2010

Minturn Council Meeting

Wednesday October 20, 2010

Work Session **(Town Center)**	**5:00pm**
Regular Session: **(Town Center)**	**7:00pm**

Council Goals:

TOP FIVE COUNCIL PRIORITIES:

- Transit
- Sidewalks
- Annex School Dist property
- Community communications strategy
- Enforce zoning laws

Agenda

MEETING OF THE MINTURN TOWN COUNCIL
Minturn Town Center, 302 Pine Street
Minturn, CO 81645 • (970) 827-5645

Wednesday October 20, 2010

Work Session – 5:00pm
Regular Session – 7:00pm

MAYOR – Gordon "Hawkeye" Flaherty
MAYOR PRO TEM – George Brodin

Town Administrator – Jim White
TOWN CLERK/TREAS – Jay Brunvand

COUNCIL MEMBERS:
Shelley Bellm
Earle Bidez
Jerry Bumgarner
Aggie Martinez
John Rosenfeld

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

Work Session – 5:00pm
Budget Retreat

Pg 1

- Establish 2010-2011 Goals – White (30min)
- Budget Review - Brunvand/White (90min)

Please bring your FY2011 Budget book

Regular Session – 7:00pm

1. **Call to Order**
   a. Roll Call
   b. Pledge of Allegiance

2. **Approval of Agenda**

- Items to be Pulled or Added

3. **Approval of Minutes and Action Report**
   - October 6, 2010 Pg 2
   - Action Item Report Pg 8

4. **Public comments on items, which are NOT on the agenda (5 minute time limit per person).**

5. **Special Presentations/Citizen Recognition**

6. **Town Manager's Report** Pg 9

7. **Town Council Comments**

PUBLIC HEARINGS AND ACTION ITEMS

8. **Discussion/Action – Council Discussion with Eagle County Board of County Commissioners – White (45min)**

9. **Discussion/Action – Public Works Project's Updates – White/Martinez/Volk (30min)**

10. **Discussion/Action – Outdoor and Open Burning Regulations review – Cerimele (30min)** Pg 12

11. **Discussion/Action – Council Update on Town Signage – White (30min)**

FUTURE AGENDA ITEMS

12. **Next Meeting**
    - Discussion/Action – 1st Public Hearing on proposed fiscal year 2011 Budget – review public funding requests – (Regular Meeting 11/3/10) Brunvand/White (45min)
    - Discussion/Action – GID Budget hearing – November 3, 2010
    - Discussion/Action – Quintana Annexation and Zoning Map Amendment – November 3, 2010 – Cerimele (30min)

13. **Future Meeting**
    - Discussion/Action – 2nd Public Hearing on proposed fiscal year 2011 Budget and First Reading of Budget Ordinances (Regular Meeting 11/17/10) – Brunvand/White (45min)
    - Discussion/Action – 2nd and Final Reading of proposed 2011 Budget Ordinances (Regular Meeting 12/1/10) – Brunvand/White (15min)

14. **Set Future Meeting Dates**
    a) Council Meetings

- November 3, 2010
- November 17, 2010
- December 1, 2010

b) Planning & Zoning Commission Meetings

- October 27, 2010
- November 10, 2010
- November 24, 2010 – Canceled
- December 8, 2010

c) Other

- Minturn Halloween – October 30, 2010 (Saturday)
- November 2, 2010 Election Day

15. Adjournment

P.O. Box 309 ♦ 302 Pine Street
Minturn, CO 81645
Phone: 970-827-5645
Fax: 970-827-5545
Jay Brunvand, Treasurer/Clerk
Email: treasurer@minturn.org

TOWN COUNCIL
Mayor – Gordon "Hawkeye" Flaherty
Mayor Pro Tem – George Brodin
Councilwoman – Shelley Bellm
Councilman – Earle Bidez
Councilman – Jerry Bumgarner
Councilman – Aggie Martinez
Council – John Rosenfeld

AGENDA ITEM COVER SHEET

AGENDA TITLE: FY2011 Budget Retreat *Please remember to bring your budget books.

MEETING DATE: October 20, 2010

PRESENTER: Brunvand

- **BACKGROUND:**

During the Work Session the Council will have a work session to accomplish two items:

1. Review the 2010 Goals and consider goals for 2010-11
2. Review in depth the FY2011 Budget. This will be a time for Council to study the budget and to ask questions. Further, it will allow time for the Council to brainstorm and to apply the goals determined in #1 to the budget itself with Staff.

CORE ISSUES: N/A

STAFF RECOMMENDATION/MOTION: N/A

/

Official Minutes

MEETING OF THE MINTURN TOWN COUNCIL
Minturn Town Center, 302 Pine Street
Minturn, CO 81645 • (970) 827-5645

Wednesday October 6, 2010

Work Session – 5:00pm
Regular Session – 7:00pm

MAYOR – Gordon "Hawkeye" Flaherty
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TOWN CLERK/TREAS – Jay Brunvand

COUNCIL MEMBERS:
Shelley Bellm
Earle Bidez
Jerry Bumgarner
Aggie Martinez
John Rosenfeld

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 4:30pm, Monday through Friday, by contacting the Town Clerk at 970/824-5645 302 Pine St. Minturn, CO 81645

Work Session – 5:00pm

- **Oath of Office Discussion – White/Bumgarner**
- **Fiscal Year 2011 Budget Review – Brunvand/White**

Regular Session – 7:00pm

1. **Call to Order**
   a. Roll Call
   b. Pledge of Allegiance

The meeting was called to order by Mayor Flaherty at 7:03 pm.

Those present included: Mayor Hawkeye Flaherty, Mayor Pro Tem George Brodin, Council Members Jerry Bumgarner, Shelley Bellm, Earle Bidez, Jerry Bumgarner, and Aggie Martinez.

Staff present: Town Manager Jim White, Town Treasurer/Clerk Jay Brunvand, Chief of Police Lorenzo Martinez, Administrative Assistant/Deputy Clerk Michelle Metteer, Planner Chris Cerimele and Attorney Allen Christensen.

2. Special Presentation – Matt Scherr

3. Swearing in of Appointed Council Member – Mayor Hawkeye Flaherty (10min)

4. Approval of Agenda

- Items to be Pulled or Added

Additional item for agenda: 12. Authorization for the Mayor of Minturn to sign a six month extension of the existing contract with Holy Cross Energy.

Motion by Jerry B., second by George B., to approve the agenda as amended, all voted in favor.

5. Approval of Minutes and Action Report

- September 15, 2010
- September 27, 2010
- Action Item Report

Motion by Shelley B., second by Aggie M., to approve the Minutes of September 15, 2010 as presented; all voted in favor. Jerry B abstained.

Motion by Earle B., second by Shelley B., to approve the Minutes of September 27, 2010 as presented; all voted in favor.

Easement agreement has been reached and can be removed from the action item list.

Oct 20th – Discuss Town signage.

6. Public comments on items, which are NOT on the agenda (5 minute time limit per person).

Mr. James Van Beek, Unaffiliated candidate for Sheriff, believes that thinning the bureaucracy at the top of the Sheriff's office and empowering the deputy's going out in the field, more communication will ensue and the trust of the community will be revived.

7. Special Presentations/Citizen Recognition

8. Town Manager's Report

<u>Potential Position Planning Meeting</u>

I have secured the services of Michael Penny, Frisco Town Manager, to facilitate a meeting with all interested parties regarding the options presented to Town Council at the last meeting related to the proposal to fill a position to coordinate events and conduct operations during events. Our

original date for the meeting was not workable so we are attempting another date, which looks promising.

School District Update
We are anxiously awaiting the submittal of the annexation petition. Final conversations about the issues related to the annexation submittal are being discussed by the attorneys of both parties. We anticipate the annexation petition to be submitted this month.

Radio Tower Contract
The Town Clerk followed up again with Dr. Hood regarding a longer term contract for the radio tower as the new lease is now due. This lease will require the replacement of a vertical tower. Payment for 2010 remains unresolved, as well as the terms for the new extended contract.

Battle Mountain Update
Dave Kleinkopf has agreed to come to Town Council meetings periodically, every four to six weeks, to provide updates on the activities related to the Battle Mountain development. His next visit will be scheduled in November. Our water trail was resolved through settlements with all objectors, effective September 28, 2010.

Water Treatment Plant Telemetry
TST Engineering is overseeing the water treatment plant operations to ensure that all state reporting requirements are being met. John Volk, Southwest Water, is serving the role of the plant operator.

TST Engineering has been working with Timberline Electric and Controls to access problems and to update our telemetry system at the water treatment plant. I have been working with the Forest Service to complete an amendment to our Special Use Permit to allow us to remove trees in anticipation of solar power being established at the Maloit Park tank site. The main tank site will have electric power and our Public Works crew has already readied the site for the installation of the electric power.

A Million Lights in Minturn
Planning is underway to light up Minturn this Christmas and Holiday Season. Michelle Metteer is working with the Fire District, local business owners, Town staff, and local volunteers to coordinate the events related to this effort. She is seeking donations from some of our vendors.

RFP/North Main Street Water Line Design
Construction has begun on the North Main Street Water Line by Western Pipeway, Inc. Western Pipeway has started the project, staging, and mobilization, effective September 27, 2010. Phase 1 construction is underway expected to be completed by late October, and wrapped up administratively by November 5, 2010.

Ballot Issues
The Town of Minturn has placed two issues on the November ballot: consideration of use tax and a question to the voters about whether or not medical marijuana dispensaries should be

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allowed in Town. Please direct staff if you need any additional information related to these issues.

Geoff Wilson, senior attorney with CML, has been asked to come to Minturn tonight to discuss use tax with our Town Council during our work session.

Additionally, the Town Council recently passed resolutions stating its opposition related to Amendments 60 & 61 and also Proposition 101. If you need any further information, please refer to www.cml.org or to www.donthurtcolorado.com

Minturn Market
The Minturn Winter Market is scheduled for Saturday, December 11, 2010.

Detoxification Service Program Agreement
The Town of Minturn participates in a detoxification program called "Last Call", along with other jurisdictions in Eagle County. We recently signed an agreement to continue in the program. We will realize cost savings of $$810 in 2010 and a projected savings of $1640 in 2011 through improved efficiency (see attachment).

Downtown Colorado, Inc.
The annual conference was held in Glenwood Springs September 22-24, 2010. Mayor Flaherty participated in a Mayors' Panel discussion on Friday, September 24th.

2011 Budget Planning
The proposed schedule for our budget process and meeting schedule has been prepared by the Town Clerk/Treasure and reviewed by the Town Manager. This process has been underway at the staff level since early summer and will accelerate in the next few months following the prescribed calendar requirements articulated in the Colorado Revised Statues for annual budget approval.

CML Fall District Meetings Schedule
Beginning on September 15, 2010, CML has been hosting District meetings throughout the state. In my role as president, I am expected to attend as many as I am able. I respectfully request your support for my travels during this time. The meetings are scheduled to end on October 25, 2010. I **do not** plan to attend the meetings that conflict with our own Town Council meetings.

CDOT Dowd Interchange Project Leadership Team (PLT) Meeting
Held, Tuesday, September 28, 2010, this was the second PLT Meeting. This is a multidisciplinary team that includes community representatives, and experts in planning, design, operations, and communication. The primary purposes are to address capacity issues and to improve safety. The Dowd Interchange is currently listed as a 60 times greater safety risk than the average interchange in Colorado. The project is at 80% design stage, but no construction dollars have been secured to date. The Inter Mountain Transportation Planning Region (IMTPR) prioritization process will be convening soon to list projects by rank for financial consideration as monies are available in the future.

Signage
Designs are still under review and other options will also be brought forth. The design team has not been able to meet recently due to scheduling conflicts.

9. Town Council Comments

Direction from Council to review penalty clause within the radio tower contract.

PUBLIC HEARINGS AND ACTION ITEMS

10. Discussion/Action – Budget Review and formal acceptance – Brunvand/White

Motion by Jerry B., second by George B., to formally accept the Fiscal Year 2011 budget as presented; all voted in favor. *(Note: Included in the acceptance is the General Improvement District Budget.)*

11. Discussion/Action – Review RFP for the proposed Town Prosecutor – White

Jim W. noted this was proceeding on schedule and reviewed the status.

Direction from Council to have Town Manager email sample RFP to Council Members for approval. Timeline to be included, along with a committee to review potential candidates. Council to have all comments back to Jim within two days of receiving initial RFP draft.

12. Discussion/Action – Council authorization for the Mayor to sign a six month extension of the Holy Cross Electric Franchise Agreement – White

Jim W. noted the Franchise Agreement for Holy Cross Electric was set to expire on October 4, 2010. Holy Cross had sent a letter requesting a six month extension in order to review and renew the formal agreement document.

Motion by George B, second by Aggie M. to allow the Mayor to sign a six month contract extension. All voted in favor.

FUTURE AGENDA ITEMS

13. Next Meeting

- Worksession Retreat – Retreat review FY2011 Budget – (Worksession 10/20/10) Brunvand/White (90min)

14. Future Meeting

- Discussion/Action – 1st Public Hearing on proposed fiscal year 2011 Budget – review public funding requests – (Regular Meeting 11/3/10) Brunvand/White (45min)

- GID Budget hearing – November 3, 2010
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15. Set Future Meeting Dates

a) Council Meetings
- October 20, 2010 – Budget Retreat
- November 3, 2010 – 1st Public Hearing for budget
- November 17, 2010 – 2nd Public Hearing for budget

b) Planning & Zoning Commission Meetings
- October 13, 2010
- October 27, 2010
- November 10, 2010

c) Other
- November 2, 2010 Election Day

16. Adjournment

Motion by Jerry B, second by Aggie M. to adjourn at 8:20 pm. All voted in favor.

_____
Mayor Hawkeye Flaherty

ATTEST:

_____
Town Clerk, Jay Brunvand

Town of Minturn
Council Action Item Memo

TO: Staff Members/Council Members
FROM: Jim White/ Town Manager
DATE: October 20, 2010
SUBJECT: Status of Action Items from Town Council Meetings

Action Item	Action Required	Responsible Party	Progress Report
RFP for Municipal Prosecutor	Town Manager to approve RFP ad to Vail daily, website & CML	White	RFP revisions completed, RFP ad ran in Vail Daily 10/15-10/18 and still running on Town website & CML.
Obtain Land Deed for Water Plant	Work with Eagle County School District to annex the land the Town of Minturn's Water Plant is occupying	White/Christensen	Joint meetings in progress between Town and School Board. Annexation review by attorneys regarding easements, water & access. Oct submission expected.
Water Line	Repair/replace water line main in Rail Yard north of Turntable.	White/Public Works	Construction began Sept 27, 2010, work in progress. Estimated completion date: Nov 16
Town Sign Plan	Town entry signage ideas have been reviewed. Brodin/White review.	White/Brodin	Continuing to modify & review design.

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Jim White
Town Manager
P.O. Box 309 ♦ 302 Pine Street
Minturn, CO 81645
Phone: 970-827-5645
Fax: 970-827-5545
Email: manager@minturn.org

Minturn

Town Council
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Councilmember – Shelley Bellm
Councilmember – Earle Bidez
Councilmember – Jerry Bumgarner
Councilmember – Aggie Martinez
Councilmember – John Rosenfeld

To: Mayor Flaherty and Minturn Town Council
From: Jim White, Town Manager
Date: October 14, 2010
Re: Manager's Report for the October 20, 2010 Meeting

Potential Position Planning Meeting

We are currently targeting October 27th for our facilitated meeting with all interested parties regarding the options presented to Town Council at the last meeting related to the proposal to fill a position to coordinate events and conduct operations during events. Scheduling has proved difficult due to individual schedules. Alternate dates of November 5th and November 8th are also being considered.

School District Update

We are anxiously awaiting the submittal of the annexation petition. Final conversations about the issues related to the annexation submittal are being discussed by the attorneys of both parties. We anticipate the annexation petition to be submitted this month....first to be reviewed by the School Board and then submitted to the Town.

Radio Tower Contract

The Town Clerk followed up again with Dr. Hood regarding a longer term contract for the radio tower as the new lease is now past due. The new lease would require the installation of a vertical tower. Payment for 2010 remains unresolved, as well as the terms for the new extended contract. We are planning to impose late fees for the overdue payment as allowed in the existing contract and as directed by the Town Council.

Water Treatment Plant Telemetry

TST Engineering is overseeing the water treatment plant operations to ensure that all state reporting requirements are being met. John Volk, with Southwest Water, is serving the role of the plant operator. Both will be present at tonight's meeting to help provide an update on the water treatment plant. Arnold Martinez, Public Works Supervisor, will also attend.

TST Engineering has been working with Timberline Electric and Controls to access problems and to update our telemetry system at the water treatment plant. I have come up with a revised plan with the Forest Service to complete an amendment to our Special Use Permit to allow us to install solar panels on the hillside rather than remove the number of trees originally considered in anticipation of solar power being installed on the tank itself at the Maloit Park tank site. The main tank site in Town will have electric power and our Public Works crew has already readied the site for the installation of the electric power.

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Planning is underway to light up Minturn this Christmas and Holiday Season. Michelle Metteer is working with the Fire District, local business owners, Town staff, and local volunteers to coordinate the events related to this effort. She is seeking donations from some of our vendors. Donations have been sparse to date.

RFP/North Main Street Water Line Design
Construction has begun on the North Main Street Water Line by Western Pipeway, Inc. Western Pipeway sailed along smoothly until running into two large boulders on October 6th. Additionally alignment of the existing waterline turned out to be different from the alignment shown when we had locates done prior to the project. Consequently, Phase 1 construction has been extended and completion is now anticipated by November 16, 2010 rather than by November 5, 2010.

Ballot Issues
The Town of Minturn has placed two issues on the November ballot: consideration of use tax and a question to the voters about whether or not medical marijuana dispensaries should be allowed in Town.

Additionally, the Town Council passed resolutions stating its opposition related to Amendments 60 & 61 and also Proposition 101. If you need any further information, please refer to www.cml.org or to www.donthurtcolorado.com

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CML Fall District Meetings Schedule
Our district, CML District 12, held its meeting in Avon on Wednesday, October 13, 2010. Many of out elected officials were able to attend.
I also attended the District meetings in Canon City on October 14th; Walsenburg on October 18th; and Cheyenne Wells on October 19th. The last district meeting will be held in Colorado Springs on Monday, October 25th.

Signage
Designs are still under review and other options will also be brought forth.

10/13/2010

RFP for Prosecuting Attorney

The Request for Proposal (RFP) for a prosecuting attorney for the Town of Minturn was placed in the Vail Daily on October 14, 2010. It was also slated to run on Saturday, Sunday, and Monday, October 16th, 17th, and 18th. Responses were requested by October 22, 2010.

Interviews are planned to be held during November and a decision will be targeted by December 2010 to enable a start date in January, 2011.

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Post Office Box 309
302 Pine Street
Minturn, CO 81645
Phone: 970-827-4272
Fax: 970-827-7420

Town Council
Mayor – Gordon "Hawkeye" Flaherty
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Councilwoman – Shelley Bellm
Councilman – Jerry Bumgarner
Councilman – Aggie Martinez
Councilman – Earle Bidez
Councilman – John Rosenfeld

To: Minturn Town Council
Cc: Jim White, Town Manager
Lorenzo Martinez, Police Chief
From: Chris Cerimele, Town Planner
Re: Open Burning
Date: October 20, 2010

Background

Open burning in the Town of Minturn has been a contentious issue in recent years. The Mountain Pine Beetle epidemic and the outbreak of wildfires in the Mountain West has brought greater attention to the issue. Currently, open burning is permitted within the Town if the Eagle River Fire Protection District (ERFPD) approves a resident's fire pit. The municipal code states:

> **Sec. 7-8-80. Open burning.**
>
> (a) Open burning is not permitted.
>
> (b) Exceptions may be granted with the approval of the Fire Chief under the following conditions:
>
> (1) When conducted for the purpose of Fire Department training.
>
> (2) When conducted for the purpose of removing a fire hazard and then only with the written concurrence of the Fire Chief.
>
> (3) When otherwise lawfully conducted as a small fire, bonfire or barbecue in conjunction with recreational activity. (Prior code 7-118)

The above code section permits open burning if a resident receives approval from the ERFPD and follows the provisions outlined in the 2003 International Fire Code. These are:

- A permit for burning is required. (Sec. 307.2)
- Open burning that becomes offensive or objectionable because of smoke or odor shall be prohibited. (Sec. 307.2.2)
- Recreational fires are permitted but must not be conducted within 25 feet of a structure or combustible materials.(Sec. 307.3.2)
- Open burning must be constantly attended until extinguished. (Sec. 307.4)

It appears that the following code provision contradicts sec. 7-8-80 of the MMC and prohibits all outdoor burning except for the burning of wastepaper.

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Sec. 7-4-90. Burning; nuisance declared.

No person shall set fire or burn any garbage, rubbish or waste material or any hay, grass clippings or other combustible materials except wastepaper, in any ash pit or other receptacle or upon the ground. Any such act is a nuisance because of smoke and odor. (Prior code 10-310)

The code states that the burning of any combustible material – except wastepaper - is a nuisance because of smoke and odor. This section must be amended if the Town wishes to permit outdoor burning in conjunction with recreational activities.

Options to Consider

1. Total ban on outdoor burning.

    - The installation of wood burning fireplaces is prohibited in Minturn. Pellet and gas stoves are permitted. If the Town prohibits the installation of wood burning fireplaces, why should it be permitted outdoors?

    - The recent wildfires on the Front Range highlight the dangers of outdoor burning. Minturn has many old structures that are located in close proximity to other structures. There is a high risk that a fire could rapidly expand to other structures or into the surrounding forest.

2. Temporarily ban all outdoor burning until the adoption of the 2009 International Fire Code (IFC) and the elimination of the conflicting code provisions of MMC 7-4-90.

    - Section 307.4.3.of the 2009 IFC defines portable outdoor fireplaces and makes it clear that these devices are allowed and specifically regulated.

    - Review the open burning provisions of the 2009 IFC (attached).

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2009 IFC

projection room complying with Section 409 of the *International Building Code*.

306.2 Cellulose nitrate film storage. Storage of cellulose nitrate film shall be in accordance with NFPA 40.

SECTION 307
OPEN BURNING, RECREATIONAL FIRES AND PORTABLE OUTDOOR FIREPLACES

307.1 General. A person shall not kindle or maintain or authorize to be kindled or maintained any *open burning* unless conducted and *approved* in accordance with this section.

307.1.1 Prohibited open burning. *Open burning* that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

307.2 Permit required. A permit shall be obtained from the *fire code official* in accordance with Section 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the *owner* of the land upon which the fire is to be kindled.

307.2.1 Authorization. Where required by state or local law or regulations, *open burning* shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

307.3 Extinguishment authority. The *fire code official* is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of *open burning* that creates or adds to a hazardous or objectionable situation.

307.4 Location. The location for *open burning* shall not be less than 50 feet (15 240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15 240 mm) of any structure.

Exceptions:

1. Fires in *approved* containers that are not less than 15 feet (4572 mm) from a structure.
2. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.

307.4.1 Bonfires. A bonfire shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet (15 240 mm) of a structure shall be eliminated prior to ignition.

307.4.2 Recreational fires. *Recreational fires* shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

307.4.3 Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

Exception: Portable outdoor fireplaces used at one- and two-family *dwellings*.

307.5 Attendance. *Open burning*, bonfires, *recreational fires* and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other *approved* on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

SECTION 308
OPEN FLAMES

308.1 General. Open flame, fire and burning on all premises shall be in accordance with Sections 308.1.1 through 308.4.1 and with other applicable sections of this code.

308.1.1 Where prohibited. A person shall not take or utilize an open flame or light in a structure, vessel, boat or other place where highly flammable, combustible or explosive material is utilized or stored. Lighting appliances shall be well-secured in a glass globe and wire mesh cage or a similar *approved* device.

308.1.2 Throwing or placing sources of ignition. No person shall throw or place, or cause to be thrown or placed, a lighted match, cigar, cigarette, matches, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire.

308.1.3 Torches for removing paint. *Persons* utilizing a torch or other flame-producing device for removing paint from a structure shall provide a minimum of one portable fire extinguisher complying with Section 906 and with a minimum 4-A rating, two portable fire extinguishers, each with a minimum 2-A rating, or a water hose connected to the water supply on the premises where such burning is done. The *person* doing the burning shall remain on the premises 1 hour after the torch or flame-producing device is utilized.

308.1.4 Open-flame cooking devices. Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 feet (3048 mm) of combustible construction.

Exceptions:

1. One- and two-family *dwellings*.
2. Where buildings, balconies and decks are protected by an *automatic sprinkler system*.
3. LP-gas cooking devices having LP-gas container with a water capacity not greater than $2^1/_2$ pounds [nominal 1 pound (0.454 kg) LP-gas capacity].

308.1.5 Location near combustibles. Open flames such as from candles, lanterns, kerosene heaters and gas-fired heaters shall not be located on or near decorative material or similar combustible materials.

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Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

Hazardous material means any substance or material designated as a hazardous material by the United States Department of Transportation according to 49 CFR Part 172, as in effect on July 1, 1980.

Hazardous material incident means any emergency circumstances involving the sudden discharge of hazardous material which, in the judgment of an emergency response authority, threatens immediate and irreparable harm to the environment or the health and safety of any individual other than individuals exposed to the risks associated with hazardous materials in the normal course of their employment. *Hazardous material incident* does not include any discharge of a hazardous material authorized pursuant to any federal, state or local law or regulations.

Refuse means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish, containers, boxes, glass, cans, bottles, garbage and waste; discarded building and construction materials including but not limited to plaster, broken concrete, bricks, cinderblocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material; all rubbish of any kind or nature whatsoever; and any other materials commonly known as rubbish or refuse of any kind or character or by any means known. For the purposes of this Article, the word *refuse* shall further mean and includes abandoned or discarded motor vehicles, motor vehicle parts, tools, containers of any kind, appliances, furniture and any other discarded or abandoned items of personal property commonly known as junk. (Prior codes 7-1, 10-301; Ord. 15-2008 §1)

Sec. 7-1-20. Emergency response authority designated.

Pursuant to Section 29-22-102(3), C.R.S., the Fire Department is designated as the emergency response authority for hazardous material incidents occurring within the corporate limits of the Town. (Prior code 7-2)

[redacted]

No person shall set fire or burn any garbage, rubbish or waste material or any hay, grass clippings or other combustible materials except wastepaper, in any ash pit or other receptacle or upon the ground. [redacted] (Prior code 10-310)

Sec. 7-8-1 (a) Purpose and applicability.

(a) These regulations are enacted for the purpose of promoting the health, safety and general welfare of the residents and visitors in the Town. These regulations are intended to achieve the following more specific purposes:

(1) To protect the air quality in the Town;

(2) To reverse the trend towards increased air degradation in the Town;

(3) To provide heat sources which are efficient but have a reduced polluting effect; and

(4) To generally protect the air for the purpose of the public's health, safety and welfare.

(b) The provisions of this Article shall apply to all areas of the Town. (Prior code 7-111)

Sec. 7-7-21. Definitions.

(a) The following terms shall have the meanings set forth below unless the context clearly indicates otherwise:

Air contaminant means fumes, smoke, particulate matter, vapor, gas or any combination thereof, but not including water vapor or steam condensate.

Motor vehicle means any self-propelled vehicle which is designed primarily for travel on the public and private roads, highways and other rights-of-way, which is generally and commonly used to transport persons and property over said roads, highways and rights-of-way.

Pellet-burning stove means a solid fuel heating device designed to solely utilize as a fuel compressed pellets of wood or pellets of other biomass material, but not coal or peat, to heat the interior of a structure. It incorporates a forced draft with an automatic mechanism which feeds fuel to the firebox.

Refuse means all solid wastes, garbage and rubbish, whether combustible or noncombustible, including rubble.

Solid fuel burning device means any fireplace, stove, firebox or device intended and/or used for the purpose of burning wood, coal, pulp, paper or other nonliquid or nongaseous fuel. This definition specifically excludes noncommercial barbecue devices used to cook food outdoors.

* DOES NOT EXCLUDE BONFIRE OR FIREPITS

(b) Any word, term or phrase not defined or specified in this Section shall be defined in accordance with Chapter 16 of this Code. (Prior code 7-112; Ord. 15-2008 §1)

[redacted]

[redacted] No mobile or modular home shall be moved into place in the Town and hooked up to utility service which has installed within such mobile or modular home a solid fuel-burning device. The following exceptions apply:

(1) The installation of a pellet burning stove is permitted.

(2) The replacement of an existing and functioning solid fuel-burning device is permitted when the replacement unit meets or exceeds the emissions standards described by current Colorado Air Quality Control Commission Regulation No. 4 as amended or is listed as an Environmental Protection Agency Phase II Appliance. (Prior code 7-113; Ord. 15-2008 §1)

[redacted]

[redacted] That portion of the building permit fee involved in the direct cost of such replacement will not be charged to the building permit applicant. (Prior code 7-114)

Sec. 7-3-70. Burning of refuse.

The burning of refuse in any burning device is not permitted. (Prior code 7-117)

Sec. 7-3-80. Open burning.

(a) Open burning is not permitted.

(b) Exceptions may be granted with the approval of the Fire Chief under the following conditions:

(1) When conducted for the purpose of Fire Department training.

(2) When conducted for the purpose of removing a fire hazard and then only with the written concurrence of the Fire Chief.

(3) When otherwise lawfully conducted as a small fire, bonfire or barbecue in conjunction with recreational activity. (Prior code 7-118)