TOWN OF MINTURN, COLORADO

ORDINANCE NO. 8 – SERIES 2013

AN ORDINANCE OF THE TOWN OF MINTURN, AMENDING CHAPTER 10 OF THE MINTURN MUNICIPAL CODE TO RECONCILE THE MINTURN MUNICIPAL CODE WITH SECTION 16 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION (AMENDMENT 64)

WHEREAS, Colorado voters passes Amendment 64, which amended Article XVIII of the Colorado Constitution by the addition of a new Section 16 regarding the personal use and regulation of marijuana; and

WHEREAS, Amendment 64 permits the possession, use, display, purchase or transportation of marijuana accessories and one ounce or less of marijuana by persons 21 years of age and older; and

WHEREAS, Amendment 64 allows possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants and possession of the marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale; and

WHEREAS, Amendment 64 allows local governments to prohibit the possession of marijuana and marijuana accessories by persons under the age of 21 years and to prohibit the open and public consumption of marijuana by persons of any age; and

WHEREAS it is the desire of the Minturn Town Council to pass legislation reconciling the Minturn Municipal Code with Amendment 64 and to clarify and codify the Town's prohibition of medical marijuana businesses.

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

Section 1. Amendment. Section 10-11-20 of the Minturn Municipal Code is repealed and re-enacted, as follows:

Section 10-11-20:

A. Definitions: For the purposes of Section 10-11-20, the following definitions shall apply.

1. Openly and Publicly:

   The consumption or growing of marijuana in a place commonly or usually open to or accessible by the general public, or to which members of the general public may resort, including without limitation public ways, streets, sidewalks, alleys, bicycle paths, trails, public buildings, parks, open spaces, parking lots, shopping centers, places of business usually open to the general public, and automobiles or other vehicles in or upon any such place or places, but excluding the interior or enclosed yard area of private homes, residences, condominiums or apartments. For the purposes of this Section, "openly or publicly" expressly includes the consumption or growing of marijuana in any place not used for residential purposes where individuals gather to consume or grow marijuana, regardless of whether such place call itself private or public or charges and admission or membership fee.

2. Marijuana Products:

   Concentrated marijuana products and 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.

3. Marijuana Accessories:

   Equipment, products or materials of any kind which are used, intended for use or designated for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

B. Unlawful Acts: It shall be unlawful:

1. For any person to use, display, purchase, transport, possess or transfer more than one ounce of marijuana in the Town.

2. For any person to possess, grow, process or transport in the Town more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants. A person may possess the marijuana produced by these plants, provided that such possession is limited to the premises where the plants were grown and further provided that the growing takes place in an enclosed locked place and is not conducted openly or publicly or made available for sale.

3. For a person under the age of twenty-one (21) to use, display, purchase, transport, possess or transfer marijuana, marijuana products or marijuana accessories anywhere in the Town.

4. For a person twenty-one years of age or older to use, display, purchase, transport, possess or transfer marijuana, marijuana products or marijuana accessories in the Town for any reason other than personal use.

5. For a person twenty-one (21) years of age or older to purchase on behalf of, transfer to, or otherwise assist a person under the age of twenty-one (21) in obtaining marijuana, marijuana products or marijuana accessories in the Town.

6. For any person to openly or publicly consume or grow marijuana or to consume marijuana in a manner that endangers others in the Town.

C. Summons and complaint issuance and contents.

1. Whenever a person is arrested or detained for a violation of Section 10-11-20, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained person, the date, time and place where such person shall appear and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One (1) copy of said notice or summons shall be given to the person arrested or detained, one (1) copy shall be sent to the Municipal Court and such other copies as may be required by the Police Department shall be sent to the places designated by the Police Department. The date specified in the notice or summons to appear shall be at least five (5) days after such arrest or detention unless the person arrested or detained demands an earlier hearing, and the Town is able to provide such an earlier hearing. The arrested or detained person, in order to secure release from arrest or detention, shall promise in writing to appear in court by signing the notice or summons prepared by the arresting or detaining officer.

D. Penalty:

1. Violations of this Section shall be punishable as set forth in Section 1-4-20 of this Code.

2. It shall be an affirmative defense to a prosecution under this Section that a person is in possession of a valid registry identification card authorizing the medicinal use of marijuana issued by the State of Colorado, so long as consumption does not occur in a public place.

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 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 3. 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 hundred eighty days or by both such fine and imprisonment; provided; no person under the age of eighteen years shall be punished by imprisonment.

Section 4. 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 5. 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 AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THE 21st DAY OF AUGUST, 2013. THE 4TH DAY OF SEPTEMBER, 2013 AT 6:30 p.m. IS SET FOR PUBLIC HEARING HEREON 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 THIS 4TH DAY OF SEPTEMBER, 2013.

TOWN OF MINTURN, COLORADO

Hawkeye Flaherty

Hawkeye Flaherty, Mayor

ATTEST:

By: _____

Jay Brunvand, Town Clerk

Fri, Aug 23, 2013 10:06:03

9487832

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: 9487832A **Original Id:** 0

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

Start: 08/26/13 **Stop:** 08/26/13

Color: **Issue** 1

Copyline: Ordinance No. 8-2013 **Rep:** Pam Schultz

Lines:	29
Depth:	2.43
Columns:	1
Discount:	0.00
Commission:	0.00
Net:	0.00
Tax:	0.00
Total	13.92
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 August 26, 2013. (9487832)

Ad shown is not actual print size

Thu, Sep 05, 2013 15:20:27

9529472

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 Brunvan **City:** MINTURN

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

Ad Name: 9529472A **Original Id:** 9529375

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

Start: 09/09/13 **Stop:** 09/09/13

Color: **Issue** 1

Copyline: Ord 8-2013 **Rep:** Pam Schultz

Lines:	25
Depth:	2.1
Columns:	1
Discount:	0.00
Commission:	0.00
Net:	0.00
Tax:	0.00
Total	13.00
Payment	0.00

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THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING THIS 4TH DAY OF SEPTEMBER, 2013.

TOWN OF MINTURN, COLORADO

Hawkeye Flaherty, Mayor

ATTEST:

By: Jay Brunvand, Town Clerk

Published in the Vail Daily September 9, 2013. (9529472)

Ad shown is not actual print size