

TOWN OF MINTURN, COLORADO

ORDINANCE NO. 7 SERIES 2012

AN ORDINANCE PROHIBITING MEDICAL MARIJUANA CENTERS, INFUSED PRODUCT MANUFACTURERS AND OPTIONAL CULTIVATION OPERATIONS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF

WHEREAS, the Town of Minturn, in the County of Eagle and State of Colorado is a home rule municipal corporation duly organized and existing under the laws of the State of Colorado and the Town Charter; and

WHEREAS, the members of the Town Council have been duly elected and qualified; and

WHEREAS, the Colorado Legislature has adopted legislation which, in pertinent part, added a new Article 43.3 to Title 12 of the Colorado Revised Statutes, to be known as the Colorado Medical Marijuana Code; and

WHEREAS, the Colorado Medical Marijuana Code clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution, Article XVIII, §14, and at the same time authorizes a regulatory scheme for the retail sale, distribution, cultivation and dispensing of medical marijuana known as a "Medical Marijuana Center," and further authorizes licensing mechanisms known as an "Optional Premises Cultivation Operation" and a "Medical Marijuana-Infused Products Manufacturers' License"; and

WHEREAS, C.R.S. §12-43.3-106 specifically authorizes the governing body of a municipality to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses"; and

WHEREAS, C.R.S. §12-43.3-310 specifically authorizes a municipality "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses . . . based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than this article"; and

WHEREAS, C.R.S. §12-43.3-308(1)(c) provides that the state and local licensing authorities shall not receive or act upon a new application pursuant to the Colorado Medical Marijuana Code "for a location in an area where the cultivation, manufacture, and sale of medical marijuana as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county"; and

WHEREAS, the Council has carefully considered Article XVIII, §14 of the Colorado Constitution, the Colorado Medical Marijuana Code, and the secondary effects of medical marijuana centers, optional premises cultivation operations, and medical infused products manufacturing on the health, safety and welfare of the Town of Minturn and its inhabitants.

NOW, THEREFORE, THE TOWN OF MINTURN, COLORADO, ORDAINS:

Section 1. Amendment. The Municipal Code of the Town of Minturn is amended by the addition of a Chapter 10, Article 14 as follows:

Sec. 10-14-10. Intent, authority and applicability.

(a) Intent. It is the intent of this Article to prohibit certain land uses related to medical marijuana, and in furtherance of its intent, the Town Council makes the following findings:

(1) The Colorado Medical Marijuana Code, Section 12-43.3-101, et seq., C.R.S., clarifies Colorado law regarding the scope and extent of Article XVIII, § 14 of the Colorado Constitution.

(2) The Colorado Medical Marijuana Code specifically authorizes the governing body of a municipality to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses."

(3) The Colorado Medical Marijuana Code specifically authorizes a municipality "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses...based on local government zoning, health, safety and public welfare laws for the distribution of medical marijuana."

(4) Based on careful consideration of the Colorado Medical Marijuana Code, Article XVIII, § 14 of the Colorado Constitution, and the potential secondary effects of the cultivation and dispensing of medical marijuana, and the retail sale, distribution and manufacturing of medical marijuana-infused products, such land uses have an adverse effect on the health, safety and welfare of the Town and its inhabitants.

(5) As a matter of the Town's local land use and zoning authority, and consistent with the authorization provided by the Colorado Medical Marijuana Code, no suitable location exists within the Town for the operation of medical marijuana centers, medical marijuana cultivation operations or medical marijuana-infused products manufacturing.

(6) Patients and primary caregivers should otherwise be afforded the protections of Article XVIII, § 14 of the Colorado Constitution, pursuant to applicable law.

(b) Authority. The Town's authority to adopt this Section is found in: the Colorado Medical Marijuana Code, Section 12-43.3-101, et seq.; C.R.S., the Local Government Land Use Control Enabling Act, Section 29-20-101, et seq., C.R.S.; Section 31-23-101, et seq., C.R.S. (municipal zoning powers); Sections 31-15-103 and 31-15-401, C.R.S. (municipal police powers); and Section 31-15-501, C.R.S. (municipal authority to regulate businesses).

(c) Applicability. This Article shall apply to all property within the Town.

Sec. 10-14-20. Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Medical marijuana means marijuana that is grown and sold for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution.

Medical marijuana center means a person licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana and medical marijuana-infused products to registered patients or primary caregivers as defined in Article XVIII, § 14 of the Colorado Constitution, but is not a primary caregiver, and which a municipality is authorized to prohibit as a matter of law.

Medical marijuana-infused products manufacturer means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business manufacturing medical marijuana-infused products, and which a municipality is authorized to prohibit as a matter of law.

Optional premises cultivation operation means a person licensed pursuant to the Colorado Medical Marijuana Code to grow and cultivate marijuana for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution, and which a municipality is authorized to prohibit as a matter of law.

Patient has the meaning set forth in Article XVIII, § 14(1) (c) of the Colorado Constitution.

Primary caregiver has the meaning set forth in Article XVIII, § 14(1) (f) of the Colorado Constitution.

Sec. 10-14-30. Uses prohibited, penalty, patients and primary caregivers.

(a) Uses prohibited. It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center, an optional premises cultivation operation or a medical marijuana-infused products manufacturing facility in the Town.

(b) Penalty. A violation of the provisions of this Article shall be punishable as follows:

- (1) Each and every day a violation of the provisions of this Article is committed, exists or continues shall be deemed a separate offense;
- (2) The Town is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate or remove the violation;
- (3) Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity; and
- (4) In addition to any other penalties that may exist under state, federal and local laws, violation of this Section shall be punishable by a fine not exceeding one thousand dollars

(\$1,000.00), or by imprisonment not exceeding one (1) year, or both such fine and imprisonment, as set forth in Section 1-4-20 of this Code.

(c) Patients and primary caregivers. Nothing in this Section shall be construed to affect the protections of the use of medical marijuana by patients as provided in Article XVIII, § 14 of the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with Article XVIII, § 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and rules promulgated thereunder.

Section 2. Severability. If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining provisions of this Ordinance will remain valid, it being the intent of the Town of Minturn that the provisions of this Ordinance are severable.

Section 3. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

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 16th DAY OF MAY, 2012. 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 JUNE, 2012 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

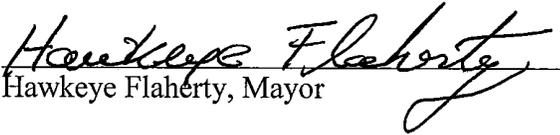

Hawkeye Flaherty, Mayor

ATTEST:

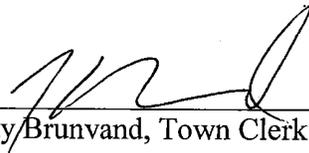
By: 
Jay Brunvand, Town Clerk



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 JUNE, 2012.


Hawkeye Flaherty, Mayor

ATTEST:


Jay Brunvand, Town Clerk

