



2012

Minturn Council Meeting

Wednesday April 18, 2012

Work Session: **5:15pm**
(Town Center)

Regular Session: **6:30pm**
(Town Center)

TOP COUNCIL PRIORITIES:

- Street Repairs with Drainage (by priority) Sidewalk Installations
- Expand Parking and Improve Appearance of Municipal Lot
- Improve Planning and Apply for Infrastructure Grants and Loans.
- Continue Sidewalk Installation Program and Improve Plan with Lafarge
- Implement Streetscape Plan
- Strengthen Marketing and Events
- Clean Up Parking Area on North Taylor Street



Agenda

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

Wednesday April 18, 2012

Work Session – 5:15pm
Regular Session – 6:30pm

MAYOR – Gordon “Hawkeye” Flaherty
MAYOR PRO TEM – George Brodin

TOWN MANAGER – 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 – 5:15 pm

- Discussion – OSAC and Bone Yard Property – White (30min) pg 4
- Discussion – Medical Marijuana – White/Christensen (30min) pg 5

Regular Session – 6:30 pm

- 1. Call to Order**
 - a. Roll Call
 - b. Pledge of Allegiance
- 2. Approval of Agenda**
 - a. Items to be Pulled or Added
- 3. Approval of Minutes and Action Report**
 - April 4, 2012 pg 39

- Action Item Report pg 44
- 4. **Public comments on items, which are NOT on the agenda (5 minute time limit per person)**
- 5. **Special Presentations**
- 6. **Planning Department Update** pg 45
- 7. **Town Manager's Report** pg 46
- 8. **Town Council Comments**

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

- 9. **Discussion/Action Item: – Resolution 12 – Series 2012: A Resolution authorizing second amendment to Escrow Agreement regarding Water Storage – White/Christensen (15 min)** pg 48
- 10. **Discussion/Action Item: – Resolution 13 – Series 2012: A Resolution authorizing second amendment to Escrow Agreement regarding Pedestrian and Bike Trail and Recreation/Community Center – White/Christensen (15 min)** pg 51
- 11. **Discussion/Action Item: – Resolution 14 – Series 2012: A Resolution setting the official posting sites for the Town of Minturn – Brunvand (15 min)** pg 54

EXECUTIVE SESSION

- 12. **Pursuant to CRS 24-6-402(4)(a) for the purposes of discussing the purchase of certain USFS land and pursuant to CRS 24-6-402(4)(b) for the purposes to consult with the Town's Attorney and receive legal advice regarding status of escrow fund distribution, receive legal advice regarding insurance issue. – White/Christensen** pg 56
- 13. **Executive Session – Action by Council or Direction to Staff as a result of the Executive Session (5min)**

FUTURE AGENDA ITEMS

- 14. **Next Meeting – May 2, 2012**
 - **Worksession Discussion**: Ordinance ____- 2012 an Ordinance (First Reading) an Ordinance _____ the sale of Medical Marijuana within the Town of Minturn – Christensen (20 min)
 - **Liquor Authority**: July 1, 2012 Special Event Permit, Town of Minturn – Brunvand (10min) 5/2/12

- Discussion/Action Item: Ordinance 6 – 2012 an Ordinance (First Reading) amending Chapter 16, Section 16-17-190 of the Town of Minturn Municipal Code to allow for a 50% reduction in the rear property setback for a detached garage. Cerimele – (30 min)

15. Future Meeting

16. Set Future Meeting Dates

a) Council Meetings:

- May 2, 2012
- May 16, 2012
- June 6, 2012

b) Planning & Zoning Commission Meetings:

- May 9, 2012
- June 13, 2012
- July 11, 2012

c) Other Dates:

- Highway Clean Up – April 28, 2012
- Minturn Town Clean Up – June 2, 2012

17. Adjournment

Michelle Metteer

From: Jim White
Sent: Friday, April 13, 2012 3:41 PM
To: Michelle Metteer
Subject: FW: Boneyard

FYI

Jim White
Town Manager
manager@minturn.org
(970) 827-5645 (w)
(970) 390-5102 (cell)

From: Toby Sprunk [<mailto:toby.sprunk@eaglecounty.us>]
Sent: Monday, April 02, 2012 6:42 PM
To: Jim White; Chris Cerimele
Subject: Boneyard

Hi Jim and Chris, I met with the BoCC this morning and we discussed the Boneyard.

At this point, they brought up they would like to see Minturn:

1. Make a formal commitment of funds for the acquisition
2. Agree to protect the property with a conservation easement
3. Agree that all future management and site development costs are the Town's responsibility.
4. An outline of a management plan, something that discusses the proposed uses

Should I plan to come to the Council meeting on Wednesday?

Toby

Total Control Panel

[Login](#)

To: manager@minturn.org [Remove](#) this sender from my allow list
From: toby.sprunk@eaglecounty.us

You received this message because the sender is on your allow list.

TOWN OF MINTURN, COLORADO

ORDINANCE NO. _____ 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 Vail 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 Village 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 _____ DAY OF _____, 2012. The _____ day of _____, 2012 AT 7:00 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645 IS SET FOR PUBLIC HEARING HEREON.

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 THIS ____ DAY OF _____, 2012.**

Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk

ORDINANCE NO. ~~93~~

Series ~~2011~~2012

AN ORDINANCE AMENDING CHAPTER 6 OF THE MINTURN MUNICIPAL CODE
BY ADOPTING PROVISIONS FOR THE REGULATION OF MEDICAL MARIJUANA CENTERS

THE TOWN OF MINTURN, COLORADO ORDAINS:

Section 1. Regulations Adopted. Chapter 6 of the Minturn Municipal Code is amended by the addition of a new article 3, to be entitled "Medical Marijuana Centers", which shall read in its entirety as follows:

ARTICLE 3

MEDICAL MARIJUANA CENTERS

SECTION:

- 6-3-1: SHORT TITLE
- 6-3-2: FINDINGS
- 6-3-3: PURPOSE
- 6-3-4: AUTHORITY
- 6-3-5: DEFINITIONS
- 6-3-6: PERMIT REQUIRED
- 6-3-7: APPLICATION FOR PERMIT
- 6-3-8: APPLICATION FEE
- 6-3-9: INVESTIGATION OF APPLICATION
- 6-3-10: STANDARDS FOR ISSUANCE OF PERMIT
- 6-3-11: DENIAL OF PERMIT
- 6-3-12: AUTHORITY TO IMPOSE CONDITIONS ON PERMIT
- 6-3-13: DECISION BY TOWN ADMINISTRATOR
- 6-3-14: NOTICE OF DECISION
- 6-3-15: APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF PERMIT
- 6-3-16: CONTENTS OF PERMIT
- 6-3-17: INSPECTION OF PREMISES
- 6-3-18: PERMIT NOT TRANSFERABLE
- 6-3-19: NOTICE OF ISSUANCE OF PERMIT
- 6-3-20: DURATION OF PERMIT; RENEWAL
- 6-3-21: DUTIES OF PERMITTEE
- 6-3-22: POSTING OF PERMIT
- 6-3-23: SUSPENSION OR REVOCATION OF PERMIT
- 6-3-24: LIMITATION ON SALE OF MARIJUANA
- 6-3-25: CENTER LOCATION
- 6-3-26: HOURS OF OPERATION
- 6-3-27: SIGNAGE
- 6-3-28: REQUIRED WARNINGS TO BE POSTED
- 6-3-29: ON-SITE CONSUMPTION
- 6-3-30: PARAPHERNALIA
- 6-3-31: ON-SITE CULTIVATION, GROWING AND PROCESSING
- 6-3-32: ALCOHOL
- 6-3-33: DISPLAY OF MEDICAL MARIJUANA

- 6-3-34: SECURITY REQUIREMENTS
- 6-3-35: BUSINESS LICENSE REQUIRED
- 6-3-36: TAXES
- 6-3-37: REQUIRED RECORD
- 6-3-38: PENALTIES; INJUNCTIVE RELIEF
- 6-3-39: NO WAIVER OF GOVERNMENTAL IMMUNITY
- 6-3-40: NO TOWN LIABILITY
- 6-3-41: INDEMNIFICATION OF TOWN
- 6-3-42: OTHER LAWS REMAIN APPLICABLE
- 6-3-43: RULES AND REGULATIONS

6-3-1: SHORT TITLE: This chapter shall be known and may be cited as the “Town of Minturn Medical Marijuana Center Ordinance.”

6-3-2: FINDINGS: The Town Council adopts this article based upon the following findings of fact:

- A. Because federal and state law prohibits the possession and sale of marijuana generally, marijuana sales have never been specifically addressed by Town ordinance.
- B. On November 7, 2000 the voters of the State of Colorado approved Amendment 20. Amendment 20 added §14 of article 18 to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20.
- C. The intent of Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), was to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate, grow, use, and distribute marijuana without fear of criminal prosecution under Colorado (as opposed to federal) law.
- D. Despite the adoption of Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), marijuana is still a controlled substance under Colorado and federal law. As a result, making it legal for a person to obtain, possess, cultivate, grow, use, transport and distribute marijuana, even for medical use as contemplated by Amendment 20, has the potential for abuse that should be closely monitored and regulated by local authorities to the extent possible.
- E. If not closely monitored and regulated the presence of marijuana, even for the purposes legally permitted by Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), may cause an increase in illegal activities within the Town affecting the health, safety, order, comfort, convenience and general welfare of the residents of the Town, as well as the health, safety and welfare of the operators of medical marijuana Centers and their customers.

- F. If medical marijuana centers operating pursuant Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana Centers might be established in areas that would conflict with the Town's comprehensive land use plan; be inconsistent with surrounding uses; or otherwise be detrimental to the public health, safety and welfare.
- G. Nothing in this article allows a person to:
 1. engage in conduct that endangers others or causes a public nuisance;
 2. possess, cultivate, grow, use, or distribute marijuana for any purpose other than for use as medical marijuana as authorized and limited by Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), and the implementing state statutes and administrative regulations;
 3. possess, cultivate, grow, use, or distribute marijuana that is otherwise illegal under applicable law; or
 4. engage in any activity related to the possession, cultivation, growing, use, or distribution of marijuana that is otherwise not permitted under the laws of the Town or the State of Colorado.
- H. This article is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the Town and the inhabitants thereof.
- I. No person, business, activity or use that distributed or involved the distribution of marijuana within the Town prior to the enactment of this chapter shall be deemed to have been legally established under this code, and no such person, business, activity, or use shall be entitled to claim legal nonconforming status under any provision of this code or applicable law.

6-3-3: PURPOSE: Recognizing that there is a potential conflict between federal and state law with respect to the operation of medical marijuana centers, it is the purpose of this chapter to:

- A. Impose specific requirements and limitations for those individuals registering with the State of Colorado as a "patient" or "primary care-giver" as those terms are defined in Amendment 20, and the statutes and administrative regulations implementing Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#).
- B. Require that a medical marijuana Center (as defined in this chapter) be operated in a safe manner that does not endanger the public welfare.
- C. Mitigate potential negative impacts that a medical marijuana center might cause on surrounding properties and persons.

- D. Regulate the conduct of persons owning, operating, and using a medical marijuana center in order to protect the public health, safety and welfare.
- E. Establish a non-discriminatory mechanism by which the Town can control, through appropriate regulation, the location and operation of medical marijuana centers within the Town.

6-3-4: AUTHORITY: The Town Council hereby finds, determines, and declares that it has the power to adopt this chapter pursuant to:

- A. The Local Government Land Use Control Enabling Act, article 20 of title 29,C.R.S.;
- B. Part 3 of article 23 of title 31, C.R.S. (concerning municipal zoning powers);
- C. Section 31-15-103, C.R.S. (concerning municipal police powers);
- D. Section 31-15-401, C.R.S. (concerning municipal police powers);
- E. Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses);
- F. The authority granted to home rule municipalities by article XX of the Colorado Constitution; and
- G. The powers contained in the Minturn Town Charter.

6-3-5: DEFINITIONS:

- A. As used in this chapter the following words shall have the following meanings, unless the context clearly requires otherwise:

ADJACENT:	Adjacent to or contiguous with the proposed location of a medical marijuana center. Adjacency shall be determined without regard to the existence of a platted or dedicated public street or alley, and real property that would otherwise be determined to be adjacent to a proposed medical marijuana center does not lose its adjacency by virtue of the existence of a platted or dedicated public street or alley.
ALCOHOLIC BEVERAGE:	Has the meaning provided in Section 10-10-10 of this code.
AMENDMENT 20:	A voter-initiated amendment to the Colorado Constitution adopted November 7, 2000. Amendment 20 added §14 of Article 18 to the Colorado Constitution.

APPLICANT: A person twenty one years of age or older who has submitted an application for permit pursuant to this chapter.

APPLICATION: An application for permit submitted pursuant to this chapter.

BUILDING OFFICIAL: The Building Official of the Town.

BUSINESS LICENSE: A Business License to operate a medical marijuana center issued by the Town pursuant to this chapter.

DAY: A calendar day, unless otherwise indicated.

GOOD CAUSE (for the purpose of refusing or denying a permit renewal under this chapter):

Means:

- A. the permittee has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter and any rule and regulation promulgated pursuant to this chapter;
- B. the permittee has failed to comply with any special terms or conditions that were placed on its permit at the time the permit was issued, or that were placed on its permit in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or
- C. the permittee's medical marijuana center have been operated in a manner that adversely affects the public health, welfare, or safety of the immediate neighborhood in which the medical marijuana center is located. Evidence to support such a finding can include: (i) a continuing pattern of disorderly conduct as defined in section 10-8-90 of this code; (ii) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana center, or in the immediate area surrounding the medical marijuana center; or (iii) a continuing pattern of criminal conduct directly related to or arising from the

	operation of the medical marijuana center.
GROUND FLOOR:	The floor of a structure at approximately the same elevation as the natural grade of the surrounding area.
HALFWAY HOUSE:	A group care facility for adults or juveniles who have been placed on probation or parole under applicable law.
LAND USE GUIDELINES:	Chapter 16 of the Minturn Municipal Code.
LOCAL LICENSING AUTHORITY	For the purposes of this article, means the Town Administrator of the Town of Minturn or Administrator's designee.
MEDICAL MARIJUANA CENTER OR CENTER:	The use of any property or structure within the Town to distribute, transmit, provide, dispense, or otherwise provide marijuana in any manner to patients or primary care-givers in accordance with Section 14, Article XVIII of the Colorado Constitution, and the implementing state statutes and administrative regulations. A medical marijuana center may not be used as a physician's office to examine or consult with patients.
PATIENT:	Has the meaning provided in Amendment 20.
PERMIT:	A permit to operate a medical marijuana center issued by the Town pursuant to this chapter.
PERMITTEE:	The person to whom a permit has been issued pursuant to this chapter.
PERSON:	Has the meaning provided in section 1-2-10 of this code.
PRIMARY CARE-GIVER:	Has the meaning provided in Amendment 20.
RESIDENTIAL USE:	A single family, duplex or multi-family structure or hotel, long or short term occupancy.
SPLIT LEVEL STRUCTURE:	A structure or portion of a structure that includes multiple floors with the lowest floor visible from the street front having a finished grade below the finished grade level of the street front sidewalk.

STATE: Shall mean the state of Colorado.

TOWN: Has the meaning provided in section _1-2-10 of this code.

TOWN ADMINISTRATOR : The Town Administrator of the Town, or the Town Administrator's designee authorized to act pursuant to section 2-3-10 – 2-3-40 of this code.

- B. In addition to the definitions provided in subsection A of this section, the other defined terms in Amendment 20 [and all subsequent C.R.S revisions and amendments pertaining to medical marijuana](#), are incorporated into this chapter by reference.

6-3-6: PERMIT [REQUIRED FEE](#): No person shall operate a medical marijuana center within the Town without a valid permit issued in accordance with this chapter. [For permits filed in 2012 the permit fees shall be set as follows: medical marijuana center: is \\$1500.00, optional premise cultivation operation: \\$1500, and marijuana infused products manufacturer: \\$1500. Thereafter, the amount of the permit fees shall be fixed by the Town Council as part of its annual budget process.](#)

6-3-7: APPLICATION FOR PERMIT:

- A. A person seeking to obtain a permit pursuant to this chapter shall file an application with the Town Administrator. The form of the application shall be provided by the Town Administrator.
- B. A permit issued pursuant to this chapter does not eliminate the need for the permittee to obtain other required State and Town licenses and permits related to the operation of the approved medical marijuana center, including, without limitation:
1. a State sales tax license;
 2. [any and all State licensing requirements](#)
 3. a Town business license; and
 4. a Medical Marijuana center permit has been obtained from the Town of Minturn and all applicable fees shall be paid in full.
 5. a building permit, mechanical permit, plumbing permit, or electrical permit as necessary
- C. An application for a permit under this chapter shall contain the following information:

1. the applicant's name, address, telephone number, birthdate and social security number;
2. the street address of the proposed medical marijuana center;
3. if the applicant is not the owner of the proposed location of the medical marijuana center, a notarized statement from the owner of such property authorizing the submission of the application;
4. a copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess the proposed licensed premises;
5. a statement of the applicant's personal history;
6. a completed set of the applicant's fingerprints on a form approved by the Town Administrator;
7. an operation plan for the center to ensure compliance with law. The operation plan must contain the following items:
 - i. description of security provisions and systems as required by the Colorado Medical Marijuana Enforcement Division Rules
 - ii. Plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. C.R.S 12-43.3-301(4)
 - iii. If cultivating on site, a description of any cultivation within the center, including
 - a. Where plants are grown
 - b. The number of plants that will be grown
 - c. The number of plants within a given stage of growth at any given time
 - d. A description of the ventilation system for the premises
 - e. A description of the lighting system for the grow area
8. a statement to be initialed by the applicant that the applicant and the employees of the medical marijuana center may be subject to prosecution under federal marijuana laws;
9. a statement to be initialed by the applicant that the Town accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana center; and
10. any additional information that the Town Administrator reasonably determines to be necessary in connection with the investigation and review of the application.

Applications shall be processed by the Town Administrator in order of receipt.

6-3-8: APPLICATION FEE: An applicant shall pay to the Town a non-refundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. For applications filed in 2012 the application fee is \$800.00. Thereafter, the amount of the application fee shall be fixed by the Town Council as part of its annual budget process.

6-3-9: INVESTIGATION OF APPLICATION:

- A. Upon receipt of a properly completed application, together with all information required in connection therewith, and the payment of the application fee as required by section 6-3-8, the Town Administrator shall transmit copies of the application to:
 - 1. the Police Department;
 - 2. the Town Attorney
 - 3. the Planning Department; and
 - 4. any other person or agency which the Town Administrator determines should properly investigate and comment upon the application.
- B. Upon receipt of a completed application the Police Department shall obtain and review a criminal background records search on the applicant from the Colorado Bureau of Investigation.
- C. Within twenty days of receipt of a completed application those Town departments and other referral agencies described in subsection A of this section shall provide the Town Administrator with comments concerning the application.

6-3-10: STANDARDS FOR ISSUANCE OF PERMIT: The Town Administrator shall issue a permit under this chapter when, from a consideration of the application and from such other information as may otherwise be obtained, the Town Administrator determines that:

- A. The application (including any required attachments and submissions) is complete and signed by the applicant;
- B. The applicant has paid the application fee and any other fees required by section 6-3-8;
- C. The application does not contain a material falsehood or misrepresentation;
- D. The application complies with all of the requirements of this chapter;
- E. The applicant has good moral character. In making this determination or when considering a criminal conviction, the Town Administrator shall be governed by the provisions of section 24-5-101, C.R.S. If the Town Administrator takes into consideration information concerning the applicant's criminal history record, the

Town Administrator shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a permit; and

- F. The proposed location of the medical marijuana center is permitted under section 6-3-25.

6-3-11: DENIAL OF PERMIT: The Town Administrator shall deny an application for a permit under this chapter if the Town Administrator determines that:

- A. Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material respect; or
- B. The application fails to meet any of the standards sets forth in section 6-3-10. A standard cure time of seven(7) business days will be extended.

If an application is denied the application fee shall not be refunded.

6-3-12: AUTHORITY TO IMPOSE CONDITIONS ON PERMIT: The Town Administrator shall have the authority to impose such reasonable terms and conditions on a permit as may be necessary to protect the public health, safety, and welfare, and to obtain compliance with the requirements of this chapter and applicable law.

6-3-13: DECISION BY TOWN ADMINISTRATOR:

- A. The Town Administrator shall approve, deny, or conditionally approve a permit within thirty days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional ten days if necessary for the Town Administrator to complete the review of the application.
- B. If an application is denied, the Town Administrator shall clearly set forth in writing the grounds for denial.
- C. In the event an application is conditionally approved, the Town Administrator shall clearly set forth in writing the conditions of approval.

6-3-14: NOTICE OF DECISION: The Town Administrator shall notify the applicant of the decision on the application within three business days of rendering the decision. Notice shall be given by mailing a copy of the Town Administrator's decision to the applicant by certified mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

6-3-15: APPEAL OF DENIAL OR CONDITIONAL APPROVAL OF PERMIT:

- A. An applicant has the right to appeal the Town Administrator's denial or conditional approval of an application to the Town Council.

- B. The applicant's written notice of appeal shall be filed with the Town Administrator within ten days after the date of mailing of the Town Administrator's decision on the application.
- C. The applicant shall be provided with not less than ten days' prior written notice of the appeal hearing to be held by the Town Council.
- D. The burden of proof in an appeal filed under this section shall be on the applicant.
- E. Any decision made by the Town Council pursuant to this section shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver the applicant's right to contest the denial or conditional approval of the application.
- F. If there is any conflict between the provisions and requirements of this section and the provisions and requirements of chapter ___ of title ___ of this code, the provisions and requirements of this section shall control.

6-3-16: CONTENTS OF PERMIT: A permit shall contain the following information:

- A. The name of the permittee;
- B. The date of the issuance of the permit;
- C. The address at which the permittee is authorized to operate the medical marijuana center;
- D. Any special conditions of approval imposed upon the permit by the Town Administrator pursuant to section 6-3-12; and
- E. The date of the expiration of the permit.
- F. a statement to be initialed by the applicant that the applicant and the employees of the medical marijuana center may be subject to prosecution under federal marijuana laws;
- G. a statement to be initialed by the applicant that the Town accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana center;

A permit must be signed by both the applicant and the Town Administrator to be valid.

6-3-17: INSPECTION OF PREMISES:

- A. Prior to the issuance of a permit, the premises at which the medical marijuana center will be operated shall be inspected by the Town's Building Official to determine compliance with the Town's building and technical codes. No permit

shall be issued if the premises at which the medical marijuana dispensary will be operated do not comply with the Town's building and technical codes. Throughout the term of the permit the Building Official may inspect the premises at which the medical marijuana dispensary is operated to determine continuing compliance with the Town's building and technical codes. Access to such premises may be obtained by the Building Official in accordance with the applicable provisions of such codes or other applicable law.

- B. During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by Police Services, Fire Services, and all other Town departments designated by the Town Administrator for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records, inventory and security. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection without delay, upon request.
- C. Reoccurring inspections shall be conducted not less than once per year and proof of a completed, passing inspection by either the State Licensing Authority or a pre-approved third party, as determined by the Town Administrator, must be submitted at time of permit renewal. Any and all possible costs for inspections, and required maintenance requested as a condition of a passing inspection shall be the sole responsibility of the applicant.

6-3-18: PERMIT NOT TRANSFERABLE: A permit is non-transferable and non-assignable. Any attempt to transfer or assign a permit voids the permit.

6-3-19: NOTICE OF ISSUANCE OF PERMIT: Immediately upon the issuance of a permit, the Town Administrator shall send a copy of the permit to:

- A. The Town Clerk;
- B. The Town Attorney;
- C. The Police Department;
- D. The Planning Department;
- E. The Town Treasurer; and
- F. Any other person as determined by the Town Administrator.

Formatted: Indent: Hanging: 0.56", Tab stops: 1", List tab + Not at 1.06"

Do we need to have a caveat to review this prior to the state's passage on July 2012
Start here on second meeting in July Worksession

6-3-20: DURATION OF PERMIT; RENEWAL

- A. The term of the permit shall be from April 1 to March 31 of the following year.

- B. An application for the renewal of an existing permit shall be made to the Town Administrator not less than forty-five days prior to the date of expiration. No application for renewal shall be accepted by the Town Administrator after the date of expiration. The Town Administrator may waive the forty-five day time requirement set forth in this subsection if the applicant demonstrates an adequate reason.
- C. The provisions of sections 6-3-9 through 6-3-15, inclusive, and section 6-3-17(C), shall apply to the processing of an application to renew a permit. The timely filing of a renewal application shall extend the current permit until a final decision is made on the renewal application, including any appeal of the Town Administrator's decision to the Town Council.
- D. At the time of the filing of an application for the renewal of an existing permit the applicant shall pay a renewal fee in an amount fixed by the Town Council as part of its annual budget process.
- E. The Town Administrator may refuse to renew a permit for good cause.

6-3-21: DUTIES OF PERMITTEE: It is the duty and obligation of each permittee to do the following:

- A. Comply with all of the terms and conditions of the permit, and any special conditions on the permit imposed by the Town Administrator pursuant to section 6-3-12;
- B. Comply with all of the requirements of this article;
- C. Comply with all other applicable Town ordinances;
- D. Comply with all state laws and administrative regulations pertaining to the medical use of marijuana, including, but not limited to, the Colorado Medical Marijuana Enforcement Division Rules, Amendment 20; section 18-18-406.3, C.R.S.; and the administrative regulations issued by the Colorado Department of Public Health and Environment found at 5 CCR 1006-2, all as amended from time to time.
- E. Comply with all applicable federal laws, rules or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20; and
- F. If the Town Administrator has a reasonable suspicion that the permittee is or has violated the terms and conditions of the permit: allow inspection of its records, building or structure, and operation by the Town Administrator for the purpose of determining the permittee's compliance with the terms and conditions of the permit. However, nothing in this section shall abrogate or affect: (i) any applicable confidentiality provision of state or federal law, or (ii) any applicable statutory or constitutional prohibition against unreasonable searches and seizure of property. In the event of any conflict between this section and any applicable state or federal law, the applicable provision of state or federal law shall control.

6-3-22: POSTING OF PERMIT: A permit shall be continuously posted in a conspicuous location at the medical marijuana center.

6-3-23: SUSPENSION OR REVOCATION OF PERMIT:

- A. A permit issued pursuant to this chapter may be suspended or revoked by the Town Administrator after a hearing for the following reasons:
 - 1. fraud, misrepresentation, or a false statement of material fact contained in the permit application;
 - 2. a violation of any Town, state, or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20;
 - 3. a violation of any of the terms and conditions of the permit, including any special conditions of approval imposed upon the permit by the Town Administrator pursuant to section 6-3-12;
 - 4. a violation of any of the provisions of this chapter;
 - 5. ownership of the medical marijuana center has been transferred without the new owner obtaining a permit pursuant to this chapter.
- B. In connection with the suspension of a permit, the Town Administrator may impose reasonable conditions.
- C. A hearing held pursuant to this section shall be processed in accordance with 6-3-15 of this code.
- D. In deciding whether a permit should be suspended or revoked, and in deciding what conditions to impose in the event of a suspension, if any, the Town Administrator shall consider:
 - 1. the nature and seriousness of the violation;
 - 2. corrective action, if any, taken by the permittee;
 - 3. prior violation(s), if any, by the permittee;
 - 4. the likelihood of recurrence;
 - 5. all circumstances surrounding the violation;
 - 6. whether the violation was willful;
 - 7. the number of previous violations by the permittee; and
 - 8. previous sanctions, if any, imposed against the permittee.
- E. If the Town Administrator suspends a permit, the permittee may appeal the suspension or revocation to the Town Council, in accordance with the process

outlined in section 6-3-15 of this article. The burden of proof in such an appeal is on the permittee. If the Town Council finds by a preponderance of the evidence that the Town Administrator acted correctly in suspending or revoking the permit, the Town Council shall uphold the Town Administrator's order of suspension or revocation. If the Town Council finds by a preponderance of the evidence that the Town Administrator acted improperly in suspending or revoking the permit, the appeal shall be sustained, and the Town Administrator's order of suspension or revocation shall be set aside. Any decision made by the Town Council pursuant to this section shall be a final decision by the Town of Minturn. The permittee may appeal to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver the applicant's right to contest the denial or conditional approval of the application.

- F. No fee previously paid by a permittee in connection with the application shall be refunded if such permit is suspended or revoked.

6-3-24: LIMITATIONS:

- A. No marijuana may be sold, given away, or transferred at a medical marijuana center except to patients and to primary care-givers.
- B. All cultivation of medical marijuana shall be conducted entirely within a building or other fully enclosed, permanent structure.

6-3-25: CENTER LOCATION:

- A. Except as provided in subsection F of this section, no medical marijuana center shall be located at a location that does not conform to the requirements of this section.
- B. No medical marijuana center shall be located:
 - 1. within 1000 feet of a a school, an alcohol or drug treatment facility, the principal campus of a college, university, or seminary, or a residential child care facility;
 - 2. within 500 feet of any halfway house;
 - 3. within 500 feet of any property being used for a residential use;
 - 4. within any building or structure that contains a residential unit;
 - 5. within 500 feet of another medical marijuana center.
- C. The distances described in subsection B shall be computed by direct measurement from the nearest property line of the land used for the purposes stated in subsections (B)(1), (B)(2), (B)(3), (B)(4) and (B)(5) to the nearest

portion of the building, or unit proposed to house the medical marijuana center, using a straight line.

- D. Each medical marijuana center shall be operated from a permanent and fixed location. No medical marijuana center shall be permitted to operate from a moveable, mobile, or transitory location.
- E. Subsection D shall not prevent the physical delivery of medical marijuana to a patient or the patient's primary caregiver at a location off of the premises of the permittee's medical marijuana center if:
 - 1. the marijuana was lawfully purchased by the patient or the patient's primary caregiver from the permittee's medical marijuana center;
 - 2. the marijuana is delivered only to the patient or the patient's primary caregiver;
 - 3. the marijuana is delivered only by the permittee or an employee of the permittee;
 - 4. the marijuana is delivered to a location within the Town; and
 - 5. the marijuana is delivered only by the use of a motor vehicle, bicycle, or other lawful means of transportation.
- F. The suitability of a location for a medical marijuana center shall be determined at the time of the initial issuance of the permit for such center. The fact that changes in the neighborhood that occur after the initial issuance of the permit might render the site unsuitable for a medical marijuana center under this section shall not be grounds to suspend, revoke or refuse to renew the permit for such center so long as the permit for the center remains in effect.
- G. Meadow Mountain Business Park shall be deemed an approved site if allowed by section 6-3-25(B)(5).
- H. No medical marijuana center shall be operated as a "home occupation" or a "home business" as described in 16-2-20 of this code.

6-3-26: HOURS OF OPERATION: A medical marijuana center may open no earlier than 9 A.M. and shall close no later than 7 P.M. the same day. A medical marijuana center may be open seven days a week.

6-3-27: SIGNAGE: All signage for a medical marijuana center shall comply with the requirements of article 19 of chapter 16 of this code. No signage associated with medical marijuana Centers shall use the word "marijuana," "cannabis" or any other word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical." In addition no signage shall contain a graphic/image of any portion of a marijuana plant.

6-3-28: REQUIRED WARNINGS TO BE POSTED: There shall be posted in a conspicuous location in each medical marijuana center a legible sign, approved by the Town Administrator, containing the following warnings:

- A. A warning that the diversion of marijuana for non-medical purposes is a violation of state law;
- B. A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana; and
- C. A warning that loitering in or around the medical marijuana center is prohibited by state law.
- D. A warning that possession and distribution of marijuana is a violation of federal law.
- E. A warning that no person may be permitted on the licensed premises other than:
 - 1. The licensee, the licensee's manager, licensed employees and financial interest holders
 - 2. A patient in possession of a registry identification card under Article XVIII, Section 14(3)(d) of the Colorado Constitution
 - 3. A minor patient accompanied by a parent or lawful guardian in possession of the minor patient's registry identification card
 - 4. A primary caregiver in possession of his or her patient's registry identification card under Article XVIII, Section 14(3)(d) of the Colorado Constitution and the patient's written designation of said person as the patient's primary caregiver
 - 5. A person whose physical presence and assistance are necessary to assist a patient, or
 - 6. A person who is actively engaged in the maintenance, repair or improvement of the licensed premises or in the provision of accounting, inspection, or other professional services directly related to the conduct of the licensee's marijuana business.

6-3-29: ON-SITE CONSUMPTION: The consumption or inhalation of marijuana on or within the premises of a medical marijuana center is prohibited.

6-3-30: PARAPHERNALIA: Devices, contrivances, instruments, and paraphernalia for inhaling or otherwise consuming marijuana including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a medical marijuana center. Such items may be sold or provided only to patients or primary care-givers.

6-3-31: ON-SITE CULTIVATION, GROWING AND PROCESSING: The growing, cultivation, or processing of marijuana on or within the premises of a medical marijuana center is prohibited unless:

- A. All activities of medical marijuana business, including, without limitation, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted indoors
- B. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marijuana business must be provided at all times

6-3-32: ALCOHOL: The sale or consumption of an alcoholic beverage within a medical marijuana center is prohibited.

6-3-33: DISPLAY OF MEDICAL MARIJUANA: No marijuana shall be displayed so as to be visible through glass, windows, or doors by a person of normal visual acuity standing at the outside perimeter of the medical marijuana center.

6-3-34: SECURITY REQUIREMENTS: A permittee shall provide adequate security on the premises including:

- A. Security requirements as outlined in the Medical Marijuana Enforcement Division Rules 10.200-10.400.
- B. A locking safe permanently affixed to the premises that is suitable for storage of all of the saleable inventory of marijuana if marijuana is to be stored overnight on the premises; and
- C. Exterior lighting that illuminates the exterior walls of the business and is compliant with section 16-17-180 of this code.

6-3-35: BUSINESS LICENSE REQUIRED: At all times while a permit is in effect the permittee shall possess a valid license issued under article 2 of chapter 6 of this code.

6-3-36: TAXES: Each permittee shall collect and remit sales tax on all medical marijuana, paraphernalia, and other tangible personal property sold by the permittee at the medical marijuana center.

6-3-37: REQUIRED RECORD:

- A. Each permittee shall maintain an accurate and complete record of all marijuana sold or dispensed at the medical marijuana center. The record shall contain the following information:
 - 1. The quantity of marijuana sold or dispensed; and
 - 2. The date and time the marijuana was sold or dispensed
- B. The permittee's records described in subsection A of this section shall be available for inspection by the Town's police department pursuant to Rule 41 of

the Colorado Rules of Criminal Procedure or Rule 241 of the Colorado Municipal Court Rules of Procedure.

- C. Nothing in this section shall abrogate or affect : (i) any applicable confidentiality provision of state or federal law, or (ii) any applicable statutory or constitutional prohibition against unreasonable searches and seizure of property. In the event of any conflict between this section and any applicable state or federal law, the applicable provision of state or federal law shall control.

6-3-38: PENALTIES; INJUNCTIVE RELIEF:

- A. It is a misdemeanor offense for any person to violate any provision of this chapter. Any person convicted of having violated any provision of this chapter shall be punished as set forth in article 4 of chapter 1 of this code.
- B. The operation of a medical marijuana center without a valid permit issued pursuant to this chapter may be enjoined by the Town in an action brought in a court of competent jurisdiction. In any case in which the Town prevails in a civil action initiated pursuant to this section, the Town may recover its reasonable attorney fees plus costs of the proceeding.
- C. The remedies provided in this section are in addition to any other remedy provided by applicable law.

6-3-39: NO WAIVER OF GOVERNMENTAL IMMUNITY: In adopting this chapter the Town Council is relying on, and does not waive or intend to waive by any provision of this chapter, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, section 24-10-101 et seq., C.R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the Town, its officers, or its employees.

6-3-40: NO TOWN LIABILITY: By accepting a permit issued pursuant to this chapter a permittee releases the Town, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of center owners, operators, employees, clients, or customers for a violation of state or federal laws, rules or regulations. The Town Administrator may require a permittee to execute a written instrument confirming the provisions of this section.

6-3-41: INDEMNIFICATION OF TOWN: By accepting a permit issued pursuant to this chapter a permittee, jointly and severally if more than one, agrees to indemnify and defend the Town, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana center that is the subject of the permit. The permittee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees. The Town Administrator may require a permittee to execute a written instrument confirming the provisions of this section.

6-3-42: OTHER LAWS REMAIN APPLICABLE: The provisions of this chapter do not protect permittees, operators, employees, customers and clients of a permitted medical marijuana center from prosecution pursuant to any laws that may prohibit the cultivation, sale, use, or possession of controlled substances. In addition, as of the date of the adoption of this chapter the cultivation, sale, possession, distribution, and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 20), and this chapter affords no protection against prosecution under such federal and state laws. Permittees, operators, employees, customers and clients of a permitted medical marijuana center assume any and all risk and any and all liability arising or resulting from the operation of the center under any state or federal law. Further, to the greatest extent permitted by law, any actions taken under the provisions of this chapter by any public officer or officers, elected or appointed officials, employees, attorneys and agents of the Town of Minturn shall not become a personal liability of such person or of the Town.

6-3-43: RULES AND REGULATIONS: The Town Administrator shall have the authority from time to time to adopt, amend, alter, and repeal administrative rules and regulations as may be necessary for the proper administration of this chapter. Such regulations shall be adopted in accordance with the procedures established by chapter 18, title 1 of this code.

Section 2. Municipal Code. Except as specifically amended hereby, the Minturn Municipal Code, and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid or ineffective by the final, nonappealable order or judgment of any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance. The Town Council hereby declares that it would have adopted each section, paragraph, sentence, clause and phrase of this ordinance irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases may be declared unconstitutional, invalid or ineffective.

Section 4. Effective Date. This ordinance shall be published and become effective ~~as provided by section 11.5 of the Minturn Town Charter eighteen months after approved by motion of the Minturn Town Council.~~

Section 5. 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 6. 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 IN FULL, APPROVED ON THE FIRST READING,
APPROVED AND ORDERED PUBLISHED IN FULL THE _____ DAY OF _____,**

3/2/2012~~3/2/2012~~~~4/1/2012~~ Page 20 of 21

~~2014~~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 ____ day of _____, 2012, at 7:00 p.m. at the Minturn Town Center, 302 Pine Street, Minturn, Colorado.

MAYOR

ATTEST:

TOWN CLERK

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE, READ BY TITLE, ENACTED AND ORDERED PUBLISHED BY TITLE ONLY ON SECOND READING THIS ____ DAY OF _____, 2012.

MAYOR

ATTEST:

TOWN CLERK



Sheryl Rogers
Mitch Behr
Paul Kosnik
Adam Smith

1099 Main Street, Suite 313
Crossroads Building
Durango, CO 81301
(970)382-8600

March 14, 2012

*Via Email and Regular
Mail*

Holders and Applicants of Temporary Land Use Permits
for Medical Marijuana

Re: Legal Recommendation on Medical Marijuana Ban in La Plata County

Dear Temporary Permit Holder or Applicant:

La Plata County is insured by the Colorado Counties Casualty and Property Pool (“CAPP”) and excess insurer OneBeacon Insurance (“OneBeacon”). On February 8, 2012, OneBeacon informed CAPP through the attached letter that OneBeacon will not provide liability coverage for the activities of the Medical Marijuana Hearing Office contemplated by the County’s medical marijuana licensing regulations. The rationale is set forth in the letter. Because the articulated rationale seemed to have far reaching implications for all employees and elected officials performing functions under the County’s adopted medical marijuana programs, I sought clarification from CAPP and OneBeacon and have been advised that the cited exclusion is applicable to all of the County’s regulatory processes and that La Plata County as an entity, its elected officials, employees and appointed officers have no liability coverage for functions performed under the County’s medical marijuana regulatory programs. Furthermore, the letter called into question the legality of the activities which, as you know, has been an ongoing debate and an issue that is growing increasingly troublesome for regulating entities.

Since issuance of the letter, the County has explored numerous alternatives such as the possibility of clarifying legislation, alternative avenues for coverage, insistence that the County be insured by the State since the State is self-insured, indemnification or inclusion in licensees’ insurance, and issuance of a legal opinion from the Colorado Attorney General. None of our efforts in this regard have provided realistic remedies and there is no near term solution. Therefore, I am of the opinion that the exposure created for the County by operating the programs cannot be appropriately mitigated. As such, at the March 27, 2012 meeting of the Board of County Commissioners, I will be recommending the following action to the Board: (1) exercise the “local option” set forth in C.R.S. § 12-43.3-106 and, with the exception of item (b) below, immediately prohibit the establishment and operation of optional premises cultivation

March 14, 2012

Page 2

operations and medical marijuana infused products manufacturers' licenses in La Plata County; (b) allow those parties who hold temporary permits as of March 27, 2012 to operate up to and including June 30, 2012, the date on which all temporary land use permits expire so the needs of patients and associated medical marijuana centers can be transitioned; and (c) rescind the licensing regulations previously adopted by the Board which were to become effective on May 1, 2012.

This letter is to serve as your notice of the meeting on March 27, 2012 to be held no earlier than 10:00 a.m. in the Anasazi Room of the La Plata County Courthouse, 1060 E. 2nd Avenue, Durango, Colorado and your opportunity to be heard by the Board of County Commissioners at that meeting. In the meantime, if you have specific questions as to the recommendations, please feel free to contact me or Paul Kosnik, Assistant County Attorney.

Respectfully,

COUNTY ATTORNEY
LA PLATA COUNTY ATTORNEYS OFFICE

A handwritten signature in cursive script that reads "Sheryl Rogers". The signature is written in black ink on a light-colored background.

Sheryl Rogers

Direct e-mail: rogers@lpcattorney.org



February 8, 2012

Ms Priscilla A. McCoy, CIC, CRM
Area Sr. Vice President
Arthur J. Gallagher Risk Management Services, Inc.
6399 S. Fiddler's Green Cir., Suite 200
Greenwood Village, CO 80111

RE: Colorado Counties Casualty and Property Pool
791-00-03-55-0001
Medical Marijuana Licensing Regulations

Priscilla, based on our review of the Colorado Counties Casualty and Property Pool excess liability policy, the exposures presented by a contracted Medical Marijuana Hearing Officer would not be afforded coverage.

The PERSONS OR ENTITIES INSURED provision does not permit a member county to assume the liability of a contracted attorney serving in the role of a Medical Marijuana Hearing Officer.

Further, EXCLUSION GG, ((4) Liability arising from the willful commission of a crime or other dishonest or fraudulent act;), may preclude coverage due to the inherent conflict of state laws that provide a limited exemption for medical marijuana versus federal laws that may apply.

We note that the Medical Marijuana Hearing Officer position would be reviewing a wide range of exposures including medical marijuana center, optional premises, cultivation operators or medical marijuana infused products manufacturers. Across this wide range of operations, the Medical Marijuana Hearing Officer position would likely be called upon to approve operations that may be illegal under federal law, thus triggering the coverage exclusion.

We generally find that new or unique regulatory exemptions or oversight operations are best addressed by specific immunities rather than an attempt to find insurance coverage. The insurance policy may not provide coverage, or if it would, the new or unique exposure could create unanticipated losses leading to premium increases.

We would be pleased to ask our legal department to review further, but would caution that would require additional time. Let us know if you want us to initiate an internal OneBeacon request.

Thank you.

Very truly,

A handwritten signature in black ink, appearing to read "Joe Caufield". The signature is fluid and cursive, with a large initial "J" and "C".

Joseph T. Caufield, CUO
OneBeacon Government Risks

Jay Brunvand

From: Jim White
Sent: Thursday, April 05, 2012 5:56 PM
To: Jay Brunvand; Michelle Metteer
Subject: FW: New wrinkle for those implementing state "medical" marijuana laws -- No insurance coverage!

FYI

Jim White
Town Manager
manager@minturn.org
(970) 827-5645 (w)
(970) 390-5102 (cell)

From: Tami Tanoue [<mailto:Tami@cirsa.org>]
Sent: Thursday, April 05, 2012 5:38 PM
To: Jim White
Subject: RE: New wrinkle for those implementing state "medical" marijuana laws -- No insurance coverage!

Hi, Jim. As a CIRSA member, the Town is not subject to any exclusion for "functions performed under the [Town's] medical marijuana regulatory program." Indeed, we have defended several of our members in MMJ regulatory actions, albeit such actions have been brought by MMJ dispensaries or would-be dispensaries rather than by any governmental authority. So CIRSA members are not in the same position as County pool members with respect to the MMJ regulatory issue.

It seems to me that the possibility of a criminal charge against a Town employee performing a regulatory function as to a MMJ dispensary is fairly remote. We would have a limited "criminal defense reimbursement" coverage that could be pertinent in such a situation.

Tami

From: Jim White [<mailto:manager@minturn.org>]
Sent: Thursday, April 05, 2012 4:51 PM
To: Tami Tanoue
Subject: FW: New wrinkle for those implementing state "medical" marijuana laws -- No insurance coverage!

Tami,

I was asked to check with you about insurance coverage related to the issue below. Please let me know your thoughts or CIRSA's official position if there is one.

Thank you!

Jim White
Town Manager
manager@minturn.org
(970) 827-5645 (w)
(970) 390-5102 (cell)

From: Allen Christensen [<mailto:accpc@hotmail.com>]
Sent: Wednesday, April 04, 2012 11:11 PM
To: Jim White
Cc: Lorenzo Martinez
Subject: RE: New wrinkle for those implementing state "medical" marijuana laws -- No insurance coverage!

Jim, Lorenzo asked me to review letter from LaPlata County attorney which I did when I got home. We have a different insurer, but it would not hurt to check with Tami at CIRSA to see if the Town and its employees are covered if the council takes action to approve medical marijuana, or if the council does not ban it and it is approved in Minturn under state law. LaPlata County was advised that they would not be covered.

I have highlighted the paragraph in the email that got my attention. The letters from insurance carrier and LaPlata county are attached to the original email sent on 3/27.

Thanks - not urgent until and unless council takes action.

Allen C. Christensen
Attorney at Law, P.C.
97 Main St. Suite W 206
P.O. Box 4128
Edwards, CO 81632
Phone: 970-926-3835
Fax: 970-926-0880

Confidentiality Note: This electronic message contains information from the law firm of Allen C. Christensen, which may be confidential, legally privileged or otherwise protected from disclosure. This information is intended for the use of the addressee only. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, printing or any other use of, or any action in reliance on, the contents of this electronic message is strictly prohibited. If you have received this communication in error, please notify us by telephone at (970) 926-3835 and destroy the original message.

From: lmartinez@minturn.org
To: manager@minturn.org; accpc@hotmail.com; mmetteer@minturn.org; treasurer@minturn.org
CC: losborne@minturn.org
Subject: Fwd: New wrinkle for those implementing state "medical" marijuana laws -- No insurance coverage!
Date: Tue, 27 Mar 2012 13:54:29 +0000

FYI

Chief Martinez

Sent from my iPhone

Begin forwarded message:

From: "Buddy & Bonnie Sims" <tlsims@cox.net>
To: "Treu, Bryan" <bryan.treu@eaglecounty.us>
Cc: "Stavney, Jon" <Jon.Stavney@eaglecounty.us>, "Narracci, Bob" <Bob.Narracci@eaglecounty.us>, "Hoy, Joe" <joseph.hoy@eaglecounty.us>, "Ticer, Robert" <rticer@avon.org>, "Henninger, Dwight" <dhenninger@vailgov.com>, "Lorenzo Martinez" <lmartinez@minturn.org>, "Walsh, John" <John.walsh2@usdoj.gov>, "Suthers, John" <attorney.general@state.co.us>, "Duran, Richard" <richard.duran@cdps.state.us>, "Jim White" <manager@minturn.org>, "Merrill, Kevin" <kevin.r.merrill@usdoj.gov>, "Hurlbert, Mark" <MHurlbert@da5.org>, "Gorman, Tom"

<tgorman@rmhidta.org>

Subject: New wrinkle for those implementing state "medical" marijuana laws -- No insurance coverage!

Bryan Treu
Eagle County Attorney

Bryan,

Insurance policies routinely exclude coverage for "illegal activities." That exclusion affects all who implement state "medical" marijuana laws. If Eagle County is involved in implementing "medical" marijuana laws, maybe contact your insurance agent to see whether you are covered, i.e, La Plata County and One Beacon letters attached to make my point.

Marijuana is a Schedule I drug under the federal Controlled Substances Act. As a Schedule I drug, the use, possession, manufacture, and distribution of marijuana are criminal offenses under the CSA. Anyone who possesses, uses, cultivates or distributes marijuana, or who "facilitates" such activities, even if such acts are legal under state law, is subject to federal sanctions. Those "facilitating" include state, counties, cities, and local jurisdictions, as well as their employees who issue permits or licenses for use, possession, cultivation or sale of marijuana. State or county employees are not immune from federal prosecution. Moreover, your involvement in federally illegal activities could cause you to incur personal liability for damages or injuries to persons harmed by marijuana users, growers or sellers licensed by the state.

I have attached copies of: (1) the letter from the La Plata County (Colorado) Attorney's office recommending the abandonment of licensing regulations, prohibition of marijuana cultivation and cessation of other activities contemplated by county marijuana regulations, based on the lack of insurance coverage for "functions performed under the County's medical marijuana regulatory program," and (2) the letter from One Beacon Insurance, the carrier of La Plata County's excess liability coverage, discussing the denial of coverage "due to the inherent conflict of state laws that provide a limited exemption for medical marijuana versus federal laws that may apply."

There are at least two separate kinds of actions that could lead to money judgments against states and county authorities, and their employees, that would not be covered by insurance: (1) actions for injuries to citizens caused by pot smokers who hold marijuana cards and engage in drugged driving, negligent or violent acts, and (2) products liability actions for injuries caused to consumers by licensed growers and sellers of marijuana. There are strict liability, vicarious liability and products liability issues that need to be discussed with insurance carriers immediately.

Please check with your insurance provider about these issues. As states and counties engage in "facilitating" illegal activities under the Controlled Substances Act, it is vitally important that they, as well as their employees, officers and agents, Commissioners understand the economic consequences of their actions. This has far-reaching, potentially adverse economic consequences for states and counties, as well as for employers, employees, directors, and agents personally who are counting on D & O, E & O, and EPLI coverage, for instance.

There simply is a conflict between state and federal law that creates the dangerous potential of excluded claims under existing insurance.<http://durangoherald.com/article/20120322/NEWS01/703229947/>- This article also makes my point for Eagle County.

Here are just a few comments from insurance providers (who have asked that their names not be used) concerning this issue:

"No surprises here on my end. I could have told you that activities that breach the Federal law would be deemed as 'not covered' under any liability policy that I'm aware of, having worked in this area for almost 40 years. Criminal activity, which this is classified as, is never covered and I'm not aware of any specialty carrier that would touch it. It's a stick of dynamite with the fuse burning. I was slightly involved in the State of _____'s attempt to get coverage for meth clean-up under a specialty policy some years ago, and underwriters laugh at you when you call them. Sounds like the fools in _____ are getting the hot end of their doobie."

"You have uncovered a huge can of worms for states that have passed laws legalizing an illegal substance. If I was serving say as a county commissioner, etc. I'd resign. Otherwise, one may be personally responsible for a wrongful death suit as a result of this issue. The potential trail of problems is beyond my comprehension. This is a prime example of states acting before thinking of all the ramifications of their actions."

"As a professional in the insurance industry for 30 years, it is clear that this would present liability issues and claims that could and would be substantial. With this directive it clearly will be an event that will be excluded by liability carriers and the risk will fall on the offending agency (municipal or state)."

Pot advocates in Eagle County have found a home at the County that is reckless and ill-informed enough to flout federal law and push forward with permitting, licensing and supervision of these illegal enterprises through local zoning. The next death on I-70 resulting from "medical marijuana" will simply ruin your financial future and will unfortunately prove my insurance point. Best of luck!

Buddy

--Forwarded Message Attachment--

--Forwarded Message Attachment--

Total Control Panel

[Login](#)

To: manager@minturn.org

[Remove this sender from my allow list](#)

From: tami@cirsa.org

You received this message because the sender is on your allow list.



Official Minutes

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

Wednesday April 4, 2012

Work Session – 5:15pm
Regular Session – 6:30pm

MAYOR – Gordon “Hawkeye” Flaherty
MAYOR PRO TEM – George Brodin

TOWN MANAGER – Jim White
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 – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/824-5645 302 Pine St. Minturn, CO 81645

Work Session – 5:15 pm

- Discussion - Escrow funding priority list – White (45min)
- Discussion – ATV usage on Town streets – Chief Martinez (15min)
- Discussion – Ordinance 4 – 2012 regarding 50% reduction in rear property setback for detached garage – Cerimele (15min)

Regular Session – 6:30 pm

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

The meeting was called to order by Mayor Flaherty at 6:42 pm.

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

Staff present: Town Manager Jim White, Town Attorney Allen Christensen, Treasurer/Clerk Jay Brunvand, Deputy Clerk/Events Michelle Metteer, Town Planner Chris Cerimele, and Attorney Allen Christensen.

2. Swearing in of Mayor and Council Elect – Hon. Judge T. Quinn (30min)

The Council Elect and Mayor Elect were sworn in by Judge Quinn.

Motion by Earle B, second by Aggie M, to confirm George B as Mayor Pro Tem. Motion passed (7-0).

3. Approval of Agenda

- a. Items to be Pulled or Added

Motion by Shelley B., second by John R., to approve agenda as presented; motion passed (7-0).

4. Approval of Minutes and Action Report

- March 21, 2012
- Action Item Report

Motion by George B., second by Jerry B., to approve the minutes of March 21, 2012 as presented; motion passed (7-0).

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

6. Special Presentations

7. Planning Department Update

8. Town Manager's Report

Direction to staff to contact Animal Control for “off-hour” patrols of Minturn.

9. Town Council Comments

Earle B recognized the Community Garden program and asked that anyone interested in taking part in the Garden please contact Jodi at the Minturn Community Fund. www.minturncommunityfund.org.

The Mayor wishes everyone a happy Easter. Also please be aware the bears are active again and not to put trash out the night before.

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

- 10. Discussion/Action: Ordinance 1- 2012 an Ordinance (Second Reading) amending Chapter 16 of the Town of Minturn Municipal Code by revising the lot coverage definition and adding a definition for the ordinary high water mark in section 16-2-20 of the Town of Minturn Municipal Code – Cerimele (20 min)**

Motion by John R, second by George B, to approve Ordinance 1- 2012 an Ordinance (Second Reading) amending Chapter 16 of the Town of Minturn Municipal Code by revising the lot coverage definition and adding a definition for the ordinary high water mark in section 16-2-20 of the Town of Minturn Municipal Code. Motion passed (7-0).

- 11. Discussion/Action: Ordinance 2- 2012 an Ordinance (Second Reading) amending Chapter 16 of the Town of Minturn Municipal Code by adopting submittal requirements and public hearing procedures for Design Review applications – Cerimele (30 min)**

Motion by John R, second by George B, to approve Ordinance 2- 2012 an Ordinance (Second Reading) amending Chapter 16 of the Town of Minturn Municipal Code by adopting submittal requirements and public hearing procedures for Design Review applications. Motion passed (7-0).

- 12. Discussion/Action Item: Ordinance 6 – 2012 an Ordinance (First Reading) amending Chapter 16, Section 16-17-190 of the Town of Minturn Municipal Code to allow for a 50% reduction in the rear property setback for a detached garage. Cerimele – (30 min)**

Motion by Shelley B, second by John R, to May 2, 2012 Ordinance 6 – 2012 an Ordinance (First Reading) amending Chapter 16, Section 16-17-190 of the Town of Minturn Municipal Code to allow for a 50% reduction in the rear property setback for a detached garage. Motion passed (7-0).

- 13. Discussion/Action Item: – Resolution 11 – Series 2012: A Resolution Appointing a Town Planning Commissioner – Cerimele (20 Min.)**

Burke Harrington, 532 A Taylor St, Minturn looks to lend an intelligent voice to the Planning Commission and serve the Town of Minturn.

Motion by John R, second by George B, to approve Resolution 11 – Series 2012: A Resolution Appointing a Town Planning Commissioner. Motion passed (7-0)

EXECUTIVE SESSION

No Executive Session Required.

14. Pursuant to CRS 24-6-402(4)(a) for the purposes of discussing the purchase of certain USFS land and pursuant to CRS 24-6-402(4)(b) for the purposes to consult with the Town's Attorney and receive legal advice regarding status of escrow fund distribution, initial discussion of allocation of funds, and review notices regarding citizen violation of Colorado Law – White/Christensen

15. Executive Session – Action by Council or Direction to Staff as a result of the Executive Session (5min)

FUTURE AGENDA ITEMS

16. Next Meeting – April 18, 2012

- Worksession Discussion: Ordinance ____- 2012 an Ordinance (First Reading) an Ordinance banning the sale of Medical Marijuana within the Town of Minturn – Christensen (20 min)
- Work Session Discussion: Consideration of distribution of escrow funding.

17. Future Meeting

18. Set Future Meeting Dates

a) Council Meetings:

- April 18, 2012
- May 2, 2012
- May 16, 2012

b) Planning & Zoning Commission Meetings:

- April 11, 2012
- May 9, 2012
- June 13, 2012

c) Other Dates:

- Highway Clean Up – April 28, 2012
- Minturn Town Clean Up – June 2, 2012

19. Adjournment

Motion by Jerry B, second by John R to adjourn at 7:38 pm. Motion passed (7-0).

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: April 18, 2012
SUBJECT: Status of Action Items from Town Council Meetings

Action Item	Responsible Party	Progress Report
Battle Mountain Annexation/Minturn Scholarship Fund	White	Funding from Annexation interest money and other donations. One application received; Committee is moving forward with review
OSAC Funding for Boneyard Purchase	Cerimele	Town staff seeking alternative funding opportunities. OSAC has referred this to the Eagle County Commissioners.

Action Item	Responsible Party	Progress Report
2012 Goal: Town Street Repairs and Drainage.	White/A. Martinez	Obtain updated estimates for repairs. Check with CDOT regarding south Town drainage.
2012 Goal: Expand Parking and Improve Appearance of Municipal Lot.	White/Cerimele/A. Martinez	Preliminary designs are being reviewed at staff level.
2012 Goal: Continue Sidewalk Installation Program/Improve Plan with Lafarge	White/A. Martinez	Plan to contact residents during 2 nd quarter 2012. Staff and Planning Commission reviewing language to code to require sidewalks for new construction.
2012 Goal: Implement Streetscape Plan	White /Cerimele/	Staff to review previously submitted plans to develop an action plan for 2012.
2012 Goal: Strengthen Marketing and Events	Metteer	Review of research work conducted for Vail Valley event guests to obtain a 3-5 year marketing plan that will coordinate with the Town's event schedule.
2012 Goal: Clean Up Parking Area on North Taylor St	Cerimele/L. Martinez	Continue to monitor and remove abandoned vehicles to allow for organized and structured short term parking.
2012 Goal: Opportunities & Submittals and scheduling and apply for infrastructure grants/loans	White/Cerimele	Staff to provide periodic updates to Council.



To: Minturn Town Council
From: Chris Cerimele, Town Planner
Date: April 13, 2012
Re: Planning Department Update

Planning Commission – April 11, 2012

Lynn Teach was elected to serve as the Chair of the Planning Commission and Tim Osborne was elected as the Vice-Chair. Per section 16-21-40 of the Minturn Municipal Code, the term of the Chairperson shall be for one year with eligibility for reelection.

Grant Opportunities

The Town is pursuing grant funding to install security fencing around the water treatment facility. A representative from the Colorado Rural Water Association (CRWA) met with Arnold Martinez, John Volk and myself to discuss potential funding sources for this and other projects. Minturn's median household income of approximately \$63,000 makes the Town ineligible for CRWA grants; however, there are several low interest rate loan programs that the Town could use as funding options. We will continue to explore other grant programs for water system improvements.

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



TOWN COUNCIL
Mayor – Gordon “Hawkeye” Flaherty
Mayor Pro Tem – George Brodin
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: April 12, 2012
Re: **Manager’s Report for the April 18, 2012 Town Council Meeting**

Battle Mountain Update

The Escrow Agreement requires a resolution to verify proper release of the escrow funds and retention of a small amount in the escrow accounts. In other news, on Monday, April 9, 2012, the Colorado Supreme Court upheld the annexation of the Battle Mountain property.

Town Council Retreat

I have been asked to request that the Town Council begin planning for a retreat to discuss, among other things: the recent release of escrow funds and the implications of the recent Supreme Court decision upholding the Battle Mountain development.

Eagle County Open Space Advisory Committee (OSAC)

The Eagle County OSAC director, Toby Sprunk, is following up with the USFS regarding the potential purchase of the Bone Yard property in Minturn. He will be at tonight’s work session to discuss the process as we move forward.

Colorado Mountain College Foundation

I met with two representatives of Colorado Mountain College on April 5, 2012 to learn about scholarship and endowment options and to seek advice from experts in the field related to establishing and maintaining such funds. Other similar contacts have been made. Our scholarship committee will continue to gather information so the Town Council can eventually set policy for disbursement of the scholarship funds we now have available.

Dowd Junction

A meeting was held in Eagle Vail at the Pavilion on April 4, 2012 to discuss Dowd Junction, review its history, and to talk about future planning and prospects. Representatives from Eagle County, Minturn, Vail, Eagle Vail, and the USFS were present.

13th Annual Highway Cleanup

The annual Highway 24 Cleanup will be held on Saturday, April 28, 2012, organized by the Eagle River Watershed Council. For more information, email info@erwc.org or call 970-827-5406. The Town cleans the highway from the entrance to Maloit Park to Tigiwon Road.

4/12/12

3rd Police Officer Sought

Following the release of the escrow funds, I am now re-opening the process to seek another police officer for the Town of Minturn. Chief Martinez and I have discussed the process. The Town Council will remember that we eliminated the third officer from our 2012 budget during our budget planning sessions last fall.

Silver Plume Water Treatment Plant

Councilman Aggie Martinez, the Town Manager, the Public Works Supervisor, TST Engineering, and John Volk, water operator, visited the Silver Plume, CO water treatment plant on Monday, April 9, 2012 to view a microfiltration plant constructed in 2006.

Rec Center Committee Meeting

The committee reviewing the prospect of a partnership with the Town, SSCV, and Battle Mountain to plan for a human performance center/rec center met on Tuesday, April 10, 2012. Councilmen Earle Bidez and John Rosenfeld, the Town Manager, and the Town Planner represented the Town. Residential housing, athletic fields, parking, and the location of the facility were among the topics discussed.

Scholarship Committee

The Scholarship Committee met on Monday April 16, 2012. Councilman Jerry Bumgarner and the Town Manager represented the Town. A brief update will be added to this report at the Town Council meeting. We have also been researching funding options for the scholarship funds that came from the escrow funds recently.

Copper Triangle 2012 Bicycle Event

The Town of Minturn will provide an aid station during the 7th Annual Copper Triangle on August 4, 2012. We have been asked to provide space at Little Beach Park. This event is a fund raiser for the Davis Phinney Foundation (Parkinson's disease research). Set up will be at 7am and will be broken down by 1pm. Assisted Cycling Tours will manage the aid station with 12-15 volunteers.

Pro Cycling Challenge Bike Event

The Town of Minturn hosted a meeting among Minturn, Vail, Avon local police, Colorado State Patrol, Eagle Fire District, emergency services personnel, public information officers, and bike event officials to begin planning for the stage of the race expected to pass through Minturn on Thursday, August 23, 2012. There will be national TV exposure and an opportunity to showcase our community. We are attempting to secure a "sprint line" as part of the race as it passes through Minturn. Incident command for this event will be in Beaver Creek which will be a finishing place for this same stage of the race.

Respectfully submitted,
Jim White
Town Manager

RESOLUTION 12 – SERIES 2012

**A RESOLUTION AUTHORIZING SECOND
AMENDMENT TO ESCROW AGREEMENT REGARDING
WATER STORAGE**

WHEREAS, The Town of Minturn, Colorado (the “Town”) entered into three escrow agreements on or about April 7, 2008 with Ginn Battle North, LLC, Ginn Battle South, LLC and Ginn-LA Battle One, LLLP (collectively “Battle”); and

WHEREAS, in accordance with those agreements, known as The Scholarship and Park Escrow Agreement, The Recreation Center and Trail Escrow Agreement and The Water Escrow Agreement Battle, escrowed a total of \$11,600,000 and

WHEREAS, on or about February 15, 2012 the parties signed agreement to approve the first amendment to the Water Storage escrow agreement for distribution of the escrow funds; and

WHEREAS, the parties have reached agreement regarding termination of the escrow agreement with Stewart Title Company and placing the remaining escrow funds in escrow in the Town’s ColoTrust accounts.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

The Second Amendment to Escrow Agreement (Water Storage), attached hereto as Exhibit A, is hereby approved. The Mayor is authorized to sign the agreement.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS 18th DAY OF APRIL, 2012.

TOWN OF MINTURN, COLORADO

Mayor

ATTEST:

Town Clerk

SECOND AMENDMENT TO ESCROW AGREEMENT
(Water Storage)

This Second Amendment to Escrow Agreement is made as of the ___ day of April 2012 by and among the Town of Minturn, Colorado, a home rule municipal corporation (“Town”), Battle North, LLC, fka Ginn Battle North, LLC (“Battle”), and Stewart Title of Colorado, Inc. (“Escrow Agent”).

WITNESSETH:

WHEREAS, the parties have entered into an Escrow Agreement (Water Storage) dated as of April 9, 2008 (“Escrow Agreement”) and a First Amendment to Escrow Agreement (Water Storage) dated as of February 15, 2012 and the terms used herein shall have the same meaning as in the Escrow Agreement;

WHEREAS, the timing for the authorization and the construction of Bolts Lake under the Storage Obligations as defined in the Escrow Agreement has and will continue to extend behind the reasonable expectations of the parties;

WHEREAS, the parties desire to release as they direct all of the remaining First Deposit totaling the sum of One Thousand and No/100 Dollars (\$1,000.00) from the escrow held by Stewart Title Guaranty Company, aka Stewart Title of Colorado, Inc. to be held by the Town as escrow agent in an escrow account subject to the terms and conditions of this Escrow Agreement as amended and otherwise terminate the escrow with Escrow Agent; and

WHEREAS, pursuant to paragraph 6 (a) of the Escrow Agreement, the parties desire to supplement and amend the Escrow Agreement as set forth herein;

NOW, THEREFORE, for and in consideration of the premises, Ten Dollars in hand paid by Battle to the Town and Escrow Agent, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Escrow Agreement as amended as follows with reference to the Sections set forth therein:

1. The introductory paragraph and signature page shall be amended to delete the reference to “Stewart Title Guarantee Company (“Escrow Agent”)” as the escrow agent and replace the parenthetical (“Town”) with (“Town” or “Escrow Agent” as applicable) and the Town as the escrow agent.

2. Paragraph 1(d) shall be amended by deleting the following terms at the end of the paragraph “on the 15th business day of each calendar month during the term of this Escrow Agreement” and replacing the same with “upon receipt of Ginn’s written request.”

3. As of the date hereof, the Town and Battle shall provide Stewart Title Guarantee Company written instructions regarding the release of the \$1,000.00 to the Town presently in escrow to be held by the Town in escrow as Escrow Agent.

4. All other terms and conditions of the Escrow Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have set their hands and seals as of the day and year first above written.

Battle North, LLC, a Georgia limited liability company

By: _____
David Kleinkopf, Authorized Agent

Town of Minturn, Colorado
a home rule municipal corporation

By: _____
Hawkeye Flaherty

Title: _____

Stewart Title of Colorado, Inc.
a Colorado corporation

By: _____

Title: _____

RESOLUTION 13 – SERIES 2012

**A RESOLUTION AUTHORIZING SECOND
AMENDMENT TO ESCROW AGREEMENT REGARDING
PEDESTRIAN AND BIKE TRAIL AND
RECREATION/COMMUNITY CENTER**

WHEREAS, The Town of Minturn, Colorado (the “Town”) entered into three escrow agreements on or about April 7, 2008 with Ginn Battle North, LLC, Ginn Battle South, LLC and Ginn-LA Battle One, LLLP (collectively “Battle”); and

WHEREAS, in accordance with those agreements, known as The Scholarship and Park Escrow Agreement, The Recreation Center and Trail Escrow Agreement and The Water Escrow Agreement Battle, escrowed a total of \$11,600,000 and

WHEREAS, on or about February 15, 2012 the parties signed agreement to approve the first amendment to the Water Storage escrow agreement for distribution of the escrow funds; and

WHEREAS, the parties have reached agreement regarding termination of the escrow agreement with Stewart Title Company and placing the remaining escrow funds in escrow in the Town’s ColoTrust accounts.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MINTURN, COLORADO:**

The Second Amendment to Escrow Agreement (Pedestrian and Bike Trail and Recreation/Community Center), attached hereto as Exhibit A, is hereby approved. The Mayor is authorized to sign the agreement.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS 18th DAY OF
APRIL, 2012.

TOWN OF MINTURN, COLORADO

Mayor

ATTEST:

Town Clerk

**SECOND AMENDMENT TO ESCROW AGREEMENT
(PEDESTRIAN AND BIKE TRAIL AND RECREATION/COMMUNITY CENTER)**

This Second Amendment to Escrow Agreement is made as of the __ day of April 2012 by and among the Town of Minturn, Colorado, a home rule municipal corporation (“Town”), Battle North, LLC, fka Ginn Battle North, LLC, Battle South, LLC, fka Ginn Battle South, LLC, and Battle One Developer, LLLP, fka Ginn-LA Battle One, LLLP (collectively “Battle”), and Stewart Title of Colorado, Inc. (“Escrow Agent”).

WITNESSETH:

WHEREAS, the parties have entered into an Escrow Agreement (Pedestrian and Bike Trail and Recreation/Community Center) dated as of April 9, 2008 (“Escrow Agreement”) and a First Amendment to Escrow Agreement dated as of February 15, 2012 and the terms used herein shall have the same meaning as in the Escrow Agreement;

WHEREAS, the timing for the authorization and the construction of a bike trail and recreation/community center as set forth in the Escrow Agreement has and will continue to extend behind the reasonable expectations of the parties;

WHEREAS, the parties desire to release as they direct all of the remaining escrow funds totaling the sum of One Thousand and No/100 Dollars (\$1,000.00) from the escrow held by Stewart Title Guaranty Company, aka Stewart Title of Colorado, Inc. to be held by the Town as escrow agent in an escrow account subject to the terms and conditions of this Escrow Agreement as amended and otherwise terminate the escrow with Escrow Agent.; and

WHEREAS, pursuant to Section 7(i) of the Escrow Agreement, the parties desire to supplement and amend the Escrow Agreement as amended as set forth herein;

NOW, THEREFORE, for and in consideration of the premises, Ten Dollars in hand paid by Battle to the Town and Escrow Agent, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Escrow Agreement as amended as follows with reference to the Sections set forth therein:

1. The introductory paragraph and signature page shall be amended to delete the reference to “Stewart Title Guarantee Company (“Escrow Agent”)” as the escrow agent and replace the parenthetical (“Town”) with (“Town” or “Escrow Agent” as applicable)” and the Town as the escrow agent.

2. Paragraph 3 shall be amended by deleting the following terms at the end of the paragraph “and shall be disbursed to Ginn monthly” and replacing the same with “and shall be paid to Ginn upon the receipt of a written request to disburse the same.”

3. As of the date hereof, the Town and Battle shall provide Stewart Title Guarantee Company written instructions regarding the release of the \$1,000.00 to the Town presently in escrow to be held by the Town in escrow as Escrow Agent.

4. All other terms and conditions of the Escrow Agreement as amended shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have set their hands and seals as of the day and year first above written.

GINN:

Battle One Developer, LLLP, a Georgia limited liability limited partnership

By: Loda LLC, its general partner, a Colorado limited liability company

By: Kleinkopf Battle Investment, LLC, a Colorado limited liability company

By: _____

David Kleinkopf, Member

Battle North, LLC, a Georgia limited liability company

By: _____

David Kleinkopf, Authorized Agent

Battle South, LLC

By: _____

David Kleinkopf, Authorized Agent

TOWN AND ESCROW AGENT:

Town of Minturn, Colorado

a home rule municipal corporation

By: _____

Hawkeye Flaherty

Title: _____

Stewart Title of Colorado, Inc.

a Colorado corporation

By: _____

Title: _____

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
Councilman – John Rosenfeld

AGENDA ITEM COVER SHEET

AGENDA TITLE: Resolution No. 14 – 2012 to designate public notice posting sites within the Town of Minturn
MEETING DATE: April 18, 2012
PRESENTER: Brunvand
<ul style="list-style-type: none">• BACKGROUND: As a result of the election held on April 3, 2012, official posting sites within the Town need to be designated as we reduce from four bulletin boards to two plus the website. Staff is recommending approval of this Resolution.
CORE ISSUES:
STAFF RECOMMENDATION/MOTION: Motion to approve Resolution 14 – 2012 a Resolution designating two public places and the Town’s website for the posting of Public Notices and Notice for public meetings of the Minturn Town Council, Planning and Zoning Commission, and other boards, commissions, and authorities of the Town of Minturn as presented.

TOWN OF MINTURN

RESOLUTION NO. 14 – SERIES 2012

A RESOLUTION DESIGNATING TWO PUBLIC PLACES WITHIN THE TOWN OF MINTURN AND THE TOWN WEBSITE FOR THE POSTING OF PUBLIC NOTICES AND NOTICE FOR PUBLIC MEETINGS OF THE MINTURN TOWN COUNCIL, PLANNING AND ZONING COMMISSION, AND OTHER BOARDS, COMMISSIONS, AND AUTHORITIES OF THE TOWN OF MINTURN.

WHEREAS, the Town of Minturn is a Home Rule Municipality under the Colorado Constitution; and

WHEREAS, the Town of Minturn Charter – Section 4.8 requires notices of public meetings be posted at two(2) public places and the Town’s website at least 24-hours prior thereto, and

WHEREAS, the Town of Minturn now wishes to designate a public place within its boundaries for posting of such full and timely notice to the public for public notices and for of the Town Council, the Planning and Zoning Commission, and other boards, committees, and authorities of the Town;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT:

- 1) The Town Council hereby designates the following as the public places for the posting of full and timely notice to the public as provided for in the Minturn Town Charter:
 - The bulletin board on the outside of the Town Center at 302 Pine St.
 - The bulletin board outside of the Town Center at 301 Boulder St.
 - The official Town website.
- 2) This Resolution shall take effect immediately upon its passage.

INTRODUCED, READ, APPROVED AND ADOPTED this 18th day of April 2012.

HAWKEY FLAHERTY, MAYOR

ATTESTS:

JAY BRUNVAND, TOWN CLERK



TOWN OF MINTURN
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**FROM THE DESK OF
JAY BRUNVAND, TREASURER/FINANCE**

MEMORANDUM

TO: Minturn Town Council
FROM: Jay Brunvand, Treasurer/Clerk
CC:
DATE: Friday, April 13, 2012
RE: Executive Session

At the Council meeting, Council will need to convene in Executive Session with the Attorney to discuss and direct Staff regarding the possible acquisition of a parcel of USFS land and to further give direction for the purposes of ongoing negotiations. The following motion is recommended:

“Recommended motion: “I move to convene in Executive Session Pursuant to CRS 24-6-402(4)(a) for the purposes of discussing the purchase of certain USFS land and pursuant to CRS 24-6-402(4)(b) for the purposes to consult with the Town's Attorney and receive legal advice regarding status of escrow fund distribution, and to receive legal advice regarding insurance issue.”

The Mayor will announce for the record if any decision is to be made as a result of the Executive Session once the Regular Session meeting reconvenes.

Please contact me in the event you have any questions.

Thank You, Jay