 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 3RD DAY OF
NOVEMBER 2021 AT 6 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET,
MINTURN COLORADO 81645.**

TOWN OF MINTURN, COLORADO

Earl Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 3rd DAY OF NOVEMBER, 2021.

TOWN OF MINTURN, COLORADO

Earl Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

ARTICLE 2 Excavations

Sec. 11-2-10. Permit required.

It is unlawful for any person, other than an officer or employee of the Town in the course of his or her employment, to make, cause or permit to be made any excavation or opening in or under the surface of any street, alley, sidewalk, road or other public place within the Town without first obtaining a permit therefor, or to make any such excavation in any manner which does not comply with the permit issued therefor. Each and every opening in a block of a street or sidewalk, as defined above, shall be considered an excavation, and each lateral from each original opening shall be considered an additional excavation for the purposes of this Article.

Sec. 11-2-20. Permit application.

Any person desiring a permit to excavate in any street, alley, sidewalk or road area shall make application therefor to the Public Works Director upon forms furnished for that purpose. Such application shall state the exact nature and location of the proposed work and the time required for its completion. No permit shall be issued except on order of the Town Administrator.

Sec. 11-2-30. General regulations.

- (a) All work shall comply with Town of Minturn and CDOT requirements.
- (b) Permittee shall engage the services of a Licensed Professional Engineer to provide observations and testing of the work. Soils and/or materials testing shall be done from time to time at intervals deemed appropriate by the Engineer. Observation & test reports shall be provided to the Town prior to acceptance of the work.
- (c) At all times, representatives of the Town shall have the right to enter and inspect any and all parts of the Work for compliance with the Permit & Town requirements. Observations or testing shall in no way excuse the Contractor for defects discovered in the work.
- (d) Uninterrupted access by Emergency vehicles shall be provided at all times.
- (e) Permittee shall provide a drawing showing the location and limits of the proposed opening. The opening which may be made in a street at any one (1) time shall be no greater than will permit the reasonable use of such street by the public and will not cause substantial hazards in said use.
- (f) ~~All utility facilities~~ All Property, including but not limited to utilities, pipes, drains, culverts and other private property shall be located and exposed sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary. (e) — Pipe drains, pipe culverts or other facilities encountered All Property shall be protected from damage by the permittee. Property damaged by the Permittee during the course of the work shall be repaired or replaced, and left in as good condition as found at the sole expense of the Permittee.
- (g) Monuments of concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision, a precise survey reference point or

a permanent survey bench mark within the Town shall not be removed, disturbed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the Public Works Director. Permission shall be granted only upon condition that the permittee shall pay all expenses incident to the proper replacement of the monument.

- (h) When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage to the satisfaction of the Public Works Director. Inlet protection devices shall be provided to intercept and/or filter sediment before it can be transported from the site into the storm drain system.
- (i) All construction debris, trash and excess excavated material shall be removed from the site and disposed of properly by the permittee after the work has been completed. When any earth, gravel or other excavated material is caused to roll, flow or wash upon any street, the permittee shall cause the same to be removed from the street within four (4) hours after deposit. In the event the earth, gravel or other excavated material so deposited is not removed, the Public Works Director shall cause such removal and the cost incurred shall be paid by the permittee.
- (j) Every permittee shall comply with the requirements of the Manual of Uniform Traffic Control Devices (MUTCD). Every permittee shall provide adequate warning lights for each opening during the night. Every permittee shall provide a suitable barricade for each opening. Additional safety regulations may be prescribed by the Public Works Director. Whenever any person fails to provide or maintain adequate safety devices, such devices may be installed and maintained by the Town and the amount of the cost thereof shall be paid by the holder of the permit. No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with this Subsection.
- (k) Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Free access must be provided at all times to fire hydrants.
- (l) Excavated materials shall be laid compactly along the side of the trench in a manner so as to cause as little inconvenience as possible to public travel. In order to expedite flow of traffic or to abate a dirt or dust nuisance, the Public Works Director may require the permittee to provide toe boards or bins; and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the permittee as directed by the Public Works Director.
- (m) Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, unless the permittee obtains written consent from the Building Official to do the work earlier or later than the stated hours or on a weekend. Except in the case of an emergency, no permit authorized in this Article shall be issued so as to allow a street opening or pavement cut between October 15 and April 15.
- (n) In granting any permit, the Public Works Director may attach such other conditions as may be reasonably necessary to prevent damage to public or private property or to prevent the operation in a manner likely to create a nuisance. Such conditions may include, but shall not be limited to, the following:

- (1) Restrictions as to the size and type of equipment;
 - (2) Designation of routes upon which materials may be transported;
 - (3) The place and manner of disposal of excavated materials;
 - (4) Requirements as to the cleaning of streets, prevention of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof;
 - (5) Regulations as to the use of streets in the course of the work; and
 - (6) Minimum depth of any service line shall be eighteen (18) inches below grade.
- (o) No cleated or track equipment shall work on or move over asphalt surfaces without mats. Backhoes, cranes or other heavy equipment with outriggers must be equipped with rubber pads on the outrigger before it is allowed to dig on said street or public right-of-way. Special provisions can be made by the Public Works Director in the event of emergencies or where special circumstances exist.

Sec. 11-2-40. Backfilling.

All pavement cuts, openings and excavations shall be backfilled, surfaced and restored, as follows and depicted on Figure 11-1:

- (a) Backfilling under paved streets shall be made in accordance with the following specifications:
 - (1) Materials & methods within the pipe zone shall comply with the requirements of the utility provider. Trace wires shall be repaired or replaced as necessary to maintain conductivity.
 - (2) Flow fill shall be used above the pipe zone. Flow fill materials used as general backfill shall meet CDOT requirements. Cement shall be Type II Portland cement in accordance with ASTM C 150. Fly ash shall be in accordance with ASTM C 618, Type C or Type F. The compressive strength of flow fill shall never exceed 700psi, as determined by ASTM C 94 Section 16.5.1, or it shall be removed.
 - (3) Construction Methods: Controlled low strength materials (CLSM) shall be placed in accordance with CDOT requirements. Material shall not be placed on frozen ground. The ambient temperature shall be 35 deg F and rising at the time of placement. CLSM may be placed in confined spaces containing standing water.
- (b) Backfilling of unpaved streets shall be made in accordance with the following specifications:
 - (1) Materials & methods within the pipe zone shall comply with the requirements of the utility provider. Trace wires shall be repaired or replaced as necessary to maintain conductivity.
 - (2) Materials. Materials above the pipe zone shall be granular, consisting essentially of sand, gravel, rock, slag, disintegrated granite or a combination of such materials. It shall be a well-graded mixture containing sufficient soil mortar, crusher dust or other binding material which, when placed and compacted, will

result in a firm, stable foundation. Material composed of uniformly sized particles or which contains pockets of excessively fine or excessively coarse material will not be acceptable. The material shall meet the requirements of CDOT Class 4 Aggregate Base Course, following gradation:

<i>Sieve Designation</i>	<i>Percent by Weight Passing</i>
2½ inch	100
2-inch	95—100
No. 4	30—60
No. 200	5—15

All material passing the No. 40 sieve shall have a liquid limit of not over thirty-five (35) and a plasticity index of not over six (6). Test for liquid limit and plasticity index shall be in accordance with A.A.S.H.O. designations T-89 and T-91, respectively.

- (3) Construction methods. The material shall be deposited in layers not exceeding eight (8) inches in thickness prior to compacting. Each layer shall be compacted with suitable mechanical tamping equipment. It shall be compacted sufficiently to obtain a field density which is at least ninety percent (90%) of theoretical standard proctor density as determined by A.A.S.H.O. Method T-99. Field density shall be determined by A.A.S.H.O. Method T-147.
- (c) Backfilling of Excavations in unpaved public places not used as vehicular ways streets shall be made in accordance with the following specifications:
- (1) Materials & methods within the pipe zone shall comply with the requirements of the utility provider. Trace wires shall be repaired or replaced as necessary to maintain conductivity.
 - (2) Materials above the pipe zone:- The bottom six (6) inches and the top twelve (12) inches of backfill shall meet the requirements of CDOT Class 4 Aggregate Base Course and be the same type of material specified in Subparagraph (b)(2)(1)a above. The excavated material may be used for the remainder of the backfill, provided that no materials greater than six (6) inches in diameter shall be used for backfill.
 - (3) Construction methods. The material shall be deposited in layers not exceeding twelve (12) eighteen (18) inches in thickness prior to compacting. Each layer shall be compacted with suitable mechanical tamping equipment. It shall be compacted sufficiently to obtain a field density which is at least ninety-five percent (95%) of theoretical standard proctor density as determined by A.A.S.H.O. Method T-99. Field density shall be determined by A.A.S.H.O. Method T-147.
- ~~(3) Excavations in unpaved public places not used as vehicular ways may be backfilled with earth and shall be compacted in lifts not to exceed eighteen (18) inches in depth by loose measurement in a manner set forth by the Public Works Director. All landscaped areas shall be returned to their original condition.~~

Sec. 11-2-50. Restoration of surface.

- (a) The cut and patch of asphalt paved streets shall be made in the following manner:
- (1) The existing asphalt pavement near the road cut shall be cut and removed to a minimum width of 2 feet wider than the trench on all sides of the excavation. The minimum cutback of asphalt shall be measured from the edge of the actual, final trench width.
 - (2) Aggregate base course beneath the pavement shall be replaced to the same thickness as existing (6" minimum.) CDOT Class 6 Aggregate Base Course compacted to a minimum density of 95% of standard proctor density.
 - (3) Hot bituminous pavement patch joints shall be sealed and secured by means of infrared heating systems applied by qualified operators approved by the Town and in strict compliance with CDOT requirements.
- (b) The cut and restoration of oil and chip surfaces shall be made in the following manner:
- (1) The initial pavement cut shall be made a minimum of one (1) foot wider than the trench on all sides of the trench, a ~~minimum~~ maximum of three (3) feet wide, and the cut in the paving shall be made with a power circular saw or cutter.
 - (2) The oil and chip surface shall match the quality and appearance of the existing surface surrounding the excavation, and shall be sealed with a chemical as approved by the Public Works Director.
- (c) If the Public Works Director finds that paving surfaces adjacent to the street opening may be damaged where trenches are made parallel to the street, where a number of cross trenches are laid in close proximity to one another, or where the equipment used may cause such damage, the permittee shall be required to pay the cost of resurfacing. The cost of resurfacing shall be charged on a time and materials basis and payment shall be made prior to the issuance of any other permit.
- (d) If any settlement in a restored area occurs within a period of two (2) years from the date of completion of the permanent restoration, any expense incurred by the Town in correcting such settlement shall be paid by the permittee, unless proof is submitted by the permittee satisfactory to the Public Works Director that the settlement was not due to defective backfilling. Failure to backfill property may be grounds for revocation of the permittee's contractor's license.
- (e) Upon approval by the Town Council, the Town may exercise the option of repairing street cuts and making backfills for the permittee, and requiring the permittee to pay the Town for said cost of restoration in an amount computed by the Public Works Director in accordance with the rates set forth in Section 11-2-60.

Sec. 11-2-60. Fees.

- (a) Upon receipt of a properly completed application, the Public Works Director shall determine the amount of the fee which shall be paid by the holder of any permit under this Article, which fee shall cover the cost of restoring the street involved in such work. The fees to be charged for permits shall be as follows:

- (1) For replacement of paving with oil and chip surface, shall be as established by resolution of the Town Council;
 - (2) Permit fee for dirt cuts, shall be as established by resolution of the Town Council;
 - (3) Backfilling, if done by the Town, shall be charged time and material to the permittee;
 - (4) Saw cuts done by the Town, shall be as established by resolution of the Town Council;
and
 - (5) Any rework done by the Town shall be charged at time and material.
- (b) The fee shall be in the form of a certified treasurer's or cashier's check, cash or other, if approved by the Town Clerk.
 - (c) If any fee is less than sufficient to pay all costs, the holder of any permit shall, upon demand, pay to the Town an amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency, the Town may institute an action to recover the same in any court of competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such permittee.
 - (d) Whenever any person or company anticipates more than five (5) street openings or excavations per year, such person may post a single deposit for the entire year or part thereof to cover the cost of any and all such work. The amount of such deposit shall be determined by the Town Council.

Sec. 11-2-70. Contractor's license required.

No contractor as defined in Chapter 6 of this Code shall be issued a permit under this Article without first obtaining a Town contractor's license from the Town pursuant to Chapter 6.

Sec. 11-2-80. Maps of underground facilities.

- (a) By March 1 of each year, every person owning, using, controlling or having an interest in pipes, conduits, ducts or other structures under the surface of any street used for the purpose of supplying or conveying gas, electricity, communication impulses, water or steam to or from the Town, to or from its inhabitants, or for any other purpose, shall file with the Public Works Director a corrected map or set of maps, drawn to the designated scale, showing such installations, including all such installations made during the previous year; provided, however, that if no further installations have been made during the previous year, there may be filed with the Public Works Director a written statement to that effect.
- (b) The owner agrees upon reasonable notice from the Town or any permittee to accurately locate its installations upon the ground as shown on said maps.

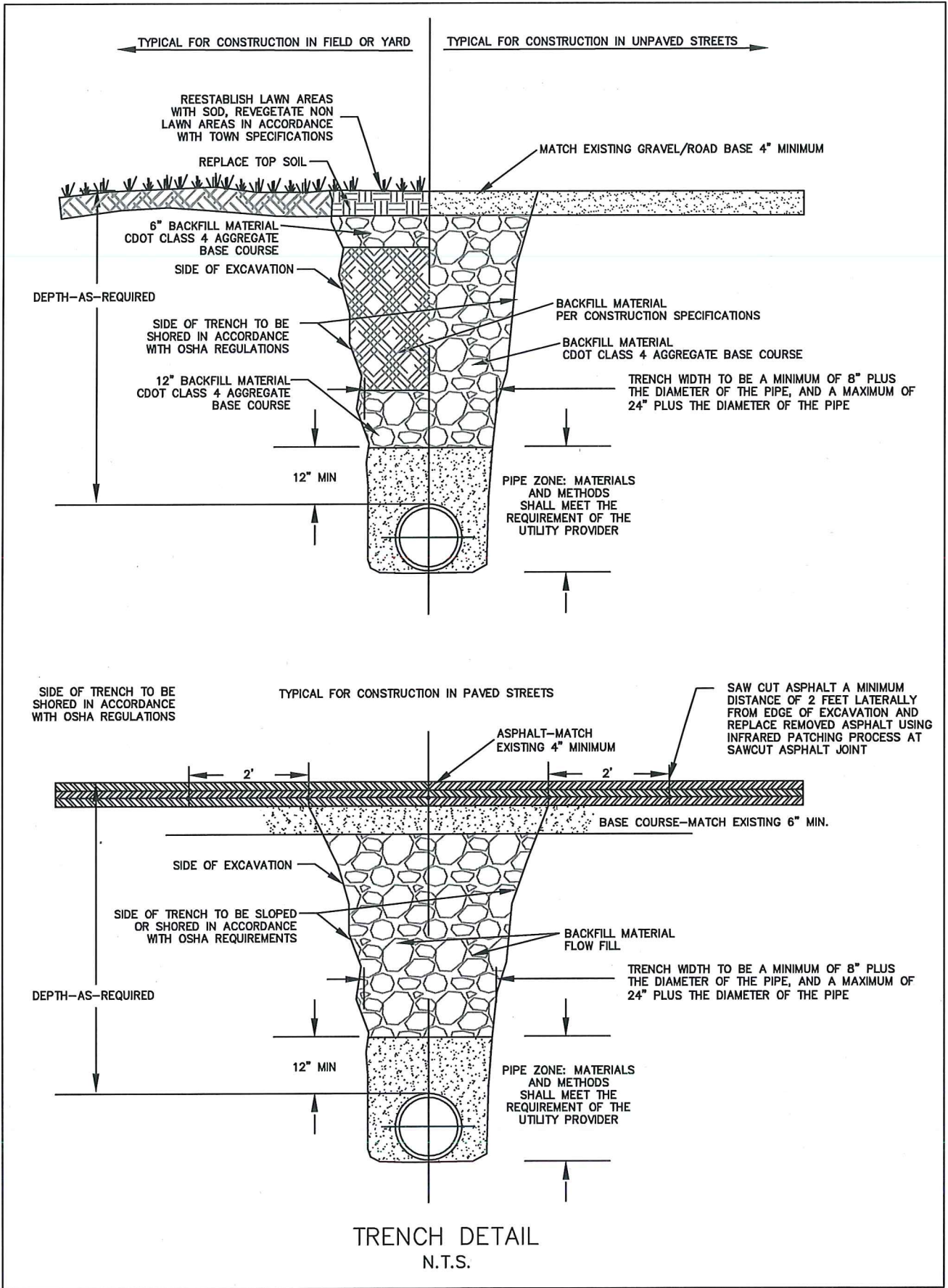


Fig. 11-1



To: Minturn Town Council
From: Michelle Metteer
Date: October 20, 2021
RE: Town Water Treatment Mitigation Project

REQUEST: Approve work to begin on the Town Water Treatment Mitigation Project.

INTRODUCTION: Wildfires are an increasing threat on the Colorado western slope and causing communities to identify and mitigate vulnerabilities. Recently, the Eagle River Fire Protection District in partnership with the Greater Eagle Fire Protection District proposed the “Eagle Valley Wildland Program” to the municipalities of Eagle County. This program is aimed at “reducing wildfire risk through mitigation, suppression and community education.” Minturn has budgeted to support this program in 2022.

ANALYSIS: The Eagle Valley Wildland Program identifies initial steps that can be taken within each municipality to further the goals of the program. Minturn’s initial step identified mitigation around the Two Elk Target Range (Minturn Shooting Range). Much of Minturn is surrounded by United States Forest Service land which makes wildfire mitigation on the local level cumbersome due to the “federal red tape.” This includes the Two Elk Target Range parcel. Although the USFS parcels will need to be addressed, for the ability of taking immediate action, mitigating parcels owned by the Town is more viable.

Of particular interest is fortifying areas around the town’s major infrastructure. Minturn’s current, and future water treatment plant as well as future water tanks will all be located in the Maloit Park area. This 18-acre parcel where the infrastructure will be housed is owned by the Town and therefore provides the ability for crews to begin work immediately. I contacted representatives of the Wildland Program and asked if we could review and possibly propose a new action step for Minturn’s mitigation efforts outlined in the Wildland Program and the Wildland team was immediately supportive of moving in this new direction.

I participated in a site visit of the 18-acre Maloit Park parcel with the Wildfire specialists including Jeff Zechman, Hugh Fairfield-Smith and Katie Jenkins for review of mitigation options. The included “Town Water treatment Mitigation Project” is the proposed result of that visit.

COMMUNITY INPUT: As needed

BUDGET / STAFF IMPACT: TBD, but currently none.

STRATEGIC PLAN ALIGNMENT: Long-term stewardship of the natural beauty and health of Minturn’s environment

RECOMMENDED ACTION OR PROPOSED MOTION: Support the execution of the Town Water Treatment Mitigation Project

ATTACHMENTS: Town Water Treatment Mitigation Project, Eagle Valley Wildland Program



Town Water Treatment Mitigation Project

The following will be a proposal to mitigate the water treatment plant area for the following reasons:

- Reduce wildfire risk to critical infrastructure, cross creek, and the Town of Minturn
- Improve habitat for wildlife
- Create an area that can be used as a tactical advantage for a wildfire event in the surrounding area

General Timeline

Fall of 2021

- Create proposal, map of mitigation project, and burn plan
- Remove dead standing and hazard trees (Eagle Valley Wildland will conduct sawyer training)
- Burn slash pile that is currently present (Indicated in burn)

Spring of 2022

- Mitigate access roads (Trees will be limbed and bucked for firewood for Minturn residents)
- Conduct prescribed fire in approved units (Indicated in burn plan)
- Reduce vegetation in surrounding area (50% to 80% reduction so the landscape aesthetics are not compromised)

Summer - Fall of 2022

- Continue vegetative reduction in area
- Burn slash piles
- Prescribed fire in approved units

2023 - 2025

- Continue vegetative reduction in area
- Burn slash piles
- Prescribed fire in approved units

This plan is will be contingent on Town of Minturn and CPW approval. Prescription burns and piles burns can be delayed due to conditions and resources.

Jeff Zechman – Wildland Mitigation Specialist – Eagle Valley Wildland

Hugh Fairfield-Smith – Wildland Coordinator – Eagle Valley Wildland



Eagle Valley Wildland Program

Reducing wildfire risk through mitigation, suppression, and community education

2022 Program Proposal



Issue:

Twenty of Colorado's largest wildfires have occurred within the last twenty years. Four out of the five largest fires in State history have occurred within the last three years. Eagle County continues to see an elevated level of wildfire activity, and the frequency, severity, and complexity of these fires is only expected to increase in the coming years. The Sylvan Fire scorched nearly 6 square miles of timber less than one year after the Grizzly Creek Fire closed I-70 impacting interstate commerce for 2 weeks. Nationally, more than 4.8 million acres have burned in 95 large fires across 12 states in 2021. A worrisome trend points to Eagle County's increasing vulnerability to wildfire destruction.

Approximately 55,000 Eagle County residents¹ and visitors live, work and recreate in areas which, according to the Colorado State Forest Service, are directly threatened by potential wildfires; while the soaring value of improved property throughout the Eagle Valley causes overall values-at-risk to exceed those of many other Colorado communities.

Background

In response to this growing threat from uncontrolled wildfire, in 2020 the Greater Eagle and Eagle River Fire Protection Districts (GEFPD and ERFPD, respectively) collaboratively launched the Eagle Valley Wildland Program. More commonly known as EV Wildland, the intent of this joint wildland program is to reduce the overall wildfire risk of the communities it serves through effective mitigation, appropriately-scaled wildfire suppression, and collaborative community outreach and education.

In June of 2021, Eagle County entered into an IGA with GEFPD and ERFPD, by which it dedicated \$184,740 to assist EV Wildland with filling two crew lead positions and purchasing necessary equipment and supplies. Subsequently, the Gypsum Fire Protection District (GFPD) joined EV Wildland, cementing the participation by all three of the Valley's fire protection districts.

In 2022, ERFPD, GEFPD, and GFPD will jointly dedicate to wildland programming approximately \$578,000² in equipment, supplies and capital costs (this figure does not include the cost of personnel). Of critical importance, however, while the three fire districts will jointly commit this level of funding to wildfire protection, and possess the expertise and leadership to safely, effectively and efficiently oversee a comprehensive wildland program of the scope and scale necessary to meet the community's growing wildfire risk, they lack sufficient personnel to effect desired outcomes of reducing community risk through mitigation, education and suppression. Consequently, this proposal seeks funding to enhance the valley's wildland capabilities in addition to the wildland program funding already provided by the three fire districts, as cited above.

¹ US Census of July 1, 2019: <https://www.census.gov/quickfacts/eaglecountycolorado>

² Pending Board approval of Fire District budgets

Eagle Valley Wildland Program – 2022 Goals and Objectives

2022 program goals include:

- Implement risk reduction strategies in communities served by EV Wildland, in collaboration with Eagle County's Wildland Mitigation program
- Foster partnerships with other communities served by EV Wildland.
- Enhance ongoing community outreach and education efforts
- Enhance mitigation and response capabilities

Given the imperative to reduce the valley's overall wildfire risk through mitigation and response, the 2022 program endeavors to pursue numerous mitigation projects that either reduces the fuel in specific areas, or creates strategically placed fuel breaks. Acquiring the personnel and equipment necessary to pursue these projects will also enhance EV Wildland's response capabilities.

It takes hard work, good communication, and strong partnerships to effectively respond to disasters. With the risk of more frequent, more intense, and less predictable wildfires on the horizon (as well as other risks), we need to be better prepared to deal with these events, both during the event and during the long period of recovery. Investing in partnerships now will enhance our ability as a community to prepare for and face the challenges of the future.

A proposed project list for the 2022 program may be found in Appendix A.

Eagle Valley Wildland Program – 2022 Costs

To achieve its 2022 goals, EV Wildland seeks to add four crew members (wildland firefighters) along with the associated equipment and supplies to its 2022 program for a cost of \$322,222. This figure is in addition to the approximately \$578,000 the three fire districts will dedicate to wildland programming in 2022, as previously cited.

A proposed budget for the 2022 program may be found in Appendix B.

Appendix A: Project List (alphabetical order)

The following list is comprised of projects that EV Wildland has to date identified through risk assessments, or review of local Community Wildfire Protection Plans (CWPPs). Additional projects in various areas throughout the valley will be added through continuous risk assessment and CWPP review.

Note: not all of the projects in this list will be completed in 2022; rather, project completion will depend on funding, weather, prioritization of risk, and the incidence of wildfires during the 2022 wildfire season.

Arrowhead / Bachelor Gulch / Beaver Creek

- Provide technical assistance to metro district(s) as they implement Healthy Forest Plan and mitigation actions outlined in community risk assessment(s).
- Assist as necessary and feasible with removal of unhealthy trees on open space and along roadways.
- Assist with implementation of 5 alternative evacuation route improvements in Bachelor Gulch and new signage.
- Provide technical and financial assistance to HOA's as they implement property specific mitigation plans, including (but not limited to):
 - The Chateau at Beaver Creek
 - The Borders Lodge
 - Ridgepoint Townhomes
 - The Trailhead (Arrowhead)

Bellyache Ridge

- Determine feasibility of implementing mitigation projects at the communication tower, as indicated in CWPP.
- Hazardous tree removal along Bellyache Ridge Road through the entire community.
- Improve evacuation route from Bellyache Backcountry, and develop agreements with Diamond Star Ranch.
- Fuel-reduction on HOA open space (aka: Ferry's Ditch along Bellyache Ridge Road).
- Assist with technical and financial assistance on HOA Community Chipping Program.

Colorow / Cattleman's Club

- Evacuation route improvements and new signage.

Cordillera

- Divide - assist metro district with creation and implementation of fuel break on the western boundary of the community.
- Divide and Ranch - assist with hazardous tree removal along roadways.
- Ranch - assist with slash pile burning (20 piles).
- Summit - assist with slash pile burning (20 piles).
- Territories - Maintenance of evacuation route to Brush Creek Road.
- Provide wildfire hazard and Home Ignition Zone training for Grand Manors staff.
- Assist Grand Manors staff with implementation of POA wildfire mitigation ordinance.

Diamond Star Ranch

- Determine feasibility of implementing a secondary egress route for Bellyache Ridge.

Singletree

- On-going coordination and technical assistance for fuel reduction work on open space.

Town of Avon - Wildridge / Wildwood / Mountain Star

- Complete fire break plan (CWPP) - burn 60+ piles.
- Assist with Mountain Star with community pile burn as necessary.

Town of Minturn

- Assist town with maintenance and defensible space improvements around gun range.

Town of Eagle

- Fuel reduction for open space that backs up to The Bluffs.
- Eagle Ranch fuel-break construction and maintenance.
- Town of Eagle prescribed fire project (Brush Creek).
- Town of Eagle forest thinning and fuel reduction (multiple locations).

Eby Creek Mesa

- Fuel reduction on HOA open space (10 acres).
- Slash pile burning (100+ piles).
- Assist with on-going community chipping program.
- Complete updated risk assessment for community FireWise recognition.

Town of Red Cliff

- Hazardous tree mitigation and clean-up in the Greenwood Cemetery.

Ute Forest

- Assist HOA with on-going fuel reduction work along primary access to community.

Town of Gypsum

- Determine feasibility of implementing prescribed fire and slash-pile removal near Dry Lake MX Park.
- Assist town with wildfire mitigation actions outlined in Gypsum Creek Source Water Protection Plan.

Appendix B: 2022 Program Budget

Joint Wildland Funding (ERFPD, GEFPD, GFDP): \$578,000
 Current Unfunded: \$322,222
 Total 2022 Proposed EV Wildand Funding: \$900,222

Unfunded detail:

2022 Equipment (Non-Capital) Supplies and Maintenance

Item	Unit Cost	Number of Units	Line Item Total
Personal Protective Equipment	\$ 1,200	8	\$ 9,600
Uniforms	\$ 250	6	\$ 1,500
Chainsaws w/Accessories	\$ 1,700	4	\$ 6,800
Chainsaw R&M	N/A	N/A	\$ 2,400
800 MHz Handheld Radios	\$ 3,000	6	\$ 18,000
BK Radio	\$ 1,500	6	\$ 9,000
Cell Phones	\$ 800	4	\$ 3,200
iPad with Accessories	\$ 600	2	\$ 1,200
Laptop Computers with Accessories	\$ 2,500	2	\$ 5,000
Software	N/A	N/A	\$ 1,200
Miscellaneous Related to Hiring	N/A	N/A	\$ 1,500
Total 2022 Equipment, Supplies and Maintenance			\$ 59,400

2022 Recurring Costs

Item	Estimated Cost Per Month	Number of Items	Total Cost per Year
Data Plans	\$ 50	8	\$ 4,800
Apparatus Repair/Maintenance	N/A	N/A	\$ 7,000
Fuel	N/A	N/A	\$ 7,200
800 MHz User Fees	N/A	N/A	\$ 6,000
Total 2022 Recurring Costs			\$ 25,000

Position or Item	Number of Positions	Hourly Wage	Hourly Benefits per Position	Cost Per Hour per Position	Total Hiring Cost	Line Item Total
Crew Boss	2	\$ 25.00	\$ 10.25	\$ 35.25	N/A	\$ 146,640
Senior FF (Six Months)	2	\$ 21.00	\$ 1.95	\$ 22.95	\$ 1,200	\$ 50,136
FF (Six Months)	2	\$ 17.00	\$ 1.58	\$ 18.58	\$ 1,200	\$ 41,046
Professional Development	6	N/A	N/A	N/A	N/A	\$ 3,000
Incident Overtime						\$ 15,000
Total 2022 Personnel						\$ 237,822



To: Minturn Town Council
From: Michelle Metteer
Date: October 20, 2021
RE: Short Term Rental Review

REQUEST: Review Ordinance 04 – Series 2017; Short Term Rentals

INTRODUCTION:

Since 2017 and the incorporation of the short-term rental policy, Council has annually reviewed the Ordinance and been given an update on the status of short-term rentals in Minturn.

ANALYSIS:

Minturn adopted key provisions early on in the short-term rental evolution. Requiring a 2-year proof of ownership has proven successful in eliminating much of the speculation buying of housing stock. Additionally, limiting the number of short-term rentals to 10% of the housing stock or 50 total units, whichever is fewer, will eventually come into play.

Moving forward, staff does not see the elimination of short-term rentals as the solution to the town's housing problems. There are currently 18 short-term rental licenses in town, however it's suspected there are additional STR's in Minturn which are not properly licensed and rent their units "under the radar." Staff is now seeking estimates from three different short term rental enforcement companies to understand our ability to identify these illegal units.

COMMUNITY INPUT: In the last year, several communications have been received from long-term renters who have been displaced from their rental units in favor of the landlord short-term renting. Additional complaints have been received from neighbors of short rental units who complain about a variety of issues from the visitors parking in the wrong location and leaving trash bins open.

BUDGET / STAFF IMPACT: TBD

STRATEGIC PLAN ALIGNMENT:

[Practice fair, transparent and communicative local government](#)

RECOMMENDED ACTION OR PROPOSED MOTION: Council to provide staff direction stemming from the short-term rental discussion.

ATTACHMENTS:

- Ordinance 04 – Series 2017
- Short Term Rental Matrix

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 04 – SERIES 2017**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO, AMENDING CHAPTERS 4 AND 6 OF THE
MINTURN MUNICIPAL CODE BY THE ADOPTION OF
NEW REGULATIONS FOR SHORT-TERM RENTALS**

WHEREAS, the Town of Minturn (“Minturn” or the “Town”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Minturn Home Rule Charter; and

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

WHEREAS, Minturn is authorized to regulate the construction of buildings and improvements within the Town, C.R.S. § 31-15-601, and to enact building codes and other regulations; and

WHEREAS, the Town is authorized to exercise reasonable financial and police powers to permit and regulate commercial activities and businesses within its boundaries; and

WHEREAS, after public hearings by and before the Minturn Town Council and Planning Commission, the Town Council finds and declares that it is in the interest of the public health, safety, and welfare to amend the Town Code to provide for the reasonable regulation of short-term rentals within the Town.

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

1. Incorporation of Recitals. The foregoing recitals are incorporated herein as if set forth in full.
2. Chapter 4 Amendments. Chapter 4 of the Minturn Municipal Code is amended as follows, with double underlined text added:

Sec. 4-4-30. - Definitions.

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

Lodging accommodation means any room in a hotel, apartment hotel, lodging house, short-term rental, fractional fee club, time share, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, trailer court and park or any such similar place.

Lodging customer means any person who, through a taxable lodging transaction, acquires lodging services from a lodging provider.

Lodging price means the gross price paid, exclusive of other taxes paid or value given, by the lodging customer for the lodging services.

Lodging provider means any person furnishing lodging services or such provider's authorized agent.

Lodging services means the furnishing of rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known to a person who, for a consideration, uses, possesses or has the right to use or possess any room in a hotel, apartment hotel, lodging house, short-term rental, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp or trailer court and park, for a period of less than thirty (30) consecutive days under any concession, permit, right of access, license to use or other agreement, or otherwise.

Lodging tax means an excise tax payable by the purchaser of lodging services or the aggregate amount of taxes due from a lodging provider during the period for which such person is required to report the collections of lodging tax as herein specified.

Lodging transaction means the furnishing of lodging services to any person who, for consideration, uses, possesses or has the right to use or possess any lodging accommodation under any concession permit, right of access, license to use or other agreement, or otherwise

Short-Term Rental means any residential property dwelling unit or portion thereof rented for a period of less than thirty (30) consecutive days. Rentals of entire dwelling units, individual rooms, or portions of rooms shall each be considered Short-Term Rentals.

3. Chapter 6, Article 7 Adoption. Chapter 6 of the Minturn Municipal Code is hereby amended by the adoption of a new Article 7, "Short Term Rentals" consistent with the following double underlined text:

Sec. 6-7-10. – Applicability and purpose.

The purpose of this Article is to establish within the Town of Minturn reasonable regulations and procedures for the licensing of Short-Term Rentals. As a mountain community geographically limited in growth, the Town of Minturn is impacted by high costs of land and development, which adversely affect the stock of affordable, work-force housing and the residential, community-oriented nature of the Town. By reasonably regulating Short-Term Rentals, the negative impacts of transiency and added commercial activity and business enterprises in residential zone districts, including the impacts on long-term housing, community character, code compliance, and system and infrastructure deterioration can be addressed while protecting the rights of the Town's citizens and property owners.

Sec. 6-7-20. – Definitions.

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

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

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

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

Local Property Manager means any person or entity with a physical place of business located or residing within 50 road miles of the Town of Minturn, Colorado and identified on a Short-Term Rental License as the local property manager and who is a contract person responsible for the handling of maintenance of the short-term rental, snow removal, and complaints associated with the short-term rental property. If the Local Property Manager is a person or entity other than the owner of the property, the Local Property Manager shall be licensed as may be required under Colorado law.

License means a Short Term Rental License, as prescribed in this Article.

Sec. 6-7-30. – License Application.

(a) License required. All Short-Term Rentals shall be registered and licensed under the terms and provisions of this Article prior to renting the property identified as a Short-Term Rental or listing the Short-Term Rental in any advertisement or with any brokerage or listing agency.

(b) Lodging and sales tax license. Prior to the issuance of a Short-Term Rental License, the owner of the property shall provide to the Town proof of an active lodging, local and state sales tax licenses. A separate Minturn business license is not required if a Short Term Rental License is issued.

(c) Proof of ownership. The property owner shall provide evidence ownership of the Short Term Rental property.

(d) Fee. In addition to any sales tax license, a fee of \$300.00 shall be paid to the Town for any Short-Term Rental License issued under this Article. The \$300.00 fee shall be inclusive of any inspection fees applicable under this Code. If the Short-Term Rental License is denied, the applicant shall be refunded the \$300.00 fee minus all fees attributable to inspections.

(e) Site plan. The owner shall provide to the Town a site plan for the property showing the number of on-site parking spaces and bedrooms. The number of bedrooms shall be determined according to the records of the Eagle County Assessor.

(f) If a property was constructed before the adoption of the 1982 Zoning Codes, and does not meet the parking requirements, it is at staff discretion to approve the Short Term Rental License without meeting on-site parking requirements.

(g) Management. Proof of a contract or agreement with a Local Property Manager that resides within 50 road miles of the Town of Minturn shall be provided to the Town.

(h) Initial Inspection. Upon filing a complete application for a Short-Term Rental License under the terms and provisions of this Article, the property owner shall schedule inspections of the property with the Building Official and Code Enforcement for fire and CO Inspection and with the Code Enforcement Officer for on-site parking compliance. No property shall be granted a Short-Term Rental License unless certified to be in compliance with all applicable provisions of the Minturn Municipal Code, including adopted codes and regulations.

(i) Annual Inspection. The owner shall schedule and permit the Town to inspect the property annually at least 60 days prior to the renewal date of a Short-Term Rental License. Such inspection shall include inspection of the property's fire and CO detectors as well as parking and Town building and zoning code compliance. The owner shall pay an inspection fee in the amount included with the license fee established by the Town.

(j) Each Short-Term Rental property shall post the local license number and any license conditions (i.e. maximum occupancy, parking limitations) within the residential unit; the same information shall be featured prominently on any advertisement for the Short-Term Rental, whether such advertisement is printed or in digital/online format.

(k) Each Short-Term rental property shall post the physical property address of the unit and maintain a working fire extinguisher within the unit for emergency purposes.

(l) In addition to the requirements of this Article, the Town Clerk may require such additional information as the Town Clerk deems reasonably necessary to effectuate the purpose and intent of this Article.

Sec. 6-7-40. – License restrictions.

(a) Zoning. A Short-Term Rental License may be issued in all zone districts.

(b) Parking requirement. Parking shall be provided consistent with the requirements of Article 16 of this Code.

(c) Number of inhabitants. No more than three (3) people per bedroom, including children, shall be permitted to occupy a Short-Term Rental.

(d) Two-year ownership. No property shall be licensed as a Short-Term Rental unless the owner has owned the property for two (2) or more years before a license application is filed. Transfers to a trust where the owner of the property is the beneficiary of the trust or to a corporate entity where the owner of the property is the majority owner of the entity shall not constitute a break in the period of ownership. This section shall not be read to prohibit the long-term rental of properties (for periods in excess of thirty (30) days) within the first two years of ownership. The short term rental license is non-transferable with the sale of the property

(e) Housing stock. No more than 10% or 50, whichever is fewer, of the residential housing units shall be licensed as Short-Term Rentals in the Town at any time.

Sec. 6-7-50. – License Contents.

The Town Clerk shall issue a license upon confirming compliance with the application requirements. The Short Term Rental License shall include: the name and contact information for the property manager, the maximum number of occupants of the property, conditions related to parking (if any) and the date of issuance and expiration of the license.

Sec. 6-7-60. – Duration and renewal.

(a) Short-Term Rental Licenses issued under this Article shall be valid until March 31 of the succeeding year. A license holder may submit an application for renewal of a Short-Term Rental License no more than thirty (30) days prior to expiration and may rely on the same application materials previously submitted when seeking renewal of an expired license, unless circumstances have materially changed. Short-Term Rental Licenses shall not represent or convey to License holders any property interest in the renewal thereof.

(b) Short-Term Rental Licenses are non-transferrable and non-assignable.

Sec. 6-7-70. – Taxes.

A Short-Term Rental License holder must collect and submit all applicable taxes in conformance with local, state, and federal law, including local sales and lodging taxes established under Chapter 4 of this Code.

Sec. 6-7-80. – Enforcement and revocation.

(a) Code Enforcement. The property owner of any property licensed as a Short-Term Rental shall be liable for any violation of Chapters 4, 6, 7, 11, 13, 16, and 18 of the Minturn Municipal Code upon the property, and shall abate any nuisance or other violation as required under the Code.

(b) Revocation. Three (3) or more violations of the Code or license upon the licensed property shall be grounds for revocation of a Short-Term Rental Licenses, and the licensed property shall not be eligible for a Short-Term Rental License for a period of two (2) years following revocation.

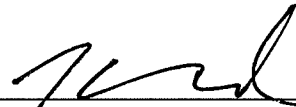
(c) Appeal. Appeal of an administrative decision to revoke a Short-Term Rental license shall be in accordance with Section 6-1-80 of this Code.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THE 7th DAY OF JUNE, 2017. 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 21ST DAY OF JUNE, 2017 AT 6:30 P.M. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO


Matt Scherr, Mayor


ATTEST:

By: 
Jay Brunvand, Town Clerk

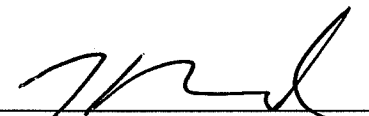


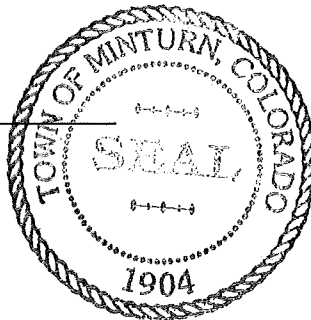
THE TOWN OF MINTURN, COLORADO, ~~ORDAINS THIS~~ ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 21ST DAY OF JUNE, 2017.

TOWN OF MINTURN, COLORADO


Matt Scherr, Mayor

ATTEST:

By: 
Jay Brunvand, Town Clerk



Ad Number Ad Type
0000067612-01 CMN Legal Line

Production Method Production Notes
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No

Ad Size Color
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TOWN OF MINTURN, COLORADO
ORDINANCE NO. 04 - SERIES 2017

AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO, AMENDING CHAPTERS 4 AND 6 OF
THE MINTURN MUNICIPAL CODE BY THE ADOPTI-
ON OF NEW REGULATIONS FOR SHORT-TERM
RENTALS.

INTRODUCED, READ BY TITLE, APPROVED ON
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HALL 302 PINE STREET, MINTURN COLORADO
81645.

TOWN OF MINTURN, COLORADO
Matt Scherr, Mayor

ATTEST:
By: Jay Brunvand, Town Clerk

Published in the Vail Daily June 12, 2017
0000067612

<u>Run Date</u>	<u>Product</u>	<u>Placement</u>	<u>Rate</u>	<u>Sched Cst</u>	<u>Disc/Prem</u>	<u>Color</u>	<u>Pickup</u>	<u>Tax</u>	<u>Subtotal</u>
06/12/2017	CMN Vail Daily	LEGALS CMN	\$6.25 per Inch	\$17.68	\$0.00	\$0.00	\$0.00	\$0.00	\$17.68
06/12/2017	CMN Online Regional A	LEGALS CMN	\$0.00 per Inch	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Short-Term Rental Property Ordinance Matrix-April 2021

City/Town	Primary Residence Allowed	Non-Primary Residence Allowed	What taxes are required?	What is the tax used for?	Tax Collected: By municipality or listing agency	License Required	Cap on number of licenses issued	Number of housing units	Number of listings (per AirDNA)	Neighbor Notification	Fees
Aspen	yes	Yes, but Deed Restricted affordable/employee units are prohibited in being used as STRs	Sales (2.4%) Lodging (2.0%) + state and county		The property owner is the liable party for the tax. Any property management company or other intermediary can pay the tax on behalf of the owner.	Yes, a short-term vacation rental permit is required to acknowledge safety requirements and other responsibilities of the property. An annually renewable Business License also required.			1300 (750 active, 550 inactive)	No	Annual business license fee of \$150. Vacatoin Rental Permit is free.
Avon	yes	yes	4% sales tax, 4% accommodation tax		yes	yes, non-transferrable			295	no	Annual Business License fee is \$75.
Basalt	yes	May only be rented on a short-term basis with the primary residence	4% Lodging + 8.2 % sales (Eagle County) and 9.3 % sales (Pitkin County)		Muniipality	yes, annually renewable				no	\$35 annually, plus a \$150 safety inspection charge on initial license
Beaver Creek Resort Co.	no	yes	yes		by BCRC	yes, annual Business License			1200	no	\$200 annually
Blue River	yes	yes	2.5% Town Sales tax 3.4% Lodging Tax		Municipality	yes, non-transferrable			145	no	\$200 first time; \$150 annually
Breckenridge	yes	yes	2.5% Sales Tax, 3.4% Accommodation Tax		Municipality and online platforms	yes, non-transferrable			3838	no	BOLT: \$75 - \$175 annually/Admin Fee: \$25-\$150 annually
Crested Butte	Yes	Yes	4.5% Lodging Sales Tax & 5% Vacation Rental Excise Tax The excise tax collected is used to fund affordable housing projects.		The Property owner or authorized agent is responsible for collecting and remitting taxes through the Town's on-line licensing and sales tax software program.	Vacation Rental License & Town of Crested Butte Business License are both required			209 unlimited licences. 17 primary residence licences	Yes, 100ft radius	Unlimited Vacation Rental License fee:\$750/year. Primary Residence License fee: \$200/year with a maximum of 60 nights of rental per year
Denver	yes	no	lodging tax: 10.75% occupational privilege tax: \$4/month business personal property tax and/or sales tax if applicable		AirBnB collects for their listings. Taxes remitted directly to the City in other cases.	yes, lodger's tax id license and non-transferrable business license required			3773 active listings, 2556 active licenses	no	Lodger's Tax License - \$50 biannually Business License application fee - \$25 upon application Business License - \$25 annually
Dillon	Yes	Yes	yes		State collected sales tax but lodging tax remitted to Town	yes, renew annually			113	no	\$50 annually

Durango	yes	yes	3.5% City sales tax and a 2% lodger's tax		AirBnB collects for their listings. Taxes remitted directly to the City by owner/manager in other cases.	yes, non-transferrable			125 permitted short term rentals	yes, 300 foot radius	\$750 first time and annual business license fees of approx. \$100
Estes Park	no	yes	state, county, town and lodging		Taxes collected by the State and remitted to the Town.	yes			322 residential and 152 commercially zoned. The Town's cap for residential was met in May 2018 and the waiting list is at 36	yes	\$200 base fee plus \$50 per bedroom for properties inside Town limits
Fraser	yes	yes	sales & lodging		do not self collect	registration			120	no	\$150
Frisco	yes	yes	yes		Municipality	yes			900	no	\$125 STR License application fee
Glenwood Springs	yes	yes	3.7% sales & 2.5% lodging		Air BnB/VRBO collecting the taxes thru state system. STR owners must report this information to City.	Yes, 2 types available Short Term Rental (STR) and Accessory Tourist Rental (ATR)			104 active permits, approximately 90 active listings	STR - yes all neighbors within 250 feet. ATR - no	STR new \$500, renew \$300 ATR new \$300, renew \$150
Grand Lake	yes	yes	yes		Listing Agency	yes, renewable annually				yes	\$600 Annually
Mt. Crested Butte	Yes	Yes	County, state and Town sales tax, plus 4% local marketing district tax and 2.9% excise tax			Yes, Short Term Rental License and PillowTax License			600	No	\$200, plus pillow tax - \$10 per person the unit sleeps
Salida	yes	yes	Occupational Lodging tax, \$3.66/ night.		Municipality	yes, non-transferrable			200	no	\$470 New Residential/Industrial License, \$270 for New Commercial License, \$270 after first year for both types
Silverthorne	yes	yes	2% sales & 2% lodging tax. Annual STR license.		Owners are responsible for collection/remittance of taxes. VCA with Airbnb & Vrbo Sales & lodging tax due monthly to the Town of Silverthorne	Yes. Non-transferable, renews annually on Dec. 1.			100	Only in case of duplex	Tiered fee: Studio \$100, 1 BR \$150, 2BR \$200, 3BR \$250 4BR+ \$300
Snowmass Village	Yes	Yes	3.5% sales tax and a 2.4% lodging tax		AirBnB and VRBO collect for their listings. Taxes remitted directly to the City in other cases.	yes, non-transferrable			800 units. This does not include hotel rooms	No	No
Steamboat Springs	yes	yes	Yes (Sales & Lodging)		AirBnB and VRBO collect for their listings. Taxes remitted directly to the City in other cases.	Sales Tax License Required; VHR permit required for single family homes and duplexes in most zone districts			171 active permits. Approx 2386 listings in area.	yes for VHR permits	\$50 Sales Tax Fee (one time); \$500 VHR permit fee, \$75 annual renewal fee

Telluride	yes	yes	4.5% Town Sales Tax 2.5% Town Affordable Housing Excise Tax 2.5% (collected from STRs assessed at residential rates) 1% County Sales Tax .25% SMART Tax (transit)		Prop. Owner or representative / booking agency remits taxes	yes			723	no	\$165 base fee plus \$22 per bedroom
Vail	Yes	Yes	Yes sales/lodging		Airbnb/VRBO/Property Manager collects for their listings. Taxes remitted directly to the town in other cases.	yes Effective 3/1/19 STR Registration required per unit.			2500	Yes, for Duplex neighbor only; proof of notification required	tiered fee structure--\$150 per unit for unmanaged properties, \$10 per unit for managed units, \$5 per unit for condotel managed units (24x7 front desk)
Winter Park	yes	yes	yes		Municipality	yes, non-transferrable			349	no	Annual business license fee of \$60
Counties											
Eagle County	No county-wide restriction; short-term rentals not allowed in price-capped deed-restricted units	No county wide restriction	If assessors's office is aware a unit is a rental, it is taxed as such			No, counties can not initiate business licenses				No county wide restriction	none
Summit County	yes	yes	All short term property rentals (less than 30 days) are subject to the sales tax, mass transit and affordable housing tax. A sales tax license is obtained from the State because the State of Colorado Department of Revenue collects these taxes. Personal property tax is also collected by the County Assessor on residential rental furnishings.		Sales tax is collected through the State; Personal property tax on short term rental properties is assessed and collected by the County Assessor's office.	A short-term vacation rental permit is required through the County Planning Department as no business licenses were authorized by the State in unincorporated areas, so the use is regulated through a land use permit. REcent legislative changes now allow STR business licenses and Summit County is reviewing a change to or the addition of a license. A sales tax license is required through the State of Colorado. A personal property tax declaration form must be submitted to the County Assessor.			as of 3-24-21: 3,767 active permits; 6,282 active registered listings. Note 450 new STR permit applications under review.	Notice is sent to neighbors only in cases where changes are proposed to the exterior of the property or building.	Initial permit - \$150; Annual renewal - \$75 Administrative Conditional Use Permit (CUP) required for higher occupancy and parking requests Initial CUP fee - \$350 (this is the full fee charged; not charged both the STR permit fee and the CUP fee); Annual CUP renewal - \$75
Out-of-state municipalities & counties											

Park City, UT	yes	yes	Summit County TRT 3.00; Outdoor Rec TRT.32; Park City TRT1.00; Park City Sales Tax 1.00;Summit County Sales.25; Utah Sales4.85; Summit Cty. Transpo.30;Mass Transit.25;Resort Comm. Tax 1.60. Total 12.57		state and AirBnB	yes, non-transferrable, annual business license			3500 listings- 2000 licensed	yes, in cases of duplexes or if shared common areas/hallways exist between or within a building	\$149.00 Admin Fee, \$28.74 per bedroom fee, \$17.00 Yearly renewal admin fee plus \$28.74/bedroom
Jackson, WY	yes	yes	yes		Collected by state and by AirBnB	yes , a permit			164	Yes, to neighbors within 300 ft.	yes, \$100 for each residential short-term unit being permitted
Ketchum, ID	yes	yes	yes		As of Jan '18 tax collected by listing agency and remitted to City	yes, business license				no	no
Moab, UT	no	no	yes		County and Airbnb	Yes, for each property owner				no	Business license fee - \$45 plus \$4 per room
Whistler, BC	no	Depends on zoning.	Provincial Sales Tax: 8% of listing price including any cleaning fees for reservations 26 nights and shorter in the Province of BC. Municipal and Regional District Tax: 2-3% of the listing price including any cleaning fees for reservations 26 nights and shorter in the Province of British Columbia		Province and "Airbnb"	yes			1000+	no	Business license fee
Truckee, CA	Yes	Yes	Transient Occupancy Tax 12% plus 1.25% Tourism Fee	Implementing programs and incentives to meet community housing needs; -Preparing for wildfires and other natural disasters; -Working with partners to acquire and permanently preserve natural open space lands		Yes. Transient occupancy registration certificate. Non-transferable	No	Estimated 2020: 13 485	1129	No	\$400 non-transferable annual fee

Seattle, WA	Yes	Yes				Seattle business license tax certificate and a Short-term Rental Regulatory License, issued for 12 months from the time of issuance.	Yes, two per operator. (An operator can be a single person, a marital unit, a group of people, or a corporate entity such as an LLC.)	367 806.			
San Diego, CA	Yes	Yes	Transient Occupancy Tax 10.50% plus Tourism Marketing District (lodging businesses with 70 or more rooms) 2%	Promoting the City of San Diego - planning, construction, maintenance and operation of tourist related cultural, recreational and convention facilities	Municipality only	Yes. 4 STR license tiers: https://www.sandiego.gov/treasurer/short-term-residential-occupancy	Will come in effect July 2022 (1% pf the total housing units, exception for Mission Beach, the can have 30% of the total units listed as STR). One licesne per individual.	540 000	11253	No	
Austin, TX	3 separate STR licenses exist, owner occupied, non owner occupied single family/duplex only in certain commercial districts and non owner occupied multifamily annual renewal required		Austin Hotel Occupancy Taxes: 9% occupancy tax + 2% venue project tax		Municipality only	Yes	Yes, in residential zones. No, in commercial zones. Licenses need to renewed prior to expiration, if they expire they will not be renewed. Additionally there is a cap on percentage of STRs in each census tract.	405 387	6748	No	\$567 regardless of the type of license. \$310 renewal fee every year
Nashville, TN	Yes	Yes, only in non-residentially zoned areas	Hotel Occupancy Taxes and Sales Tax		Municipality only	Yes		294 284 (2020)	5868	HOA statement showing that the STR will not violate HOA rules	\$313 and have to be renewed annually
New Orleans, LA											
Boulder, CO											

City	Occupancy Requirement	Require a "local responsible party" to take complaints?	Mandatory response time for the responsible party to address the complaint?	Utilize a 24 hour call center for complaints?	Compliance Efforts? (Compliance monitoring company, municipal staff, software, other)	Weblink to STR ordinance/regulations	Long Term Rental Incentives	Other
Aspen	No	Yes	Yes - local representative is to be "on call" per the municipal code.	No	MuniRevs, Staff - Finance and Community Development Departments	https://library.municode.com/co/aspen/codes/municipal_code?nodeId=TIT26LAUSRE_PT500SURE_CH26.575MISURE_S26.575.22OVARE https://www.cityofaspen.com/1331/Lodging-Tax-Vacation-Rentals		
Avon	none	No	No	No	MuniRevs	http://www.avon.org/str		
Basalt	none							Not permitted in employee housing units, Requires local representative
Beaver Creek	no	Yes	30 days	No	We are utilizing Host Compliance to find owners renting on their own who have not paid appropriate tax/assessment			BCRC collects 5.35% Civic Assessment and .0096% Lodging Assessment for all STR
Blue River	2 people per bedroom plus two. Bedroom and septic/sewer verification required	No	No	No	No	https://townofblueriver.colorado.gov/lodging/short-term-rentals		Posting requirements at rentals and self-certification required.
Breckenridge	Yes. Limited to 2 people per bedroom plus 4 for the entire property	Yes	60 minutes	Yes, LodgingRevs 970-423-5334	Yes, LodgingRevs	www.townofbreckenridge.com/shortterm		All properties - Special Conditions of License/BOLT License - Location Card posting requirement/Advertisement Requirements
Crested Butte	2 people per bedroom plus an additional 2 people for the unit with a maximum occupancy of 10 people. Occupancy over 10 people requires an additional parking space be provided on site for every four additional people or part thereof.	Yes	1 Hour	No. Complaints can be lodged via phone or email to the Vacation Rental Inspector at Town Hall	Short Term Rental Helper generates a monthly list of non compliant properties based on our list of licensed properties.	https://www.crestedbutte-co.gov/index.asp?SEC=0DA56E89-36E1-4A3A-8001-5F16483DEFCD&Type=B_BASIC		Site safety inspection and on-site parking verification required.
Denver	No maximum number of guests per night. No simultaneous rental to more than one party under separate contracts.	Yes. LRP must be in City and County of Denver during the entire length of the STR period, must have access to the licensed premises, and must be authorized to make decisions regarding the licensed premises.	No	Yes. Complaints may be filed at any time by calling 311; however, response will likely only come during business hours (except for emergency situations)	Host Compliance, 1 full-time Compliance Manager, 4 employees who assist with STR compliance matters part time, STR Advisory Committee to guide policy changes	STR Business Licensing Homepage		
Dillon	no	yes	no	yes	yes, STR Helper	yes, https://www.townofdillon.com/business-resources/dillon-short-term-rental-str		requires license number in ads, must submit parking and trash/recycling plans

Durango	Determined by parking or # of bedrooms at the property.	Yes	No	No	LodgingRevs	http://online.encodeplus.com/regs/durango-co/doc-viewer.aspx#secid-273	Updated regulations adopted in December 2020 which further restrict this use based on zoning. For existing and new mixed use developments, language that specifically allows STRs and caps the total number of units allowed for this use must be included in a prior land use approval.
Estes Park	2 per bedroom, plus 2 up to 8 total Large vacation home application can be applied for homes larger than 3 bedroom with a license issued prior to 2018	Yes	30 Minutes (School District boundary)	Yes	LodgingRevs	www.estes.org/businesslicensing	New regulations were adopted December 2016 and modified in March 2017. Additional modifications are being proposed for 2021. Regulations to be moved from Development Code to Municipal Code now that the County regulates properties in the unincorporated valley. Looking at transferability issue.
Fraser	no	yes	one hour				Program implementation late 2017
Frisco	2/BR plus 4, with option to apply for more upon inspection	No, "responsible agent" 24/7 with no local requirement	No	Not yet, but coming summer of 2019	STR Helper	Updated materials should be available by 4/1/19	New ordinance passed 1/8/19; New annual STR license term of 5/1-4/30; First STR license issued 5/1/2019
Glenwood Springs	STR based on inspection ATR is one bedroom, 2 guests	Yes, residing within 30 miles/minutes	No	No	Staff	https://www.ci.glenwood-springs.co.us/333/Vacation-Rentals	It is a condition for renewal that owners show they remitted lodging tax – showing they are actually utilizing the permits.
Grand Lake	none	yes	15 min	no	STR Helper		
Mt. Crested Butte	No	Yes	Yes	Yes	Host Compliance	https://mtcrestedbuttecolorado.us/vertical/sites/%7B36467D9E-CDA6-4739-95F2-EF9DEBC7DA37%D/uploads/Ordinance_9_Series_2019.pdf	
Salida, CO	None	Require local management	no	no	LodgingRevs	https://library.municode.com/co/salida/codes/code_of_ordinances?nodeId=CH6B_ULIRE_ARTVISHRMBULI	
Silverthorne	Max advertised occupancy = 2/Bedroom + 2	Yes	7am -11pm (60 minutes) 11pm -7am (30 minutes)	Yes	Yes. LodgingRevs	https://www.silverthorne.org/town-services/finance-administrative-services/business-liquor-licenses	STR license is required to be posted in online ads. Good Neighbor Guidelines must be posted prominently in rental property. STR license is required to be visibly displayed in rental property (address, license #, property owner name & contact info for responsible agent). STR prohibited in deed restricted & workforce housing units.
Snowmass Village	Yes, under the building code	no	no	no	no		Not permitted in employee housing units without prior approval.
Steamboat Springs	1 per 200 sf; max 16	no	no	no	no	CDC Section 302.E.4 (http://steamboatsprings.net/246/Community-Development-Code)	We only require a VHR permit for single family and duplex units OUTSIDE of the resort area (RR and G) zone districts. Multiple family units and all units in RR and G are allowed by right.

Telluride	none	yes	no	no	yes	https://www.telluride-co.gov/DocumentCenter/View/260/short-term-rental-regs		Restrictions in Residential Zone : no more than 3 rentals per year, w aggregate not to exceed 29 days; implemented in 2011
Vail	Two per bedroom, plus two.	Yes - Local contact within 60 minute distance required; Evidenced by copy of driver's license	60 min response time unless between 11pm and 7am, then 30 minute response time	Yes	LODGINGRevs, one full-time municipal employee monitors listings, registrations and complaints	https://www.vailgov.com/short-term-rentals		Notorized affidavit required as part of the application for acknowledgement of life safety, noise, trash and parking regulations
Winter Park, CO	none	no	no	no	LodgingRevs	no		We require a business license. We have contracted with LodgingRev's that tracks various sites for rentals that have not obtained a business license. The Town does not have other limits or restrictions for short term rentals excluding any regular zoning restrictions.
Counties								
Eagle County	Eagle County Land use codes state no more than one person per every 300 square feet; this limit is not enforced							No county wide restriction
Summit County	2 persons per bedroom plus 4 additional occupants, or 1 person per 200 square feet of living area, whichever allows for a greater occupancy. Max occupancy 19; can apply for a CUP to request 20 or more occupants. Condominium buildings with interior egress corridors less than 44 inches wide and without a sprinkler system are further limited to 2 persons per bedroom plus 2 additional occupants, or 1 person per 200 square feet of living area, whichever allows for a greater occupancy.	Responsible agent required. Local residency not required for the agent. Responsible agent must be available 24 hours per day, 7 days per week, and must respond to complaints within 1 hour.	yes, required to respond within 1 hour	yes, Host Compliance 24-hour call center is utilized	yes, Host Compliance and Planning Dept staff	www.SummitCountyCO.gov/STR		County STR regulations were adopted 12/18/18; Currently contracted with Host Compliance for permitting system and complaint management system
Out-of-state municipalities & Counties								

Park City, UT	Yes, 75 sq. ft per bedroom, at least 50sq ft of floor space per occupant (if more than 1)	yes	no	no	monitoring with 3rd party that verifies internet listings	www.parkcity.org/MunicipalCode		Site visit and safety inspection prior to application
Jackson, WY	Limited to less than one calendar month	no	no	yes	Host Compliance	yes		
Ketchum, ID	Max 30 days/guest							no
Moab, UT	no	no	no	no	no	https://moab.municipal.codes/Code/5.67.010		Not permitted in any residential zones. Only permitted in certain commercial zones. Building, fire, health and zoning inspections required for short-term rentals permitted in commercial zones.
Whistler, BC	no	no	no	no	Municipal staff, software, bylaw enforcement	https://www.whistler.ca/sites/default/files/2019/Nov/bylaws/original/23992/2142_tourist_accommodation_business_regulation_bylaw_no_2142.pdf		
Truckee, CA	Yes. 2 people per bedroom plus 2 for the entire property	Yes	30 minutes to acknowledge by phone, 60 minutes to resolve	Yes, Host Compliance		https://www.townoftruckee.com/home/howdocument?id=20356	Yes. Participating and qualifying homeowners will receive a \$3,000 grant and free tenant-matching services. Tenant qualification in this program is based on annual income. The goal of this Program is to unlock 25 new long-term rentals in Truckee per year. Applications on accepted on an on-going and rolling basis. Since the program's inception in December 2020, this program has converted 9 residences to long term rentals, housing 16 Truckee residents.	Other housing initiatives: https://www.townoftruckee.com/government/current-housing-programs

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: October 15, 2021
TO: Minturn Mayor and Council
FROM: Karp Neu Hanlon, P.C.
RE: Backyard Chickens and Other Animals

There has been an increased interest by residents in having chickens, other fowl, and livestock living on residential lots within Minturn. Many municipalities in the state permit chickens and other livestock with certain conditions. Due to the relative density of the town there are several considerations that Council should consider. These include:

- Number and type of animals
- Zone districts
- Residential building types (single-family, duplex)
- Lot sizes
- Layout and design to prevent nuisances and predators
- Permitting system

Attached to this memo is an example of the ordinance we worked with Glenwood Springs to adopt several years ago that addresses many of the above issues. We think this can help guide a conversation about how to best address this popular accessory use.

Accessory Uses and Structures.

- (1) *Backyard Chickens.* The following requirements, restrictions, and standards shall apply to backyard chicken use:
 - a. *Applicability.* Chicken coops are allowed as an accessory use only on those parcels where the principal use of the parcel meets one (1) of the configurations listed in this Subparagraph. An existing chicken coop shall cease to be allowed where the principal use of the parcel is altered to no longer meet one (1) of the following configurations:
 1. Detached single-family dwelling;
 2. Detached single-family dwelling with either one (1) attached or one (1) detached accessory dwelling unit;
 3. A two-family dwelling (duplex) where both dwelling units are held in common ownership; or
 4. A school or community centered board facility.
 - b. *Where Permitted.*
 1. Backyard chickens are allowed in zoning districts according to Table 030.1. Table of Allowed Uses.
 2. Backyard chickens are allowed within a planned unit development unless specifically identified as a prohibited use by the planned unit development.
 - c. *Number.*
 1. One (1) backyard chicken permit shall be allowed per parcel.
 2. There shall be a maximum of six (6) hens allowed.
 3. Roosters are prohibited.
 - d. *Site Layout and Design.*
 1. Parcels must be a minimum of five thousand (5,000) square feet in size.
 2. A chicken coop shall be located so that it has the least amount of impact to adjacent dwellings and properties. Therefore, a chicken coop shall only be located in a rear yard, have a rear yard setback of ten (10) feet when the rear lot line abuts an alley, or a seven and one-half (7½) foot rear yard setback when there is no alley. Chicken coops shall have a side yard setback of at least five feet. In addition to the rear and side yard setbacks, a chicken coop shall be located no closer than ten (10) feet to any structure with habitable space on adjacent properties.
 3. The footprint of a chicken coop and enclosed Run shall not exceed one hundred twenty (120) square feet. The maximum height of the chicken coop shall be eight (8) feet. A chicken coop shall either have a floor raised a minimum of three (3) feet, or must incorporate hardware cloth that has openings one-half (½) inch or less throughout the mesh which is buried to a minimum of one (1) foot around the perimeter of the coop. Chicken coops and runs shall be completely enclosed with wire or other material to contain the chickens and prevent wildlife intrusion.
 4. Chicken coops and runs shall be surrounded on all sides by electrified fencing, except for any side abutting a solid wall or structure. The electrified fencing shall consist of two (2) strands of electrified wire placed at approximately twelve (12) inches and three (3) feet above the floor of the chicken coop and either attached directly to the chicken coop or within one (1) foot of

the exterior of the chicken coop. All chicken coop access doors shall also be protected by the electric fencing. The energizer for the fencing shall be an alternating current (AC) system with at least 0.7 joules of current. If a solar system is utilized it must be capable of at least 0.7 joules. Use of twelve (12) to fourteen (14) gauge high-tensile galvanized steel wire is recommended for the electric fencing. A system consisting of more than two (2) electrified wires with an alternating hot/ground setup is preferred. The system shall be functioning at all times that hens are housed within the chicken coop. Additional electrified fencing layouts may be required if it is determined that the level of protection is not adequate. The electrified fencing shall be signed to warn humans of its presence.

5. Any fencing surrounding a chicken coop or run shall be buried at least one (1) foot below grade to prevent predators from gaining access under the fence

e. *Operation.*

1. Chickens shall not be permitted to "free range." Chickens shall be further protected by being enclosed within the chicken coop from dusk till dawn.
2. Chicken feed shall be kept within the residence or garage so that it can be secured from rodents and other wildlife.
3. No slaughtering of chickens may occur outside of the residence or garage.
4. Chicken coops and runs shall be maintained in a clean fashion to prevent odors, and chicken manure shall be removed and stored in a sealed container or removed from the property immediately. Spillage and leftover feed must be removed daily to prevent rodent propagation and odors.

f. *Permit Procedures.*

1. *Application Requirements.* The owner shall submit an application on the form provided by the Director and shall pay the application fee set by City Council resolution.
2. *Issuance of Permit.*
 - i. All backyard chicken uses shall require a permit from the Director. Such permit shall only be issued after the backyard chicken application has been approved in accordance with the Municipal Code. The backyard chicken permit shall specify any terms and conditions of the permit. All permits shall be issued to the owner of the property. A change in ownership shall necessitate issuance of a new permit.
 - ii. Any pre-existing keeping of chickens is illegal and therefore must comply with this Section or be removed.
3. *Revocation of Permit.* A backyard chicken permit may be revoked at any time by Director should it be determined that the use is not being operated in compliance with this Section or any other section of the Municipal Code.



To: Minturn Town Council
From: Michelle Metteer
Date: October 20, 2021
RE: Council Committees

REQUEST: Fill vacancies in Minturn representation on regional committees and boards.

INTRODUCTION:

Minturn is represented regionally on several boards and committees which with the turnover of Council requires filling of vacant seats. Currently there is a vacancy on the Minturn Education Fund Board and the Regional Transit Authority Formation Committee.

ANALYSIS:

Minturn holds representation on certain boards/committees which may want to be considered for elimination in the future. The Compact for Colorado Communities is one such board. With the recent focus of government officials representing the Climate Action Collaborative at the board level, the Compact for Colorado which has gone silent.

Additionally, Council may wish to consider elimination of certain sub-committees in favor of more regional representation.

COMMUNITY INPUT: As needed

BUDGET / STAFF IMPACT: Varies

STRATEGIC PLAN ALIGNMENT:

[Practice fair, transparent and communicative local government](#)

RECOMMENDED ACTION OR PROPOSED MOTION: Council to appoint representation as needed.

ATTACHMENTS:

- Council Representation Overview

Council Representation

Non-Profit Entities Requiring Directors Appointed by Council

1. **Minturn Education Fund; Shelley Bellm, President, shelley.Bellm@gmail.com**
Representation: at least one and not more than two Council members are Directors
Town Manager is Ex-Officio Director
Responsibilities: Manage funds and award scholarships
Time commitment: As needed, generally twice per year
Appointees: [REDACTED], Michelle Metteer (ex officio)
2. **Minturn Fitness Center; Terry Armistead, President, tarmistead@minturn.org**
Representation: Council appoints 3 Directors (do not need to be Council members, but must be members of the community)
Responsibilities: Manage finances and operations of Fitness Center
Time Commitment: quarterly
Appointees: George Brodin, Terry Armistead, and Michelle Metteer

Representation to other Government Agencies

1. **NWCCOG/QQ; Jon Stavney jstavney@nwccog.org**
Responsibilities: COG: oversees budget and operations of NWCCOG
Appointees: George Brodin
QQ; Torie Jarvis qqwater@nwccog.org: advises on water legislation issues.
Appointees: Gusty Kanakis
Time Commitment: quarterly meetings for COG, differing locations; QQ quarterly in Summit
2. **ECO Transit; Claire Wilson Claire.wilson@eaglecounty.us**
Representation: one member and one alternate, may be Council or staff
Responsibilities: advises County Commissioners on budget, operations, schedules, capital spending of bus system.
Time Commitment: Quarterly in Gypsum
Appointees: Tom Sullivan, alternate George Brodin

Representation to Membership Entities

1. **Club 20: 970-242-3264 or communication@club20.org**
Representation: regular and alternate members
Responsibilities: advocacy, education and legislation affecting western slope
Time Commitment: quarterly meetings in Grand Junction
Appointees: George Brodin
2. **High Five Media; JK Perry jk@highfivemedia.org**
Representation: one regular member
Responsibilities: oversee operations of Channel 5
Appointees: Terry Armistead
Time Commitment: Quarterly
3. **Radio Free Minturn;**
Representation: One ex-officio member
Responsibilities: Connection between RFM Board & Council
Appointees: Tom Sullivan
Time Commitment: Quarterly
4. **Compact of Colorado Communities; Daniel Kreeger dkreeger@ckunateiffucers.org**
Representation: one regular member
Responsibilities: advocacy, education and legislation for Colorado
Time Commitment: Quarterly
Appointee: Brian Eggleton

5. **Regional Transit Authority; Bill Ray** bill@wr-communications.com
Representation: One Council member
Responsibilities: Participate in the RTA Formation Committee
Time Commitment: Monthly
Appointment:

6. **Climate Action Collaborative; Kim Schlaepfer** kim@walkingmountains.org
Representation: two regular members
Responsibilities: Creation and advocacy of climate action policies for Eagle County.
Time Commitment: Quarterly
Appointee: Eric Gotthelf and Terry Armistead

Roundtable Representations

1. **Eagle County Community Wildlife Roundtable**
Minturn Representation: Terry Armistead

Council Advisory Sub-Committees

Overview: All committees below meet on an as-needed basis. Council in past has appointed two Council members. Time commitments vary. Council may want to consider ad-hoc committees as needed.

Eagle County Housing & Development Authority Advisory Committee

Contact: Eagle County Housing, Kim Bell Williams kim.williams@eaglecounty.us
Appointee: Eric Gotthelf

Battle Mountain; Michelle Metteer manager@minturn.org

Function: Advise Council on Battle Mountain agreements, ongoing negotiations, and general discussions.

Time Commitment: variable

Appointees: Earle Bidez and Terry Armistead

Water Committee; Michelle Metteer manager@minturn.org

Function: Advise Council on Battle Mountain water, water court applications, infrastructure, and water rates.

Time Commitment: varies

Appointees: Gusty Kanakis and George Brodin

Dowd Junction Committee; Michelle Metteer manager@minturn.org

Function: Advises on: Forest Service processes, Request for Proposal to developers, ownership and regulatory control by Minturn

Time Commitment: TbD

Appointees: John Widerman and Earle Bidez

Railroad Committee; Michelle Metteer manager@minturn.org

Function: Advises Council on Railroad relations, zoning enforcement

Time Commitment: variable

Appointees: Terry Armistead & Gusty Kanakis



To: Mayor and Council
From: Jay Brunvand
Date: October 20, 2021
Agenda Item: Fiscal Year 2022 Annual Budget

REQUEST:

No request is being made.

INTRODUCTION:

The October 20, 2021 Council meeting will provide a short PowerPoint presentation and allow time for Council questions on the Preliminary Budget. Because of the number of time-consuming items on the agenda this portion of the meeting is designed to allow Council time to reflect on where we are, the preliminary 2022 budget, and ask any questions of concern.

ANALYSIS:

Over the course of 2021 Council has taken the time to review much of the larger pieces of the revenue and expenses of the Town of Minturn. An ongoing short highlight list of what has been covered over the year is as follows:

- 1) Snow removal Plan and contracted labor
- 2) Code enforcement
- 3) Staffing distribution and adequacy
- 4) Major development projects upcoming
 - a. Minturn North
 - b. Belden Place
 - c. Misc
- 5) We have reviewed CIP for both Gen Fund and Enterprise Fund
- 6) Minturn Fitness Center issues
- 7) Revenue
- 8) Tank placement
- 9) Engineering of water tank placement including site evaluations and testing
- 10) Water tap moratorium
- 11) Water rates
- 12) Loan process
- 13) Community Plan update and service contracts
- 14) NAIOP/Dowd Jct Master Plan
- 15) Battle Mountain review

ITEMS OF NOTE:

During the October 6, 2021 Council meeting Staff covered a number of items. More will be covered as Council asks questions. When a question is asked, I hope to know the answer but will get the answer if needed and supply those after the meeting.

- Budget Review during upcoming meetings (Budget page 70):
 - 10/20/21
 - Session under Discussion and Direction for Council to discuss the budget as relates to goals and consider questions or direction from Council. This will begin with a short presentation and then discussion of major projects scheduled for
 - Q&A
 - 11/03/21
 - Public Hearing on FY2022 Budget (this is the ONLY public hearing)
 - GID public hearing and approval
 - Q&A
 - 11/17/21
 - First Reading of Budget approval Ordinances
 - Review of 2021 Supplemental Appropriations
 - Q&A
 - 12/01/21
 - Second and final reading of Budget approval Ordinances

COMMUNITY INPUT:

Staff has scheduled a Public Hearing on the budget at the November 3, 2021 Council Meeting, we will have a Public Hearings to adopt the four Ordinances used to formally approve the budget, and the public is encouraged to contact Staff to review any questions or comments they might have. Throughout this process any comments offered will be reviewed, as directed by Council items of concern will be discussed and may be included within the final budget document. The final approval of the budget will be on December 1, 2021.

BUDGET / STAFF IMPACT:

The annual fiscal budget sets forth projected income and expenses and sets forth a plan to achieve our stated goals. The budget will appropriate reserves, revenues and expenses and set the mill levy and fees for the ensuing year.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #1 to practice fair, transparent, and communicative local government.

RECOMMENDED ACTION OR PROPOSED MOTION:

This is scheduled as a Discussion Item only.

ATTACHMENTS:

N/A



2022 BUDGET

Town of Minturn

Performance Based Budgeting is the practice of developing budgets based on the relationship between program funding levels and expected results from that program.

This budget reflects many adjustments made to the 2022 fiscal year budget. The 2022 budget highlights growth generally in revenues and specifically in sales tax. The programs and capital improvement needs have been adjusted to reflect the updated 2021-2023 Minturn Strategic Plan. Similarly, the Enterprise Fund continues to reflect income and spending reflective of a implementation of large water projects beginning with new water tanks to supply the entire system and gives eye toward an approved 10-year infrastructure and system improvement plan.

2022 BUDGET

TOWN OF MINTURN

True North

*Leverage Minturn's assets to benefit and maintain our funky, proud, uniquely classic mountain town where people grow roots through creating opportunities and community engagement.**

**Keeping in mind we are Minturn*



Vision and Mission

V: *Lead Minturn to long-term viability while preserving its unique character and genuine mountain town community*

M: *In collaboration with our community, foster the authentic small-town character that is Minturn.*

Strategic Plan



“...The Strategic Plan is designed to work in coordination with the town budget and will be reviewed by the Council every two year to adjust for changes as needed...”

*Minturn Strategic Plan
Purpose Statement*

4 Key Initiatives

From the Vision Statement, four key initiatives are identified to guide the Town efforts

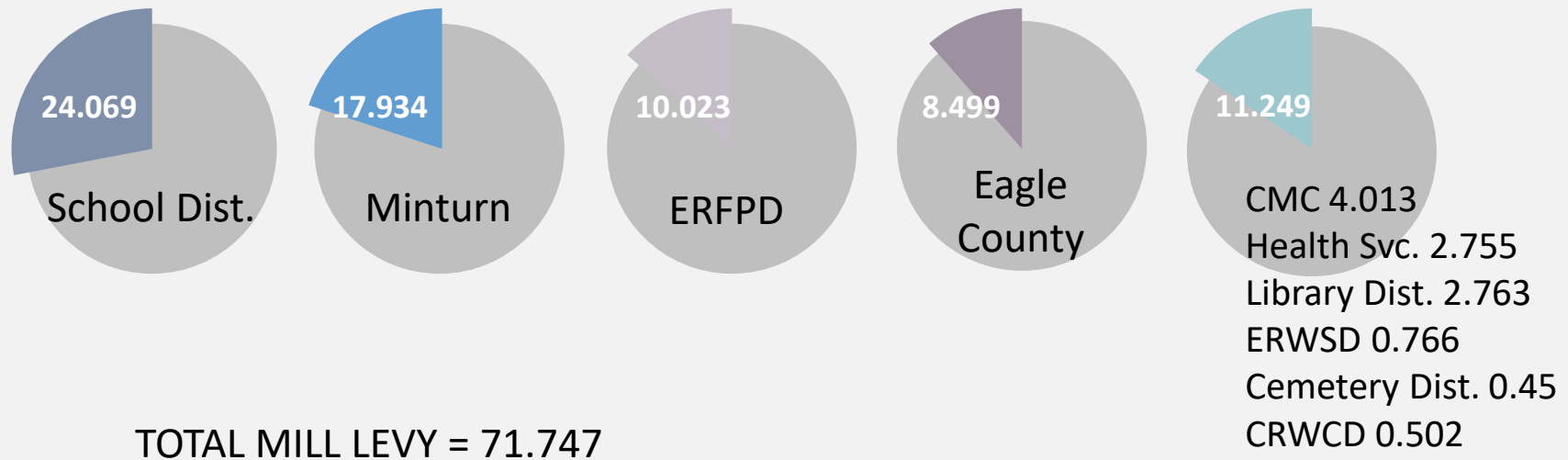


Resolution 27 – Series 2019 – Vision Statement

Lead Minturn to long-term viability while preserving its unique character and genuine mountain town community

WHERE DO MY PROPERTY TAX DOLLARS GO?

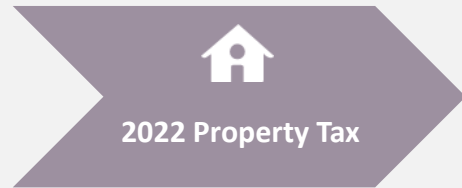
Eagle County Property Tax Breakout



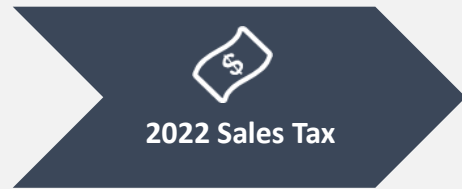
Property taxes are calculated by taking the mill rate and multiplying it by the assessed value of your property. Town of Minturn receives **25%** of the total of Minturn property tax dollars.

2022 General Fund Revenue

Highlights



Based on recent valuations, 2021 Property Tax Collections will **increase by 8.2% over 2021** as a result of the bi-annual reassessment.



Sales tax is projected to **increase 12% over 2020 actual**



2022 Budget over 2021 Actual (estimated)

Revenue to increase 2.00%

Expenses to increase 12.00%

Simple Analysis

Our 2022 budget is taking on several long-term matters such as rewriting the Minturn Community Plan. One time expenses that will lead Minturn into the future prepared.

2021 General Fund Expenses

Unfunded Projects

Unfunded Projects

\$ 75k

Little Beach Park Playground Equipment
Replacement of the 20+ year-old wooden playground equipment and ground media. (A grant has been applied for this project)

\$??k

Taylor Ave Street Work
This will be reviewed as part of the Minturn North PUD proposal.

\$20k

Downtown Colorado Inc.
Planning and public facilitation of the Downtown area for consideration of a Downtown Development Authority.

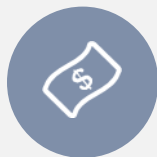
\$41k

New Snow Blade
Allowing for expedited plowing (but not hauling) of snow.

2022 Enterprise Fund

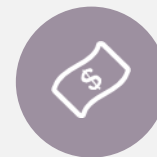
Water Capital Improvement Plan Ongoing Projects

PROJECT	DISCRIPTION	COST
New Minturn Water Tanks	Now considering two new equally-sized tanks side by side for redundancy	\$3,000,000
Meter Replacement Program	Replace water meters throughout Town	\$150,000
Water Treatment Plant Design	RFP for the design of a membrane water treatment plant & associated infrastructure	\$TbD



Enterprise Fund Revenue

Based on approved 2021 Water Rate Study



Bonds

Town is anticipated to issue approximately \$3,000,000 in 2021

Enterprise Fund

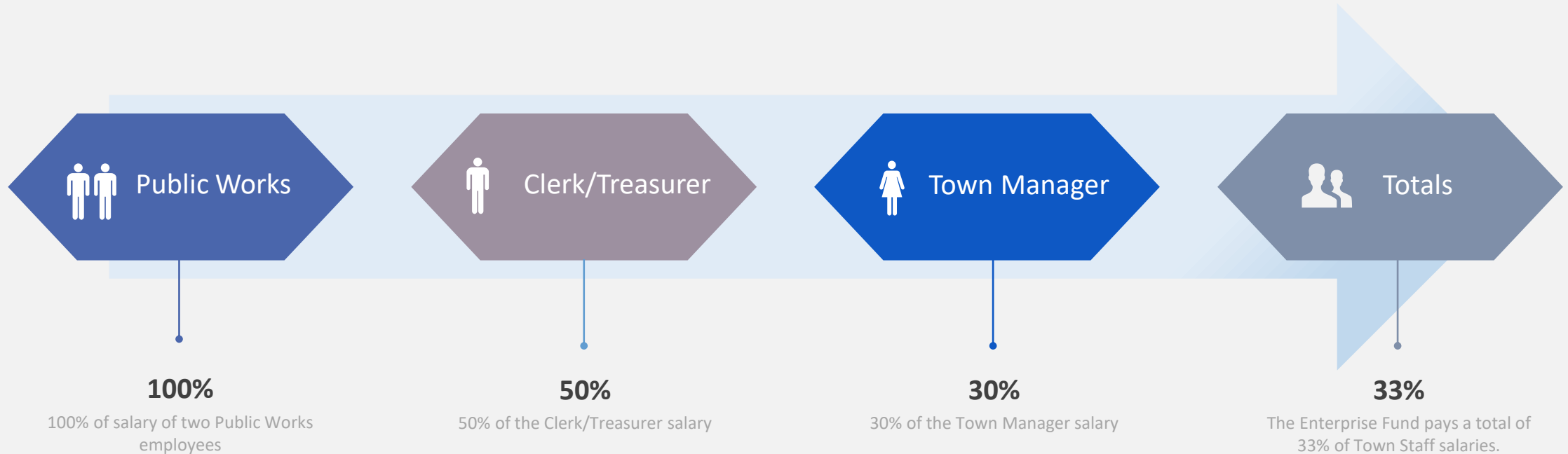
Rate Increases 2021 vs. 2022

Fee	2021	2022	Increase
Base Water Rate	\$90.41	\$90.41	0% Increase
Volumetric Rate / 1000 gallons	\$6.83	\$6.83	0% Increase
Debt Service	\$7.81	\$7.81	0% Increase
3/4" Residential Water Tap	\$5,440.00	\$5,604.00	3% Increase
System Impact Fee <1500 square feet	\$4.47	\$4.60	3% Increase
System Impact Fee 1501-3000 square feet	\$5.64	\$5.81	3% Increase
System Impact Fee >3000 square feet (2 SFEs)	\$6.79	\$6.99	3% Increase
System Impact Fee Up to 750 square feet (.5 SFE)	\$4.47	\$4.60	3% Increase
Case in Lieu of Water Rights (per acre foot)	\$12,324.85	\$12,694.60	3% Increase



Enterprise Fund

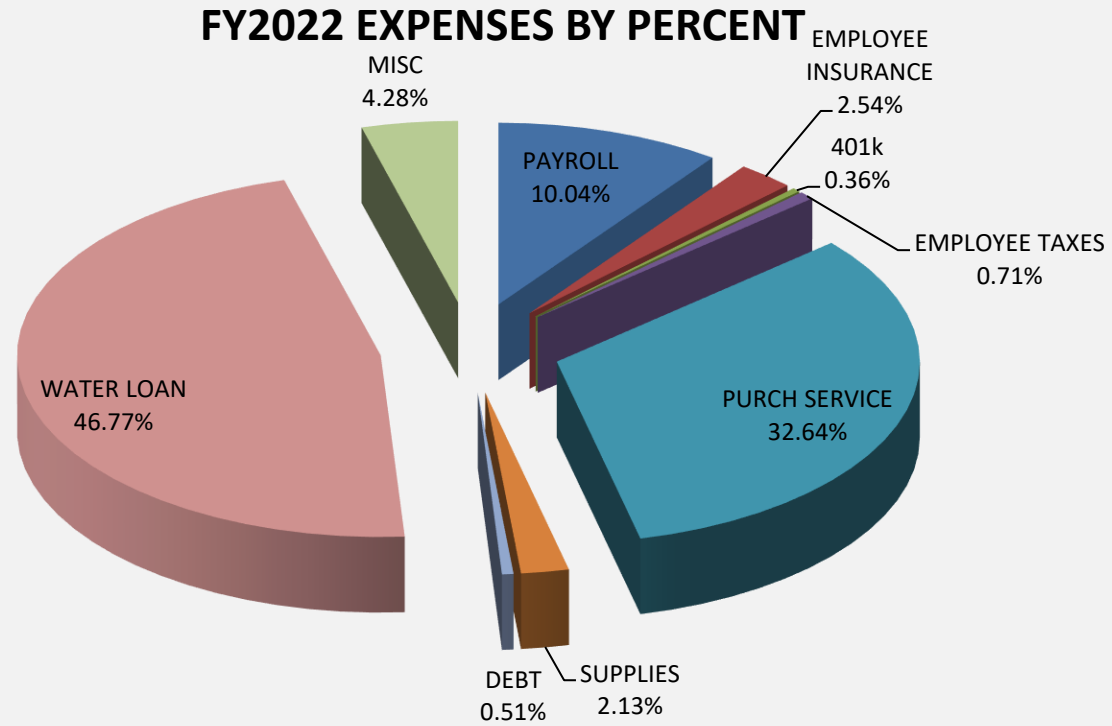
Staffing Breakout



An extensive 12-month time and motion study was conducted to determine how much time each member of staff commits to conducting Enterprise activity. The above does not include the cost of the water plant manager. The General Fund covers 67% of all staff wages.

General & Enterprise Fund

Expenses by Percent



2022 Capital Fund

Fund 06 Highlights

Funded by Construction Use Tax and transfers from the Building Fund (04)

Includes cost to slurry seal Pine Street

Includes 50% of cost for Public Works equipment and truck purchase (other 50% from Enterprise Fund)

2021 Scholarship Fund

Fund 08 Highlights

Managed by a separate Board of Directors.

Council consideration to eventually remove from the Town of Minturn budget and audit.

Can be directly overseen by the Scholarship Fund which is its own 501c3

Misc. Items

Changes to the Budget



Minturn Bike Park

\$15,000 has been included in the Parks (01-06-5357)



Legal & Professional

Almost doubled the legal & professional budget for 2022



Engineering

Almost doubled the engineering services budget for 2022



Food

No Council or Planning Commission food has been budgeted for 2022.



Staff Wage

COLA increase recommended – amount to be determined by Council



Lease Lot Revenue

2022 Budget includes lease revenue budgeted at \$138,400 to the GF Revenue line



Snow Dump Revenue Loss

2022 Budget includes a \$6,500 decrease to the GF Revenue for the loss of the Minturn Snow Dump contracts



Grants

Sustainable Strategies is budgeted at \$4,500/mo for writing up to six grant applications

Questions

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 Clerk/Treasurer
 301 Pine St #309 ♦ 302 Pine St
 Minturn, CO 81645
 970-827-5645 x1
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Town Council
 Mayor – VACANT
 Mayor Pro Tem – Earle Bidez
 Council Members:
 Terry Armistead
 George Brodin
 Eric Gotthelf
 Gusty Kanakis
 Tom Sullivan

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

REGULAR TOWN COUNCIL MEETINGS
October 20, 2021
Ordinance 4 – Series 2017 Review: Short Term Rental Policy
Union Pacific Conditional Use Permit renewals
Rezoning of 504 Eagle River Street and 502 Main Street Ordinance
Council Committee Assignments
Resolution ___ - Series 2021; Water Treatment Plant Fire Mitigation Project
Ord ___ - Series 2021 (First Reading) An Ordinance to provide for excavations of public streets in conformance with state standards.
Discussion/Direction - Livestock
November 3, 2021
FY 2022 Budget – Public Hearing
Ordinance __ - Series 2021 not allowing puppy mill animals sold in town
30’ River Setback Policy Review & Eagle River Park (MMC Sec. 16-2-50(b))
Ordinance ___ - Series 2021 (First Reading) An Ordinance Requiring approved new building plans prior to demolition within the 100-Block.
2021-23 Strategic Plan Review – Building Code Updates
November 17, 2021
Eagle County Gives Proclamation
1 st reading of Budget Ordinances
Ordinance ___ - Series 2021 (Second Reading) An Ordinance Requiring approved new building plans prior to demolition within the 100-Block.
Discussion/Direction – Minturn North cost share
December 1, 2021
2 nd Reading of Budget Ordinances
DATE TO BE DETERMINED