



Minturn Forward Memo

TO: Minturn Planning Commission
FROM: Matt Farrar, Western Slope Consulting
DATE: October 4, 2024
ATTACHMENTS: Initial draft of Article 12: Environmental Impact Report

To assist the Planning Commission with their review of the initial draft of Article 12: Environmental Impact Report, this memo lists the key changes that have been made to Minturn’s existing requirements set forth in [Article 20](#).

Delegating Authority to Planning Director

The existing Code language makes the Planning Commission responsible for determining if a Preliminary Environmental Assessment and an Environmental Impact Report are required as part of an application for a proposed development. This is problematic for several reasons, most notably an applicant doesn’t know if a Preliminary Environmental Assessment or an Environmental Impact Report will be required until their application is under review by the Planning Commission.

Further, the review by the Planning Commission occurs after an application has been deemed complete by Town staff and the application has been reviewed by Town staff and referral agencies. Therefore, if the Planning Commission requires an applicant to submit a Preliminary Environmental Assessment and an Environmental Impact Report, the application review process must be put on hold until those items can be prepared by the applicant, submitted to the Town, reviewed by Town staff and referral agencies, and then provided to the Planning Commission for review.

To improve the application review process, the updated Code language (set forth in the initial draft of Article 12) makes the Planning Director responsible for determining if a Preliminary Environmental Assessment and an Environmental Impact Report are required for a proposed development. The updated Code language also makes the following changes:

1. If required by the Planning Director, an applicant must submit a Preliminary Environmental Assessment as part of the application for their proposed development. The Planning Director makes this determination before an application is submitted to the Town.
2. The Planning Director, along with the Town Engineer or other staff members, reviews the Preliminary Environmental Assessment as part of the completeness review for an application. If, based on the findings of the Preliminary Environmental Assessment, the Planning Director determines that an Environmental Impact Report is required, the applicant must submit the report to the Town before their application can be deemed complete. An application must be deemed complete by the Planning

Director before it can be sent out to referral agencies for review and scheduled for review by the Planning Commission and Town Council (as applicable).

The updated Code language allows the applicant and Town staff to address a Preliminary Environmental Assessment and an Environmental Impact Report before an application is sent to referral agencies and the application is reviewed by the Planning Commission and Town Council (as applicable).

Both the Planning Commission and the Town Council continue to have the authority to request additional information as part of their review of an application. Therefore, if the Planning Commission and/or Town Council determines an Environmental Impact Report has insufficient information, they can request additional information from an applicant.

Cost and Fees

The existing Code language that addresses costs and fees associated with an Environmental Impact Report (refer to [Section 16-20-70](#)) has been removed. Costs and fees associated with any type of land use or subdivision application are addressed by the Town's fee schedule.

Section 16-12-20: Preliminary Environmental Assessment

- The language for the list of items required to be addressed via a Preliminary Environmental Assessment has been modified to clarify intent.
- The following changes have been added to the list of items required to be addressed via a Preliminary Environmental Assessment:
 - #2 has been modified to include environmentally sensitive areas, such as wetlands.
 - #7 is a new item that has been added to address sites that might be contaminated by historic or current use.
 - #11 has been modified to address odor that is *"...harmful to the rights of others to enjoy their property."* The existing Code language addresses odor that is *"...objectionable or damaging."* Staff is recommending this change because *"objectionable"* odor is subjective and may present interpretive challenges.
 - #15 has been modified to address noise that *"...exceeds the Town's standards."* The existing Code language addresses noise that *"...may be offensive or damaging."* Staff is recommending this change because *"offensive"* noise is subjective and may present interpretive challenges.
 - #17 has been modified to state: *"Alter a site that is identified in a plan adopted by the Town as desirable for recreational purposes or open space."*

The existing Code states: *"By preempting a site that is desirable for recreational uses or planned open space."*

Staff is recommending this change because the existing Code language seems arbitrary.

- #19 is a new item that has been added to address potential fiscal impacts from a proposed development on the Town.

- #20 is a new item that has been added to address potential impacts from a proposed development on other public service providers (e.g., School District, Fire District, etc.).

Section 16-12-30: Environmental Impact Report

- The existing Code language for an Environmental Impact Report (refer to Sections 16-20-40 - 16-20-90) has been reorganized and slightly modified to clarify these requirements.
- Subsection 16-12-30(A) (formerly [Subsection 16-20-40\(a\)](#)) has been modified to eliminate the requirement for the Town to approve the “...consultants or personnel...” responsible for preparing an Environmental Impact Report on behalf on an applicant. This Subsection has been further modified to require the qualifications of the professional(s) (who prepared an Environmental Impact Report) to be clearly stated in the report. This will allow Town staff, referral agencies, the Planning Commission, and Town Council to evaluate the qualifications of said professional(s).
- Subsection 16-12-30(B) (formerly [Subsection 16-20-40\(b\)](#)) has been modified to clarify the types of technical studies and data that may be required to support an Environmental Impact Report.
- Subsection 16-12-30(F)(1) (formerly [Section 16-20-80](#)) has been modified to clarify that if the Planning Director determines that an Environmental Impact Report is required, an applicant must submit that report before their application can be deemed complete.