

**TOWN OF MINTURN, COLORADO
ORDINANCE 10 - SERIES OF 2012**

**AN EMERGENCY ORDINANCE AMENDING ARTICLE 10, CHAPTER 7 OF
THE MINTURN MUNICIPAL CODE, ENACTING IMMEDIATE FIRE BAN IN
THE TOWN OF MINTURN AND IMPOSING PENALTIES FOR VIOLATION
THEREOF**

WHEREAS, the Town of Minturn (“Town”) is a home rule authority municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law; and

WHEREAS, the Town Council finds and determines that the Town’s geographic location and unusual recent warm weather conditions, lack of precipitation, and heavy fuel loading create a threat of wildfire in and around the Town and furthermore the Town Council takes notice of the numerous wildfire occurrences throughout Colorado and other western states; and

WHEREAS, the public awareness and compliance with fire bans is most efficiently promoted with consistent regulations across Eagle County and the Town of Minturn jurisdictions and therefore the Town Council desires to adopt and apply the fire restrictions enacted by the County in coordination with the Eagle River Fire Protection District; and

WHEREAS, the Town Council recognizes that adoption of this Ordinance through the first and second reading process will not result in the timely adoption and effectiveness of regulations which are necessary for the immediate preservation of the public health and safety; and

WHEREAS, the Town Council conducted a public hearing on July 18, 2012 at the Minturn Town Hall, after posting notice of such public hearing in accordance with the Minturn Home Rule Charter and Municipal Code.

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

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Amendments to Chapter 7. Chapter 7 is amended to enact a new Article 10, Section 7.10.010 and 7.10.020 to read as follows:

Article 10. Emergency Restrictions.

“7.10.010 Severe Wildfire Conditions Fire Restrictions. The Town Council and/or Town Manager may declare that severe wildfire conditions exist and may further declare that fire restrictions adopted by the Eagle River Fire Protection District and/or County of Eagle shall be applicable in the Town of Minturn. Any fire restrictions adopted in accordance with this Section 7.10.010 shall become effective immediately and shall supersede any provision of the Minturn Municipal

Code which is inconsistent with such restriction. Notice of the adoption of such additional fire restrictions shall be posted immediately in accordance with the Town's general posting requirements adopted in accordance with the Minturn Home Rule Charter. The Town of Minturn shall be authorized to erect such signage and post such notices as deemed appropriate to notify the general public. The Town Council and/or Town Manager may rescind the additional fire restrictions adopted in accordance with this Section 7.10.010 when determined by Town that the conditions warranting such additional fire restriction no longer exist.

7.10.020 Violation – Penalty. Any person violating any of the provisions of this Chapter shall be deemed to have committed an offense for each and every day or portion thereof during which any infraction is committed, continued or permitted and shall be subject to the General Penalty set forth in Section 1.4.20 of this Code.”

Section 3. Declaration. The Town Council hereby declares that the immediate adoption of regulations concerning severe wildfire conditions fire restriction is necessary to the immediate preservation of the public health and safety. The Town Council further declares that severe wildfire conditions exist and immediately adopt the fire restrictions adopted by the County of Eagle and Eagle River Fire Protection District. Based upon all of the foregoing, the Council finds and declares that there is reasonable justification for the adoption of this Ordinance as an emergency measure, that this Ordinance is necessary for the immediate preservation of the public peace, health, safety and property of the Town of Minturn and inhabitants thereof, and that this Ordinance shall therefore take effect immediately upon adoption as provided by Section 11.7 of the Minturn Home Rule Charter.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Effective Date. This Ordinance shall take effect immediately public notice following final passage in accordance with the Minturn Home Rule Charter.

Section 6. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Minturn, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and

welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 8. Publication by Posting. The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on first and final reading by posting in accordance with the Minturn Municipal Code.

INTRODUCED, READ BY TITLE AND UNANIMOUSLY APPROVED BY ALL COUNCIL MEMBERS PRESENT this 18th day of July, 2012, and the Town of Minturn ordains this ordinance enacted as an emergency ordinance and ordered published in full within ten days of passage thereof in accordance with the Minturn Municipal Code and Home Rule Charter.


Mayor

Attest:


Town Clerk

