



2013

Minturn Council Meeting

Wednesday May 15, 2013

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

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

TOP COUNCIL PRIORITIES:

- Street and Drainage Projects Eagle Street, Toledo, Norman, Nelson
- Submit Grants for Infrastructure and Prioritize/Create a Regular Schedule
- 100 Block Streetscape
- Sidewalks/ Engineering South Minturn
- Submit DOLA Grant for Microfiltration Plant
- Electronic Packets (I-Pads or Comparable)
- Loop Water Lines



Agenda

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

Wednesday May 15, 2013

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 – 5:00pm

- Discussion regarding the Conditional Use permit process for business operations in the UPRR property – Cerimele Pg 4
- Discussion regarding the addition of some parking along the 100 Block of Eagle Street – Cerimele

Regular Session – 6:30 pm

- 1. Call to Order**
 - a. Roll Call
- 2. Approval of Agenda**
 - a. Items to be Pulled or Added

3. Approval of Minutes and Action Report

- May 1, 2013 Pg 6
- Action Item Report Pg 12

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

5. Special Presentations

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

- 6. Discussion/Action Item: Ordinance 5 – Series 2013 (Second Reading) An Ordinance to prohibit the retail sale of marijuana within the Town of Minturn – White/Christensen Pg 14**

OTHER MATTERS

- 7. Planning Department Update Pg 28**

8. Town Manager’s Report

9. Town Council Comments

FUTURE AGENDA ITEMS

10. Next Meeting – May 15, 2013

- Work Session – Eagle Street construction and parking

11. Future Meeting

- Work Session – Eagle Street construction and parking
- Work Session – Continued work on the Town Council Vision Statement

12. Set Future Meeting Dates

a) Council Meetings:

- June 5, 2013
- June 19, 2013
- July 3, 2013

b) Planning & Zoning Commission Meetings:

- June 12, 2013
- July 10, 2013

- August 7, 2013

13. Other Dates:

- June 1, 2013 – Town Clean up
- June 8, 2013 – Boneyard Clean up

14. Adjournment



To: Minturn Town Council
From: Chris Cerimele, Town Planner
Date: May 15, 2013
Re: Conditional Use Process – Union Pacific Rail Yard Area

Overview

The Union Pacific rail yard area is zoned as a Planned Unit Development Holding Zone of the Game Creek Character Area. Section 16-12-30 of the Minturn Municipal Code states the following in regards to this zone:

Sec. 16-12-30. Game Creek PUD Holding Zone.

- (a) This area is currently owned by the Union Pacific Railroad; however, trains are no longer utilizing the corridor or the rail yard. The historic industrial zoning is no longer appropriate due to the probable abandonment of the rail line and potential conflict with future commercial and residential development. Redevelopment of this area will have a significant impact on the future character and size of the Town.

- (b) It is an objective of the Town to plan and redevelop the rail yard as a master planned development that is compatible with the existing Town character. Future development and land use decisions for this area need to incorporate community input and involve an open public process. The PUD Holding Zone and the PUD review process will provide for the flexibility, innovation and public input necessary to achieve the goals and objectives of the Community Plan and this Chapter. This area has been identified in the Community Plan as an area suitable for expansion of Old Town and as a "potential Town Center" site. Development in this area needs to incorporate appropriate residential and low-impact land uses along Taylor Avenue to minimize impacts to the existing

neighborhood. The rail corridor should be maintained and improved access to and across the Eagle River should be incorporated into proposed development plans.

- (c) PUD or special review required: Planned Unit Development master development plan for the PUD Holding Zone is the preferred review process for future development of the Game Creek Holding Zone. If circumstances arise that do not provide for the submittal of a PUD master development plan for the entire Game Creek PUD Holding Zone, the owners may apply to the Town for a Planned Unit Development on a portion of the property or may apply for a special review use permit for consideration of a temporary use. (Prior code 16-12-3)
-

The 2009 Community Plan – Future Land Use Map designates the area as a “New Town Center” and residential area that includes public parks and river access. This reserves the area for future commercial, mixed-use and residential development that will benefit the Town through property tax revenue, water tap fees, transfer tax and sales tax. In the interim period before a development plan for the rail yard is presented to the Town, it was accepted that the area would serve as a place where businesses can lease property from Union Pacific. They traditionally have leased their property on a year to year basis that would allow for new development to occur.

The Town of Minturn implemented the policy of requiring a Conditional Use Permit for business operations in the rail yard area in 2005. This was an effort to regulate the uses and operations in the rail yard. Since that time, a number of different businesses have used the area for landscaping businesses, truck rentals, equipment storage and metal fabrication. While the process for new development in this area requires Town Council approval of a Planned Unit Development application, the exact standards for businesses that lease existing property and buildings from Union Pacific is not explicitly stated in the Municipal Code. For this reason, staff will work with the Planning Commission and Town Council to develop clear standards for the future regulation of this area.



Official Minutes

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

Wednesday May 1, 2013

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 970/827-5645 302 Pine St. Minturn, CO 81645

Work Session – 5:00pm

- Town Council Vision Statement (preliminary information) – White (45min)
- TST/Eagle Street Cost Estimates and Plans (25min)
- Review of Ordinance 5 – Series 2013 Banning the Sale of Marijuana – White/Christensen (10min)
- Discussion regarding the Conditional Use permit process for business operations in the UPRR property – Cerimele (10min)

Work continues on the Town Council Vision Statement. A summarized list of future goals/accomplishments has started to be created.

Regular Session – 6:30 pm

- 1. Call to Order**
 - a. Roll Call

b. Pledge of Allegiance Lead by Boy Scout Troop 234

The regular meeting was called to order by Mayor Hawkeye Flaherty at 6:37 pm.

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

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

2. Approval of Agenda

a. Items to be Pulled or Added

Motion by John R., second by George B., to approve the agenda as amended. Motion passed (7-0).

Discussion of Conditional Use Permits to be added to the agenda as item #9a.

3. Approval of Minutes and Action Report

- April 17, 2013
- Action Item Report

Motion by Shelley B., second by John R., to approve the Minutes of April 17, 2013 as presented. Motion passed (7-0).

Funding for Boneyard purchase can be removed from the Action Report.

Creation of Action Item for CDOT HWY 24 work projected for 2015/16

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

Mr. Noah Anderson, representing Boy Scout Troop 234, would like to have a day where people can come and help clean up all the extra gravel and debris from the snow plowing season. He would like to see this be a county-wide initiative.

5. Special Presentations

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

6. Discussion/Action Item: TST and Elam Construction Cost Estimates for Eagle Street – White/Cerimele (30min)

Mr. Steve Humann provided an overview of the preliminary work conducted for the plans and construction estimates for the necessary repairs on Eagle Street.

Earle B. referenced the possible need for ERWSD to complete any repairs in the area at the same time in a way to effectively cost-share the repairs.

John R. requested a quote for the undergrounding of conduit for future utilities. Approximately \$2,000 was provided as a rough quote. A further quote was requested by Hawkeye F. for conduit from Bellm Bridge to Toledo. Cost to be supplied at a later date.

Additional parking options to potentially be included in the project for the Eagle Street repairs were discussed by Council. It was determined further discussion would be necessary in an upcoming work session.

Direction to contact residents of Eagle Street to inquire if those residents are interested in any repaving of their private property while the construction is being completed.

Contractor to resubmit their estimate with value-engineering options included.

Motion by John R, second George B. by to approve estimate for the construction of Eagle Street and Toledo Street, pending minor contract changes. Motion passed (7-0).

7. Discussion/Action Item: Ordinance 3 – Series 2013 (Second Reading) An Ordinance to amend the Zoning Map of the Town of Minturn – Cerimele (10 minutes)

Motion by John R, second by Aggie M. to approve Ordinance 3 – Series 2013 (Second Reading) An Ordinance to amend the Zoning Map of the Town of Minturn. Motion passed (7-0).

8. Discussion/Action Item: Ordinance 4 – Series 2013 (Second Reading) An Ordinance to amend Chapter 16 of the MMC by repealing and reenacting section 16-9-60 and adding a new section 16-9-45 – Cerimele (10 minutes)

Motion by Jerry B, second by George B, to approve Ordinance 4 – Series 2013 (Second Reading) An Ordinance to amend Chapter 16 of the MMC by repealing and reenacting section 16-9-60 and adding a new section 16-9-45. Motion passed (7-0).

9. Discussion/Action Item: Ordinance 5 – Series 2013 (First Reading) An Ordinance to prohibit the retail sale of marijuana within the Town of Minturn – White/Christensen (10 minutes)

Motion by George B, second by John R, to approve Ordinance 5 – Series 2013 (First Reading) An Ordinance to prohibit the retail sale of marijuana within the Town of Minturn. Motion passed (7-0).

9a. Discussion/Action Item: Conditional Use Permits

Discussion continued from the work session pertaining to the need/requirement of conditional use permits and business licenses for an industrial area. Determination to be sought on the exact requirements necessary for a conditional use permit for the railroad area.

Request from Council for staff to review grid of acceptable uses for the railroad property.

OTHER MATTERS

10. Planning Department Update

11. Town Manager's Report

Highway 24 Cleanup

The Town of Minturn is participating in the Highway 24 Cleanup on Friday April 26 and Saturday, April 27, 2013. This is an annual event to help keep our community clean!

Colorado Rural Water

The Water Subcommittee met with Leroy Cruz from Colorado Rural Water on April 11, 2013. We reviewed the information that he had been provided and discussed our current circumstances. Leroy has asked for some additional information and staff is following up with him.

Fitness Center Subcommittee

The fitness center subcommittee met on Wednesday, **April 24, 2013** to continue discussions related to planning and future construction of Phase 1 of the Human Performance Center/Fitness Center facility. We are working on parking issues and supporting SSCV in its efforts with the School District. We also continue to work with Kelly Lyle, CPA, to determine the correct IRS entity needed to oversee the facility. The Eagle County School District Land Resources Committee will reconvene on May 1, 2013 to address parking requirements related to Phase 1 at the Minturn Fitness Center site.

Scholarship Subcommittee

Our scholarship committee is working to formally complete the documents and register with the State of Colorado as the Minturn Education Foundation as a formal 501 (c) entity. We met on Wednesday, April 24, 2013 with CPA, Kelly Lyle. We have also submitted the payment for the scholarship endowment fund (\$40,000) with Colorado Mountain College here in Eagle County. I have written a letter to the Eagle County Commissioners requesting a contribution toward the endowment fund.

Camp Hale Meeting

The next Camp Hale meeting will be held in Minturn on April 30, 3 regarding Camp Hale 2013 to review Camp Hale history, current uses, and future planning efforts. Two committees were formed to discuss water rights issues; and history, culture, land stewardship, and recreational uses. New meetings are now being scheduled throughout the year.

Little Beach Park Improvements Planned

We are now working on land issues related to the project. We plan to submit a GOCO grant by the August, 2013 cycle for park improvements.

UPRR

We will be meeting on Friday, April 26, 2013 with the UPRR representative to address our proposed trail and the paving of our crossings. The new representative for these particular issues is Sara Cassidy. Schia Cloutier remains our real estate representative for UPRR.

Bone Yard Property/Railroad Subcommittee

We are planning for a community cleanup day at the Minturn Bone yard property on Saturday, June 8; 2013. We will also have a B.B.Q to help celebrate the occasion!

Upcoming Events:

Minturn Annual Clean Up Day/Saturday, June 1, 2013 @ Little Beach Park

Minturn Boneyard Property Cleanup/ Saturday, June 8, 2013

Minturn Market starts Saturday, June 29, 2013

12. Town Council Comments

Request for information from Xcel Energy pertaining to outages, improvements, etc...

Special thanks to Troop 234 for their attendance at the meeting tonight and for their presentation of the colors.

Special thanks to Darryl Weigert for helping to remove the barbed wire at the Boneyard property.

Reminder, the school year is coming to an end and more kids will be in Town during the day, so please drive with caution.

The Minturn Community Garden will be starting their building process this Saturday. A few plots are still available. Contact the Minturn Community Fund for complete details.

FUTURE AGENDA ITEMS

13. Next Meeting – May 15, 2013

- Work Session – Conditional Use Permits discussion
- Work Session - Eagle Street construction and parking

14. Future Meeting

- Work Session - Eagle Street construction and parking

15. Set Future Meeting Dates

- a) Council Meetings:
 - May 15, 2013
 - June 5, 2013
 - June 19, 2013

- b) Planning & Zoning Commission Meetings:
 - May 8, 2013
 - June 12, 2013
 - July 10, 2013

16. Other Dates:

- June 1, 2013 – Town Clean up
- June 8, 2013 – Boneyard Clean up

17. Adjournment

Motion by Jerry B, second by Shelley B., to adjourn the meeting at 8:12 p.m.

Mayor Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand

**Town of Minturn
Council Action Item Memo**

TO: Council Members/Staff Members
FROM: Jim White/Town Manager
DATE: May 15, 2013
SUBJECT: Status of Action Items from Town Council Meetings

Action Item	Responsible Party	Progress Report
Minturn Education Fund	White	We are nearing completion of the documentation to form the 501(c) corporation. The subcommittee met on March 5, 2013 and distributed three scholarship awards to Jessica Guthrie, Ashley Atencio, and Rodney Cordova. In early April, I sent a letter to the Eagle County Commissioners asking for a contribution to our scholarship endowment fund at Colorado Mountain College. No response to date.
Parks and Recreation Master Plan	Cerimele	Staff continues its work on a Park Master Plan for Planning Commission review. The Town has curtailed work by Zehren and Associates to complete the design features for Little Beach Park improvements while we are working on land ownership issues.
2012 Goal: Town Street Repairs and Drainage.	White/ Cerimele	Staff received a storm drainage study proposal from TST Engineering and received DOLA grant approval of \$17, 325 to complete the study. We have requested and received a short extension of the contract to allow review with Town Council and to complete the scope of services. A final report will then be sent to the Department of Local Affairs.
2012 Goal: Continue Sidewalk Installation Program/Improve Plan with Lafarge	White/A. Martinez	We are working with LaFarge representatives and engineers in planning to repair sidewalks on the east side and west side of the 100 block this year. We had a meeting with Lafarge on Monday, April 29, 2013. I have sent a letter to Dave Eller, CDOT, regarding Minturn's Highway 24 renovation. We were informed by CDOT that we are due a road replacement, probably by 2015 or 2016.
2012 Goal: Implement Streetscape Plan	White /Cerimele	Staff has reviewed previously submitted plans from OZ, and DCI. We have secured info on streetlights; and worked with the primary local property owner on design ideas for a mall/pedestrian area. Staff would like to further address this project with Town Council in a work session.
2012 Goal: Strengthen Marketing and Events	Metteer	Staff is coordinating scheduled co-op advertising opportunities for Minturn business license holders. Special events permits now required for event planning.

Action Item	Responsible Party	Progress Report
2012 Goal: Clean Up Parking Area on North Taylor St	White/Cerimele//A. Martinez	Continue to monitor and remove abandoned vehicles to allow for organized and structured short term parking. UPRR wants to lease a larger portion of the north end of Taylor Street and seek help from the Town in removing encroachments. UPRR will send a draft encroachment letter for staff review. We are still awaiting a letter from UPRR.
2012 Goal: Opportunities & Submittals and scheduling and apply for infrastructure grants/loans	White/Cerimele	Staff to provide periodic updates to Council. Staff completed a Tier 1 DOLA grant for water system improvements. We met the grant deadline of December 3, 2012 for the Energy Mineral Impact DOLA grant and were awarded the full grant request with each share being \$106, 739; 50% by the Town and 50% by the Department of Local Affairs. We are now working on a GOCO grant application for Little Beach Park improvements (August submittal). We submitted a Weed Mitigation grant proposal in cooperation with Eagle County on February 22, 2013 and were awarded that grant too. Our share is \$6,000 and we will receive \$3,000.
2012 Goal: South Minturn sidewalks	White/Cerimele	We met with CDOT on March 15, 2013 to discuss right of way issues, investigate grant funding opportunities, and begin planning and implementation for future Minturn projects. VSSA may be interested in multi-purpose path between Town and Maloit Park.
<u>CDOT Hwy 24 Work Project</u>	<u>White</u>	<u>This project is slated for 2015 or 2016</u>
Water Subcommittee	White	The response to the initial request for data has been prepared and provided to the subcommittee. The Water Subcommittee met again on April 11, 2013 to review the information and develop our strategy and to propose next steps to present to Town Council. We reviewed the information with Leroy Cruz from the Colorado Rural Water Association. He will now commence work which will subsequently provide a preliminary water rate study for the Town's review.

TOWN COUNCIL STAFF REPORT

May 15, 2013

FILE NUMBER: Ordinance 5 - 2013
PROJECT TYPE: Municipal Code Amendment
REPRESENTATIVE: Chris Cerimele, Town Planner
Staff Recommendation: Approval

SUMMARY

Staff was directed to prepare an ordinance that would prohibit the operation of commercial marijuana facilities in the Town of Minturn. This resulted in the proposed Ordinance 5 – 2013 that prohibits the operation of marijuana clubs, marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, and retail marijuana stores.

Since the first reading of ordinance 5 on May 1st, additional provisions were added to give the Town a greater ability to enforce the ban on marijuana facilities. The changes are shown in red on the attached ordinance.

The proposed ordinance would create a new article 24 in Chapter 16 of the Municipal Code. Article 24 will include the following code sections:

- **Authority** – This section outlines the powers that are granted to the Town to implement the proposed ban. These powers are outlined in the State Constitution, Colorado Revised Statutes, and Minturn Home Rule Charter
- **Definitions** – This section clearly defines the various terms used in the proposed ordinance. These include: marijuana, marijuana club, marijuana cultivation facility, marijuana establishment, marijuana

product manufacturing facility, marijuana products, marijuana testing facility, and retail marijuana store.

- **Uses Prohibited** – This section explicitly prohibits the operation of marijuana establishments.
- **Penalties** – The penalty for violating the provisions of the proposed ordinance are outlined in this section. The violation includes up to a \$1,000 fine and or imprisonment.
 - New language was added since first reading that allows the Town to declare a marijuana establishment a public nuisance and take action in district court to shut the business down.

DRAFT MOTION ORDINANCE 5 - 2013:

I move to approve Ordinance 5 – 2013 on second reading.

Respectfully Submitted

Chris Cerimele, Town Planner

Attachments:

Ordinance 5 – 2013 (changes from 1st reading in red)
Ordinance 5 – 2013 (clean copy)

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 16 - Article 24

MARIJUANA ESTABLISHMENTS

Sections:

16-24-10 Authority

16-24-20 Definitions

16-24-30 Uses Prohibited

16-24-40 Penalties; Nuisance Declared

Section 16-24-10 Authority

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

1. Article XVIII, Section 16 of the Colorado Constitution;
2. The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
3. The powers contained in the Town of Minturn Home Rule Charter;
4. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
5. Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
6. Section 31-15-103, C.R.S. (concerning municipal police powers);
7. Section 31-15-401, C.R.S. (concerning municipal police powers); and
8. Section 31-15-501, C.R.S. (concerning municipal authority to regulate

businesses.

Section 16-24-20 Definitions

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

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

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

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

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

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

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

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

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

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

Section 16-24-30 Uses Prohibited.

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

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

Section 16-24-40 Penalties; Nuisance Declared.-

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

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

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

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

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

Comment [CC1]: This refers to section 7-2-70 of the MMC. I didn't want to provide the exact section # as these numbers change over time.

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

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

SECTION 4. The repeal or the repeal and re-enactment of any provision of the Minturn Municipal code as provided in this ordinance shall not affect any right which has accrued, and duty imposed, any violation that occurred prior to the effective date hereof,

any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision repealed and re-enacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THE _____ DAY OF _____, 2013. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE _____ DAY OF _____, 2013 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

Hawkeye Flaherty, Mayor

ATTEST:

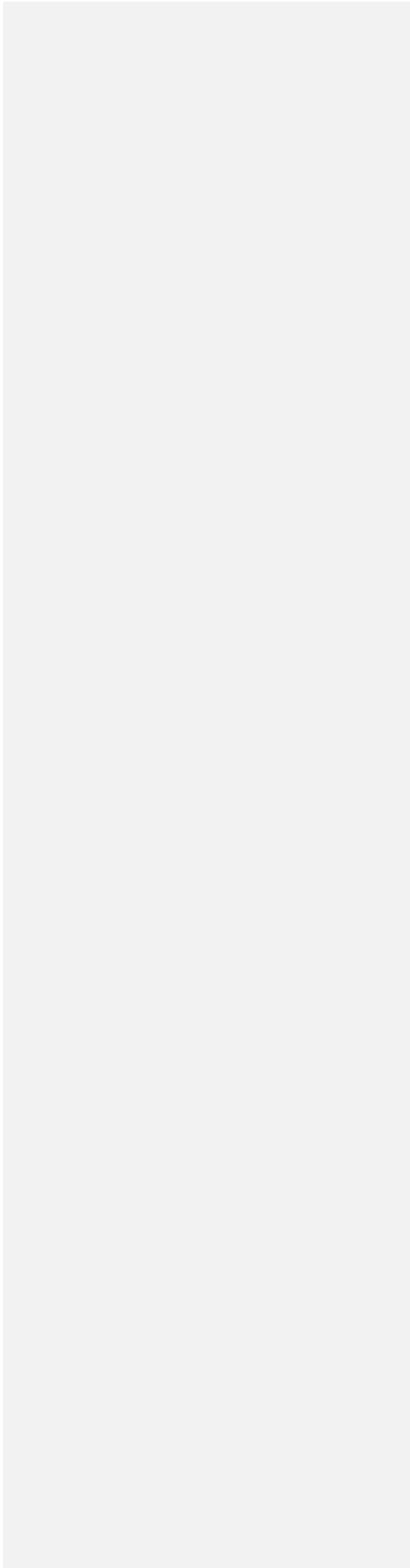
By: _____
Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS _____ DAY OF _____, 2013.

Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk



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

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

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

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

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

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

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

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

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

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

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

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

Chapter 16 - Article 24

MARIJUANA ESTABLISHMENTS

Sections:

16-24-10 Authority

16-24-20 Definitions

16-24-30 Uses Prohibited

16-24-40 Penalties; Nuisance Declared

Section 16-24-10 Authority

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

1. Article XVIII, Section 16 of the Colorado Constitution;
2. The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
3. The powers contained in the Town of Minturn Home Rule Charter;
4. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
5. Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
6. Section 31-15-103, C.R.S. (concerning municipal police powers);
7. Section 31-15-401, C.R.S. (concerning municipal police powers); and
8. Section 31-15-501, C.R.S. (concerning municipal authority to regulate

businesses.

Section 16-24-20 Definitions

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

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

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

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

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

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

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

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

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

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

Section 16-24-30 Uses Prohibited.

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

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

Section 16-24-40 Penalties; Nuisance Declared.

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

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

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

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

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

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

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

SECTION 4. The repeal or the repeal and re-enactment of any provision of the Minturn Municipal code as provided in this ordinance shall not affect any right which has accrued, and duty imposed, any violation that occurred prior to the effective date hereof,

any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision repealed and re-enacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THE ____ DAY OF ____, 2013. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE ____ DAY OF ____, 2013 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 BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS ____ DAY OF ____, 2013.

Hawkeye Flaherty, Mayor

ATTEST:

Jay Brunvand, Town Clerk



To: Minturn Town Council
From: Chris Cerimele, Town Planner
Date: May 15, 2013
Re: Planning Department Update

Xcel Pipeline Replacement Project

The Town received notification from Xcel Energy that they intend to replace its high pressure gas pipeline through Minturn in the next three years. (see attached letter and map). A preliminary discussion with an Xcel representative indicates that they are exploring the possibility of located a new gas pipeline within the existing rail corridor.

May 22nd Planning Commission Meeting

The next Planning Commission meeting will be held on May 22, 2013. The topics of discussion include the review of the Minturn Recreation Center application and a proposed single family home for the Pine Street area. Additionally, we will discuss the conditional use permit process .



Right of Way & Permits

1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: 303.571.3135
Facsimile: 303.571.3524

April 15, 2013

BY CERTIFIED MAIL

Chris Cerimele
Town Planner
Town of Minturn
P. O. Box 309
Minturn, CO 81645

Dear Mr. Cerimele:

Each year Public Service Company of Colorado ("Public Service" or the "Company"), an Xcel Energy Company, is required to notify the affected local government of its plans to site a major natural gas facility within the jurisdiction of the local government pursuant to Rule 4706 of the Public Utilities Commission (PUC) 4 CODE OF COLORADO REGULATIONS (CCR) 723-4, PART 4 RULES REGULATING GAS UTILITIES AND PIPELINE OPERATORS.

Public Service has identified one project that may be within your jurisdiction. This project is currently referred to as the Meadow Mountain Valve Set to Vail TOVS Pipeline Replacement. A map is attached identifying the approximated project study areas within which the projects may be located. Consistent with the requirements of § 29-20-108, C.R.S., this letter constitutes notice to you of Public Service's intent to begin the work sometime during the next three calendar years that may lead to the construction of these utility facilities.

Public Service representatives will contact you to discuss its plans in more detail and to determine all applicable permits that may be required prior to beginning construction of these projects. In the meantime, should you have any questions, or require additional information please feel free to contact me at 303-571-3135.

Sincerely,

Handwritten signature of Rick Grady
Rick Grady, SR/WA
Manager

w/att:

Faint vertical text on the right side of the page, possibly a routing stamp or list of names.

Project: Meadow Mountain Valve Set to Vail Take Off Regulator Station Pipeline Replacement

Description: Construct a new pipeline to supply the growth in the following counties: Grand, Summit, Lake, Eagle and Chaffee

Time Line: Permitting – Begins summer of 2014
Construction – Begins summer of 2016
Completion – Fall 2018

Affected: Eagle County, Lake County, Town of Red Cliff, Town of Minturn

