

**TOWN OF MINTURN, COLORADO  
ORDINANCE NO. 5, SERIES 2009**

**AN ORDINANCE AMENDING CHAPTER 1, CHAPTER 7 AND CHAPTER 16 OF THE  
MINTURN MUNICIPAL CODE BY REPEALING SECTION 1-5-20 AND REPEALING  
AND RE-ENACTING SECTIONS 1-5-10, 7-2-30, 7-2-40, 7-4-20, 16-1-20, 16-1-40, 16-1-50,  
AND 16-1-90 TO REVISE THE PROCEDURES FOR NUISANCE ENFORCEMENT  
WITHIN THE TOWN OF MINTURN**

**NOW, THEREFORE, THE TOWN OF MINTURN, COLORADO, ORDAINS** as follows:

**Section 1. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing and re-enacting Section 1-5-10, as follows:

**Section 1-5-10 Right of Entry.**

**Any authorized official of the Town is authorized to enter the structure of premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the authorized official is authorized to pursue recourse as provided by law, including the right to seek assistance from any court of competent jurisdiction to obtain such entry.**

**Section 2. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing Section 1-5-20.

**Section 3. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing and re-enacting Section 7-2-30, as follows:

**Sec. 7-2-30. Authority of Town to declare nuisances.**

Any act, condition, substance, occupation or use of property which substantially meets the criteria of a nuisance as defined in Section 7-2-10 above may be so declared by the Town Administrator, and nothing in Section 7-2-40 below shall be construed to limit the power of the Town Administrator to make such declaration.

**Section 4. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing and re-enacting Section 1-5-10, as follows:

**Sec. 7-2-40. Investigation; notice to abate nuisance.**

The Town Administrator, any police officer or any person specifically authorized by the Town Administrator shall investigate into every public nuisance within the Town. It shall further be the duty of any such Town appointed official to deliver a request for abatement to any person or persons in control of any public nuisance. Any such request for abatement shall be in writing and shall state the nature of the

nuisance or nuisances which are to be abated. and shall specify a reasonable time when such nuisance or nuisances are to be abated.

**Section 5. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing and re-enacting Section 1-5-10, as follows:

**Sec. 7-4-20. Abatement procedure.**

(a) Whenever the Town Administrator directs, the Town appointed official shall immediately thereafter notify any owner of property, his or her agent or any person having charge of such property, in writing, that an order has been made by the Town Administrator requiring the removal of any accumulated refuse from such property or premises within seven (7) days after service of the notice.

(b) If such property owner, agent or person having charge of such property does not remove such refuse in accordance with the requirement of the order, the Town Administrator may order that such refuse be removed by the Town or other agent of the Town, and assess the cost thereof against the property or premises. The amount so assessed shall be a lien upon such property until the same is paid; provided that in case of failure to pay such assessment within ten (10) days after the same is made, the Town Clerk shall cause a notice of such assessment to be given to the owner of such property by publishing in a newspaper in the Town for two (2) successive weeks, which publication shall contain a notice to such property owner of the amount assessed against his or her property, and shall designate a time and place when the Town Council will hear any objections as to the adjustment and correctness of the amount so assessed.

(c) If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, and unless the same are sustained, the Town Clerk shall certify such assessment to the County Treasurer to be placed by him on the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by state law.

**Section 6. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing and re-enacting Section 16-1-20, as follows:

**Sec. 16-1-20. Purpose of provisions.**

(a) This Chapter is drawn in accordance with the Minturn Community Plan (Master Plan) and is intended to implement said Community Plan. The purpose of this Chapter is to encourage the most appropriate use of land, to preserve and promote the Town's economy, heritage and small town qualities, and it is designed to promote the health, safety, welfare and convenience of the citizens of the Town by:

- (1) Dividing the Town into distinct Character Areas and zoning districts which control future land use through the use of land and buildings, the intensity of such use, including bulk and height, and the amount of surrounding open space;
- (2) Providing suitable transitions between areas of different land uses;
- (3) Limiting the bulk, scale and density of new and existing structures to preserve the desired character of the Town, and assuring adequate light and air;
- (4) Establishing and regulating setback lines along streets and highways, property lines and watercourses;

- (5) Minimizing adverse impacts on landowners from incompatible neighboring developments and conserving the value of property; and
- (6) Reducing the danger and congestion along Highway 24 and on Town streets.
- (b) It is the intent of the Town Council that this Chapter implement the planning policies adopted by the Town Council in the Community Plan and other related plans and planning documents. While the Town Council reaffirms its commitment that this Chapter, and any amendment to it, be in conformity with the adopted planning policies, the Town hereby expresses its intent that neither this Chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

**Section 7. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing and re-enacting Section 16-1-40, as follows:

**Sec. 16-1-40. Jurisdiction.**

Provisions of this Chapter shall be effective within the incorporated limits of the Town.

**Section 8. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing and re-enacting Section 16-1-50, as follows:

**Sec. 16-1-50. Interpretation.**

- (a) The Planning Director shall be responsible for interpreting this Chapter. Where regulations for any zoned area or general regulations of this Chapter differ for a specific condition, the more restrictive shall apply, except as approved and documented within a Planned Unit Development.
- (b) This Chapter is not intended to repeal, abrogate, annul or in any way impair or interfere with other laws or with private agreements. Where this Chapter imposes a lesser restriction than that imposed by such existing provisions of law, contract or deed, the existing provisions of such law, contract or deed shall control, except as expressly provided within this Chapter.

**Section 9. Amendment.** The Municipal Code of the Town of Minturn is amended by repealing and re-enacting Section 16-1-90, as follows:

**Sec. 16-1-90. Enforcement and penalties.**

- (a) If any land is used or any building or structure is erected, constructed, reconstructed, altered or used in violation of any provision of this Chapter, the Town Administrator, through the Town Attorney, the District Attorney or any owner of real estate within the zone district in which such land, building or structure is situated, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceedings or prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, change or use. All cost and expense incurred by the Town may be recovered in that same civil action wherein such injunction, mandamus and/or abatement is sought, or separate and distinct proceedings may be instituted seeking varying forms of relief as the law may allow.

(b) In addition to the jurisdiction, authority and duties which may be conferred upon the Planning Director by other provisions of this Chapter and the Town Administrator, the Planning Director shall have the following authority and duties under this Chapter:

- (1) Inspection: To inspect for violations of this Chapter.
- (2) Enforcement: To assist the Town Administrator and the Town Attorney in the enforcement of this Chapter.

**Section 10. Severability.** If any part, section, sub-section, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance; and the Town Council for the Town of Minturn, Colorado, hereby declares that it would have passed this Ordinance and each part, section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that any one or more parts, sections, sub-sections, sentences, clauses or phrases be declared invalid.

**Section 11. Penalty.** It is unlawful for any person to violate any provision of, or fail to comply with any of the requirements of this Ordinance. Any person who violates any provisions of this Ordinance shall be punished by a fine of not more one thousand dollars or by imprisonment for a period of not more than one (1) year, or by both such fine and imprisonment; provided, no person under the age of eighteen years shall be punished by imprisonment.

**Section 12.** The repeal or the repeal and re-enactment of any provision of the Minturn Municipal Code as provided in this ordinance shall not affect any right which has accrued, and duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision repealed or repealed and re-enacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING, APPROVED AND ORDERED PUBLISHED IN FULL THE 19 DAY OF August, 2009. 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 2 day of September, 2009, at 7 P.M. in the Minturn Town Center 302 Pine Street, in the Town of Minturn, Colorado.

  
Mayor

Attest:

  
Town Clerk



INTRODUCED, READ BY TITLE, PASSED ON SECOND READING, APPROVED AND ORDERED PUBLISHED IN FULL THIS 2 DAY OF September, 2009.

Geary Brall  
Mayor

Attest:

[Signature]  
Town Clerk



## TOWN OF MINTURN ORDINANCE CHECKLIST

### FIRST READING

\_\_\_\_\_ The ordinance shall be introduced and read by title at any regular or special meeting. Copies shall be available to the public.

\_\_\_\_\_ If the ordinance is approved on first reading, Mayor and Clerk must sign ordinance after first reading. It shall be published in full in a newspaper of general circulation within the Town. The minutes shall reflect number of votes for and against each ordinance.

\_\_\_\_\_ If the ordinance is tabled, it shall be reconsidered at subsequent meetings until it is approved with or without amendment or rejected by vote of the Council.

\_\_\_\_\_ The Council shall set a day, hour and place at which the Council shall hold a public hearing on the ordinance, and notice of such day, hour and place shall be included in the first publication.

### SECOND READING

9/2/09 *Publish Date = Tuesday 9/8/09*  
\_\_\_\_\_ The ordinance shall be introduced a second time at the meeting at which the public hearing on the ordinance is held. The ordinance may be read by title only on second reading. The ordinance may be amended before final approval or rejection by vote of the Council. The text of any such amendment or amendments shall be read in full.

✓ \_\_\_\_\_ If the ordinance is substantially amended it shall be published in full after final passage. If not amended in substance, it may be published either by title or in full, as the Council may determine, after final passage.

✓ \_\_\_\_\_ The minutes shall reflect the number of votes for and against the ordinance.

✓ \_\_\_\_\_ A true copy of every ordinance shall be numbered and recorded in the official records of the Town. Its adoption and publication shall be authenticated by the signatures of the Mayor or Mayor Pro Tem and the Town Clerk and by the certificate of publication. Proof of publication for both readings shall be attached to the ordinance.

\_\_\_\_\_ The effective date of ordinances is seven (7) days after publication following final passage unless a later date is prescribed in the ordinance.