TOWN OF MINTURN, COLORADO
ORDINANCE NO. 5 - SERIES 2013

AN ORDINANCE TO AMEND CHAPTER 16 OF THE MINTURN MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW CHAPTER 16 – ARTICLE 24 PROHIBITING THE OPERATION OF MARIJUANA CLUBS, MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES AND RETAIL MARIJUANA STORES

WHEREAS, the Town of Minturn ("Town") is a home rule municipality duly organized and existing under Articles XX of the Colorado Constitution and the Town's Home Rule Charter effective April 6, 1982; and

WHEREAS, the Town, by virtue of its Home Rule status, may adopt such ordinances relative to local municipal matters as are necessary to effectuate the purposes and intent of the powers granted to municipalities.

WHEREAS, on November 6, 2012, the voters of the state of Colorado approved Amendment 64 enacted as Article XVIII, Section 16 of the Colorado Constitution ("Amendment 64"), which authorizes the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores (collectively, "marijuana establishments") but allows municipalities to prohibit by ordinance the operation of marijuana establishments; and

WHEREAS, the Town Council has carefully considered the provisions of Article XVIII, Section 16 of the Colorado Constitution, and the impact of the operation of marijuana establishments on the health, safety and welfare of the Town and the inhabitants thereof, and has determined, as an exercise of its local land use authority, that such marijuana establishments shall not be located within the corporate limits of the Town; and

WHEREAS, Amendment 64 provides in part that the consumption of marijuana shall not be conducted openly and publicly; and

WHEREAS, the Town Council finds that the personal use of marijuana within the meaning of Amendment 64 does not contemplate the open and public consumption of marijuana for personal use in a place of assembly that allows members, their guests, and any other person to consume marijuana; and

WHEREAS, the Town Council finds and declares that it is necessary to the preservation and furtherance of the health, safety and welfare of the citizens of the Town to prohibit the operation of marijuana establishments within the Town of Minturn.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Minturn, Colorado that:

Section 1. Adoption of Chapter 16 – Article 24 of the Town of Minturn Municipal Code:

The Town of Minturn Municipal Code is amended by the addition thereto of a new Chapter 16 Article 24 entitled "Marijuana Establishments" to read as follows:

Chapter 16 - Article 24

MARIJUANA ESTABLISHMENTS

Sections:

16-24-10 Authority

16-24-20 Definitions

16-24-30 Uses Prohibited

16-24-40 Penalties; Nuisance Declared

Section 16-24-10 Authority

The Town Council hereby finds and determines and declares that it has the power and authority to adopt this Chapter pursuant to the following:

1. Article XVIII, Section 16 of the Colorado Constitution;

2. The authority granted to home rule municipalities by Article XX of the Colorado Constitution;

3. The powers contained in the Town of Minturn Home Rule Charter;

4. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;

5. Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);

6. Section 31-15-103, C.R.S. (concerning municipal police powers);

7. Section 31-15-401, C.R.S. (concerning municipal police powers); and

8. Section 31-15-501, C.R.S. (concerning municipal authority to regulate

businesses.

Section 16-24-20 Definitions

The following words, terms and phrases when used in this Chapter shall have the following meanings unless the context clearly indicates otherwise:

A. "Marijuana" or "marihuana" means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" or "marijhuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seed of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

B. "Marijuana club" means an entity or place of assembly that allows members and their guests, or any other persons, to consume marijuana or marijuana products whether for-profit or not-for-profit. Marijuana clubs shall not include social gatherings within a residential zone of adults 21 years of age and older, where a fee is not charged, or goods are not sold, or no profit is made by the individual or entity hosting the gathering.

C. "Marijuana cultivation facility" means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

D. "Marijuana establishment" means a marijuana cultivation facility, marijuana testing facility, marijuana product manufacturing facility, or a retail marijuana store.

E. "Marijuana product manufacturing facility" means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

F. "Marijuana products" means concentrated marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

G. "Marijuana testing facility" means an entity licensed to analyze and certify the safety and potency of marijuana.

H. "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

I. "Retail marijuana store" means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana products manufacturing facilities and to sell marijuana and marijuana products to consumers.

Section 16-24-30 Uses Prohibited.

A. It is unlawful for any person to operate, cause to be operated, or permit to be operated, any marijuana establishment or marijuana club within the Town, and all such uses are hereby prohibited in any location within the Town.

B. Marijuana establishments and marijuana clubs may not be operated as a primary land use, or as an incidental activity to another lawful land use, or as a home occupation.

Section 16-24-40 Penalties; Nuisance Declared.

A violation of the provisions of this Chapter shall be punishable as follows:

A. By a fine or imprisonment, or both, pursuant to Section 1-4-10 and 1-4-20 of this Code. Each day that a violation of any provision of this Chapter continues to exist shall be deemed a separate and distinct violation.

B. The conduct of any activity or business in violation of this Chapter is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the enforcement of such nuisance as defined in the Minturn Municipal Code.

C. The Town is specifically authorized to seek an injunction, abatement, restitution, or any other remedy necessary to prevent, enjoin, abate, or remove the violation.

D. Any remedies provided for herein shall be cumulative and exclusive and shall be in addition to any other remedies provided by law or in equity.

SECTION 2. 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 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 3. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Minturn and the inhabitants thereof.

SECTION 4. 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 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 AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THE 1ST DAY OF MAY, 2013. 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 15TH DAY OF MAY, 2013 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

Hawkeye Flaherty

Hawkeye Flaherty, Mayor

ATTEST:

By: _____

Jay Brunvand, Town Clerk

TOWN OF MINTURN, COLORADO SEAL 1904

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 15TH DAY OF MAY, 2013.

Hawkeye Flaherty

Hawkeye Flaherty, Mayor

ATTEST:

_____

Jay Brunvand, Town Clerk

TOWN OF MINTURN, COLORADO SEAL 1904

Thu, May 02, 2013 11:15:08

9155521

Ad Ticket #5

Acct: 1032852 **Name:** Town of Minturn

Phone: (970)827-5645 **Address:** P.O. Box 309

E-Mail: MANAGER@MINTURN.OR

Client:

Caller: Jay **City:** MINTURN

Receipt **State:** CO **Zip:** 81645

Ad Name: 9155521A **Original Id:** 0

Editions: 8VD/8VDI/ **Class:** 0990

Start: 05/03/13 **Stop:** 05/03/13

Color: **Issue** 1

Copyline: 1- ORDINANCE NO. 5 - SERIES 201 **Rep:** Pam Schultz

Lines:	33
Depth:	2.76
Columns:	1
Discount:	0.00
Commission:	0.00
Net:	0.00
Tax:	0.00
Total	17.16
Payment	0.00

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TOWN OF MINTURN, COLORADO

Hawkeye Flaherty, Mayor

ATTEST:
By: Jay Brunvand, Town Clerk

Published in the Vail Daily May 6, 2013. (9155521)

Ad shown is not actual print size

Thu, May 16, 2013 12:23:38

9193167

Ad Ticket #5

Acct: 1032852 **Name:** Town of Minturn

Phone: (970)827-5645 **Address:** P.O. Box 309

E-Mail: MANAGER@MINTURN.OR

Client:

Caller: Jay Brunvand **City:** MINTURN

Receipt **State:** CO **Zip:** 81645

Ad Name: 9193167A **Original Id:** 0

Editions: 8VD/8VDI/ **Class:** 0990

Start: 05/17/13 **Stop:** 05/17/13

Color: **Issue** 1

Copyline: ORDINANCE NO. 5 - SERIES 2013 **Rep:** Pam Schultz

Lines:	27
Depth:	2.26
Columns:	1
Discount:	0.00
Commission:	0.00
Net:	0.00
Tax:	0.00
Total	14.04
Payment	0.00

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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 15TH DAY OF MAY, 2013.

Hawkeye Flaherty, Mayor
ATTEST:

Jay Brunvand, Town Clerk

Published in the Vail Daily May 17, 2013. (9193167)

Ad shown is not actual print size