2012

Minturn Council Meeting

Wednesday May 16, 2012

Work Session: 5:00pm
(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 May 16, 2012

Work Session – 5:00pm
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 – 5:00 pm

- Colorado Mountain College presentation regarding scholarship endowment – White (30min) Pg 4
- Lafarge Sidewalk repairs report – White (45min)
- Ordinance 9 – 2012 an Ordinance (First Reading) Special Events Ordinance – Metteer (15min) Pg 80

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. **Liquor License Authority:** Gourmet Cowboy, Inc Hotel/Restaurant Liquor License annual renewal; 455 Main Street; Tom McNeill, Owner/Manager – Brunvand (5min) Pg 15

4. **Approval of Minutes and Action Report**
   - May 2, 2012 Pg 21
   - Action Item Report Pg 29

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** Pg 30

9. **Town Council Comments**

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

10. **<u>Discussion/Action Item</u>: Council will discuss both Ordinance options but will pass only one:**
    - Ordinance 3 – 2012 an Ordinance (First Reading) an Ordinance authorizing the sale of Medical Marijuana within the Town of Minturn – Christensen (20 min) Pg 32

    OR
    - Ordinance 7 – 2012 an Ordinance (First Reading) an Ordinance banning the sale of Medical Marijuana within the Town of Minturn – Christensen (20 min) Pg 55

11. **<u>Discussion/Action Item</u>: Ordinance 6 – 2012 an Ordinance (Second 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)** PG 60

12. **<u>Discussion/Action</u>: Ordinance 8 – 2012 an Ordinance (Second Reading) authorizing the Mayor to sign and Intergovernmental Agreement with Douglas County to comply with Colorado Revised Statutes concerning sex offender tracking and registration – Christensen (15min)** Pg 71

13. **<u>Discussion/Action</u>: Ordinance 9 – 2012 an Ordinance (First Reading) Special Events Ordinance – Metteer (15min)** Pg 80

14. **<u>Discussion/Action</u>: Resolution 15 – 2012 a Resolution of endorsement for Holy Cross funding to OSAC purchase – White (15min)** Pg 114

EXECUTIVE SESSION

15. 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 to receive legal advice and give instructions for negotiations concerning an insurance settlement – White/Christensen Pg 115

16. <u>Executive Session</u> – Action by Council or Direction to Staff as a result of the Executive Session (5min)

FUTURE AGENDA ITEMS

17. Next Meeting – June 6, 2012

18. Future Meeting

19. Set Future Meeting Dates

a) Council Meetings:

- May 16, 2012
- June 6, 2012
- June 20, 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

20. Adjournment

Colorado Mountain College FOUNDATION

THE TOWN OF MINTURN SCHOLARSHIP *ENDOWMENT*
for the CMC-EDWARDS CAMPUS

Mr. Jim White
Town Manager
PO Box 309
Minturn, CO 81645

The Town of Minturn [the Town] would like to make a cash gift commitment of $50,000 to the Colorado Mountain College Foundation [the Foundation] so to create the *Town of Minturn Scholarship Endowment* benefiting CMC students residing in Minturn, Colorado who are pursuing an Associate's Degree at CMC's Edwards Campus.

The Town of Minturn's Obligations:

The Town agrees to fulfill this commitment in accordance with the following payment schedule:

Date	Annual Payment
July 1, 2012	>/= $50,000
TOTAL	>/= $50,000

The Town's fulfillment of the scholarship commitment will create an endowment corpus which will in perpetuity allow the *The Town of Minturn Scholarship* to be awarded at a 50% tuition level to Associate Degree seekers and provide an award at this level in "year one" while the endowment corpus is being invested.

CMC's Obligations:

- The College agrees to create the *Town of Minturn Scholarship Endowment* and to award the scholarship annually. Applicants' credentials will be evaluated by the CMC (Edwards) Scholarship Committee in accordance with the below criteria and it is the CMC Foundation's hope that a representative from the Town of Minturn will serve on that scholarship committee:
    - The scholarship will only be available to Town of Minturn residents, attending the CMC-Edwards campus, who can demonstrate financial need for the scholarship
- CMC agrees to use the name of the scholarship when reasonably possible in student recruitment, advertising, course catalogs and other printed materials.

- CMC agrees to name a classroom of the Town of Minturn's choosing at the new CMC-Edwards Academic Center in recognition of this investment in the future of CMC and the College's students who reside in Minturn, Colorado.
- Any annual balance of funds from this endowment will be reinvested on an annual basis into the corpus of the Town of Minturn Endowed Scholarship account.

Joint Understandings:

- Good faith effort to clear any press releases with each other (Donors and College) prior to any such media releases.
- Should any of the above be violated by either party, or should it be mutually deemed appropriate, the name of the scholarship may be changed.
- Per CMC Foundation policy, each annual installment will be assessed a 5% administration fee
- Once endowed, should lackluster investment returns from the scholarship fund necessitate invasion of fund corpus for the purpose of satisfying an agreement between an awarded student and CMC, the CMC Foundation in consultation with its investment committee, reserves the right to do so.
- Once endowed, should use of interest income from the corpus of the above-described fund become impractical as above-described, the CMC Foundation shall use said funds in a way that most closely resembles the intent of the original donors and the fund corpus shall remain property of the CMC Foundation.

SIGNED:

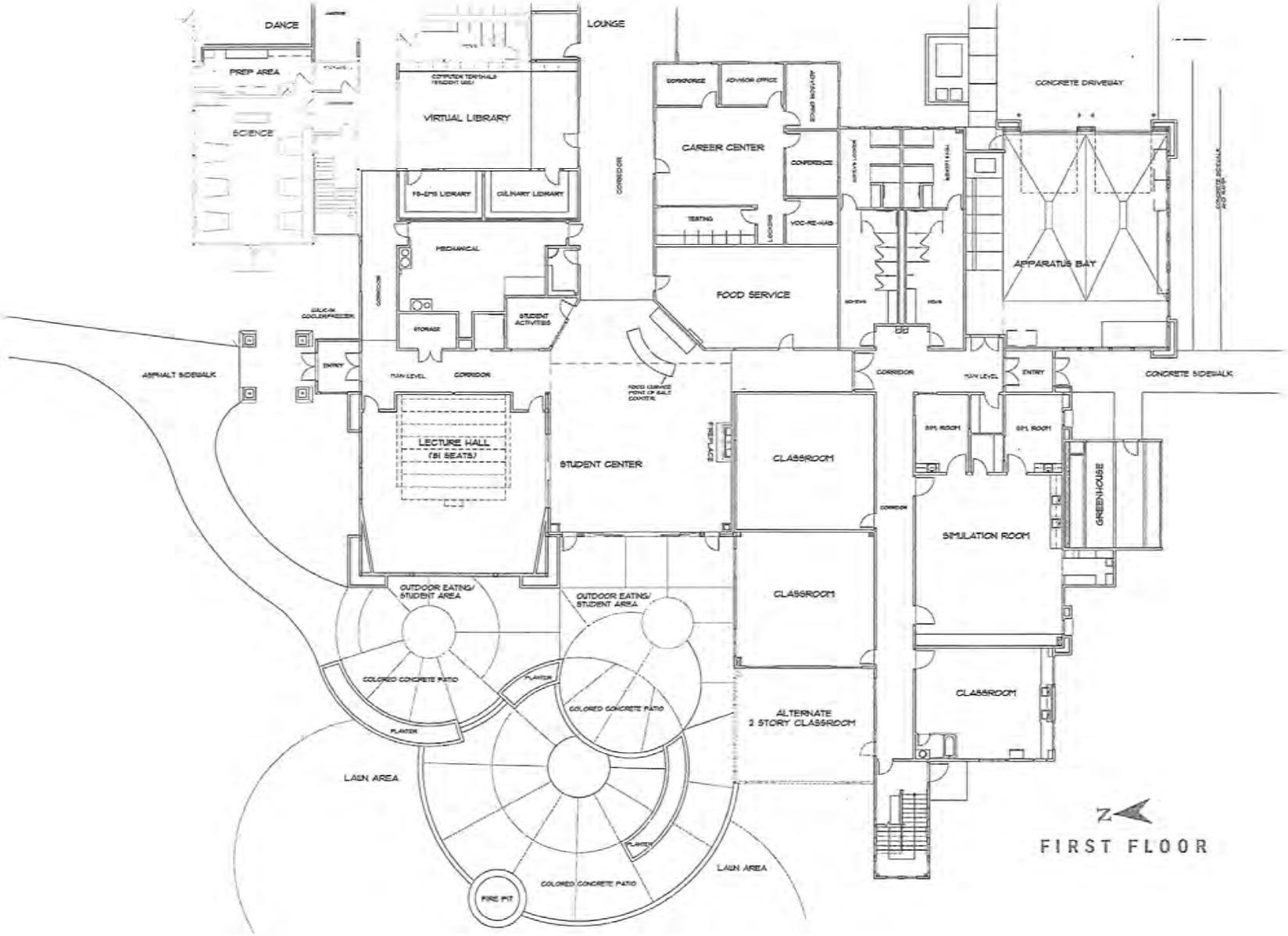
_____ _____

Jim White (Manager, Town of Minturn) Date

ACKNOWLEDGED:

_____ _____

Matthew T. Spencer (CEO, CMC Foundation) Date


DANCE
PREP AREA
SCIENCE
VIRTUAL LIBRARY
LOUNGE
CAREER CENTER
CONFERENCE
TESTING
FOOD SERVICE
MECHANICAL
STORAGE
STUDENT ACTIVITIES
ENTRY
MAIN LEVEL
CORRIDOR
LECTURE HALL
(81 SEATS)
STUDENT CENTER
CLASSROOM
CLASSROOM
ALTERNATE
2 STORY CLASSROOM
SIM. ROOM
SIM. ROOM
SIMULATION ROOM
GREENHOUSE
CLASSROOM
APPARATUS BAY
CONCRETE DRIVEWAY
CONCRETE SIDEWALK
ASPHALT SIDEWALK
OUTDOOR EATING/
STUDENT AREA
OUTDOOR EATING/
STUDENT AREA
COLORED CONCRETE PATIO
COLORED CONCRETE PATIO
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LAWN AREA
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FIRE PIT
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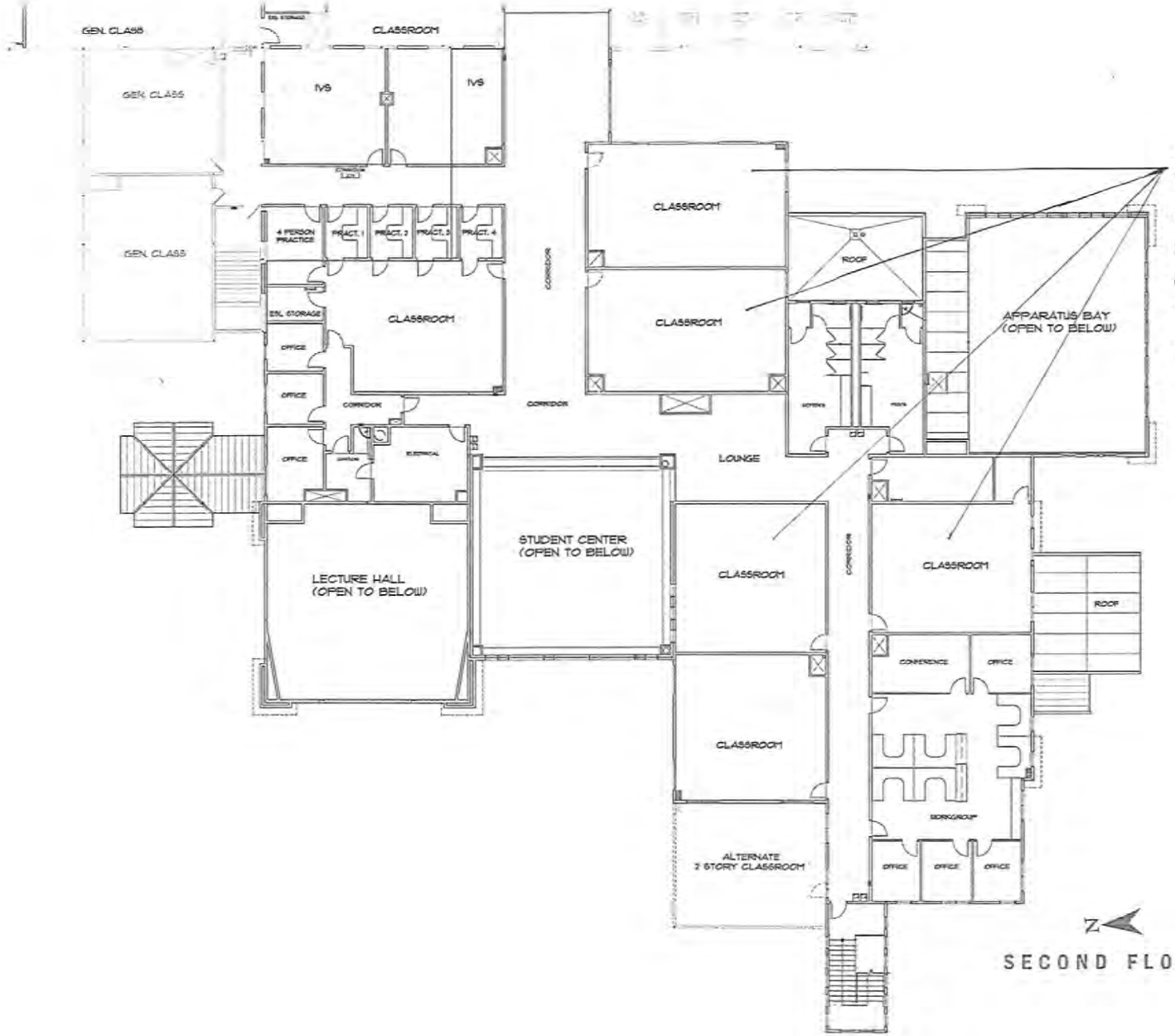
FIRST FLOOR



Possible locations of "The Town of Minturn Classroom" at the new CMC-Edwards Academic Center. This named space would be used to publicly recognize establishment of "The Town of Minturn Scholarship Endowment"

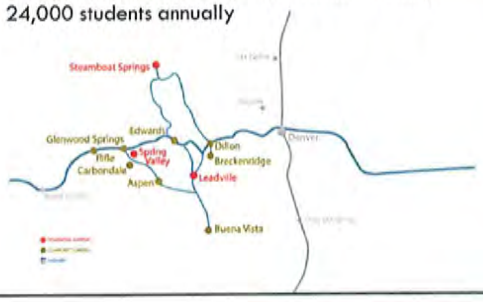
THE TOWN OF MINTURN SCHOLARSHIP ENDOWMENT

at Colorado Mountain College

Colorado Mountain College FOUNDATION

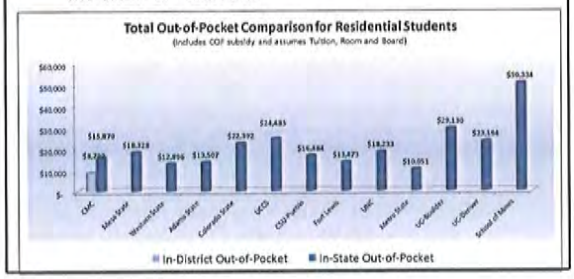
Colorado Mountain College

- 8 campuses across 12,000 square miles serving 24,000 students annually



Colorado Mountain College

- The most affordable option for higher education in the state of Colorado



CMC Foundation

- 501c3 charitable arm of the College
- Mission: to develop and manage constituent support for CMC's students, faculty, facilities, academic programs and cultural enrichment initiatives
- Mantra: "always be donor-centric"
- Scholarships by the numbers:
  - 135 named annual and endowed scholarship funds
  - 305 recipients for the 2011-12 Academic Year
  - $727,856 awarded for the 2011-12 Academic Yr.

Finance & Investment Committee

- Chaired by Ron Speaker, former Managing Director with Janus Funds (Denver) and current CEO of Equus Private Wealth Management (Carbondale)
- Oversees two fund managers – Alpine Bank and JP Morgan
- Employs a 50/50 stocks and bonds investment strategy
- Has more than $8M under investment
- Meets quarterly to review co-mingled investment performance

CMCF Investment Performance

	2009	2010	2011	1Q2012
Performance History				
Fixed Income Funds	15.84%	8.59%	2.91%	4.82%
Bar Cap Index	*5.93%*	*6.54%*	*7.84%*	*.30%*
Equity Funds	21.85%	13.30%	.11%	9.88%
S&P 500	*26.46%*	*15.06%*	*2.11%*	*12.58%*
Alternative Investments				4.11%
PIMCO All Asset	18.82%	9.72%	5.52%	6.20%
S&P 500	*26.46%*	*15.06%*	*2.11%*	*12.58%*
PIMCO Commodity	38.57%	21.53%	-6.41%	3.20%
DJ-USB Commodity Index	*18.91%*	*16.83%*	*-13.32%*	*0.89%*
Annual Income Generation	$110K	$74K	$158K	$114K
Yield	4.3%	2.7%	4.0%	2.6%
				(Annualized)

New CMC-Edwards Academic Center

The Campaign for the Heart of Higher Education at CMC-Edwards

- $2M comprehensive campaign for intellectual capital – students, faculty and programs
- 35,000 square foot addition was paid for from College reserves, we now must invest in the "heart" of the campus
- Naming opportunities are available in recognition of investments in intellectual capital

The Proposal by the Numbers…

- Create a Town of Minturn Scholarship Endowment with a gift of >/= $50,000
- A one-time administrative fee of 5% ($2500) will be imposed to help cover CMC Foundation operating costs
- An endowed $47,500 should generate 4% (or $1900) annually for an annual scholarship in perpetuity
- Annual monies generated above $1900 will be reinvested into the fund corpus for growth
- At present tuition rates, $1900 will cover approximately 75% of in-district tuition and books for one student annually

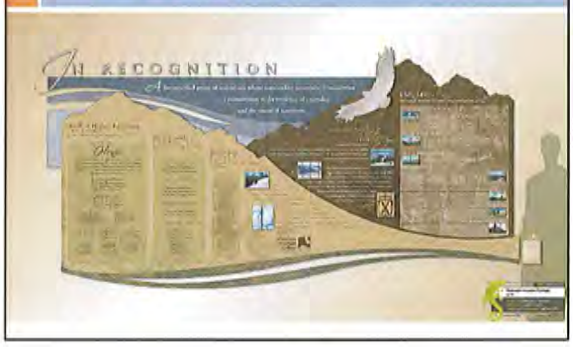
Scholar Selection

- The Town of Minturn may establish the criteria for award (GPA, residency, etc.)
- Applicant's credentials will be evaluated by the CMC-Edwards Scholarship Council in accordance with established criteria
- The Town of Minturn may have one representative on the CMC-Edwards Scholarship Council

Donor Recognition

- With a commitment of $50,000 the Town of Minturn will have the right to name a classroom at the new CMC-Edwards Academic Center as part of *"The Campaign for the Heart of Higher Education"*
- With a commitment of $100,000 the Town of Minturn will have the right to name one of the following:
  - Virtual Library
  - Student-Community Courtyard
  - Career Center
- Recognition will also be provided on the donor wall located in the Alpine Bank Lobby of CMC-Edwards

CMC-Edwards Donor Wall



Others Recognized as part of *The Campaign for the Heart of Higher Education* so far…

- The Browning-Colby Family – *EMS Simulation Lab*
- The Dewton-Gretz Family – *Language Lab*
- The Gallegos Corporation – *Classroom*
- Alpine Bank – *Classroom (and lobby from previous campaign)*
- The Howard Family – *Classroom*
- The Lloyd Family – *Classroom*
- The Cordillera Motorcycle Club – *Classroom*
- The Borchardt-Cary Family – *Conference Room*
- Slifer, Smith and Frampton Real Estate

Leadership

- No City or Town has ever established a scholarship endowment at the CMC Foundation
- No City or Town is currently recognized as a major donor to *The Campaign for the Heart of Higher Education*
- The CMC Foundation will leverage a commitment from the Town of Minturn to inspire other municipalities to give throughout the 12,000 square mile CMC District

An additional option...

- In November of 2011 the CMC Foundation established "The Wayne Swanson Scholarship Fund for CMC Associate's Degree Earners"
- The Swanson Scholarship set a precedent for the CMC Foundation managing scholarship funds for the benefit of CMC Associate Degree earners going on to other 4-year institutions
- The CMC Foundation manages the funds, identifies the students and cuts checks in the students names to their 4-year institutions (CU, CSU, DU, etc.) to offset their upcoming cost of tuition at those schools

CMC's first Swanson Scholar from Eagle County...

- Grace Clinton

  Battle Mountain High School
  Salutatorian 2010

  CMC Associate's Degree Earner

  Next Steps: Enroll at University of Colorado at Boulder pursuing A Bachelor's of Neuroscience

In Summary

- We hope that The Town of Minturn will support CMC-Edwards' *Campaign for the Heart of Higher Education* by establishing one or more scholarship endowments to be managed by the CMC Foundation and in doing so create a stream of perpetual support for the benefit of Minturn residents who aspire to earn an affordable and accessible education at Colorado Mountain College.

Colorado Mountain College FOUNDATION

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
MR. HAWKEYE FLAHERTY, MAYOR
MR. GEORGE BRODIN, MAYOR PRO TEM
MR. AGGIE MARTINEZ, COUNCILMAN
MR. EARLE BIDEZ, COUNCILMAN
MS. SHELLEY BELLM, COUNCILWOMAN
MR. JERRY BUMGARNER, COUNCILMAN
MS. JOHN ROSENFELD, COUNCILWOMAN

AGENDA ITEM COVER SHEET

AGENDA TITLE: The Gourmet Cowboy Inc, annual renewal of a Hotel/Restaurant Liquor License; 455Main Street; Tom McNeill, Owner/Manager

MEETING DATE: May 5, 2012

PRESENTER: Brunvand

BACKGROUND: This is an application for annual renewal of a Hotel/Restaurant liquor license. The application has been reviewed by the Clerk, Police Chief, and the Town Attorney. Any concerns were addressed at Staff level and this application is clear for approval.

CORE ISSUES:

BUDGET/FINANCE IMPLICATIONS: An annual renewal fee of $125.00 has been paid to the Town.

STAFF RECOMMENDATION/MOTION: "Motion to approve the Gourmet Cowboy Inc, annual renewal of a Hotel/Restaurant Liquor License; 455 Main Street; Tom McNeill, Owner/Manager as presented."

DR 8400 (11/09/06)
COLORADO DEPARTMENT OF REVENUE
DENVER, COLORADO 80261

LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

License Number	License Type
18-14498-0002	1970
Liability Information: 44 030 722110 C 062006	
Business Location: 455 MAIN ST MINTURN CO	
Current License Expires: JUN 19, 2012	
DEPARTMENTAL USE ONLY	
Total Amount Due	
Total Paid $	Date

GOURMET COWBOY INC THE
GOURMET COWBOY BAR THE
PO BOX 3998
VAIL CO 81658

☒ This renewal reflects no changes from the last application. Complete page 2 and file now!

☐ **Yes there are changes from the last application.** If applicant is a Corporation or Limited Liability company, use DR 8177 and send in with this renewal. Any other changes of ownership require a transfer of ownership. See your Local Licensing Authority immediately.

Wholesaler, manufacturer, importer, and public transportation system license renewals do not need Local Licensing Authority approval and must be returned directly to the Colorado Department of Revenue at least 30 days prior to the current license expiration date.

This application for renewal must be returned to your CITY OR COUNTY Licensing Authority at least 45 days prior to the expiration date of your current license. Failure to do so may result in your license not being renewed. Include both pages of this renewal and payment.

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge.

Authorized Signature	Date	Business Phone
[signature]	3/5/2012	970-748-6898
Title: OWNER/PRES	Sales Tax Number: 01814498-0002	

REPORT AND APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S.
THEREFORE THIS APPLICATION IS APPROVED.

Local Licensing Authority for			Date
Signature	Title	Attest	

DO NOT DETACH DO NOT DETACH DO NOT DETACH

DR 8400 (11/09/06)
COLORADO DEPARTMENT OF REVENUE
DENVER, COLORADO 80261

LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your banking account electronically.

21

Business Name	LICENSE NUMBER (Use for all reference)		PERIOD
GOURMET COWBOY BAR	18-14498-0002		06-13
TYPE OF LICENSE ISSUED	CASH FUND	STATE FEE	
HOTEL AND RESTAURANT LIQUOR LICENSE - MALT, VINOUS, AND SPIRITUOUS	2320-100(999) $ 50.00	1970-750(999) $ 25.00	CITY 85% OAP 2180-100(999) $ 425.00

SUB-TOTAL $ 500.00

ADD $100.00 TO RENEW RETAIL WAREHOUSE STORAGE PERMIT 2210-100(999) $____.__

TOTAL AMOUNT DUE $____.__

DR 8401 (02/19/09)
COLORADO DEPARTMENT OF REVENUE
LIQUOR ENFORCEMENT DIVISION
881 PIERCE
LAKEWOOD, CO 80261
(303) 205-2300

ATTACHMENT TO LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

This page must be completed and attached to your signed renewal application form. Failure to include this page with the application may result in your license not being renewed.

Trade Name of Establishment		State License Number
THE GOURMET COWBOY INC		18-14498-0002
1. Operating Manager	Home Address	Date of Birth
THOMAS MCNEILL	3998 GN PO BOX ~~[illegible]~~ VAIL, CO 81658	9.3.53

	Yes	No
2. Do you have legal possession of the premises for which this application for license is made? Are the premises owned or (rented): _____ If rented, expiration date of lease: AUG 31, 2012	☒	☐
3. Has there been any change in financial interest (new notes, loans, owners, etc.) since the last annual application? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders or owners, (other than licensed financial institutions) are materially interested.	☐	☒
4. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been convicted of a crime? If yes, attach a detailed explanation.	☐	☒
5. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been denied an alcoholic beverage license, had an alcoholic beverage license suspended or revoked, or had interest in any entity that had an alcoholic beverage license denied, suspended or revoked? If yes, attach a detailed explanation.	☐	☒
6. Does the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), have a direct or indirect interest in any other Colorado liquor license (include loans to or from any licensee, or interest in a loan to any licensee)? If yes, attach a detailed explanation.	☐	☒
7. **Corporation or Limited Liability Company (LLC) or Partnership applicants must answer these questions. Since the date of filing of the last annual license application:**		
(a) Are there, or have there been: any officers or directors; or managing members; or general partners added to or deleted from applicant for renewal of a 3.2 beer or liquor license?	☐	☒
(b) Are there or have there been: any stockholders with 10% or more of the issued stock of the Corporation; or any members with 10% or more membership interest in the LLC; or any partners with 10% or more interest in the partnership added to or deleted from the applicant for renewal of a 3.2 beer or liquor license?	☐	☒
(c) If Yes to (a) or (b), complete and attach Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, and all supporting documentation, and fees your Local Licensing Authority immediately.		

8. **Sole proprietorships, Husband-Wife Partnerships or Partners in General Partnerships:**

EVIDENCE OF LAWFUL PRESENCE

Each person identified above must complete and sign the following affidavit. Please make additional copies if necessary. Each person must also provide a copy of their driver's license or state issued identification card.

In lieu of form DR 4679, the undersigned swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one):

N/A

- ☒ I am a United States Citizen
- ☐ I am not a United States Citizen but I am a Permanent Resident of the United States
- ☐ I am not a United States Citizen but I am lawfully present in the United States pursuant to Federal Law
- ☐ I am a foreign national not physically present in the United States

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, or fraudulent statement or misrepresentation in this sworn affidavit is punishable under the criminal laws of Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature	Printed name	Date
[signature]	Thomas E. McNeill	3/6/12

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE

I, Scott Gessler, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

THE GOURMET COWBOY, INC.

is a **Corporation** formed or registered on 09/10/2001 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20011176165.

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 04/27/2012 that have been posted, and by documents delivered to this office electronically through 05/01/2012 @ 08:54:28.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, authenticated, issued, delivered and communicated this official certificate at Denver, Colorado on 05/01/2012 @ 08:54:28 pursuant to and in accordance with applicable law. This certificate is assigned Confirmation Number 8233864.

Secretary of State of the State of Colorado

**********End of Certificate**********

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Certificate Confirmation Page of the Secretary of State's Web site, http://www.sos.state.co.us/biz/CertificateSearchCriteria.do entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, http://www.sos.state.co.us/ click Business Center and select "Frequently Asked Questions."

CERT_GS_D Revised 08/20/2008

The lease For the Cowboy Bar expires on August of 2012 but we have every intent to renew the lease for the next few year.

Thomas McNeill

TOWN OF MINTURN
P.O. Box 309 (302 Pine Street)
Minturn, Colorado 81645-0309
970-827-5645 Fax: 970-827-4049
treasurer@minturn.org

FROM THE DESK OF
JAY BRUNVAND, TREASURER/FINANCE

MEMORANDUM

To: Chief Lorenzo Martinez
Allen C., Town Attorney (via fax PDF email)
CC:
Date: 5/4/12 3:28 PM
RE: Liquor License

Attached please find a copy of the Annual Liquor License Renewal Application for the Gourmet Cowboy located at 455 Main St. I have reviewed the application and obtained a Certificate of Good Standing from the Secretary of State's Office. Additionally, I noted the following items of concern on Page 2 Attachment to Liquor or 3.2 License Renewal Application and have reported my findings on each as noted:

- Line 1: Thomas and Tom are the same person. I noted on the information associated with the Corporate Good Standing both Tom and Thomas are used as the Corporate President and both names are used in the property lease. I have had the applicant insert "Thomas" as necessary.
- Home Address: the physical address is 0634 Deer Blvd and P.O. Box 1003 are both Tom McNeill's personal residence and personal post box; however, the business is P.O. Box 3998. I called the State Liquor Authority and they said it was not an issue. However, I have had the applicant make the necessary changes to the address as well.
- Line 2: the rental date of the premises does not extend beyond the term of the proposed license renewal. I have contacted the Gourmet Cowboy on this issue. They are currently working to renew the lease but it is pending. I have included a letter to accompany this application making note of this issue and their intent to extend this license.

PLEASE NOTE: Our standard reviewing process is for both Lorenzo and Allen to review AND approve PRIOR to this being scheduled for a Council meeting. Please inform me if you have any questions when you approve for forwarding to the Council.

Please let me know if you have any questions or concerns, which I may be able to answer.

Thanks, jay

Official Minutes

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

Wednesday May 2, 2012

Work Session – 5:00pm
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 – 5:00 pm

- Street repairs report – Martinez, Arnold (45min)
- 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)
- July 4, 2012 Council Meeting – White (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 6:35 pm.

Those present included: Mayor Hawkeye Flaherty, 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. **Approval of Agenda**
    a. Items to be Pulled or Added

Motion by Shelley B., second by John R., to approve agenda as amended; motion passed (6-0). Council member George B absent, excused.

Direction to staff to add 14a, endorsement of the Town Manager to run for election to the Colorado Municipal League Executive Board.

Direction to amend the Executive Session motion to include "instructions for negotiators concerning sale of U.S. Forest Service properties."

3. **Liquor License Authority:** July 1, 2012 Special Event Permit, Town of Minturn – Brunvand (10min)

Motion by Shelley B, second by John R, to approve the July 1, 2012 Special Event Permit with the additional approved conditions. Motion passed (6-0) George B absent, excused.

4. **Approval of Minutes and Action Report**
    - April 18, 2012
    - Action Item Report

Motion by Aggie M., second by John R., to approve the minutes of April 18, 2012 as presented; motion passed (6-0). George B absent excused.

Direction to Staff to adjust the sidewalk action items into two individual items.

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

Ms. Tracey Anderson, Eagle Valley Alliance for Sustainability introduced herself to the Council and to let the residents of Minturn know the Eagle Valley Alliance is available to residents.

6. **Special Presentations**
    - Introduction and swearing in of Officer Tommie Belz
    - Eagle River Fire Protection District Update from Chief Karl Bauer

Mr. Karl Bauer, 90 Benchmark Rd, Avon, ERFPD Fire Chief, gave an update to the recent budget issues causing the intermittent closures of the Minturn Fire Station.

Wildfire mitigation grant programs are available to the ERFPD, but these funds are separate from the staffing funds necessary to cover salaries.

Community emergency response teams may be beneficial for areas such as Minturn and Red Cliff in an effort to help in times of great need. FEMA endorses this program and some training is provided.

Volunteer firefighter programs can be reviewed on a per Town basis however research is showing the level of training required for volunteer firefighters has increased substantially in order to maintain the level of certification necessary.

7. **Planning Department Update**

8. **Town Manager's Report**

Battle Mountain Update
The Escrow Agreement required a resolution to verify proper release of the escrow funds and retention of a small amount in the escrow accounts. All escrow funds have now been secured. We are reviewing legal and consulting bills to begin repayment of those that are our obligation to pay per the escrow agreement.

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. Subsequently, I have received feedback from all Town Council members. We will discuss dates at tonight's meeting.

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. We are securing templates from previous conservation easements to use as a model for the Town. I have also set up a meeting with the Eagle Valley Land Trust to discuss its program. The USFS has prepared an environmental assessment (EA) for the Minturn Bone Yard (Equipment Yard) Conveyance Project. The EA analyses and discloses the effects of conveying the 4.39 acre Minturn Equipment Yard via competitive sale on the open market. (A copy of the notification packet is included in your packet).

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. This will be one of the topics at the retreat. Recently, I received more information from the Colorado Mountain College and will schedule another meeting of the Scholarship Committee to discuss.

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. On April 26, 2012, I received notification that the USFS has prepared an environmental assessment for the Minturn Administrative Site Conveyance Project. This is an area of approximately 18.3 acres. We believe that this is the Martin Creek/Housing Compound site. We are checking with the USFS to confirm. (A copy of the letter is included in your packet).

13th Annual Highway Cleanup
The annual Highway 24 Cleanup was conducted by members of the Minturn staff on Friday, April 27, 2012. The party for volunteers was held on Saturday, April 28, 2012, organized by the Eagle River Watershed Council. The Town cleans the highway from the entrance to Maloit Park to Tigiwon Road.

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.

Scholarship Committee
We continue research of funding options for the scholarship funds that came from the escrow funds.

Drought Planning Underway
I attended a Water Supply and Draught Planning session sponsored by ERWSD in Avon on April 24, 2012. Reportedly, 90% of the state of Colorado is in drought condition currently. We just experienced the driest March on record in Colorado. NOAA predicts a hotter and drier April-June 2012. Discussion centered on fire danger, dead trees providing excess fuel on the ground, water reservoirs. ERWSD plans to convene monthly meetings during the entire summer.

Homestake Reservoir Repairs
The Eagle River Watershed Council provided a review of the progress on the renovation to the Homestake Reservoir currently underway and continuing through 2014. More details can be discussed at the meeting tonight.

Union Pacific Rail Road Visit
The visit to the Union Pacific Rail Road in Omaha Nebraska is planned for May 22 and May 23rd, 2012.

Upcoming Events

Minturn Community Fund Community Garden
Construction Day planned for Saturday, May 19, 2012!

Minturn Summer Market
Coming in June, 2012!

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.

9. Town Council Comments

Direction to Staff to prepare information regarding the Rail Road for discussion at the Council Retreat.

Direction to Staff to have an outline of the Battle Mountain fund and where monies are being allocated.

Direction to staff to prepare information for review at the Town Council retreat regarding the budget and the addition of the third police officer.

Aggie M, would like to thank Barry Clark, Minturn resident, for getting the river area behind his home cleaned.

Direction to Staff to clean the river area and remove debris from the Maloit Park area to Dowd Junction.

The Minturn Community Garden will begin construction May 19, 2012. Any interested volunteers or gardeners should contact the Minturn Community Fund at info@minturncommunityfund.org.

A reminder that the Republican primary is coming soon and Council Member Rosenfeld is running in the primary.

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

10. **Discussion/Action Item: Dept. of Labor & Employment update regarding the Shop & Hop gasoline spill – White (15 min)**

Mr. Vinnie Secondo, State of Colorado, provided a clean-up update regarding the 2008 Shop & Hop gasoline spill. He indicated that more aggressive measures will be implemented in the next monitoring phase, beginning immediately.

Mr. Terry Marcum, Owner, Minturn Shop and Hop, provided additional information concerning the speed and efficiency of the clean-up.

11. **Discussion/Action Item: Council will discuss both Ordinance options but will pass only one:**
    - Ordinance 3 – 2012 an Ordinance (First Reading) an Ordinance authorizing the sale of Medical Marijuana within the Town of Minturn – Christensen (20 min)

    OR
    - Ordinance 7 – 2012 an Ordinance (First Reading) an Ordinance banning the sale of Medical Marijuana within the Town of Minturn – Christensen (20 min)

Motion by John R, second by Shelley B to table Ordinance 3 – 2012 to May 16, 2012; second reading on June 20, 2012. Motion passed (6-0) George B absent, excused.

Motion by Jerry B, second by John R to table Ordinance 7 – 2012 to May 16, 2012; second reading on June 20, 2012. Motion passed (6-0) George B absent, excused.

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 Jerry B, second by John R to approve 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 (5-1), Shelley B nay, George B absent, excused.

13. **Discussion/Action Item: Council direction to Staff regarding the need and/or scheduling of the July 4, 2012 Council Meeting – White (15min)**

Direction to Staff to reschedule the July 4, 2012 Council meeting to July 5, 2012.

14. **Discussion/Action: Ordinance 8 – 2012 an Ordinance authorizing the Mayor to sign and Intergovernmental Agreement with Douglas County to comply with Colorado Revised Statutes concerning sex offender tracking and registration – Christensen (15min)**

Motion by Shelley B., second by Aggie M., to approve Ordinance 8 – 2012 an Ordinance authorizing the Mayor to sign and Intergovernmental Agreement with Douglas County to comply with Colorado Revised Statutes concerning sex offender tracking and registration. Motion passed (6-0). George B absent excused.

15. Action/Discussion: Endorsement of the Town Manager to the Colorado Municipal League Board.

Motion by Shelley B, second by John R, to authorize the mayor to sign the endorsement letter for the Town Manager to run for election to the Colorado Municipal League Executive Board.

EXECUTIVE SESSION

16. 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 to receive legal advice and give instructions for negotiations concerning sale of U.S. Forest Service properties. White/Christensen

Motion by Shelley B, second by Aggie M to convene into Executive Session 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 to receive legal advice and give instructions for negotiations concerning sale of U.S. Forest Service properties. Motion passed (6-0) George B, absent, excused. Executive Session began at 9:16pm and ended at 9:36pm.

17. <u>Executive Session</u> – Action by Council or Direction to Staff as a result of the Executive Session (5min)

Direction given to staff to discuss escrow funds and purchase of USFS lands with Battle Mountain Resorts.

FUTURE AGENDA ITEMS

18. Next Meeting – May 16, 2012

- Medical Marijuana
- Colorado Mountain College work session
- Resolution of endorsement for Holy Cross funding to OSAC purchase
- Special Events Ordinance
- Ordinance 6 – Second Reading
- Ordinance 8 – Second Reading

19. Future Meeting

20. Set Future Meeting Dates

a) Council Meetings:

- May 16, 2012
- June 6, 2012
- June 20, 2012

b) Planning & Zoning Commission Meetings:

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

c) Other Dates:

- Minturn Town Clean Up – June 2, 2012

21. Adjournment

Motion by Jerry B., second by Shelley B., to adjourn the meeting at 9:37pm.

_____
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: May 16, 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	Check with CDOT regarding south Town drainage. Present to Council at May 16, 2012 meeting.
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 2nd quarter 2012.
Sidewalk Code Amendment	White/Cerimele	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	Vail Valley events guests research work complete. Coordinating scheduled co-op advertising opportunities for Minturn business license holders. Preparing an events grant for the Farmers Market Promotion Program (USDA) due in late May.
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.

Jim White
Town Manager
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Minturn, CO 81645
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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: May 10, 2012
Re: **Manager's Report for the May 16, 2012 Town Council Meeting**

Town Council Retreat
The Town Council Retreat was held last night, Tuesday, May 15, 2012.

Bone Yard/Martin Creek Environment Assessments
The USFS has prepared an environmental assessment (EA) for the Minturn Bone Yard (Equipment Yard) Conveyance Project and also for the Martin Creek parcel. The USFS has prepared an environmental assessment for the Minturn Administrative Site Conveyance Project. This is an area of approximately 18.3 acres The EA process analyses and discloses the effects of conveying the lands through competitive sale on the open market. Minturn residents have received letters from the USFS identifying encroachments onto federal lands, in some instances.

Colorado Mountain College Foundation
Representatives of Colorado Mountain College will be at tonight's work session to review scholarship and endowment options and to provide 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.

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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.

Drought Planning Underway

ERWSD plans to convene monthly meetings during the entire summer

Scholarship Committee

We continue research of funding options for the scholarship funds that came from the escrow funds.

Union Pacific Rail Road Visit

The Railroad Committee met on Thursday, May 10, 2012. The visit to the Union Pacific Rail Road in Omaha, Nebraska is planned for May 22 and May 23rd, 2012.

Vacation

I will be away on vacation from Thursday, May 17 through Tuesday May 22, 2012.

Following my vacation, I will be in Omaha, NE visiting Union Pacific Railroad representatives on May 22 and May 23, 2012.

Upcoming Events

Minturn Community Fund Community Garden
Construction Day planned for Saturday, May 19, 2012!

Minturn Clean Up Day
Our annual cleanup day will be held this year on Saturday, June 2, 2012 at the upper parking lot at Little Beach Park from 9am to 1pm.

Minturn Summer Market
The Minturn Summer Market is coming to you on June 23, 2012! The market will run Saturdays throughout the summer until September 8, 2012.

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.

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Respectfully submitted,
Jim White
Town Manager

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

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AGENDA ITEM COVER SHEET

AGENDA TITLE: Ordinance 3 – 2012 to approve Medical Marijuana sales **or** Ordinance 7 - 2012 an to ban Medical Marijuana sales within the Town of Minturn

MEETING DATE: May 2, 2012

PRESENTER: Brunvand

- **BACKGROUND:**

As a result of Council and Staff discussions regarding the implications of not passing Ordinance 3 – 2012 on March 7, 2012 an unintended consequence of requiring the Town to fall under the State law on July 1, 2012 is imminent. Council requested the opportunity to either reconsider the original Ordinance or to consider an alternative Ordinance to ban the sale and distribution of Medical Marijuana. I have included a copy of the March 7 cover sheet for your further information and review.

Staff is recommending reconsideration and approval of Ordinance 3 – 2012 or approval of Ordinance 7 - 2012. In the event Council agrees to act on Ordinance 3-2012 please consider the following procedural steps:

1) Motion by one of the four that passed the original motion to defeat Ordinance 3 – 2012 to reconsider adoption. (Note: if this motion fails for any reason Council would then proceed with consideration of Ordinance 7 – 2012)
2) A second motion to approve Ordinance 3 – 2012.
3) A condition of approval may be set to add a moratorium prior to the Ordinance taking affect.

CORE ISSUES:

STAFF RECOMMENDATION/MOTION: Motion to approve Ordinance 3 – 2012 or Ordinance 7 - 2012 as presented or amended.

Michelle Metteer
Deputy Clerk
P.O. Box 309 ♦ 302 Pine Street
Minturn, CO 81645
Phone: 970-827-5645
Fax: 970-827-5545
mmetteer@minturn.org

Town Council
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Councilman – Aggie Martinez
Councilman – John Rosenfeld

AGENDA ITEM COVER SHEET

AGENDA TITLE: Medical Marijuana Center, Ordinance 3 – Series 2012

MEETING DATE: March 7, 2012

PRESENTER: Brunvand/Metteer

BACKGROUND:

During the scheduled work session Council will review the proposed medical marijuana ordinance. The most recent updates to the ordinance reflect suggestions by the Medical Marijuana Enforcement Division as well as the determination of permit fees.

CORE ISSUES: The following still requires addressing at both the Staff and Council level:

- Currently, this ordinance is outlined with the Town Administrator as the licensing authority and for applications to be handled at the Staff level. Any applicant appeals would come before Council.
- Appropriate fees for permit application and permit renewal. An updated spreadsheet of other Town's fee schedule for medical marijuana center licensing/permitting has been included. At first glance the fee schedule dollar amounts look high, but in light of the amount of staff labor Minturn has already dedicated to this, as well as the ongoing labor for inspections and renewals, the dollar amounts are reasonable. The average costs for other Colorado municipalities' average to roughly $1700.00/license. Renewal fees would be the same, pending the Center has remained in compliance and is up to date on all inspections.

STAFF RECOMMENDATION/MOTION:

Staff recommends approval with a motion to set a moratorium of a minimum of one year. The following findings were used in obtaining this recommendation:

- Approved by Minturn voters, November 2, 2010.
- Direction from Council for the creation of the ordinance.
- State mandates go into effect July 1st which will require Minturn to follow the State guidelines if Minturn has not established its own licensing authority.

Motion to read:
Motion to approve Ordinance 3 Series 2012, an ordinance amending chapter 6 of the Minturn Municipal Code by adopting provisions for the regulation of medical marijuana centers following an 18 (eighteen) month moratorium as presented.

ORDINANCE NO. ~~9~~3

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 pubic 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 pruposes 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 compete 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.

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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 16of 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 WAVIER 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 _____,

~~2011~~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

TOWN OF MINTURN, COLORADO

ORDINANCE NO. 7 SERIES 2012

AN ORDINANCE PRHIBITING 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 Minturn 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 Town 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 2nd DAY OF MAY, 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 16th DAY OF MAY, 2012 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

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 AND ORDERED PUBLISHED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 16th DAY OF MAY, 2012.

_____
Hawkeye Flaherty, Mayor

ATTEST:

_____
Jay Brunvand, Town Clerk

Town Council Staff Report
Public Hearing Date: May 16, 2012

FILE NUMBER: Ordinance 6 - 2012
PROJECT TYPE: Zoning Text Amendment
LOCATION: The incorporated areas of Minturn
OWNER: Not Applicable
APPLICANT: Town of Minturn
REPRESENTATIVE: Chris Cerimele, Town Planner
STAFF RECOMMENDATION: Approval

SUMMARY

This item is a request for a Zoning Text Amendment to allow a 50% reduction in the required rear property line setback for the construction of a detached garage. The Planning Commission recommended approval of the proposed amendment in December 2011. The purpose of this amendment is to facilitate the creation of off-street parking in Minturn by providing homeowners with greater flexibility to construct a detached garage.

When this item was first presented, there was a concern that a reduction in the rear property line setback could create an unsafe situation that results when a vehicle backs onto a sidewalk or street. This concern is addressed in the *Discussion* section of this report.

PROPOSED CODE AMENDMENT

To implement the code amendment, the following changes to Section 16-17-190 - Table 16-5 are proposed:

- A new footnote would be added to Table 16-15 that would read:

  (C) The rear yard setback may be reduced by up to 50% for the construction of a detached garage. This setback reduction shall be applicable to the ground level only. All other levels must conform to the underlying setback requirements for the particular zone in which the property is located.

  - Exception:

    When a subdivision of land has created a situation where one parcel is sited directly behind another parcel that fronts a Town street, the parcel fronting the Town street shall not be eligible for the setback reduction.

An example of this situation can be seen in the following illustrations:

The proposed changes are highlighted in red on the following table:

TABLE 16-15
Dimensional Standards

Table of Dimensional Standards								
Character Area	***Zones***	***Min. lot area (sq. ft.) (A)***	***Min. lot dimension (feet)***	***Max. lot coverage (%)***	***Minimum setbacks***			***River/ Creek setback***
					Front	***Rear (feet)(C)***	***Side (1)***	
Meadow Mountain	Fed. reg. land use	N/A	N/A	N/A	Rec. 50	N/A	N/A	Rec. 30
Grouse Creek	Commercial	5,000	50	70	20	10	10	E.R.=30 G.C.=15
Old Town	Recreation & open space	To be determined as part of conditional review						30
	Residential	5,000	50	40	10	10	5	
	Commercial	2,500	25	80	0	10	5	
	Mixed-use	5,000	50	(B)	10	10	5	
South Town	Residential	5,000	50	50	20	10	5	30
	Commercial	7,500	50	70	20	10	5	
	Fed. reg. land use	N/A	N/A	N/A	Rec. 50	Rec. 20	Rec. 10	
Martin Creek	Residential estate	87,120 or 2 AC	N/A	N/A	40	20	20	30
Cross Creek	Residential-S	5,000	50	40	20	20	10	E.R.=30 C.C.=50
	Residential-N	10,000	100	25	20	20	10	
	Mixed-use	10,000	100	40	20	20	10	
	Fed. reg. land use	N/A	N/A	N/A	Rec. 50	Rec. 20	Rec. 10	
Lionshead	Recreation & open space	N/A	N/A	N/A	To be determined as part of conditional use review			30
	Light ind. & public facilities	10,000	100	45	25	25	10	
Game Creek	Residential	5,000	50	40	20	10	5	G.C.=30

	PUD holding zone	To be determined as part of the PUD review	E.R.=30
Eagle River	Recreation & open space	To be determined as part of the conditional use review	E.R.=30
Transportation	Railroad R-O-W/ Transportation	To be determined as part of the conditional use review	

Refer to notes below.

Notes from Table of Dimensional Standards

(A) Minimum lot area per principal dwelling unit. Density shall be calculated by counting only the number of principal dwelling units per lot, excluding any accessory dwelling units that may be allowed.

(B) Old Town mixed-use minimum lot coverage may be increased to forty-five percent (45%) if ground floor commercial space is provided.

(C) The rear yard setback may be reduced by up to 50% for the construction of a detached garage. This setback reduction shall only apply to the ground level. All other levels must conform to the underlying setback requirements for the particular zone in which the property is located.

- **Exception:**

  When a subdivision of land has created a situation where one parcel is sited directly behind another parcel that fronts a Town street, the parcel fronting the Town street shall not be eligible for the setback reduction.

Additional setback standards:

(1) Side yard setback. None required if the sidewall is a party wall.

(2) Transition. When a lot in a nonresidential zone is contiguous to a lot in a residential zone, the required side yard setback of the residential zone shall apply to the common lot line of the property in the nonresidential zone.

(3) Corner lots. When a commercial corner lot adjoins a noncommercial lot, a primary street frontage must be approved by the Planning Director. The rear lot line is parallel to, and behind, the front lot line. The side setback shall be no less than one-half (½) of the required front setback of the noncommercial lot. The rear setback of the commercial lot shall be no less than the side yard setback of the adjacent residential lot.

(4) Partially developed frontages. When a vacant lot is bordered on two (2) sides by previously constructed buildings, neither of which meets the required front yard setback applicable to the

district, the required front yard setback for the vacant lot shall be the average of the front yard setbacks of the two (2) existing adjacent buildings. When a vacant lot is bordered on only one (1) side by a previously constructed building which does not meet the required front yard setback for the district, the required front yard setback for the vacant lot shall be the average between the front yard setback of the adjacent building and the minimum required front yard setback for the district.

(5) Irregularly shaped lots. When a lot is not rectangular in shape, and a building is constructed so that one (1) side of the building is parallel to an adjacent street or right-of-way, the setback between the building line and that lot line which is not parallel to the building line may be calculated as the average of the nearest and farthest distances between the building corners and the lot line, except that the minimum setback at any point shall not be less than five (5) feet.

(6) Setback from river/creeks. A strip of land measured horizontally from the high water mark on each side of any live stream shall be protected in its natural state with the exception that footpaths, bridges, fences, irrigation structures, flood control and erosion protection devices may be constructed thereon. If necessary to protect the river or creek, additional width may be required. Underground utilities may be located in such protected area; provided that there is no practical alternative location for such utilities, that plans are approved by the Town Council as a conditional use and that all construction scars are revegetated.

(7) Setback between structures. The minimum distance between structures on the same lot is five (5) feet.

(8) Garage door setback. Garage doors facing Main Street must be set back at least eighteen (18) feet from the lot line.

(9) Exemptions from setback requirements. The following uses may be exempt from the setback requirements within the commercial and mixed-use zones, provided that written approval is granted by the Planning Commission, which shall determine that the use would not injure the value of, use of or prevent the proper access of light and air to the adjacent properties, nor would be out of harmony with the intent and purpose of this Chapter:

a. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.

b. Temporary awnings or shading devices.

c. Unroofed terraces or patios.

(10) Architectural features. The following architectural features may encroach into the required setback upon approval of the Planning Director and demonstration that the clear vision area, easements, etc., have been considered:

a. Unroofed terraces or patios, not to exceed forty-eight (48) inches above grade, may encroach

up to one-half (½) the required setback.

b. Chimneys, eaves or similar nonhabitable features may encroach up to three (3) feet from the face of the building or structure; however, roof shedding shall not be allowed to shed on an adjacent property.

c. Bay windows or similar features on the front or rear setback may encroach up to three (3) feet from the face of the building or structure.

d. Awnings or shading devices up to one-half (½) the required setback.

e. Walls and fences up to six (6) feet in height in the side and rear setback.

f. Walls and fences up to four (4) feet in height in the front yard setback.

(11) Accessory structures under 200 sq. ft. Accessory building and structures under 200 square feet must be located in the rear or side yards and may encroach into the side and/or rear setbacks but in all cases must be at least five (5) feet from property lines. Additional width may be required as the roof must shed on the accessory structure owner's lot.

DISSCUSSION

If approved, this land use code amendment will allow a 50% reduction of the rear property line setback for the construction of a detached garage. This reduction in the rear setback would apply only to the ground level. Homeowners proposing to build a multi-level garage will be required to set back the second level to the underlying rear setback line.

The following table outlines the current rear setback for the various zone districts throughout the town.

Character Area	current rear setback	w/ proposed amendment
Old Town	10’	5’
South Town	10’	5’
Martin Creek	20’	10’
Cross Creek	20’	10’
Game Creek	10’	5’

For example, a property owner in the Old Town Character Area would be allowed to construct a detached garage five (5) feet from the rear property line under the proposed code amendment. If the garage was more than one (1) level, the second level would be required to be set back ten (10) feet from the rear property line.

This amendment could result in a garage being constructed five feet from a rear property line. A potential concern is that there would be restricted visibility and a driver would have trouble seeing a pedestrian walking along the sidewalk. Staff has identified Norman Street as the only area where this could potentially be a problem as this is the only street where this particular situation exists. A 5 foot setback between the sidewalk and garage plus driver awareness should be sufficient to warrant approval of this amendment.

STAFF RECOMMENDATION

Staff recommends approval of Ordinance 6 – 2012

DRAFT MOTION

I move to approve Ordinance 6 – 2012 on second reading.

Respectfully Submitted

_____

Chris Cerimele, Planner

Attachments:
Ordinance 6 – 2012

TOWN OF MINTURN, COLORADO
ORDINANCE NO. 6 - SERIES 2012

AN ORDINANCE 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.

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

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

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

Section 1. Amendment. Section 16-17-190 of the Town of Minturn Municipal Code is amended as follows:

Sec. 16-17-190. General lot requirements and dimensional standards.

The following Table 16-15 sets forth general lot requirements and dimensional standards:

TABLE 16-15
Dimensional Standards

Table of Dimensional Standards								
Character Area	*Zones*	*Min. lot area (sq. ft.) (A)*	*Min. lot dimension (feet)*	*Max. lot coverage (%)*	*Minimum setbacks*			*River/ Creek setback*
					Front	*Rear (feet)(C)*	*Side (1)*	
Meadow Mountain	Fed. reg. land use	N/A	N/A	N/A	Rec. 50	N/A	N/A	Rec. 30
Grouse Creek	Commercial	5,000	50	70	20	10	10	E.R.=30 G.C.=15
Old Town	Recreation & open space	To be determined as part of conditional review						30
	Residential	5,000	50	40	10	10	5	
	Commercial	2,500	25	80	0	10	5	
	Mixed-use	5,000	50	(B)	10	10	5	
South Town	Residential	5,000	50	50	20	10	5	
	Commercial	7,500	50	70	20	10	5	30
	Fed. reg. land use	N/A	N/A	N/A	Rec.	Rec. 20	Rec.	

					50		10	
Martin Creek	Residential estate	87,120 or 2 AC	N/A	N/A	40	20	20	30
Cross Creek	Residential-S	5,000	50	40	20	20	10	E.R.=30 C.C.=50
	Residential-N	10,000	100	25	20	20	10	
	Mixed-use	10,000	100	40	20	20	10	
	Fed. reg. land use	N/A	N/A	N/A	Rec. 50	Rec. 20	Rec. 10	
Lionshead	Recreation & open space	N/A	N/A	N/A	To be determined as part of conditional use review			30
	Light ind.. & public facilities	10,000	100	45	25	25	10	
Game Creek	Residential	5,000	50	40	20	10	5	G.C.=30
	PUD holding zone	To be determined as part of the PUD review						E.R.=30
Eagle River	Recreation & open space	To be determined as part of the conditional use review						E.R.=30
Transportation	Railroad R-O-W/ Transportation	To be determined as part of the conditional use review						

Refer to notes below.

Notes from Table of Dimensional Standards

(A) Minimum lot area per principal dwelling unit. Density shall be calculated by counting only the number of principal dwelling units per lot, excluding any accessory dwelling units that may be allowed.

(B) Old Town mixed-use minimum lot coverage may be increased to forty-five percent (45%) if ground floor commercial space is provided.

(C) The rear yard setback may be reduced by up to 50% for the construction of a detached garage. This setback reduction shall only apply to the ground level. All other levels must conform to the underlying setback requirements for the particular zone in which the property is located.

- Exception:
  - In instances where a subdivision of land has created a situation where one parcel is sited directly behind a parcel that fronts a Town street, the parcel that contains the street frontage will not be eligible for the setback reduction.

Additional setback standards:

(1) Side yard setback. None required if the sidewall is a party wall.

(2) Transition. When a lot in a nonresidential zone is contiguous to a lot in a residential zone, the required side yard setback of the residential zone shall apply to the common lot line of the property in the nonresidential zone.

(3) Corner lots. When a commercial corner lot adjoins a noncommercial lot, a primary street frontage must be approved by the Planning Director. The rear lot line is parallel to, and behind, the front lot line. The side setback shall be no less than one-half (½) of the required front setback of the noncommercial lot. The rear setback of the commercial lot shall be no less than the side yard setback of the adjacent residential lot.

(4) Partially developed frontages. When a vacant lot is bordered on two (2) sides by previously constructed buildings, neither of which meets the required front yard setback applicable to the district, the required front yard setback for the vacant lot shall be the average of the front yard setbacks of the two (2) existing adjacent buildings. When a vacant lot is bordered on only one (1) side by a previously constructed building which does not meet the required front yard setback for the district, the required front yard setback for the vacant lot shall be the average between the front yard setback of the adjacent building and the minimum required front yard setback for the district.

(5) Irregularly shaped lots. When a lot is not rectangular in shape, and a building is constructed so that one (1) side of the building is parallel to an adjacent street or right-of-way, the setback between the building line and that lot line which is not parallel to the building line may be calculated as the average of the nearest and farthest distances between the building corners and the lot line, except that the minimum setback at any point shall not be less than five (5) feet.

(6) Setback from river/creeks. A strip of land measured horizontally from the high water mark on each side of any live stream shall be protected in its natural state with the exception that footpaths, bridges, fences, irrigation structures, flood control and erosion protection devices may be constructed thereon. If necessary to protect the river or creek, additional width may be required. Underground utilities may be located in such protected area; provided that there is no practical alternative location for such utilities, that plans are approved by the Town Council as a conditional use and that all construction scars are revegetated.

(7) Setback between structures. The minimum distance between structures on the same lot is six (6) feet.

(8) Garage door setback. Garage doors facing Main Street must be set back at least eighteen (18) feet from the lot line.

(9) Exemptions from setback requirements. The following uses may be exempt from the setback requirements within the commercial and mixed-use zones, provided that written approval is granted by the Planning Commission, which shall determine that the use would not injure the value of, use of or prevent the proper access of light and air to the adjacent properties, nor would be out of harmony with the intent and purpose of this Chapter:

a. Outdoor dining areas operated in conjunction with permitted eating and drinking establishments.
b. Temporary awnings or shading devices.
c. Unroofed terraces or patios.

(10) Architectural features. The following architectural features may encroach into the required setback upon approval of the Planning Director and demonstration that the clear vision area, easements, etc., have been considered:

a. Unroofed terraces or patios, not to exceed forty-eight (48) inches above grade, may encroach up to one-half (½) the required setback.
b. Chimneys, eaves or similar nonhabitable features may encroach up to three (3) feet from the face of the building or structure; however, roof shedding shall not be allowed to shed on an adjacent property.
c. Bay windows or similar features on the front or rear setback may encroach up to three (3) feet from the face of the building or structure.
d. Awnings or shading devices up to one-half (½) the required setback.
e. Walls and fences up to six (6) feet in height in the side and rear setback.
f. Walls and fences up to four (4) feet in height in the front yard setback.

(11) Accessory structures under 200 sq. ft. Accessory building and structures under 200 square feet must be located in the rear or side yards and may encroach into the side and/or rear setbacks but in all cases must be at least five (5) feet from property lines. Additional width may be required as the roof must shed on the accessory structure owner's lot.

Section 2. Severability. If any part, section, sub-section, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance; and the Town Council for the Town of Minturn, Colorado hereby declares it would have passed this ordinance and each part, section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that any one or more parts, sections, sub-sections, sentences, clauses or phrases be declared invalid.

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

Section 4. The repeal 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 or any Ordinance previously repealed or superseded unless expressly stated herein.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THE 2nd DAY OF MAY, 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 16th DAY OF MAY, 2012 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

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 AND ORDERED PUBLISHED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS ____ DAY OF _____, 2012.

_____
Hawkeye Flaherty, Mayor

ATTEST:

_____
Jay Brunvand, Town Clerk

TOWN OF MINTURN, COLORADO
ORDINANCE 8 – SERIES 2012

AN ORDINANCE AUTHORIZING MAYOR TO SIGN INTERGOVERNMENTAL AGREEMENT WITH DOUGLAS COUNTY TO COMPLY WITH COLORADO REVISED STATUTES CONCERNING SEX OFFENDER TRACKING AND REGISTRATION

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, pursuant to the provisions of Article XIV, Section 18(2)(a) of the Colorado Constitution, and section 29-1-203, C.R.S., there is established a means whereby governmental units may cooperate or contract with one another to make the most efficient and effective use of their powers and responsibilities; and

WHEREAS, Colorado Revised Statutes require Colorado municipalities to make limited information on registered sex offenders residing within municipal boundaries available to the public; and

WHERAS, Minturn met this requirement by posting such information on the Town of Minturn's web page with a link to the Eagle County Sheriff's Office website; and

WHEREAS, the Eagle County Sheriff has made the transition to a new online tracking/community notification system for sex offenders developed and operated by the Douglas County Sheriff's Office, which is hoped to become a statewide system allowing all law enforcement agencies to participate in tracking and community notification.

NOW THEREFORE, THE TOWN OF MINTURN ORDAINS:

SECTION 1. The Mayor is authorized to sign the intergovernmental agreement by and between the Town of Minturn and the Douglas County Board of Commissioners for participation and use of the sex offender and tracking registration program to comply with Colorado Revised Statutes .

SECTION 2. The intergovernmental agreement attached hereto as Exhibit A and incorporated into this Ordinance by reference is approved, and the Mayor is authorized to execute it on behalf of the Town of Minturn, and the Town and its officers and employees are authorized to perform under it on behalf of the Town of Minturn, according to its terms.

SECTION 3. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Town Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the

fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Minturn and the inhabitants thereof.

SECTION 5. The repeal or the repeal and reenactment of any provisions of the Minturn Municipal Code as provided in this ordinance shall not affect any right with has accrued, any 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 reenacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

SECTION 6. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

SECTION 7. This Ordinance shall not be effective until the intergovernmental agreement is signed by the representatives of all the necessary parties thereto.

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 2nd DAY OF MAY, 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 16th DAY OF MAY, 2012 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

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 AND ORDERED PUBLISHED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 16th DAY OF MAY, 2012.

_____
Hawkeye Flaherty, Mayor

ATTEST:

_____
Jay Brunvand, Town Clerk

INTERGOVERNMENTAL AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS AND THE TOWN OF MINTURN

THIS AGREEMENT made this 18th day of April, 2012 by and between the Board of County Commissioners of the County of Douglas, State of Colorado ("DOUGLAS COUNTY"), and the Town of Minturn ("USER"), hereinafter referred to jointly as the Parties ("PARTIES"); and

WHEREAS, pursuant to the provisions of Article XIV, Section 18(2)(a) of the Colorado Constitution, and section 29-1-203, C.R.S., there is established a means whereby governmental units may cooperate or contract with one another to make the most efficient and effective use of their powers and responsibilities; and

WHEREAS, DOUGLAS COUNTY has developed a system to manage and exchange information regarding sex offenders which is accessed through a web-based interactive software program called the Sex Offender Tracking and Registration system or SOTAR™ ("SOTAR"). DOUGLAS COUNTY has exclusive rights of ownership in the SOTAR™ system including, but not limited to, SOTAR™, the name, the software, all source code contributed by Douglas County, the structure of any data repositories created to support SOTAR™, and all associated documentation (collectively, "SYSTEM").

WHEREAS, USER desires to obtain access to the SYSTEM.

WHEREAS, DOUGLAS COUNTY agrees to provide USER access to the SOTAR™ application on a basis commonly known as "software as a service" whereby USER has access to, but does not receive a copy of, SOTAR™ and obtains no right, title or interest whatsoever in or to the SYSTEM.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and the recitals as set forth above, the PARTIES hereby agree as follows:

1. **TERM OF AGREEMENT AND TERMINATION.** The effective date of this IGA shall be the date of signing by DOUGLAS COUNTY and USER, whichever is the last to sign. This AGREEMENT shall remain in full force and effect from the effective date until either PARTY elects to terminate this AGREEMENT upon 30 days prior written notice to the other PARTY.

2. **SERVICES.** DOUGLAS COUNTY will provide USER non-exclusive, limited access to SOTAR for only the following activities: view the portion of SOTAR™ available to law enforcement personnel (which includes access to all data input by jurisdictions that participate in SOTAR™), view the portion of SOTAR™ available to the general public and, subject to Section 7 below, access SOTAR™ so that USER can input data regarding sex offenders residing in its jurisdiction (all of the above collectively are "SERVICES"). DOUGLAS COUNTY may suspend or terminate the SERVICES in the event USER fails to comply with any of the terms and conditions of this AGREEMENT and may pursue all

other remedies that DOUGLAS COUNTY has available to it against USER. USER shall not be entitled to a credit or refund in the event this AGREEMENT is terminated pursuant to this Section 2.

3. **USAGE**. USER agrees that its access to and use of the portion of SOTAR™ available to law enforcement, access to the data repository underlying SOTAR™, and all associated documentation will be limited to the law enforcement personnel employed by USER and the Local Administrators designated by USER. USER shall not, directly or indirectly, disclose, copy, distribute or publish to any third party any information from SOTAR™ except for information obtained from the portion of SOTAR™ available to the general public. USER may inform the general public that SOTAR™ exists and how to access the portion of SOTAR™ available to the general public. The general public will only be able to view the portion of SOTAR™ available to the general public. USER shall not violate any federal, state or local statutes, charter provisions, ordinances, rules, regulations, or standards that apply to the storing, handling and disclosure of information regarding any person listed in the SYSTEM.

4. **SERVICE FEE.** The parties expressly recognize and agree that DOUGLAS COUNTY provides the SERVICES at a significant expense to DOUGLAS COUNTY, and that DOUGLAS County's ability to provide these SERVICES free of charge is dependent upon the availability of certain funds. The parties further recognize and agree that, in the event that said funds become unavailable for this purpose, DOUGLAS COUNTY is under no obligation to provide the SERVICES free of charge, but may negotiate the provision of said SERVICES on a fee basis.

5. **DEPLOYMENT AND OPERATION.** DOUGLAS COUNTY shall provide the SYSTEM in its "AS IS" condition. DOUGLAS COUNTY is not obligated to provide customizations specific to USER for the SYSTEM. DOUGLAS COUNTY shall use reasonable efforts to maintain the servers and infrastructure necessary to run the SYSTEM. Provided, however, inaccessibility of the SYSTEM related to high traffic volume shall not be a breach of this AGREEMENT. USER shall call 303-814-7040 (or such other number USER is notified to call) for any issues in accessing SOTAR or the proper function of the SYSTEM. DOUGLAS COUNTY may modify (add, delete or change) the functions and format of the SYSTEM at any time and in any way without any advance notice to USER. DOUGLAS COUNTY may discontinue the SYSTEM altogether at any time upon 30 days prior written notice, in which event USER shall be entitled to a pro rated credit of the service fee, if applicable, that USER paid for the year in which the discontinuance occurs. The credit may be applied to any amounts USER owes to DOUGLAS COUNTY.

6. **LOCAL ADMINISTRATORS.** USER will designate a maximum of three (3) Local Administrators within USER'S jurisdiction and provide DOUGLAS COUNTY with their contact information, and notify DOUGLAS COUNTY promptly if they are removed or replaced. DOUGLAS COUNTY will provide and maintain a contact number and email address, through which only USER'S designated Local Administrator(s) may

communicate to DOUGLAS COUNTY any issues or concerns with SYSTEM availability or performance. DOUGLAS COUNTY will communicate via the contact information for the Local Administrators it has on file regarding the SYSTEM including, but not limited to, any planned system maintenance or outages or known system defects.

7. **USER ACCESS AND MAINTENANCE; LICENSE**. As a condition of granting USER access to the SYSTEM, USER shall input data on all existing and new sex offenders in USER'S jurisdiction and manage existing data in the data repository underlying SOTAR™. DOUGLAS COUNTY will provide the Local Administrator(s) with a secure login ID and password, limited system documentation and instructions for acceptable use. USER'S Local Administrators shall be responsible for provisioning, de-provisioning, maintaining and supporting system operators in USER'S jurisdiction. Only the Local Administrator for that jurisdiction shall have access to the user management feature for the USER'S jurisdiction. USER understands and agrees that USER shall be solely liable for any errors, omissions or claims arising out of or related to the data USER input into the data repository underlying the SOTAR™ application. USER understands and agrees that all data input by USER will be viewable by all other LEA users of the SYSTEM.

8. **USE OF USER INFORMATION.** DOUGLAS COUNTY and all users from all other jurisdictions that have access to the SOTAR™ application shall have the unlimited, perpetual, irrevocable, fully paid up right to use the data contributed by USER provided such use complies with this AGREEMENT. Neither DOUGLAS COUNTY nor any other jurisdiction shall have any obligation at any time to segregate or stop using the information USER contributes to the data repository underlying SOTAR™.

9. **NO REVERSE ENGINEERING.** USER shall not reverse engineer, decompile, decrypt, or otherwise derive the design, internal logic, structure or inner workings (including algorithms and source code) of any software, products, models or prototypes related to the SYSTEM. USER shall not copy any part of the SYSTEM for any reason, including that information input by USER or related to USER'S jurisdiction.

10. **NO THIRD PARTY USE OR ACCESS**. USER shall not sell or in any manner, directly or indirectly, give any access to SOTAR™, the data repository underlying SOTAR™, documentation, or derivative works to any third party, including but not limited to, any governmental agency in USER'S jurisdiction, any other government agency, or any for profit or non-profit entity. All inquiries from third parties regarding access to the SYSTEM must be directed to DOUGLAS COUNTY.

11. **EXCLUSIVE OWNERSHIP.** It is expressly understood and agreed by USER that the SYSTEM is protected by copyright and other intellectual property laws and that DOUGLAS COUNTY is the sole owner of all right, title and interest in and to the SYSTEM, and that through this AGREEMENT, DOUGLAS COUNTY is conveying only the limited access rights expressly contained in this AGREEMENT, but DOUGLAS

COUNTY is not conveying to USER any right, title or interest in or to the SYSTEM or derivative works.

12. **DISCLAIMER OF WARRANTY**. The SYSTEM is provided by DOUGLAS COUNTY on an "AS IS, WHERE IS" basis, with no warranties whatsoever except as expressly set forth in this AGREEMENT. DOUGLAS COUNTY hereby disclaims all other warranties, express or implied, including the implied warranties of merchantability, fitness for a particular purpose, title, non-infringement of intellectual property rights and course of dealing. DOUGLAS COUNTY makes no warranties or representations regarding applicability of the SYSTEM to USER or compatibility of the SYSTEM with the infrastructure used by USER. DOUGLAS COUNTY makes no warranties as to the accuracy of the information contained in the data repository. Without limiting the generality of the foregoing, DOUGLAS COIUNTY has no obligation to indemnify or defend USER against any claims arising out of or related to the use of the SYSTEM including, but not limited to, infringement of intellectual property rights.

13. **LIMITATIONS ON LIABILITY**. In no event will DOUGLAS COUNTY be liable for any direct, indirect, incidental, special, consequential or punitive damages arising out of or related to this AGREEMENT regardless of the form of action, whether in contract, tort (including, but not limited to, negligence), strict product liability or otherwise even if DOUGLAS COUNTY is advised in advance of the possibility of the damages in question and even if such damages were foreseeable and even if USER'S remedies fail of their essential purpose.

14. **NOTICE.** Any notice required by this AGREEMENT shall be given, in writing. Any such notice shall be deemed given (a) on the date of delivery, if personally delivered (if a signed receipt is obtained); (b) by electronic transmission, provided electronic or other written confirmation of delivery is obtained; or (c) on the third business day following mailing by registered or certified mail, return receipt requested, provided proper postage was prepaid and the mail was addressed to the address set forth immediately below or such new address that is given to the other PARTY in accordance with this Section 14.

i. To USER
Town of Minturn
Attn: Manager Jim White and Chief Lorenzo W. Martinez
Post Office Box 191
Minturn, Colorado 81645

ii. To DOUGLAS COUNTY:
Douglas County Government
Attn: Lori Orr
4000 Justice Way
Castle Rock, CO 80109

15. **APPLICABLE LAW.** The PARTIES agree to comply with applicable federal, state and local statutes, charter provisions, ordinances, rules, regulations and standards as are in effect at the time this AGREEMENT is executed and as they may change from time to time. Any disputes arising under this AGREEMENT shall be brought exclusively in Douglas County District Court in the State of Colorado. USER hereby knowingly and voluntarily waives any objection to Douglas County, Colorado as an inconvenient forum and hereby consents to the exercise of personal jurisdiction by the Douglas County District Court in the State of Colorado. The PARTIES may mutually agree to informal resolution of disputes. Prior to filing litigation, the PARTIES shall discuss participation in alternative dispute resolution, which may include pre-suit mediation or settlement conferences.

16. **NON-WAIVER.** The PARTIES shall not be excused from complying with any provisions of this AGREEMENT by the failure or delay of any PARTY to insist upon or seek compliance with such provisions.

17. **SEVERABILITY.** Should any provision(s) of this AGREEMENT be determined to be illegal or unenforceable, such provision shall be modified to make it legal and enforceable to the fullest extent of the law. In the event modification would not make the provision legal and enforceable, such provision shall be deleted from this AGREEMENT and all remaining provisions of this AGREEMENT shall remain fully enforceable. Provided, however, with respect to the deleted provision, the PARTIES shall forthwith enter into good faith negotiations and proceed with due diligence to draft a term that will achieve the original intent of the PARTIES hereunder.

18. **AMENDMENT.** This AGREEMENT may be amended, modified, or changed, in whole or in part, only by written AGREEMENT executed by the PARTIES hereto.

19. **ASSIGNABILITY; SUBLICENSING**. USER shall not assign or sublicense its rights or delegate its duties under this AGREEMENT without the prior written consent of DOUGLAS COUNTY.

20. **HEADINGS FOR CONVENIENCE**. Headings and titles contained herein are intended for the convenience and reference of the PARTIES only and are not intended to combine, limit, or describe the scope or intent of any provision of this AGREEMENT.

21. **GOVERNMENTAL IMMUNITY**. The PARTIES hereto understand and agree that the PARTIES and their commissioners, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this AGREEMENT, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, 55 24-10-101 to 120, C.R.S., or otherwise available to the PARTIES.

22. **OPEN RECORDS.** The PARTIES expressly agree that if any request is made that subjects the subject matter of this AGREEMENT to disclosure pursuant to the Colorado

Open Records Act, Section 24-72-201, C.R.S. et. seq., then the data will be disclosed in printed, hardcopy form, and not in digital form, so long as the law allows this discretion. In the event it must be disclosed in digital form, the recipient shall sign a non-disclosure and non-use agreement related to the SYSTEM (which will be supplied by DOUGLAS COUNTY) prior to obtaining the digital information.

23. **THIRD PARTY BENEFICIARIES**. DOUGLAS COUNTY does not intend by the Agreement to assume any contractual obligations to anyone other than the USER, and the USER does not intend by the AGREEMENT to assume any contractual obligation to anyone other than DOUGLAS COUNTY. DOUGLAS COUNTY and USER do not intend that there be any third-party beneficiary to this AGREEMENT.

24. **SURVIVAL:** Where the context of this AGREEMENT reasonably requires such an interpretation, the provisions of this AGREEMENT shall survive termination.

25. **EXECUTION.** This AGREEMENT may be executed in counterparts.

THEREFORE, IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT the day and year first above written.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO,

_____ Date:_____
David A. Weaver
Douglas County Sheriff

APPROVED AS TO LEGAL FORM:

_____Date:_____
Kelly Dunnaway,
Deputy County Attorney

_____ Date:_____
Gordon "Hawkeye" Flaherty,
Mayor

TOWN OF MINTURN, COLORADO

ORDINANCE NO. 9 SERIES 2012
AN ORDINANCE AMENDING CHAPTER 6 OF THE MINTURN MUNICIPAL CODE BY ADOPTING PROVISIONS FOR THE REGULATIONS OF SPECIAL EVENTS.

NOW THEREFORE, THE TOWN OF MINTURN ORDAINS:

Section 1. That Chapter 6 of the Code of the Town of Minturn, Colorado concerning business is hereby amended by the addition of a new section three, concerning requirements for special events within the Town of Minturn, which shall read in its entirety as follows:

6-3-1. Short Title
This chapter shall be known and may be cited as the Town of Minturn Special Events Ordinance.

6-3-2. Purpose and Authority
This ordinance is adopted to promote the public health, safety, welfare and convenience of the inhabitants of Minturn by regulating special events within the Town of Minturn. By requiring a permit for each event, proper coordination of public services is ensured and overburdening of local infrastructure is prevented. The permitting process established by this chapter is intended to be content neutral and not subject matter based. This chapter is intended merely to establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the holding of special events. This ordinance is adopted pursuant to authority granted to the Town by its Charter.

6-4-3 Findings:
The Town council hereby finds and determines as follows:

A. The Town of Minturn is authorized to regulate businesses operating within the Town pursuant to chapter 6 of the Minturn Town charter and section 31-15-501, Colorado Revised Statutes.

B. Special events, as defined in this chapter, contribute to the individual, social, economic and environmental health and well-being of the community.

C. Special events, however, create special regulatory problems including, but not limited to, the need for crowd control, sanitation, security, traffic management, and parking.

D. The Town's current requirements fail to provide clear guidelines for the approval or denial of permission to hold a special event.

E. In enacting this chapter the Town Council is exercising its power as granted by the Town's charter, and the constitution and statutes of the state of Colorado, as well as its power to license and regulate business activities.

6-4-4. Definitions.
As used in this article:

Applicant means a person who has submitted an application for permit pursuant to this chapter.

Building has the meaning provided in Section 16-2-20 of this code.

Town Sponsored Event – means that the Town, solely or in partnership with another entity, produces and/or coordinates the event, after determining that the event either:

1) Provides a local commemoration of a national holiday.
2) Provides cultural or recreational experiences to Town residents that are not otherwise routinely available in the community.
3) Significantly enhances tourism or other forms of economic development.

Commercial Special Event means any special event organized and conducted by any person or organization holding a business license and that does not qualify as a tax-exempt nonprofit organization.

Day means a calendar day, unless otherwise indicated.

Demonstration means any formation, procession or assembly of persons which, for the purpose of expressive activity, is:

1) To assemble or travel in unison on any street in a manner that does not comply with normal or usual traffic regulations or controls; or
2) To gather at a public park or other public area.

Event Organizer means any event promoter, person who conducts, manages, promotes or organizes a commercial or noncommercial nonprofit special event.

Expressive activity includes conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. It includes public oratory and distribution of literature, and picketing.

Facility use permit means a permit issued under the authority of the manager for temporary or reserved use or occupation of a public facility or an area of public land, for a defined period of time and said use does not impact Town resources, due to the anticipated congregation of people in such numbers or in such location as identified.

Festival means a thematic, organized, site-specific celebration, performance, exhibition or competition occurring upon public or private property, or a combination of private and public property, as a result of a private nongovernmental event organizer, during which commerce may occur, for a defined period of time, advertised and promoted outside the Town, that will, in the determination of the Town, have an impact on Town resources, due to the anticipated

congregation of people in such numbers or in such location as identified by the sponsor or promoter as the venue. See also "Legislative Festival".

Goods means wares, personal property, merchandise or any other similar item or object that is generally sold.

Gross Revenues means the sum of all revenues received by an event organizer for a special event, including, but not limited to, cash receipts, licensing, sponsorship, television, advertising and similar revenues, and concessions.

Internal security means the deployment of privately contracted qualified human resources in sufficient number, as determined by the police department, to ensure the comfort and safety of movement of participants in a special event.

Noncommercial nonprofit special event means any special event organized and conducted by a person or entity that qualifies as a tax-exempt nonprofit organization.

*Parad*e means any march, race, presentation, ceremony, pageant or procession of any persons and conveyances of any sort moving upon any public street or sidewalk of the Town, which does not comply with normal traffic regulations.

Permittee means the one to whom a permit is given.

Rallies, automobile or motorcycle means an outdoor gathering of riders, drivers and enthusiasts scheduled and sponsored by specific clubs, associations, event planners and/or organizers, event promoters, vendors, dealers or vendor permit sellers for the purpose of retail sales to attendees, who expect and are provided a variety of vending opportunities and entertainment events by those who profit from the gathering. The term special event is not used to denote the perceived quality of the event, or to imply that one entity is necessarily in charge of organizing or managing the event but is used to describe these types of activities because of their known shared characteristics of widespread promotion by event promoters seeking profit, with a location identified as the place of gathering or rally, with a published or publicly known time of occurrence, either sporadic, cyclical or scheduled. The resulting traffic congestion and noise can be attributed to event promotion or staging, or lack of planning or control by event promoters or organizers. Planned or unplanned special events can dramatically impact overall travel safety, vehicular and pedestrian mobility, and travel time reliability for visitors and residents alike.

Sidewalk means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

Signage means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device, including but not limited to:

a. Temporary Site Specific Signage – Printed signs and/or banners bearing the name of a specific special event intended to identify the location of that event.

b. Temporary Welcome Signage – Printed signs and/or banners bearing the name of the specific business or entity and a welcome statement referencing the event participants and spectators.

Special Event means
A planned occurrence which includes an expected gathering of fifty (50) or more people: a) the primary purpose of which is entertainment; and b) to which the public or a substantial portion thereof is invited to attend, either by express invitation or by implication.

Special Event Permit means a permit issued under this chapter.

Special Event Venue means that defined area identified on a submitted site plan approved by Town Council for which a special event permit has been issued.

Street means a public right-of-way, or way or place of whatever nature, publicly maintained and open to use of the public for purposes of vehicular or pedestrian travel. Street includes highways, alleyways, sidewalks and any other public area that accommodates vehicular or pedestrian traffic.

Tax-exempt nonprofit organization means an organization that is exempted from payment of income taxes by federal or state law and which has been in existence for a minimum of six months preceding the date of application for a special event permit or other permit. This shall include charities, 501(c)(3)s, civic groups, fraternal organizations, school districts, and mutual benevolent aid societies. Appropriate official documentary proof may be required.

Vendor means any person who sells or offers to sell, any goods, food, or beverages within a special event venue, including the event organizer or any person who contracts with the event organizer for space within the special event venue in order to vend goods.

6-4-5. Permit Requirement

No person shall stage, hold, present, or conduct a special event within the Town without a valid permit issued in accordance with this chapter

6-3-6. Application

A.) A person seeking to obtain a permit shall file an application with the Town. The form of the application shall be provided by the Town.
B.) An application for a special event permit shall be filed with the Town Administrator or designee not less than thirty (45) days nor more than three hundred sixty five (365) days before the special event is proposed to begin. The Town may waive the minimum forty five (45) day filing period and accept an application filed within a shorter time period if, after due consideration of the date, time, place, and nature of the special event, the anticipated number of participants, and the town services required in connection with the special event, the Town determines that sufficient time exists for the proper investigation and review of the application; that the waiver will not present a hazard to public health,

safety or welfare; and that the waiver will not create a substantial burden on the town's staff or financial resources.

C.) Application for a special events permit shall include:

1) The applicant's name, mailing address, email and telephone number.

2) The name, title (if any), address, email and telephone number of the contact person for the applicant with respect to the special event.

3) A description of the special event, including a description of the purpose, scope, and activities planned during the event.

4) The proposed date(s) of the special event.

5) The proposed location of the special event.

6) The proposed hours of operation of the special event.

7) The dates and times when the special event facilities will be set up and torn down.

8) If the special event will involve the use of any Town street(s), trail(s), park(s), land(s), building(s), parking lot(s) or right(s) of way, a statement as to the portion(s) of the Town street(s), trail(s), park(s), land(s), building(s), parking lot(s) or right(s) of way which will be used or occupied in connection with the special event.

9) A statement of the fees, if any, to be charged to participants at the special event.

10) A list of food and/or beverages, including alcoholic beverages that will be served at the special event.

11) A statement of whether goods and merchandise will be sold at the special event.

12) An event map including pedestrian flow, emergency access, trash receptacles, temporary structures, sign placement, parking areas and activity areas.

13) Proof of the applicant's tax exempt status, if applicable.

14) First time special events shall provide evidence indicating the extent of neighborhood and business support for the holding of the special event.

15) A description and location of any recording equipment, tents, or other structures, sound amplification equipment, banners, signs, or other attention getting devices proposed to be used in connection with the special event.

16) A plan for providing adequate safety for spectators and workers at the special event.

17) A plan for providing adequate sanitation at the special event, including "event greening" and recycling plans.

18) The approximate number of staff, vendors, and entertainers reasonably anticipated to participate in putting on the special event (excluding spectators).

19) A good faith estimate of the approximate number of spectators expected to attend the special event each day.

20) The number of security personnel to be hired for the special event, if any.

21) A designation of any public facilities or equipment to be utilized.

22) A complete list of the names, addresses, and telephone numbers of all vendors who will participate in the special event.

23) Any additional information that the Town Administrator or designee reasonably determines to be necessary in connection with the investigation and review of the application.

6-3-7. 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 6-4-10 of this chapter, the Town Administrator or designee shall transmit copies of the application to:

1. The Planning department;

2. The Police department;

3. The Town Clerk;

4. The Public Works department;

5. The Eagle River Fire Protection District; and

6. Any other person or agency which the Town Administrator or designee determines should properly investigate and comment upon the application.

B. Within thirty (30) 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 Manager or designee with comments concerning the application. If an application is accepted by the Town Administrator or designee less than forty five (45) days before the proposed special event is to be held, the town departments and other referral agencies shall use their best efforts to provide the Town Administrator or designee with their comments in a timely manner so that the Town Administrator or designee will have the comments before making a decision on the application.

6-3-8. Standards for Issuance of Permit:

A. The Town Administrator of designee shall issue a permit when, from a consideration of the application and from such other information as may otherwise be obtained, the Town Administrator or designee determines that:

1. The application (including any required attachments and submissions) is complete and signed by the applicant;

2. The applicant has paid the application fee and any other fees required by section 6-4-10 of this chapter;

3. The application does not contain a material falsehood or misrepresentation;

4. The application complies with all of the requirements of this chapter;

5. The applicant is legally competent to contract under Colorado law;

6. The applicant or the person on whose behalf the application is made has not previously damaged Town property and failed to pay in full for such damage, and the applicant does not have other outstanding and unpaid debts to the Town;

7. The proposed special event will not conflict with:

a. A special event for which a permit has previously been issued;

b. A proposed special event the application for which was received by the Town Administrator or designee prior to the time of the submission of the applicant's application;

c. A Town sponsored event;

d. An annual special event which is reasonably expected to be held again, but for which an application has yet to be submitted; or

e. An event protected by the first amendment to the United States constitution or by the Colorado constitution which due to its anticipated size, location, hours of operation, or other relevant factors, is reasonably expected to require such town services or personnel as to make the holding of the special event for which the application was submitted a potential risk to the public health, safety or welfare;

8. The holding of the proposed special event will not cause significant disruption in the ability of the Town to deliver or provide essential governmental services;

9. Adequate sanitation and other required health facilities are or will be made available at or sufficiently near to the proposed special event area(s);

10. Sufficient parking is available near the site of the proposed special event to accommodate the number of vehicles reasonably expected for the event, or an acceptable transportation and parking plan to provide adequate parking for the proposed special event has been submitted and approved by the Town Administrator or designee;

11. The proposed special event will not pose a danger to the public health, safety or welfare;

12. The proposed special event will positively impact the town culturally, economically, environmentally or socially.

6-3-9. Approval Conditions

When issuing a permit under this ordinance, the Town Administrator or designee may attach such reasonable conditions as they may deem appropriate to mitigate or eliminate any impacts reviewable under the Standards of Issuance as set forth above. Such conditions may include but are not limited to:

A.) Establishing specific hours for the proposed use;

B.) Establishing noise limits;

C.) Requiring the provision of traffic control personnel at no cost to the Town;

D.) Requiring the provision of crowd control and medical personnel at no cost to the Town;

E.) Requiring the provision of firefighting equipment and personnel at no cost to the Town;

F.) Requiring liability insurance in the minimum amount of $1,000,000. Such insurance shall remain in full force throughout the entirety of the special event for which the permit is issued. The Town shall be named as an additional insured under such insurance policy

G.) Requiring that trash, litter and recyclables on public streets attributable to the proposed activity be collected and removed within twenty-four (24) hours of event finish, at no cost to the Town;

H.) Prohibiting the sale of admission or seating tickets in excess of the established capacity of the event area.

6-3-10. Application Fee

A. An applicant shall pay to the Town a nonrefundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. The amount of the application fee shall be $100.00 and set by the Town Council as part of its annual budget process. The application fee shall be doubled for applications received by the Town Administrator or designee forty four (44) days or less prior to the proposed special event.

B. Application fees may be waived at the discretion of the Town Administrator of designee for non-profit, religious or school district organizations.

C. If the application includes a request to use any Town property or any Town service in connection with the special event, then before the permit is issued the applicant shall pay to the Town any necessary charges, fees, or deposits required by the Town in connection with the use of the requested Town property or the provision of the requested Town service.

6-3-11. Exemptions

The requirements of this chapter shall not apply to:

A.) A special event held by the Town.

B.) An event protected by either the first amendment to the United States constitution or by the Colorado constitution; provided, however, that a person staging, holding, presenting, or conducting such an event shall submit an application and obtain a permit pursuant to this chapter, but there shall be no fee required and the deadline for submission of an application as provided in subsection 6-4-6B of this chapter does not apply to such an application. The Town Administrator or designee may also modify any other requirement of this chapter with respect to such an application if necessary to comply with applicable law.

6-3-12. Applicability of other Laws and Ordinances

A.) The permit required under this ordinance shall not replace or eliminate any requirement to obtain approval under any other applicable laws or ordinances.

B.) A permit issued under this chapter is not a special events liquor license. If alcoholic beverages are to be served at the special event, the permittee must obtain the required permit or approval from the Town Clerk or the Town of Minturn liquor licensing authority.

6-3-13. Denial of Permit

A. The Town Administrator or designee shall deny an application for a special event permit if the Town Administrator or designee determines that:

1. The application conflicts with another event as described in subsection 6-4-8 of this chapter;

2. Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material respect;

3. The application fails to meet any of the standards set forth in section 6-3-8 of this chapter;

4. The time, route, or size of the event will substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will disrupt the use of a street or highway at a time when it is usually subject to heavy traffic congestion;

5. The location of the event will substantially interfere with any construction or maintenance work scheduled to take place upon or along the town streets or property;

6. The applicant has failed to pay costs, fees, or deposits for a previous special event permit within the preceding five (5) years; or the applicant has failed to pay the Town for damages arising from a previous special event held by the applicant, regardless of when such event was held; or

7. The applicant has failed to abide by the requirements or conditions of previous special event permits within the preceding five (5) years.

6-3-14: Nondiscrimination; Content Neutrality:

The Town Administrator or designee shall uniformly consider each application for a permit upon its merits, and shall not discriminate in granting or denying a permit under this chapter based upon race, creed, color, religion, national origin, ancestry, sex, age, veteran status, sexual orientation, or physical or mental disability. Further, the Town Administrator or designee shall be content neutral in reviewing an application, and shall not consider the subject matter of any type of speech proposed as part of the application.

6-3-15: Decision by Town Administrator:

A. The Town Administrator or designee shall approve, deny or conditionally approve an application within thirty (30) days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional ten (10) days; provided, however, that in any event the Town Administrator or designee shall render a decision on an application not less than forty eight (48) hours prior to the scheduled commencement of the special event which is the subject of the application.

B. If an application is denied; the Town Administrator or designee shall clearly set forth in writing the grounds for denial and, where feasible, shall propose measures to cure the defects that lead to the denial of the application. When the basis for denial is the prior receipt of a competing application for the same time and place, the Town Administrator or designee shall suggest an alternative time or place for the special event which is the subject of the application which was denied.

C. In the event an application is conditionally approved, the Town Administrator or designee shall clearly set forth in writing the conditions of approval.

6-3-16: Notice of Decision:

The Town Administrator or designee shall notify the applicant of the Town Administrator or designee's decision on the application within three (3) business days of rendering the decision. Notice shall be given by mailing a copy of the Town Administrator or designee's decision to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

6-3-17: 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.

6-3-18: Contents of Permit:

A permit shall contain the following information:

A. The name of the permittee;

B. The location of the special event to be held pursuant to the permit;

C. The date(s) of the special event to be held pursuant to the permit, including the dates and times for the setup and tear down of the event;

D. The starting and ending times the special event is to be held pursuant to the permit;

E. The name and telephone number of the permittee's local contact person for the special event;

F. A requirement that the permittee provide proof of insurance pursuant to section 6- of this chapter;

G. An advisement to the permittee of the permittee's duties under section 6-4-22 of this chapter;

H. An acknowledgment by the permittee that the permit may be summarily suspended by the Town Administrator or designee in accordance with subsection 6-4-24(E) of this chapter;

I. Any special conditions of approval imposed upon the permit by the Town Administrator or designee pursuant to section 6-4-9 of this chapter;

J. A list of all vendors who will participate in the special event; and such other information related to the special event as the Town Administrator or designee shall determine to be necessary or appropriate for inclusion in the permit.

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

6-3-19: Permit not Transferrable:

A permit is nontransferable and non-assignable. Any attempt to transfer or assign such permit voids the permit

6-3-20: Notice of Issuance of Permit:

Immediately upon the issuance of a permit, the Town Administrator or designee shall send a copy of the permit to:

A. The Police department;

B. The Planning department;

C. The Town Clerk;

D. The Public Works department;

E. The Eagle River Fire Protection District;

F. Any other person as determined by the Town Administrator or designee.

6-3-21: Insurance Requirement:

Each permit shall require the permittee to file with the Town Administrator or designee prior to commencement of the setup of the special event a certificate of insurance demonstrating that the permittee has in effect a policy or policies of general liability insurance covering the special event with minimum combined single limits of not less than one million dollars ($1,000,000.00). Such insurance shall remain in full force throughout the entirety of the special event for which the permit is issued. The Town shall be named as an additional insured under such insurance policy.

6-3-22: Duties of Permittee:

In connection with the holding of the event for which a permit is issued, a permittee shall:

A. Comply with all of the terms and conditions of the permit;

B. Comply with all applicable town ordinances and state and federal laws; and

C. Permit inspection of its records and special event facilities by the Town Administrator or designee for the purpose of determining the permittee's compliance with the terms and conditions of the permit.

6-3-23: Posting of Permit:

A permit shall be continuously posted in a conspicuous location at the site of the special event throughout the duration of the special event.

6-3-24: Suspension or Revocation of Permit:

A. A permit issued pursuant to this chapter may be suspended or revoked by the Town Administrator or designee after 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;

3. A violation of any of the terms and conditions of the permit;

4. A violation of any of the provisions of this chapter;

5. Threatening weather conditions if the Town Administrator or designee determines that holding the special event under such conditions would either: a) pose a threat to the public health, safety or welfare, or b) pose a threat to any Town owned property to be used in connection with this special event;

6. The existence of fire or drought conditions if the Town Administrator or designee determines that holding the special event under such conditions would pose a threat to the public health, safety or welfare;

7. Any unforeseen, unanticipated, or uncontrollable circumstance if the Town Administrator or designee determines that holding the special event under such circumstance would pose a threat to the public health, safety or welfare; or

8. An irreconcilable scheduling conflict with an event protected by either the first amendment to the United States constitution or by the Colorado constitution.

B. In connection with the suspension of a permit, the Town Administrator or designee may impose reasonable conditions.

C. 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 or designee 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 special events held by the permittee;

8. The number of previous violations by the permittee; and

9. Previous sanctions, if any, imposed against the permittee.

D. The Town Administrator or designee shall have the authority to summarily suspend a permit during a special event if it appears to the Town Administrator or designee that a permittee has violated one or more of the terms and conditions of a permit or any applicable law and, based upon the available information, the Town Administrator or designee, reasonably determines that such violation results in an immediate threat to the public health, safety and welfare. No appeal is allowed from a summary suspension of a permit issued by the Town Administrator or designee pursuant to this subsection.

E. If the Town Administrator or designee suspends a permit, except for a summary suspension pursuant to subsection D of this section, or revokes a permit, the permittee may appeal the suspension or revocation to the Town Council. 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 or designee acted correctly in suspending or revoking the permit, the Town Council shall uphold the Town Administrator or designee's order of suspension or revocation. If the Town Council finds by a preponderance of the evidence that the Town Administrator or designee acted improperly in suspending or revoking the permit, the appeal shall be sustained, and the Town Administrator or designee'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 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 of 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.

6-3-25: 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 title 1, chapter 4 of this code.

B. The staging, holding, presenting, or conducting of a special event 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

C. 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.

6-3-26: RULES AND REGULATIONS:

The Town Administrator or designee 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.

6-3-27: Penalties; Injunctive Relief:

SECTION 1. The staging, holding, presenting, or conducting of a special event 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

SECTION 2. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Town Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

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

SECTION 4. The repeal or the repeal and reenactment of any provisions of the Minturn Municipal Code as provided in this ordinance shall not affect any right with has accrued, any 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 reenacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

SECTION 5. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

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. 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 HALL 302 PINE STREET, MINTURN COLORADO 81645.

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 AND ORDERED PUBLISHED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS ____ DAY OF _____, 2012.

TOWN OF MINTURN, COLORADO

_____
Hawkeye Flaherty, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

TOWN OF MINTURN, COLORADO

ORDINANCE NO. 9 SERIES 2012
AN ORDINANCE AMENDING CHAPTER 6 OF THE MINTURN MUNICIPAL CODE BY ADOPTING PROVISIONS FOR THE REGULATIONS OF SPECIAL EVENTS.

NOW THEREFORE, THE TOWN OF MINTURN ORDAINS:

Section 1. That Chapter 6 of the Code of the Town of Minturn, Colorado concerning business is hereby amended by the addition of a new section three, concerning requirements for special events within the Town of Minturn, which shall read in its entirety as follows:

6-3-1. Short Title
This chapter shall be known and may be cited as the Town of Minturn Special Events Ordinance.

6-3-2. Purpose and Authority
This ordinance is adopted to promote the public health, safety, welfare and convenience of the inhabitants of Minturn by regulating special events within the Town of Minturn. By requiring a permit for each event, proper coordination of public services is ensured and overburdening of local infrastructure is prevented. The permitting process established by this chapter is intended to be content neutral and not subject matter based. This chapter is intended merely to establish a nondiscriminatory mechanism by which the Town can control, through appropriate regulation, the holding of special events. This ordinance is adopted pursuant to authority granted to the Town by its Charter.

6-4-3 Findings:
The Town council hereby finds and determines as follows:

A. The Town of Minturn is authorized to regulate businesses operating within the Town pursuant to chapter 6 of the Minturn Town charter and section 31-15-501, Colorado Revised Statutes.

B. Special events, as defined in this chapter, contribute to the individual, social, economic and environmental health and well-being of the community.

C. Special events, however, create special regulatory problems including, but not limited to, the need for crowd control, sanitation, security, traffic management, and parking.

D. The Town's current requirements fail to provide clear guidelines for the approval or denial of permission to hold a special event.

E. In enacting this chapter the Town Council is exercising its power as granted by the Town's charter, and the constitution and statutes of the state of Colorado, as well as its power to license and regulate business activities.

6-4-4. Definitions.
As used in this article:

Applicant means a person who has submitted an application for permit pursuant to this chapter.

Building has the meaning provided in Section 16-2-20 of this code.

Town Sponsored Event – means that the Town, solely or in partnership with another entity, produces and/or coordinates the event, after determining that the event either:

1) Provides a local commemoration of a national holiday.
2) Provides cultural or recreational experiences to Town residents that are not otherwise routinely available in the community.
3) Significantly enhances tourism or other forms of economic development.

Commercial Special Event means any special event organized and conducted by any person or organization holding a business license and that does not qualify as a tax-exempt nonprofit organization.

Day means a calendar day, unless otherwise indicated.

Demonstration means any formation, procession or assembly of persons which, for the purpose of expressive activity, is:

1) To assemble or travel in unison on any street in a manner that does not comply with normal or usual traffic regulations or controls; or
2) To gather at a public park or other public area.

Event Organizer means any event promoter, person who conducts, manages, promotes or organizes a commercial or noncommercial nonprofit special event.

Expressive activity includes conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. It includes public oratory and distribution of literature, and picketing.

Facility use permit means a permit issued under the authority of the manager for temporary or reserved use or occupation of a public facility or an area of public land, for a defined period of time and said use does not impact Town resources, due to the anticipated congregation of people in such numbers or in such location as identified.

Festival means a thematic, organized, site-specific celebration, performance, exhibition or competition occurring upon public or private property, or a combination of private and public property, as a result of a private nongovernmental event organizer, during which commerce may occur, for a defined period of time, advertised and promoted outside the Town, that will, in the determination of the Town, have an impact on Town resources, due to the anticipated

congregation of people in such numbers or in such location as identified by the sponsor or promoter as the venue. See also "Legislative Festival".

Goods means wares, personal property, merchandise or any other similar item or object that is generally sold.

Gross Revenues means the sum of all revenues received by an event organizer for a special event, including, but not limited to, cash receipts, licensing, sponsorship, television, advertising and similar revenues, and concessions.

Internal security means the deployment of privately contracted qualified human resources in sufficient number, as determined by the police department, to ensure the comfort and safety of movement of participants in a special event.

Noncommercial nonprofit special event means any special event organized and conducted by a person or entity that qualifies as a tax-exempt nonprofit organization.

*Parad*e means any march, race, presentation, ceremony, pageant or procession of any persons and conveyances of any sort moving upon any public street or sidewalk of the Town, which does not comply with normal traffic regulations.

Permittee means the one to whom a permit is given.

Rallies, automobile or motorcycle means an outdoor gathering of riders, drivers and enthusiasts scheduled and sponsored by specific clubs, associations, event planners and/or organizers, event promoters, vendors, dealers or vendor permit sellers for the purpose of retail sales to attendees, who expect and are provided a variety of vending opportunities and entertainment events by those who profit from the gathering. The term special event is not used to denote the perceived quality of the event, or to imply that one entity is necessarily in charge of organizing or managing the event but is used to describe these types of activities because of their known shared characteristics of widespread promotion by event promoters seeking profit, with a location identified as the place of gathering or rally, with a published or publicly known time of occurrence, either sporadic, cyclical or scheduled. The resulting traffic congestion and noise can be attributed to event promotion or staging, or lack of planning or control by event promoters or organizers. Planned or unplanned special events can dramatically impact overall travel safety, vehicular and pedestrian mobility, and travel time reliability for visitors and residents alike.

Sidewalk means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.

Signage means any sign, pennant, flag, banner, inflatable display, or other attention-seeking device, including but not limited to:

a. Temporary Site Specific Signage – Printed signs and/or banners bearing the name of a specific special event intended to identify the location of that event.

b. Temporary Welcome Signage – Printed signs and/or banners bearing the name of the specific business or entity and a welcome statement referencing the event participants and spectators.

Special Event means
A planned occurrence which includes an expected gathering of fifty (50) or more people: a) the primary purpose of which is entertainment; and b) to which the public or a substantial portion thereof is invited to attend, either by express invitation or by implication.

Special Event Permit means a permit issued under this chapter.

Special Event Venue means that defined area identified on a submitted site plan approved by Town Council for which a special event permit has been issued.

Street means a public right-of-way, or way or place of whatever nature, publicly maintained and open to use of the public for purposes of vehicular or pedestrian travel. Street includes highways, alleyways, sidewalks and any other public area that accommodates vehicular or pedestrian traffic.

Tax-exempt nonprofit organization means an organization that is exempted from payment of income taxes by federal or state law and which has been in existence for a minimum of six months preceding the date of application for a special event permit or other permit. This shall include charities, 501(c)(3)s, civic groups, fraternal organizations, school districts, and mutual benevolent aid societies. Appropriate official documentary proof may be required.

Vendor means any person who sells or offers to sell, any goods, food, or beverages within a special event venue, including the event organizer or any person who contracts with the event organizer for space within the special event venue in order to vend goods.

6-4-5. Permit Requirement

No person shall stage, hold, present, or conduct a special event within the Town without a valid permit issued in accordance with this chapter

6-3-6. Application

A.) A person seeking to obtain a permit shall file an application with the Town. The form of the application shall be provided by the Town.
B.) An application for a special event permit shall be filed with the Town Administrator or designee not less than thirty (45) days nor more than three hundred sixty five (365) days before the special event is proposed to begin. The Town may waive the minimum forty five (45) day filing period and accept an application filed within a shorter time period if, after due consideration of the date, time, place, and nature of the special event, the anticipated number of participants, and the town services required in connection with the special event, the Town determines that sufficient time exists for the proper investigation and review of the application; that the waiver will not present a hazard to public health,

safety or welfare; and that the waiver will not create a substantial burden on the town's staff or financial resources.

C.) Application for a special events permit shall include:

1) The applicant's name, mailing address, email and telephone number.

2) The name, title (if any), address, email and telephone number of the contact person for the applicant with respect to the special event.

3) A description of the special event, including a description of the purpose, scope, and activities planned during the event.

4) The proposed date(s) of the special event.

5) The proposed location of the special event.

6) The proposed hours of operation of the special event.

7) The dates and times when the special event facilities will be set up and torn down.

8) If the special event will involve the use of any Town street(s), trail(s), park(s), land(s), building(s), parking lot(s) or right(s) of way, a statement as to the portion(s) of the Town street(s), trail(s), park(s), land(s), building(s), parking lot(s) or right(s) of way which will be used or occupied in connection with the special event.

9) A statement of the fees, if any, to be charged to participants at the special event.

10) A list of food and/or beverages, including alcoholic beverages that will be served at the special event.

11) A statement of whether goods and merchandise will be sold at the special event.

12) An event map including pedestrian flow, emergency access, trash receptacles, temporary structures, sign placement, parking areas and activity areas.

13) Proof of the applicant's tax exempt status, if applicable.

14) First time special events shall provide evidence indicating the extent of neighborhood and business support for the holding of the special event.

15) A description and location of any recording equipment, tents, or other structures, sound amplification equipment, banners, signs, or other attention getting devices proposed to be used in connection with the special event.

16) A plan for providing adequate safety for spectators and workers at the special event.

17) A plan for providing adequate sanitation at the special event, including "event greening" and recycling plans.

18) The approximate number of staff, vendors, and entertainers reasonably anticipated to participate in putting on the special event (excluding spectators).

19) A good faith estimate of the approximate number of spectators expected to attend the special event each day.

20) The number of security personnel to be hired for the special event, if any.

21) A designation of any public facilities or equipment to be utilized.

22) A complete list of the names, addresses, and telephone numbers of all vendors who will participate in the special event.

23) Any additional information that the Town Administrator or designee reasonably determines to be necessary in connection with the investigation and review of the application.

6-3-7. 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 6-4-10 of this chapter, the Town Administrator or designee shall transmit copies of the application to:

1. The Planning department;

2. The Police department;

3. The Town Clerk;

4. The Public Works department;

5. The Eagle River Fire Protection District; and

6. Any other person or agency which the Town Administrator or designee determines should properly investigate and comment upon the application.

B. Within thirty (30) 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 Manager or designee with comments concerning the application. If an application is accepted by the Town Administrator or designee less than forty five (45) days before the proposed special event is to be held, the town departments and other referral agencies shall use their best efforts to provide the Town Administrator or designee with their comments in a timely manner so that the Town Administrator or designee will have the comments before making a decision on the application.

6-3-8. Standards for Issuance of Permit:

A. The Town Administrator of designee shall issue a permit when, from a consideration of the application and from such other information as may otherwise be obtained, the Town Administrator or designee determines that:

1. The application (including any required attachments and submissions) is complete and signed by the applicant;

2. The applicant has paid the application fee and any other fees required by section 6-4-10 of this chapter;

3. The application does not contain a material falsehood or misrepresentation;

4. The application complies with all of the requirements of this chapter;

5. The applicant is legally competent to contract under Colorado law;

6. The applicant or the person on whose behalf the application is made has not previously damaged Town property and failed to pay in full for such damage, and the applicant does not have other outstanding and unpaid debts to the Town;

7. The proposed special event will not conflict with:

a. A special event for which a permit has previously been issued;

b. A proposed special event the application for which was received by the Town Administrator or designee prior to the time of the submission of the applicant's application;

c. A Town sponsored event;

d. An annual special event which is reasonably expected to be held again, but for which an application has yet to be submitted; or

e. An event protected by the first amendment to the United States constitution or by the Colorado constitution which due to its anticipated size, location, hours of operation, or other relevant factors, is reasonably expected to require such town services or personnel as to make the holding of the special event for which the application was submitted a potential risk to the public health, safety or welfare;

8. The holding of the proposed special event will not cause significant disruption in the ability of the Town to deliver or provide essential governmental services;

9. Adequate sanitation and other required health facilities are or will be made available at or sufficiently near to the proposed special event area(s);

10. Sufficient parking is available near the site of the proposed special event to accommodate the number of vehicles reasonably expected for the event, or an acceptable transportation and parking plan to provide adequate parking for the proposed special event has been submitted and approved by the Town Administrator or designee;

11. The proposed special event will not pose a danger to the public health, safety or welfare;

12. The proposed special event will positively impact the town culturally, economically, environmentally or socially.

6-3-9. Approval Conditions

When issuing a permit under this ordinance, the Town Administrator or designee may attach such reasonable conditions as they may deem appropriate to mitigate or eliminate any impacts reviewable under the Standards of Issuance as set forth above. Such conditions may include but are not limited to:

A.) Establishing specific hours for the proposed use;

B.) Establishing noise limits;

C.) Requiring the provision of traffic control personnel at no cost to the Town;

D.) Requiring the provision of crowd control and medical personnel at no cost to the Town;

E.) Requiring the provision of firefighting equipment and personnel at no cost to the Town;

F.) Requiring liability insurance in the minimum amount of $1,000,000. Such insurance shall remain in full force throughout the entirety of the special event for which the permit is issued. The Town shall be named as an additional insured under such insurance policy

G.) Requiring that trash, litter and recyclables on public streets attributable to the proposed activity be collected and removed within twenty-four (24) hours of event finish, at no cost to the Town;

H.) Prohibiting the sale of admission or seating tickets in excess of the established capacity of the event area.

6-3-10. Application Fee

A. An applicant shall pay to the Town a nonrefundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. The amount of the application fee shall be $100.00 and set by the Town Council as part of its annual budget process. The application fee shall be doubled for applications received by the Town Administrator or designee forty four (44) days or less prior to the proposed special event.

B. Application fees may be waived at the discretion of the Town Administrator of designee for non-profit, religious or school district organizations.

C. If the application includes a request to use any Town property or any Town service in connection with the special event, then before the permit is issued the applicant shall pay to the Town any necessary charges, fees, or deposits required by the Town in connection with the use of the requested Town property or the provision of the requested Town service.

6-3-11. Exemptions

The requirements of this chapter shall not apply to:

A.) A special event held by the Town.

B.) An event protected by either the first amendment to the United States constitution or by the Colorado constitution; provided, however, that a person staging, holding, presenting, or conducting such an event shall submit an application and obtain a permit pursuant to this chapter, but there shall be no fee required and the deadline for submission of an application as provided in subsection 6-4-6B of this chapter does not apply to such an application. The Town Administrator or designee may also modify any other requirement of this chapter with respect to such an application if necessary to comply with applicable law.

6-3-12. Applicability of other Laws and Ordinances

A.) The permit required under this ordinance shall not replace or eliminate any requirement to obtain approval under any other applicable laws or ordinances.

B.) A permit issued under this chapter is not a special events liquor license. If alcoholic beverages are to be served at the special event, the permittee must obtain the required permit or approval from the Town Clerk or the Town of Minturn liquor licensing authority.

6-3-13. Denial of Permit

A. The Town Administrator or designee shall deny an application for a special event permit if the Town Administrator or designee determines that:

1. The application conflicts with another event as described in subsection 6-4-8 of this chapter;

2. Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material respect;

3. The application fails to meet any of the standards set forth in section 6-3-8 of this chapter;

4. The time, route, or size of the event will substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will disrupt the use of a street or highway at a time when it is usually subject to heavy traffic congestion;

5. The location of the event will substantially interfere with any construction or maintenance work scheduled to take place upon or along the town streets or property;

6. The applicant has failed to pay costs, fees, or deposits for a previous special event permit within the preceding five (5) years; or the applicant has failed to pay the Town for damages arising from a previous special event held by the applicant, regardless of when such event was held; or

7. The applicant has failed to abide by the requirements or conditions of previous special event permits within the preceding five (5) years.

6-3-14: Nondiscrimination; Content Neutrality:

The Town Administrator or designee shall uniformly consider each application for a permit upon its merits, and shall not discriminate in granting or denying a permit under this chapter based upon race, creed, color, religion, national origin, ancestry, sex, age, veteran status, sexual orientation, or physical or mental disability. Further, the Town Administrator or designee shall be content neutral in reviewing an application, and shall not consider the subject matter of any type of speech proposed as part of the application.

6-3-15: Decision by Town Administrator:

A. The Town Administrator or designee shall approve, deny or conditionally approve an application within thirty (30) days of the receipt of the completed application unless, by written notice to the applicant, the decision period is extended for an additional ten (10) days; provided, however, that in any event the Town Administrator or designee shall render a decision on an application not less than forty eight (48) hours prior to the scheduled commencement of the special event which is the subject of the application.

B. If an application is denied; the Town Administrator or designee shall clearly set forth in writing the grounds for denial and, where feasible, shall propose measures to cure the defects that lead to the denial of the application. When the basis for denial is the prior receipt of a competing application for the same time and place, the Town Administrator or designee shall suggest an alternative time or place for the special event which is the subject of the application which was denied.

C. In the event an application is conditionally approved, the Town Administrator or designee shall clearly set forth in writing the conditions of approval.

6-3-16: Notice of Decision:

The Town Administrator or designee shall notify the applicant of the Town Administrator or designee's decision on the application within three (3) business days of rendering the decision. Notice shall be given by mailing a copy of the Town Administrator or designee's decision to the applicant by regular mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.

6-3-17: 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.

6-3-18: Contents of Permit:

A permit shall contain the following information:

A. The name of the permittee;

B. The location of the special event to be held pursuant to the permit;

C. The date(s) of the special event to be held pursuant to the permit, including the dates and times for the setup and tear down of the event;

D. The starting and ending times the special event is to be held pursuant to the permit;

E. The name and telephone number of the permittee's local contact person for the special event;

F. A requirement that the permittee provide proof of insurance pursuant to section 6- of this chapter;

G. An advisement to the permittee of the permittee's duties under section 6-4-22 of this chapter;

H. An acknowledgment by the permittee that the permit may be summarily suspended by the Town Administrator or designee in accordance with subsection 6-4-24(E) of this chapter;

I. Any special conditions of approval imposed upon the permit by the Town Administrator or designee pursuant to section 6-4-9 of this chapter;

J. A list of all vendors who will participate in the special event; and such other information related to the special event as the Town Administrator or designee shall determine to be necessary or appropriate for inclusion in the permit.

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

6-3-19: Permit not Transferrable:

A permit is nontransferable and non-assignable. Any attempt to transfer or assign such permit voids the permit

6-3-20: Notice of Issuance of Permit:

Immediately upon the issuance of a permit, the Town Administrator or designee shall send a copy of the permit to:

A. The Police department;

B. The Planning department;

C. The Town Clerk;

D. The Public Works department;

E. The Eagle River Fire Protection District;

F. Any other person as determined by the Town Administrator or designee.

6-3-21: Insurance Requirement:

Each permit shall require the permittee to file with the Town Administrator or designee prior to commencement of the setup of the special event a certificate of insurance demonstrating that the permittee has in effect a policy or policies of general liability insurance covering the special event with minimum combined single limits of not less than one million dollars ($1,000,000.00). Such insurance shall remain in full force throughout the entirety of the special event for which the permit is issued. The Town shall be named as an additional insured under such insurance policy.

6-3-22: Duties of Permittee:

In connection with the holding of the event for which a permit is issued, a permittee shall:

A. Comply with all of the terms and conditions of the permit;

B. Comply with all applicable town ordinances and state and federal laws; and

C. Permit inspection of its records and special event facilities by the Town Administrator or designee for the purpose of determining the permittee's compliance with the terms and conditions of the permit.

6-3-23: Posting of Permit:

A permit shall be continuously posted in a conspicuous location at the site of the special event throughout the duration of the special event.

6-3-24: Suspension or Revocation of Permit:

A. A permit issued pursuant to this chapter may be suspended or revoked by the Town Administrator or designee after 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;

3. A violation of any of the terms and conditions of the permit;

4. A violation of any of the provisions of this chapter;

5. Threatening weather conditions if the Town Administrator or designee determines that holding the special event under such conditions would either: a) pose a threat to the public health, safety or welfare, or b) pose a threat to any Town owned property to be used in connection with this special event;

6. The existence of fire or drought conditions if the Town Administrator or designee determines that holding the special event under such conditions would pose a threat to the public health, safety or welfare;

7. Any unforeseen, unanticipated, or uncontrollable circumstance if the Town Administrator or designee determines that holding the special event under such circumstance would pose a threat to the public health, safety or welfare; or

8. An irreconcilable scheduling conflict with an event protected by either the first amendment to the United States constitution or by the Colorado constitution.

B. In connection with the suspension of a permit, the Town Administrator or designee may impose reasonable conditions.

C. 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 or designee 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 special events held by the permittee;

8. The number of previous violations by the permittee; and

9. Previous sanctions, if any, imposed against the permittee.

D. The Town Administrator or designee shall have the authority to summarily suspend a permit during a special event if it appears to the Town Administrator or designee that a permittee has violated one or more of the terms and conditions of a permit or any applicable law and, based upon the available information, the Town Administrator or designee, reasonably determines that such violation results in an immediate threat to the public health, safety and welfare. No appeal is allowed from a summary suspension of a permit issued by the Town Administrator or designee pursuant to this subsection.

E. If the Town Administrator or designee suspends a permit, except for a summary suspension pursuant to subsection D of this section, or revokes a permit, the permittee may appeal the suspension or revocation to the Town Council. 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 or designee acted correctly in suspending or revoking the permit, the Town Council shall uphold the Town Administrator or designee's order of suspension or revocation. If the Town Council finds by a preponderance of the evidence that the Town Administrator or designee acted improperly in suspending or revoking the permit, the appeal shall be sustained, and the Town Administrator or designee'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 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 of 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.

6-3-25: 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 title 1, chapter 4 of this code.

B. The staging, holding, presenting, or conducting of a special event 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

C. 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.

6-3-26: RULES AND REGULATIONS:

The Town Administrator or designee 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.

6-3-27: Penalties; Injunctive Relief:

SECTION 1. The staging, holding, presenting, or conducting of a special event 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

SECTION 2. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Town Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

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

SECTION 4. The repeal or the repeal and reenactment of any provisions of the Minturn Municipal Code as provided in this ordinance shall not affect any right with has accrued, any 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 reenacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

SECTION 5. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

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. 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 HALL 302 PINE STREET, MINTURN COLORADO 81645.

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 AND ORDERED PUBLISHED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS ____ DAY OF _____, 2012.

TOWN OF MINTURN, COLORADO

_____
Hawkeye Flaherty, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

TOWN OF MINTURN, COLORADO
RESOLUTION NO. 15 -2012

A RESOLUTION ALLOCATING THE 2012 HOLY CROSS COMMUNITY ENHANCEMENT FUND PROCEEDS OF $2,000.00 FOR THE PURPOSE OF ACQUISITION OF OPEN SPACE PARK LAND

WHEREAS, Section 11.1 of the Holy Cross Franchise Agreement dated 2011 states the Holy Cross Community Enhancement funds can be used for the acquisition of open space park land, and

WHEREAS, The Town has requested the use of these funds from Holy Cross for the purpose of assisting in the acquisition by the Town of Minturn of land owned by the United States Forest Service for land to be designated as open space or park for the land commonly known as The USFS Boneyard.

NOW, THEREFORE, BE IT RESOLVED by the Town of Minturn Town Council, of the County of Eagle, State of Colorado, the Holy Cross Community Enhancement Fund proceeds from the fiscal year 2012 will be applied toward the purchase of the USFS Boneyard property.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 16th day of May, 2012

TOWN OF MINTURN

By: _____
Mayor

ATTEST

_____
Town Clerk

TOWN OF MINTURN
P.O. Box 309 (302 Pine Street)
Minturn, Colorado 81645-0309
970-827-5645 Fax: 970-827-5545
treasurer@minturn.org

FROM THE DESK OF
JAY BRUNVAND, TREASURER/FINANCE

MEMORANDUM

TO: Minturn Town Council
FROM: Jay Brunvand, Treasurer/Clerk
CC:
DATE: Friday, May 11, 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)(b) for the purposes to consult with the Town's Attorney and receive legal advice regarding status of escrow fund distribution to receive legal advice and give instructions for negotiations concerning an insurance settlement."

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