



**Planning Commission Agenda
Wednesday November 10, 2021
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO**

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

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

1. This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/86033560612>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 860 3356 0612**

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

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Madison Harris, Planner I, prior to the meeting and will be included as part of the record.

CALL TO ORDER – 6:30 PM

ROLL CALL & PLEDGE OF ALLEGIANCE

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

DECLARATION OF CONFLICTS OF INTEREST

APPROVAL OF MINUTES

1. October 27, 2021

PUBLIC COMMENT – 6:35 PM *Citizens are invited to comment on any item not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Planner. Those who are speaking are requested to state their name and address for the record.*

PLANNING COMMISSION COMMENTS – 6:40 PM

DESIGN REVIEW AND LAND USE PUBLIC HEARINGS – 6:45 PM

1. Ordinance No. (TBD) – Series 2021 – An ordinance of the Town of Minturn, Colorado, amending Chapter 16 of the Minturn Municipal Code to provide for the use and regulation of backyard chickens in the Town.

DISCUSSION/DIRECTION – 7:45PM

1. 30 Foot Live Stream Setback Discussion

PROJECTS AND UPDATES – 8:05 PM

1. Community Plan Update

FUTURE MEETINGS – 8:10 PM

1. November 24, 2021
2. December 8, 2021

ADJOURN



OFFICIAL MINUTES

JOINT MEETING OF THE MINTURN PLANNING COMMISSION AND TOWN COUNCIL

Minturn, CO 81645 • (970) 827-5645

The public is welcome to join in person at 302 Pine Street or using the following methods:

<https://us02web.zoom.us/j/89750697730>

Phone:

+1 651 372 8299 US

+1 301 715 8592 US

Meeting ID: 897 5069 7730

OR 302 Pine Street Council Chambers for In-Person Option

Wednesday, October 27, 2021

Regular Session – 6:30 PM

CHAIR – Lynn Teach

COMMISSION MEMBERS:

Jeff Armistead

Elliot Hovey

Tom Priest

Christopher Manning

Jena Skinner

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

Regular Session – 6:30pm

1. Call to Order

- Roll Call

Lynn T. called the joint meeting of the Planning Commission and Town Council to order at 6:30 pm.

Those present at roll call: Lynn T., Jena S., Tom P., Chris M., Elliot H., and Jeff A.

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

Staff Members Present: Town Planner Scot Hunn, Town Manager Michelle Metteer, Town Attorney Richard Peterson-Cremer, and Planner I Madison Harris.

- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added
Motion by Jena S., second by Jeff A., to approve the agenda as presented.
Motion passed 5-0.
Note: Elliot H. is attending in his status as an alternate.
- Declaration of Conflicts of Interest
No Conflicts of Interest

3. Approval of Minutes

- September 22, 2021
Jeff A. had one correction.
Motion by Chris M., second by Jeff A., to approve the minutes of September 22, 2021 as amended. Motion passed 5-0.
Note: Elliot H. is attending in his status as an alternate.
- October 5, 2021
Motion by Tom P., second by Chris M., to approve the minutes of October 5, 2021 as presented. Motion passed 5-0.
Note: Elliot H. is attending in his status as an alternate.

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

No Public Comment.

5. Planning Commission Comments

No Planning Commission Comment.

DISCUSSION AND DIRECTION

6. History Colorado – Historic Preservation – Joint Presentation to the Planning Commission and Town Council

Scot H. introduced the presentation. With the concerns brought up about the buildings in the 100 Block, staff was given direction to look into how to become a certified Town and what it takes to be designated historic.

Dr. Lindsey Flewelling, Coordinator with History Colorado.

Historic preservation is the study, documentation, designation, protection, and physical preservation of: buildings, structures, districts, sites, and objects. The reason to preserve is to increase community identity and pride, reduce waste, revitalize downtowns, heritage tourism, generate jobs, increase property values, support small businesses, and create affordable housing. The National Historic Preservation Act set a national policy for preserving our heritage, created a partnership program between the Federal Government and the States and Tribes, established the National Register of Historic Places and the National Historic Landmarks programs, defined a process of review of

Federal projects, and has a local partnership through the Certified Local Governments (CLG) program. Eligibility is based on Significance (why is this property important, what association does it have with important people, architecture, movements) and integrity (how much of it is original to have significance). Neither National nor State registers have automatic protections, protections only happen on the local level through ordinances. Treatment of Historic Properties: Preservation, Restoration, Rehabilitation, and Reconstruction. Secretary of the Interior's Standards: Preservation planning, identification, evaluation, registration, historical documentation, architectural and engineering documentation, archeological documentation, and professional qualifications. Key principles for a preservation ordinance: must promote a valid public purpose, must not be so restrictive as to deprive a property owner of all reasonable economic use of property, must honor a citizen's constitutional right to "due process", and must comply with relevant state laws.

Basic elements of a preservation ordinance:

- Statement of purpose
 - Protection and preservation of the Town's architecture, culture, and heritage
 - Enhancement of property values and stabilization of neighborhoods
 - Establishment of the Town's Historic Register
 - Civic Pride in art, architecture, and the past
 - Utilization of historic properties
 - Thoughtful community planning and design
 - Economic benefits based on the area's unique heritage
- Establishment of Preservation Commission
 - Required minimum of 5 members
 - Must have a least 4 meetings a year
 - Term limits
 - Potential to combine with other town commissioners
- Commission Powers and Duties
 - Survey and Inventory
 - Designation of historic properties
 - Conduct design and demolition review
 - Provide for public participation
 - Advise Town Council
 - Assist Property Owners
 - Pursue financial opportunities
 - Propose/manage local incentives
 - Develop educational programs
 - Promote heritage tourism
 - Review National Register nominations
 - Participate in Federal Section 106 Review
 - Develop by-laws
- Criteria for Designating Historic Properties
 - Buildings, structures, sites, objects, districts
 - Age

- Significance criteria: Architecture, event, person, geography, archaeology
- Integrity criteria: location, design, setting, materials, workmanship, feeling, association
- Procedures for Designating Landmarks and Districts
 - Nominators: Owner, commission, council, non-owner resident, non-profit, city official/staff
 - Owner Consent considerations: required, not required, for a district – percentage required
 - Designation Authority: Council, Commission
- Reviewable Actions and Procedures
 - Reviewable Actions: Alteration, relocation, demolition, new construction, maintenance
 - Standards and Guidelines:
 - Non-Designated Property Review: Non-contributing, 50 years and older, demolition
 - Other considerations: review authority, administrative review, exemptions, appeals, Stay of Demolition, and Minimum Maintenance
- Standards for Review
 - Secretary of the Interior Standards only, Citywide Guidelines, and/or District Guidelines
- Enforcement and Penalties
 - Compliance: Mandatory or Voluntary
 - Fines: In preservation ordinance and/or in Municipal Code
 - Penalties in Ordinance: Building permit moratorium, imprisonment, restoration, injunction, lien, and/or repair expense
- Appeals

Incentives, Advocacy, and Public Education

- Local Incentives: sales tax rebate, low/zero interest loans, exemptions and variances, technical assistance, easements, property tax rebates, and/or grants
- State and Federal Incentives: State Historic Preservation Tax Credit, State Historical Fund, Revolving Loan Fund, and/or Federal Rehabilitation Tax Credit
- Advocacy and Public Education: Foster community pride and ownership, form relationships with historic property owners and contact property owner, and/or public outreach (publicize each event, host events/workshops, use social media, and celebrate preservation month)

Lynn F. asked if there needs to be a large percentage owner buy in if there is a small district.

- Dr. Flewelling said that it does not, it just needs to be clearly laid out in the ordinance.

Earle B. asked about funding.

- Dr. Flewelling said that there can be up to 35% tax credits for both residential and commercial properties as long as it is a local landmark or district. For CLG there

are educational programs that are options. CLG funding is for planning, not construction. State Historical Fund handles funds for construction which only requires being a landmark.

Lynn F. asked if the simplest thing would be to start with an ordinance and put it under the purview of the existing Planning Commission. Asked if the historic district would be by block and then everything older than a certain time would be designated.

- Dr. Flewelling said that it would all be a historic district and then would have a Time Period of Significance.

Earle B. asked what happens when something is designated historic, but the property owner decides to remodel.

- Dr. Flewelling said that it would be based on the Design Review Process. There is a Certificate of Appropriateness after the review.

Tom P. clarified whether a CLG is appropriate.

- Dr. Flewelling said it isn't necessary, but can always move to that later on.

Terry A. asked about owner consent and educational outreach that would happen with the CLG rather than just implementing an ordinance.

- Dr. Flewelling said that owner consent requirements are typically 50/50 with communities. For educational purposes it would be best to identify who is best to reach out to.

George B. asked if there are small towns who designate the whole town as a historic district and then sort through the buildings by age.

- Dr. Flewelling said that Central City and a lot of Leadville operate under that. You would want a majority of the properties to be contributing.

Tom S. asked if there was a risk of being sued by instating this.

- Dr. Flewelling said that this is not typically considered a taking, and more considered zoning, and so should not have a case.
- Richard P.-C. said that the cases that have been won was because the ordinance implemented was not followed.

Jena S. asked about the economic viability with the expensive costs and impacting owners.

- Dr. Flewelling said that the Town does not have to permit the highest economic value, just some economic value.
- Richard P.-C. said that any use is considered an economic use. Local governments have a lot of power here.

Jeff A. asked about the length of time to go through the CLG process to get qualified.

- Dr. Flewelling said that it depends on how long it takes to get the ordinances passed and the commission appointed. Need to work out what the general idea that you are working towards is. Could be done in a year.

Terry A. asked if we just did landmark designation, then would they still be able to apply for state grants and tax credits.

- Dr. Flewelling said that State Historic funds can be applied for through the government or a non-profit, but the tax credits are just for CLG.

Lynn T. asked about saving buildings while being able to build on other portions of the lot.

- Dr. Flewelling said that there are governing documents for additions.

Public Comment was opened.

Kit Austin, Pierce Austin Architects, 1650 Fallridge Road, Suite C-1, Vail.

Should consider what property rights will look like in Minturn. Encourages “spot zoning” rather than a blanket historic district.

- Dr. Flewelling said that the review criteria for demolition is up to the Town for what is appropriate to your area.

Kelly Toon, 531 Main Street.

Our community used to be that of workers, but now is seen as an investment. Some people from outside Minturn say that the buildings are old but not significant, but they are significant to the people who live here. Would like to have a review of old buildings before it is demolished. Would advise the community to invest in itself.

Greg Sparhawk, 245 Pine Street.

In favor of a district. It provides people flexibility in implementing guidelines which could allow us to preserve the character while allowing for development that compliments the existing structures.

- Lynn F. suggested a citizen committee.

Larry Stone, 152 Main Street.

There is redeeming value in taking heed to what exists. Believes in the vision of great architects. People in this community can take down an old structure and rebuild a great product. We try to hold onto the material things, but what we are really trying to hold onto is what people bring to the community. Having something simple that preserves the idea that we revere the past is supported. If buildings are taken down, it would be nice for the property owner to allow others to utilize some of the materials from those buildings.

Susan Morrison, 272 Main Street.

Should keep and preserve why Minturn is Minturn. Need to realize why it is special and preserve that for the community.

Kit Austin, Pierce Austin Architects, 1650 Fallridge Road, Suite C-1, Vail.

Needs to defend MR Minturn because the Mountain Peddler building was unsalvageable. Property owners should not be shoehorned into keeping buildings they don't want on their property.

- Tom S. asked if we should allow property owners to come in and demolish every building.
- Mr. Austin said that not everyone has to build to the volume that is allowed.

Public comment closed.

Terry A. does not really want to infringe on property rights, but people come here for a reason and it is the visual eye candy. Sometimes property owners look to their future. Are they looking to invest in the community? The Council needs to look to the futures. Why do people come to Minturn? They come to the historic, funky town and if you get rid of that, then people stop coming. The people want this district so we should be looking into this. If it is just a couple of ordinances then opportunities could be missed. A CLG would be beneficial. There are people in this town that could serve in this role.

Lynn T. thinks there are a lot of options concerning the CLG. The community public and the tourism public would be supportive of this. People love that we are different.

Tom P. wants to know what the objective is.

- Terry A. said the Historic Preservation Commission is the goal.
- Lynn F. believes that we need to start tackling this now and cannot wait for the Community Plan Steering Committee.
- Tom P. believes that there should be some synergy between the Community Plan Update and any discussion of historic districts.
- Richard P.-C. advised that the moratoria cannot be extended forever and so this should be moved along.
- Michelle M. suggested that a sub-committee that could report to the Steering Committee.
- Terry A. suggested that the committee report to Planning Commission as well on a monthly basis.

Jena S. said that part of the problem with development in Minturn is that there isn't clear direction. Would like a hybrid form-based code for existing and new. The most profitable form of tourism is historical tourism. Would like to look at uses. Would like to look into flexibility in the code to preserve really cool things. Need to make sure that the Town has accepted what the repercussions are. The Town should have first rights to purchase when historic buildings go up for sale.

Tom S. thinks it is very important to think about how the historic district will affect everyone. Would like to extend the district from the 100 Block to at least the 500 Block.

Direction was given to establish a committee to look into establishing a historic district and/or a CLG reporting to the Planning Director and making recommendations to the

Planning Commission and Town Council and should be formed by a Planning Commissioner and interested citizens.

Note: 5 minute recess called at 8:46 pm.

Note: Mayor Pro Tem Terry A. did not return after the recess.

7. Moratorium Extension – Joint Discussion between Planning Commission and Town Council with Regard to 100 Block Development Moratorium

Richard P.-C. introduced the topic. We have two emergency moratoria in place that expire in a little over a month so we should look into extending the moratoria for 6 months – one year. Seeking direction from Council and Planning Commission. We do have a demolition ordinance teed up.

Gusty K. would be in favor of extending it.

Tom S. thinks we need longer than 6 months.

Scot H. said that 9 months is reasonable. Need to determine what the end goal is. Is it definition on Chapter 18 and the demo, or is it after the CLG/historic district has been formed.

- Richard P.-C. said that amending Chapter 18 would be a Town wide change, while the moratorium is specific to the 100 Block. In terms of duration, he would recommend that we start with an additional 6 months. Don't want to leave it open ended.
- Michelle M. asked about the reasonability of 9 months given all of the topics that are being juggled.
- Richard P.-C. said that 9 months is reasonable and clarified that it would be 9 months from when it is passed.

Direction given was a 9 month extension to the moratorium.

A recess was called at 9:03 pm.

When the recess ended Mayor Earle Bidez and Town Council members George Brodin, Lynn Feiger, Eric Gotthelf, Gusty Kanakis, and Tom Sullivan had left.

Planning Commission members remaining were Lynn Teach, Tom Priest, Jena Skinner, Chris Manning, Elliot Hovey, and Jeff Armistead.

DESIGN REVIEW AND LAND USE PUBLIC HEARINGS

8. 996 Main Street – Bovino-Young Residence Alteration of Approved Plans for New Single Family Residence

Review and approval of minor alterations to plans originally approved April 28, 2021.

Recommendation: Approval with Conditions

Scot H. introduced the project.

Michael Pukas, PO Box 288, Gypsum, CO 81637.

Encountered groundwater early in the project and so had to make some changes. Needed to raise the foundation so it isn't as deep, as well as raise the building slightly. Can no longer do a full basement, so instead have two crawlspaces. The patio will be built about 18" above grade which will be maintained by boulders and a retaining wall.

Public Comment opened.

Kit Austin, Pierce Austin Architects, 1650 Fallridge Road, Suite C-1, Vail.

He spoke about the size of the building in relation to another project in Town.

Public Comment closed.

Motion by Tom P., second by Jena S., to approve the alteration of approved plans for 996 Main Street with one condition. Motion passed 5-0.

Note: Elliot H. is attending in his status as an alternate.

1. The Applicant shall provide written evidence of an executed encroachment agreement by and between the Eagle River Water and Sanitation District and the Applicant for minor above grade improvements of a patio into the 20 foot Sanitary Sewer Line Easement.

9. Ordinance No. (TBD) – Series 2021

An ordinance of the Town of Minturn, Colorado, amending Chapter 16 of the Minturn Municipal Code to provide for the rezoning of the Grouse Creek Commercial Zone District, the Old Town Character Area (100 Block Commercial Zone District, Commercial Zone District, and Mixed-Use Zone District), and the South Town Commercial Zone District.

Recommendation: Approval

Scot H. introduced the ordinance. It would amend Chapter 16 to clearly define the separation of street level vs. second level, adding institutional uses, and implementing ground level retail.

Richard P.-C. said that according to RLUIPA there cannot be a total exclusion of religious uses, and so have taken the opportunity to rectify that. Will need to change the limited use standards on the way to Council.

Public Comment was opened.

Kit Austin, Pierce Austin Architects, 1650 Fallridge Road, Suite C-1, Vail.

Asked if institutional uses are what we want in the 100 Block.

- Scot H. clarified that it would be on the second floor.

Public Comment was closed.

Jeff A. asked if this would make St. Patrick's church non-conforming.

- Richard P.-C. clarified that it was approved under a Conditional Use Permit.

Jeff A. asked if the Saloon and the Eagle River Inn are part of the 100 Block.

- Scot H. said that we have contemplated including them in the past, but the existing condition is that they are not part of the 100 Block.

Tim McGuire, 164 Railroad Ave.

Looking at the zoning maps and the description, it is pretty clear that his property is part of the commercial zone, but not the 100 Block. There are no sidewalks to the Trade Center and it has historically been used for offices and residences, so doesn't feel like it is part of the 100 Block.

Motion by Jeff A., second by Chris M., to recommend to the Town Council approval of an ordinance of the Town of Minturn, Colorado, amending Chapter 16 of the Minturn Municipal Code to provide for the rezoning of the Grouse Creek Commercial Zone District, the Old Town Character Area (100 Block Commercial Zone District, Commercial Zone District, and Mixed-Use Zone District), and the South Town Commercial Zone District with the changes to the Limited Use Standards for the Institutional Uses. Motion passed 5-0.

Note: Elliot H. is attending in his status as an alternate.

PROJECTS AND UPDATES

10. Project Updates

- Community Plan Update
 - The Steering Committee will be meeting on November 16th
 - The SE Group is in the information gathering stage

11. Planning Director Report & Minor DRB Approvals by Director

- None

12. Future Meetings

- November 10, 2021
 - Tom P. will be attending virtually
- November 24, 2021
 - Could move to November 23 or earlier in the week

13. Future Meeting Dates Discussion/Decision

- November 24, 2021
- December 22, 2021

14. Adjournment

Motion by Jeff A., second by Jena S., to adjourn the regular meeting of October 27, 2021 at 9:39 pm. Motion passed 5-0.

Note: Elliot H. is attending in his status as an alternate.

Lynn Teach, Commission Chair

ATTEST:

Scot Hunn, Planning Director

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
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Office: 970.945.2261

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[*Direct Mail to Glenwood Springs](#)

DATE: November 5, 2021
TO: Minturn Planning Commission
FROM: Karp Neu Hanlon, P.C.
RE: Backyard Chicken Ordinance

Under cover of this memo is a proposed ordinance as directed by Town Council to regulate backyard chickens as a land use. 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 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

The attached ordinance is closely based on the Glenwood Springs backyard chicken ordinance which has been very successful in allowing this use while mitigating any nuisance conditions it creates.

TOWN OF MINTURN, COLORADO
ORDINANCE NO. __ – SERIES 2021

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

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

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

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

WHEREAS, on November 10, 2021 the Minturn Planning Commission recommended approval of this ordinance; and

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

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

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

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

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE ____ DAY OF _____ 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 ____ DAY OF _____ 2021 AT ____ 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 ___ DAY OF _____ 2021.

TOWN OF MINTURN, COLORADO

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

ARTICLE 2 - Definitions, Illustrations and Lot Standards

Sec. 16-2-20. – Definitions.

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

* * *

Chicken coop means an enclosed and secured facility for housing chicken hens.

* * *

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

* * *

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

* * *

ARTICLE 17 - Supplemental Regulations and Standards

* * *

Sec. 16-17-210. - Backyard Chickens.

The following requirements, restrictions, and standards shall apply to backyard chicken use. No other animals not otherwise allowed as “pet animals” by Article 9, Chapter 7 of this Code may be kept in the Town.

- (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 all zone districts, subject to the restrictions in this Article.

- (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 two thousand five hundred (2,500) 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 Town 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.

Minturn Planning Department
Minturn Town Center
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Minturn Planning Commission
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To: Planning Commission
From: Scot Hunn, Planning Director
Date: November 8, 2021
Re: 30 Foot Live Stream Setback

At the direction of the Town Council, staff has been asked to review the current 30 foot live stream setback regulations found in Chapter 16 - *Zoning* of the Minturn Municipal Code to ensure that the current language - and the Town’s ability to interpret and enforce the regulations - is clear and consistent with the policy goals of the Town.

Section 16-2-50 - Specific lot requirements and dimensional standards, MMC, currently contains the following language:

(b) Live stream setback. A strip of land measured horizontally from the ordinary high water mark on each side of any live stream, river, or creek shall be protected in its natural state free from human made structures or other improvements and appurtenances, and vegetated with natural riparian vegetation. If necessary to protect the live stream, river or creek, additional setback distances may be required by the Planning Commission. The following exceptions may be considered by the Planning Commission and/or the Town Council on a case-by-case basis:

(1) Underground utilities may be located in the live stream river or creek setback; provided, however, that there is no practical alternative location for such utilities, and that plans and/or reports related to proposed disturbance within the setback area are prepared by qualified professionals showing limits of disturbance, erosion control measures and revegetation are approved by the Town Council.

(2) Roof overhangs may project a maximum of eighteen (18) inches into the live stream setback if the Planning Commission determines that such encroachments do not detrimentally impact the proper, natural functioning of the protected live stream setback area.

Of interest to the staff for the purpose of this discussion with the Planning Commission is how, if at all, this language addresses activities by individual property owners - including the Town of Minturn - within the setback area for mowing of grass or native riparian vegetation, for instance, or other modifications that do not constitute an “improvement” but which may have an impact on

the health and functioning of the riparian area and the protections sought within the 30 foot live stream setback area:

At issue or in question are the following:

- 1) The Town is aware of several property owners along the Eagle River, including the Town of Minturn (at Eagle River Park in the 100-Block), who have historically maintained areas that may be within the 30 foot setback areas by mowing of vegetation.
- 2) “Improvement” is not defined in the Town Code.
- 3) Is mowing considered an improvement?
- 4) Is mowing contrary to protection of areas in their natural state?
- 5) If so, should the Code language be amended to specifically address mowing or other trimming or pruning of vegetation?
- 6) Or, does mowing or trimming still allow for areas to be maintained and protected in their “natural state” - as a matter of performing natural functions - so long as structures or other “improvements” are not constructed within the setback area?

If the Planning Commission feels that mowing, pruning and/or trimming of vegetation within the 30 foot setback is contrary to the intent of the setback regulation, and that the Code should be amended to specifically address such activities, staff provides the following amended language to sub-paragraph (b) as a potential solution:

“...any live stream, river, or creek shall be protected in its natural state free from human **modifications or** human made structures or other improvements and appurtenances, and vegetated with natural riparian vegetation. **Prohibited modifications include mowing, pruning, trimming or removal of vegetation unless approved by the Town upon showing by the property owner that such vegetation is dead or diseased.**”