



2014

Minturn Council Meeting

Wednesday June 18, 2014

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 June 18, 2014

Work Session – 5:00 pm
Regular Session – 6:30 pm

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

COUNCIL MEMBERS:

Shelley Bellm
Earle Bidez
John Rosenfeld
Matt Scherr
Jason Osborne

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

- Discussion with Safebuilt Building Inspections/Charlie Davis - Hawkinson Pg 4
- Fiscal Year 2013 Annual Audit presentation and acceptance – Brunvand Pg 13
- Marijuana legislation update – Powell/Sawyer Pg 14

Regular Session – 6:30pm

1. Call to Order

- Roll Call
- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added

3. Approval of Minutes and Action Report

- June 4, 2014 Pg 31
- Action Item Report Pg 38

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: Fiscal Year 2013 Annual Audit presentation and acceptance – Brunvand** Pg 13

7. **Discussion/Action Item: Marijuana legislation update – Powell/Sawyer** Pg 14

8. **Discussion/Action Item: Discussion and Direction regarding a Code Enforcement Officer – Powell** Pg 39

9. **Discussion/Action Item: Discussion and Direction regarding phone votes and operational procedures of Town Boards and Commissions – Powell/Sawyer** Pg 43

10. **Discussion/Action Item: Discussion and direction regarding Intergovernmental agreement for Police coverage by the Eagle County Sheriff's Office within the Town of Minturn – Powell** Pg 47

COUNCIL AND STAFF REPORTS

11. **Town Planner**

- 2 Subdivision Applications have been submitted. The pre-application meeting was held with Planning Commission June 11, 2014. Please see attachments. Pg 56
- The Public Restrooms construction drawings have been put out to bid. Please see attachments. Pg 60

12. **Town Attorney**

13. **Town Manager** Pg 71

- Taylor St Parking Pg 72
- Leasing Town Manager House to Jim White
- Start date for next full time Town Manager
- Set dates for Retreat
- CIRSA training regarding quasi-judicial concerns
- Code Compliance Update Pg 73

14. **Town Council Comments**

FUTURE AGENDA ITEMS

15. Next Meeting – July 2, 2014

16. Future Meetings:

- County Commissioners

17. Set Future Meeting Dates

a) Council Meetings:

- July 2, 2014
- July 16, 2014
- August 6, 2014

b) Planning & Zoning Commission Meetings:

- June 25, 2014
- July 23, 2014
- August 20, 2014

18. Other Dates:

- July 4, 2014 Office Closed
- July 5, 2014 Minturn 4th

19. Adjournment



Town of Minturn

Building Department Update

Report for the period of March 2013 thru Dec. 2013

MISSION

SAFEbuilt exists for the purpose of protecting the public's health, safety, and general welfare. We accomplish this by ensuring compliance with adopted codes that regulate structural strength, stability, sanitation, lighting, ventilation, fire safety and other hazards associated with construction, alteration, removal, demolition, use or occupancy of structures, and/or property.

GOALS

- ✓ To minimize the number of structures and properties that pose a risk to life or property
- ✓ To provide quality inspections and services that is responsive to customer needs.
- ✓ To improve community appearance and protect overall community property values by ensuring building code compliance.

OBJECTIVES

- ✓ To perform all inspections called in by 4 PM on the following business day.
- ✓ To process all single-family and secondary permit applications within five workdays (excluding time for planning and zoning reviews).
- ✓ To process all small to medium sized commercial permit applications within ten workdays (excluding time for planning and zoning reviews).

HIGHLIGHTS

Projects:

- ✓ We have no statistics for construction valuation or permits issued in 2012. The year 2013 from March through December produced construction valuation of \$2,216,927.90 in 2013 which excludes valuation for electrical permits associated with an issued building permit. A total of 24 permits issued in 2013.
- ✓ 2013 saw one New Single Family Residence, three New Commercial projects and many alterations, remodels and one-stop permits. This information has also been shared with the Eagle County Assessor's office for the purposes of valuation and property tax assessment.
- ✓ Total permit fees collected for this year was \$23,569.02. Minturn retains 25% of those fees which equaled \$5,892.26.

Community Involvement:

- ✓ SAFEbuilt worked with the Town and their design team to allow a phased approach to permit issuance for the Community Recreation Center Project. We also reduced permit fees charged to the Town by 50%
- ✓ Worked with an owner/builder through threats and angry from the owner and still kept their project on track to assist him in obtaining a C of O and approval from the

State DOLA MHIP. This owner was not experienced with construction and had to be guided through every aspect of construction.

- ✓ SAFEbuilt started in March of 2013 and from our perspective, have been well received by local contractors as being approachable and timely with our responses and inspection scheduling. This is a highlight worth mentioning based on past building department services.

SAFEbuilt Staff Updates:

- ✓ The SAFEbuilt recommends that if the Town of Minturn is satisfied with our service, that we pursue obtaining electrical permitting and inspection from the State Electrical Board. This will provide the customer with better service (five day a week electrical inspections as opposed to once a week), and provide the Town with an additional revenue stream by issuing electrical permits as well for a fee.
- ✓ Both members of the SAFEbuilt team, Charlie Davis and Shane Gremmer, have re-certified with ICC this past year and continue to obtain education and pursue additional ICC certifications.
- ✓

Customer Service:

- ✓ We have met with four separate potential commercial projects in Minturn to assist applicants with the permitting process and guide them through building code requirements. No charge to the applicant or the Town.
- ✓ A total of 100 inspections had been performed in 2013 with 92% inspection rate performed within 24 hours.
- ✓ A total of 19 plan reviews had been performed and all reviews were completed within 1 working day.

ACTIVITY

SEE ATTACHED CENSUS SPREADSHEET

MERITAGE SYSTEMS BILLING REPORT - TOWN OF MINTURN
 ACTIVITY FROM 03/01/2013 TO 12/31/2013

Fee Type	Amount Paid	Paid Date	Meritage Systems %	Part Due to Meritage
PERMIT # 13MIN-00026	612 MAIN STREET			MECHANICAL PERMIT
Single Item Permit	\$75.00	09/19/2013	75.0000%	\$56.25
Subtotal by Permit				\$56.25
PERMIT # 13MIN-00027	974 MAIN STREET			SINGLE FAMILY DWELLING
Building Permit Fee	\$496.84	09/26/2013	75.0000%	\$372.63
Plan Review Fee	\$322.95	09/26/2013	75.0000%	\$242.21
Subtotal by Permit				\$614.84
PERMIT # 13MIN-00028	640 MAIN STREET			POOL/HOT TUB
Building Permit Fee	\$159.02	11/22/2013	75.0000%	\$119.27
Plan Review Fee	\$103.36	11/22/2013	75.0000%	\$77.52
Subtotal by Permit				\$196.79
PERMIT # 13MIN-00029	1000 TRIBUTARY TRAIL - WATER TREATMENT PLANT			COMMERCIAL SHELL
Building Permit Fee	\$466.58	10/25/2013	75.0000%	\$349.94
Plan Review Fee	\$303.27	10/25/2013	75.0000%	\$227.45
Subtotal by Permit				\$577.39
PERMIT # 13MIN-00031	1012 MAIN STREET			ACCESSORY STRUCTURE
Single Item Permit	\$75.00	11/01/2013	75.0000%	\$56.25
Subtotal by Permit				\$56.25
PERMIT # 13MIN-00032	312 MAIN STREET			ACCESSORY STRUCTURE
Single Item Permit	\$75.00	11/01/2013	75.0000%	\$56.25
Subtotal by Permit				\$56.25
PERMIT # 13MIN-00033	302 PINE ST			COMMERCIAL ALTERATION
Building Permit Fee	\$115.07	12/09/2013	75.0000%	\$86.30
Plan Review Fee	\$74.79	12/09/2013	75.0000%	\$56.09
Subtotal by Permit				\$142.40

MERITAGE SYSTEMS BILLING REPORT - TOWN OF MINTURN
 ACTIVITY FROM 03/01/2013 TO 12/31/2013

SUMMARY			
Fee Type	Paid to Jurisdiction	Due to Meritage	Billable Amount
Single Item Permit	\$975.00	\$731.25	\$731.25
Additional Inspection	\$150.00	\$112.50	\$112.50
Building Permit Fee	\$13,602.45	\$10,201.84	\$10,201.84
Plan Review Fee	\$8,841.57	\$6,631.18	\$6,631.18
Totals	\$23,569.02	\$17,676.77	\$17,676.77

Permit Number	Permit Issued Date	Permit Status	County	Valuation	Address
13MIN-00001	3/21/2013	Archived		1,388.00	632 Main St #632
13MIN-00002	4/19/2013	Active		2,500.00	302 Pine St
13MIN-00003	5/16/2013	Archived		2,000.00	400 North Main St.
13MIN-00004	8/13/2013	Active		250,000.00	476 Pine Street
13MIN-00005	6/6/2013	Archived		238,000.00	376 Pine St
13MIN-00008	6/20/2013	Archived		2,000.00	653 Boulder Street
13MIN-00009	7/2/2013	Active		19,000.00	660 Main Street
13MIN-00010	8/5/2013	Archived		36,000.00	64 Harrison Street
13MIN-00011	7/18/2013	Archived		500	400 Main Street
13MIN-00012	8/8/2013	Archived	Eagle	200,000.00	806 Cemetery Rd
13MIN-00013	8/9/2013	Archived		1,000.00	1940 S. Hwy. 24 #13
13MIN-00015	8/26/2013	Archived		11,760.00	124 Nelson Ave
13MIN-00016	8/28/2013	Active		1,309,217.20	1951 S. Highway 24
13MIN-00017	11/25/2013	Active		9,500.00	23698 Hwy 24
13MIN-00018	8/27/2013	Archived		19,725.00	80 Toledo Street
13MIN-00022	9/11/2013	Archived		3,500.00	922 Main Street
13MIN-00026	9/19/2013	Active		2,781.70	612 Main Street
13MIN-00027	9/26/2013	Active	Eagle	24,656.00	974 Main Street
13MIN-00029	10/25/2013	Active		63,000.00	1000 Tributary Trail -
13MIN-00031	11/7/2013	Archived		200	1012 Main Street
13MIN-00032	11/7/2013	Archived		3,200.00	312 Main Street
13MIN-00033	12/9/2013	Active		10,000.00	302 Pine St

Permit Type	Notes
Residential Alteration	Mechanical Work For Existing Building Permit. Buil
Commercial Alteration	Install new interior security door
Commercial Alteration	Replacing existing garage doors with new doors
Commercial Alteration	Modifications to prevent water damage.
Single Family Dwelling	New two story modular with perm foundation and cra
Re-Roof	
Residential Alteration	see attached permit application Interior residenti
Residential Alteration	
Plumbing Permit	Water Heater Replacement
New Commercial	New Restroom and Pavilion
Re-Roof	
Mechanical Permit	Installation of Split A/C System
New Commercial	Construction of new fitness center.
Commercial Addition	Construction of an enclosed breezeway to connect t
Re-Roof	
Mechanical Permit	
Mechanical Permit	Replacing existing gas fireplace with new distinct
Single Family Dwelling	Build detached garage
Commercial Shell	Install water meter vault and shed at Town of Mint
Accessory Structure	air gas line for meter install - add 5 feet of new
Accessory Structure	Replace existing inoperable furnace with 91 Goodma
Commercial Alteration	Add new roof over door way

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



Town Council
 Mayor – Gordon “Hawkeye” Flaherty
 Mayor Pro Tem – George Brodin
 Councilmember – Shelley Bellm
 Councilmember – Earle Bidez
 Councilmember – John Rosenfeld
 Councilmember – Jason Osborne
 Councilmember – Matt Scherr

AGENDA ITEM COVER SHEET

<p>AGENDA TITLE: Work Session to review the fiscal year 2013 audit and Discussion/Action Item – Motion to accept the Fiscal Year 2013 Audit</p>
<p>MEETING DATE: June 18, 2014</p>
<p>PRESENTER: Brunvand</p>
<p>BACKGROUND: During the scheduled Worksession Council will review with the Town’s auditors the Fiscal Year 2013 Audit. As per §29-1-606(a)(1) C.R.S. the Council must accept the audit and submit the approved audit to the Department of Local Affairs and to the Office of the State Auditor not later than June 30 of each year. Therefore, I have scheduled time during the Worksession for discussion and review and time during the meeting for acceptance of the audit.</p> <p>The audit has been attached to the packet for your review and a hard copy will be available for each Council Member at the meeting. Please feel free to contact me prior to the meeting in the event you need further information.</p>
<ul style="list-style-type: none"> • CORE ISSUES: none
<p>BUDGET/FINANCE IMPLICATIONS: The Town is required by State law to have an annual audit. This item is budgeted for annually.</p>
<p>STAFF RECOMMENDATION/MOTION: “I move to accept the Fiscal Year 2013 Audit as presented.”</p>

Michael J. Sawyer
mjs@mountainlawfirm.com

June 12, 2014

TO: MAYOR FLAHERTY AND MINTURN TOWN COUNCIL
FROM: TOWN ATTORNEY
RE: INFORMATIONAL ITEMS ON MARIJUANA

In preparation for the work session and agenda items involving marijuana, I am including the following items for Council's review:

1. Outline of the provisions of Amendment 64 regarding recreational marijuana;
2. Outline of the provisions of Amendment 20 regarding medical marijuana;
3. Outline of the application of the Clean Indoor Air Act to marijuana;
4. Materials from the Colorado Municipal League entitled Marijuana Legislation Implementation.

These materials will give you an overview of applicable law pertaining to marijuana and the options that a municipality has to either permit certain marijuana type businesses or to prohibit the same. I look forward to discussing this matter with you at the upcoming meeting.

Michael J. Sawyer
mjs@mountainlawfirm.com

June 12, 2014

TO: MAYOR FLAHERTY AND MINTURN TOWN COUNCIL
FROM: TOWN ATTORNEY
RE: AMENDMENT 64 - RECREATIONAL MARIJUANA

- I. Local Option. “A locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure . . . provided, any initiated or referred measure to prohibit the operation . . . must appear on a general election ballot during an even numbered year.”
- II. Local Option Prohibition.
- a. Moratorium – a temporary ban on recreational marijuana related businesses giving the Town time to see how Amendment 64 is implemented at federal and state levels and in other municipalities. Moratorium must be accomplished by Ordinance.
 - b. Ban – Under the local option, the Town Council can vote to permanently ban all forms of marijuana businesses within Town boundaries (subject to the ban being lifted by a future Council). Ban must be accomplished by Ordinance after notice and public hearing.
 - c. Ban Does Not Impact Personal Use Rights – a Ban under the local option only impacts marijuana based businesses operating within a municipality’s jurisdiction. The following individual rights related to marijuana are “matters of statewide importance” which cannot be contravened by a municipality:
 - i. to grow up to 6 marijuana plants
 - ii. possess up to one ounce of marijuana
 - iii. gift up to one ounce of marijuana to someone over 21
 - iv. consume marijuana and marijuana related products

III. Local Option Allowing Marijuana Businesses.

- a. Four types of licenses – Municipality can choose to exclude any type of license from its jurisdiction:
 - i. Retail sales
 - ii. Marijuana cultivation
 - iii. Marijuana processing
 - iv. Marijuana testing lab
- b. State licensing and optional local licensing – Amendment 64 mandates that the State set up a licensing procedure for marijuana related businesses. HB 13-1317 and regulations adopted by the Colorado Department of Revenue implement the state licensing procedure. A local government can defer to the state licensing procedure. Or, similar to liquor licensing, a municipality may enact its own licensing process.
- c. A municipality can regulate the “time, place, manner and number of marijuana establishment operations” within its jurisdiction. Thus, the Town can address where a marijuana business may be located in its zoning code. The Town may designate when such businesses may be open and establish performance standards (i.e. security requirements). The Town can also set a cap on the total number of marijuana licenses (by category) that can be issued within its jurisdiction. The Town may adopt penalties for failing to comply with its regulations.
- d. The Town can apply its municipal sales tax to transactions involving recreational (but not medical) marijuana. A local jurisdiction can also impose a special tax on the sale of recreational marijuana – subject to compliance with TABOR.

IV. Required Town Actions.

- a. Starting July 1, 2014, the Town may accept applications for recreational marijuana licenses. Prior to July 1, only applications to convert an existing medical marijuana license to a recreational license could be processed.
- b. If the Town decides to adopt the local option permitting some or all of the recreational marijuana establishments within the Town’s jurisdiction, the Council will need to adopt appropriate Code provisions related to: (a) licensing, (b) performance standards and restrictions on marijuana businesses, (c) fines and penalties for violating Town Code provisions, and (d) zoning for marijuana businesses (together with P&Z).
- c. Review the Town’s criminal code to delete provisions that conflict with Amendment 64. It appears that the Council has amended Sec. 10-11-20 of the Town Code to be consistent with Amendment 64.

- d. Review employment policy manual related to use of marijuana by employees. Amendment 64 states “nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, . . . of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees.”

Michael J. Sawyer
mjs@mountainlawfirm.com

June 12, 2014

TO: MAYOR FLAHERTY AND MINTURN TOWN COUNCIL
FROM: TOWN ATTORNEY
RE: AMENDMENT 20 - MEDICAL MARIJUANA

-
- I. Local Option. “The operation of [the Colorado Medical Marijuana Code] shall be statewide unless a municipality . . . by either a majority of the registered electors of the municipality . . . voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., . . . or a majority of the members of the governing board for the municipality . . . vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses.
- II. Local Option Prohibition.
- a. Moratorium – A temporary ban on medical marijuana related businesses giving the Town time to see how Amendment 20 continues to be implemented by the state and in other municipalities, particularly in light of the emerging recreational marijuana landscape, or how the federal government treats such medical marijuana related businesses going forward. Moratorium must be accomplished by Ordinance.
 - b. Ban – Under the local option, the Town Council can vote to permanently ban all forms of medical marijuana businesses within Town boundaries (subject to the ban being lifted by a future Council). Ban must be accomplished by Ordinance after notice and public hearing, unless the ban is enacted by a majority of the registered electors of the Town.
 - c. Ban Does Not Impact Personal Grow and Use Rights – A Ban under the local option only impacts medical marijuana based businesses operating within the Town’s jurisdiction. The following individual rights related to medical marijuana are “matters of statewide importance” which cannot be contravened by a municipality:

- i. to grow up to 6 marijuana plants, with three or fewer being mature, flowering plants that are producing usable medical marijuana
- ii. possess and transport up to two ounces of medical marijuana
- iii. consume medical marijuana and medical marijuana related products

III. Local Option Allowing Medical Marijuana Businesses.

- a. Three types of licenses – The Town can choose to exclude any type of license from its jurisdiction:
 - i. medical marijuana center – a facility that sells medical marijuana
 - ii. optional premises cultivation operation – a license issued only to a medical marijuana center licensee for cultivation of medical marijuana
 - iii. medical marijuana-infused products manufacturer – a manufacturer of medical marijuana edibles, ointments, tinctures or other similar products
- b. State licensing and optional local licensing – Unlike Amendment 64, Amendment 20 made no provisions mandating that the State set up a licensing procedure for medical marijuana related businesses. The Colorado General assembly enacted licensing related legislation in 2010 (HB 10-1284), likely in response to the proliferation of medical marijuana business around the state after the Department of Justice announced in 2009 that it would not focus federal resources on individuals whose actions were in compliance with state laws providing for the medical use of marijuana. The Colorado Medical Marijuana Code, §§12-43.3-101 - 1102, most of which was enacted by the passage of HB 10-1284, and the regulations adopted by the Colorado Department of Revenue implement the state licensing procedure. Unlike Amendment 64, if a local government does not prohibit medical marijuana sales, a local government must have its own licensing authority and process for medical marijuana related business licenses.
- c. The Town can enact reasonable regulations or other restrictions of medical marijuana businesses based on Town “zoning, health, safety, and public welfare” that are more restrictive than the provisions of the Colorado Medical Marijuana Code. Thus, the Town can address where a medical marijuana business may be located in its zoning code. The Town may designate when such businesses may be open and establish performance standards (i.e. security requirements). The Town may adopt penalties for failing to comply with its regulations. Unlike with recreational marijuana, the Town cannot set a regulatory cap on the total number of medical marijuana licenses that it can issue, but the Town can factor into its licensing decision on a medical marijuana related business license application the number of licensed medical marijuana related businesses operating within its jurisdiction.
- d. The Town cannot apply its municipal sales tax to transactions involving medical

marijuana, but it can do so to medical marijuana infused products.

IV. Required Town Actions.

- a. The Town has already acted to prohibit medical marijuana businesses, but nothing prevents the Town Council from repealing prohibition to allow all or certain types of medical marijuana related businesses. Unless the Town acts to repeal prohibition, action with respect to medical marijuana business licensing is limited to review of the prohibition language to assure that it is not in conflict with Amendment 20, the Colorado Medical Marijuana Code or the medical marijuana regulations.
- b. Review the Town's criminal code to delete provisions that conflict with Amendment 20. It appears that the Council amended Sec. 10-11-20 of the Town Code in 2013 to be consistent with the one ounce possession allowance of Amendment 64. Under Sec. 10-11-20, only persons possessing over one ounce of marijuana have committed an offense under the Town Code. Although there is no express provision in Sec. 10-11-20 providing for the possession of up to two ounces of medical marijuana by the holder of a valid medical marijuana registry identification card, Sec. 10-11-20 does provide that this fact is an affirmative defense to prosecution under it. The Town could opt to clarify this language.
- c. Review employment policy manual related to use of medical marijuana by employees. Amendment 20 states "Nothing in this section shall require any employer to accommodate the medical use of marijuana in any work place." One prominent case has held that an employer had the right to terminate an employee for failing a drug test as a result of his medical marijuana use, but this case will be heard by the Colorado Supreme Court this summer and the effect of the earlier decision is effectively in limbo.

Michael J. Sawyer
mjs@mountainlawfirm.com

June 12, 2014

TO: MAYOR FLAHERTY AND MINTURN TOWN COUNCIL
FROM: TOWN ATTORNEY
RE: APPLICATION OF CLEAN INDOOR AIR ACT TO MARIJUANA

I. Colorado Clean Indoor Air Act

SB 283 implementing Amendment 64 amended the Colorado Clean Indoor Air Act (the "Act") found at CRS 25-14-201 et. seq. by including (1) a definition for Marijuana, (2) adding it to the definition of "smoking" under the Act, and (3) including it in the introductory section of the Act, as follows:

25-14-203. Definitions. As used in this part 2, unless the context otherwise requires:

(11.5) "Marijuana" shall have the same meaning as in section 16 (2) (f) of article XVIII of the state constitution.

(16) "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco or ~~medical~~ marijuana. ~~as defined by section 12-43.3-104 (7), C.R.S.~~

25-14-204. General smoking restrictions. (1) Except as provided in section 25-14-205, and in order to reduce the levels of exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted and no person shall smoke in any indoor area . . .

Therefore, the smoking of marijuana is restricted under the Act the same as tobacco smoke, which encompasses most public places. The general smoking restrictions under the Act are found at CRS 25-14-204 and include:

- (1) Except as provided in section 25-14-205, and in order to reduce the levels of exposure to environmental tobacco and marijuana smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:
 - (a) Public meeting places;
 - (b) Elevators;
 - (c) Government-owned or -operated means of mass transportation, including, but not limited to, buses, vans, and trains;

- (d) Taxicabs and limousines;
- (e) Grocery stores;
- (f) Gymnasiums;
- (g) Jury waiting and deliberation rooms;
- (h) Courtrooms;
- (i) Child day care facilities;
- (j) Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;
- (k) (I) Any place of employment that is not exempted.
(II) In the case of employers who own facilities otherwise exempted from this part 2, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
- (l) (I) Any place of employment that is not exempted.
(II) In the case of employers who own facilities otherwise exempted from this part 2, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
- (m) (I) Food service establishments;
- (n) Bars;
- (o) Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;
- (p) Indoor sports arenas;
- (q) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
- (r) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests;
- (s) Bowling alleys;
- (t) Billiard or pool halls;
- (u) Facilities in which games of chance are conducted;
- (v) (I) The common areas of retirement facilities, publicly owned housing facilities, and, except as specified in section 25-14-205(1) (k), nursing homes, but not including any resident's private residential quarters or areas of assisted living facilities specified in section 25-14-205(1) (k).
(II) Nothing in this part 2 affects the validity or enforceability of a contract, whether entered into before, on, or after July 1, 2006, that specifies that a part or all of a facility or home specified in this paragraph (u) is a smoke-free area.
- (w) (I) The common areas of retirement facilities, publicly owned housing facilities, and, except as specified in section 25-14-205(1) (k), nursing homes, but not including any resident's private residential quarters or areas of assisted living facilities specified in section 25-14-205(1) (k).
(II) Nothing in this part 2 affects the validity or enforceability of a contract, whether entered into before, on, or after July 1, 2006, that specifies that a part or all of a facility or home specified in this paragraph (u) is a smoke-free area.
- (x) Public buildings;
- (y) Auditoria;
- (z) Theaters;
- (aa) Museums;
- (ab) Libraries;
- (ac) To the extent not otherwise provided in section 25-14-103.5, public and nonpublic schools;
- (ad) Other educational and vocational institutions; and
- (ae) The entryways of all buildings and facilities listed in paragraphs (a) to (bb) of this subsection (1).

II. Amendment 64/Interpretation of "Openly and Publicly"

Nothing in Amendment 64 permits the consumption of marijuana that is conducted openly and publicly. The Town has amended its Criminal Code to make it clear that it is a criminal act for any person to openly and publicly, consume, or grow marijuana in any public place. (Sec. 10-11-20 (6)). The State Legislature failed to define “openly and publicly” and unfortunately it may take years for the courts to tell us what the means.

As discussed, the Colorado Indoor Clean Air Act prohibits the consumption of marijuana in most public places of business. Amendment 64 expressly states that “Nothing in this section shall prohibit a person, employer, school, hospital, detention facility, corporation or any other entity who occupies, owns or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property.” Therefore, the Town can prohibit marijuana consumption on public property. As for motor vehicles, SB 283 adopted the restrictions similar for marijuana to an open container of alcohol, set forth below:

42-4-1305.5. Open marijuana container - motor vehicle - prohibited. (1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Marijuana" shall have the same meaning as in section 16 (2) (f) of article XVIII of the state constitution.

(b) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.

(c) "Open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and:

(I) That is open or has a broken seal;

(II) The contents of which are partially removed; or

(III) There is evidence that marijuana has been consumed within the motor vehicle.

(d) "Passenger area" means the area designed to seat the driver and passengers, including seating behind the driver, while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

(2) (a) Except as otherwise permitted in paragraph (b) of this subsection (2), a person while in the passenger area of a motor vehicle that is on a public highway of this state or the right-of-way of a public highway of this state may not knowingly:

(I) Use or consume marijuana; or

(II) Have in his or her possession an open marijuana container.

(b) The provisions of this subsection (2) shall not apply to:

(I) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

(II) The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, motor home, as defined in section 42-1-102 (57), or trailer coach, as defined in section 42-1-102 (106) (a);

(III) The possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

(IV) The possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(c) A person who violates the provisions of this subsection (2) commits a class A traffic infraction and shall be punished by a fine of fifty dollars and a surcharge of seven dollars and eighty cents as provided in this section and section 42-4-1701 (4) (a) (I) (N).

(3) Nothing in this section shall be construed to preempt or limit the authority of any statutory or home rule town, city, or city and county to adopt ordinances that are no less restrictive than the provisions of this section.

MARIJUANA LEGISLATION IMPLEMENTATION

By Rachel Allen, Colorado Municipal League staff attorney, and Kevin Bommer, deputy director

IMPORTANT ACTION ITEM FOR MUNICIPALITIES:

By **Oct. 1**, municipalities must enact a local ordinance as described in the "Local Ordinance" section on page 2 of this document unless the governing body of the municipality opts out of retail marijuana pursuant to provisions in Amendment 64. CML will draft a boilerplate ordinance and collect samples that will be available upon request. It also will be available at www.cml.org/marijuana.aspx.

Introduction

In November 2012, Colorado voters passed Amendment 64 to the Colorado Constitution, legalizing the personal use and possession of marijuana for adults 21-years-of-age and older, as well as allowing for the retail sale, cultivation, and testing of marijuana and the production of marijuana-infused products.

Gov. John Hickenlooper assembled the Amendment 64 Implementation Task Force on Dec. 10, 2012, in Executive Order B2012-004. The task force was asked to identify the legal, policy, and procedural issues that needed to be resolved, and to offer suggestions and proposals for legislative, regulatory, and executive actions necessary for the effective and efficient implementation of Amendment 64. The task force met for two months and delivered its final report on March 13.

Late in the 2013 legislative session, the Colorado General Assembly passed legislation to implement the licensing and regulatory framework for retail marijuana establishments, as well as legislation submitting a single question

to voters to implement state sales and excise taxes.

This paper is intended to be a general introduction to the constitutional amendment, state legislation, upcoming regulatory actions by the state, and some of the options municipalities have to regulate local retail marijuana operations. It is not intended as an exhaustive legal analysis, and it should not serve as a substitute for advice from your municipal attorney.

State legislation

Three predominant bills encompass the state marijuana law pertaining to retail marijuana regulation and taxation: HB 13-1317, HB 13-1318, and SB 13-283.

HB 13-1317

HB 13-1317 contains the bulk of the task force recommendations and establishes the regulatory framework for licensing by the state and local jurisdictions. The established language of the Colorado Medical Marijuana Code (CMMC) was used to fill in the process-related components of the new Colorado Retail Marijuana Code (CRMC), but differences in the licensing process between the two led to significant changes in the legislation as it progressed.¹

¹ It is worth noting that the licensing process in the CMMC was significantly altered by HB 13-1238 to mirror licensing under Amendment 64 going forward. Municipalities are encouraged to familiarize themselves with these changes regarding any new medical marijuana license applications in the future. CML is available for further assistance.

HB 13-1317 contains the following significant provisions:

- At the state level, all future medical and retail marijuana sales and excise tax revenue, as well as all state licensing and application fees, will be deposited into a single fund for the newly rebranded Marijuana Enforcement Division of the Department of Revenue.
- On **Oct. 1**, an existing medical marijuana licensee may apply to the state licensing authority for a state retail marijuana establishment license. Under certain circumstances, including local approval, the licensee may continue to operate part of the licensed premises for medical marijuana (MMJ) and part for retail marijuana (RMJ). The state is required to act upon such applications between 45 and 90 days, and conditional licenses (explained later) must be issued before **Jan. 1**, and will be effective on **Jan. 1**.
- After **Jan. 1**, any person not already licensed for MMJ may submit a notice of intent to apply for a retail license. A notice fee may be collected and half will be sent to the local jurisdiction. The person may apply for a state license on **July 1, 2014**.
- Under all circumstances, one-half of the application fee collected will be sent to the local jurisdiction unless the jurisdiction has opted out pursuant to its authority to do so under Amendment 64.
- Consistent with Amendment 64, local jurisdictions may enact ordinances and regulations governing the time, place, manner, and number of marijuana establishments. Under these provisions, a local jurisdiction has the option to create a local licensing requirement.

- The duties of the state licensing authority and the manner in which it interacts with local jurisdictions is established in Part 2. A state license will be conditionally approved within 45 and 90 days, provided the applicant meets state licensing standards, but the state license only becomes operational upon approval from the local jurisdiction. A RMJ establishment cannot operate legally without both a state license and local approval, in whatever form that approval is granted as chosen by the local jurisdiction.
- Once the conditional license has been issued, local jurisdictions are required to acknowledge to the state licensing authority whether or not the application is either approved or denied by the local jurisdiction. There is no time frame established in the statute under which this approval or denial must occur.
- Definitions and appropriate limitations are created on each of the four state license types under Amendment 64.
- Numerous unlawful acts related to state licensure are established.

There are numerous other provisions in the bill. It is important to note that, consistent with Amendment 64, local governments may adopt ordinances and regulations that are more restrictive as long as they do not conflict with Amendment 64, state statutes, or state rules.

Municipalities that do not choose to opt out will need to consider the manner in which they will approve or deny any state application for an establishment. While there is no requirement to have a local license, the decision to require establishments to meet local licensing requirements provides an additional element of local control, especially as it relates to enforcement. (In the Colorado Liquor Code, there are some types of licenses — such as limited winery licenses and manufacturers’ licenses — that may be issued without local government approval, and CML occasionally fields complaints and concerns from members about a lack of local control on the establishments. Several municipalities requested HB 13-1317 clearly establish the option for a local licensing requirement to

maintain a clear local interest in RMJ establishments within their respective jurisdictions.)

HB 13-1318

HB 13-1318 contains the statutory implementation of a special sales tax and an excise tax, as well as refers a single question on the adoption of both to voters on the November ballot. If approved by the voters, both the sales and excise tax described in the “Revenue and taxation” section below become operational.

SB 13-283

SB 13-283 enacts several provisions that were generally identified as “consensus items” by the Amendment 64 Task Force. The bill

- enacts permissive language allowing local governments the ability to prohibit the use of compressed, flammable gas in a residential setting for use as a solvent in the extraction of cannabinoids or THC;
- establishes the legality and enforceability of contracts pertaining to lawful activities authorized by Amendment 64;
- creates several required state reports and studies on various social and health impacts of legalization of possession and use of marijuana;
- includes marijuana smoke within the Clean Indoor Air Act’s prohibition on smoking in public places; and
- establishes a prohibition on open containers of marijuana or marijuana products within a motor vehicle that mirrors the same prohibition on open containers of alcohol.

As introduced, the legislation also included consensus language on criminal matters in Title 18, including key definitions and related prohibitions on terms stated in Amendment 64 but left undefined. All of this language was stripped, and the bill instead requires a report by the Colorado Commission on Criminal and Juvenile Justice (CCJJ) by the end of the year with the intention of introducing a bill in the next legislative session. The result is a failure to have a standard language in the state’s criminal code of “openly and publicly,” “enclosed, locked space,” and other language connected to the now legalized possession and use of

cannabis until legislation is enacted next year. In the meantime, municipalities may choose to address these issues within their respective municipal codes.

Constitutional requirements

State rulemaking

The Colorado Department of Revenue (DOR) Marijuana Enforcement Division (MED) must adopt regulations implementing Amendment 64 by July 1, 2013.² Should the state fail to meet this deadline, applicants may submit license applications directly to local jurisdictions starting on Oct. 1, 2013, and the local jurisdiction must act on the application within 90 days.³ This local license is issued under authority of the constitutionally mandated local ordinance discussed below, and the licensee is not subject to any regulation or enforcement by MED while the local license is active.

Local ordinance

By **Oct. 1**, every municipality and county (that has not already prohibited retail marijuana establishments) must adopt an ordinance that designates the entity within the local government responsible for licensing under three specific circumstances:

- if the state fails to adopt regulations by the July 1 deadline;
- if the state fails to issue any licenses by Jan. 1, 2014; or
- if the state licensing authority fails to act within 90 days upon an application submitted to it.

Should the state fail to license under any of the three scenarios above, then applicants may apply directly to the local jurisdiction for a local license under the required ordinance unless that municipality has opted to prohibit retail marijuana operations. Amendment 64 recognizes that a local jurisdiction will not have any state assistance in this case, and allows the local jurisdiction to establish procedures for the issuance, suspension, and revocation of any license issued by the local jurisdiction.

² COLO. CONST.art. XVIII, § 16(5)(a), PERSONAL USE AND REGULATION OF MARIJUANA (also known as “Amendment 64”).

³ *Id.* at § 16(5)(i).

A local license in this scenario is different than a local license that *may* be required by a local jurisdiction as part of dual state and local licensing. The former scenario is in lieu of the state's license, and the latter (described in more detail below) is in conjunction with a state license.

To maintain harmony with the apparent intent of Amendment 64, local governments that want to prohibit the operation of any or all of the retail marijuana licenses should adopt an ordinance to do so prior to Oct. 1, and in a manner consistent with the language of Amendment 64. Moratoriums should be worded sufficiently to apply enough force of law to be recognized as the "opt-out" allowed by Amendment 64. While a retail marijuana business cannot become operational without local approval, the only guarantee against the state processing any applications for state licenses within jurisdictions that do not want them is to choose to prohibit retail marijuana operations via ordinance.

Only the governing body can opt its jurisdiction out prior to Oct. 1, as well as any time thereafter. Initiated or referred questions to opt out cannot be voted on until November 2014, or any even year thereafter. Referenda, initiatives, and referred questions to opt back into Amendment 64 are not prohibited or restricted by Amendment 64 and can apparently occur at any time.⁴

Options permitted under the constitution

In conjunction with the adoption of the required ordinance mentioned above, Amendment 64 also permits local ordinances governing local fees, local regulations, and the time, place, manner, and number of marijuana establishments within a city or town.⁵

Fees

While the constitution allows the establishment of application, operating, and licensing fees, only the operating fee may be collected by the local government unless the state fails to enact rules by July 1 or fails to act upon an individual state license

application within 90 days.⁶ Operating fees, while not defined in Amendment 64, are defined by HB 13-1317 as "fees that may be charged by a local jurisdiction for costs, including but not limited to inspection, administration, and enforcement of retail marijuana establishments."⁷

Local licenses

Even though it is not expressly permitted or prohibited by Amendment 64, HB 13-1317 establishes the ability for local jurisdictions to require a local license under local "time, place, and manner" conditions. This should not be confused with the constitutional requirement mentioned above that directs local jurisdictions to establish a local licensing procedure based on the state's failure to meet certain deadlines. A local licensing requirement under "time, place, and manner" is purely optional and is meant to work similar to alcohol beverage dual licensing.

Key decision points

The legislation from the 2013 session addressing state and local authority to license and regulate retail marijuana establishments and the text of Amendment 64 leave cities and towns with numerous options for local regulation. Some of the considerations for local regulation might include:

1. Whether to allow retail marijuana establishments to exist at all?
2. Whether to prohibit the establishment of licensed retail marijuana businesses permanently, or to do so only until a certain date in the future at which time the municipality would reevaluate whether or not to allow such businesses to exist after some later date?
3. Which of the four distinct types of retail marijuana establishments will be allowed?
 - a) retail marijuana stores?
 - b) retail marijuana cultivation facilities?
 - c) retail marijuana products manufacturers?
 - d) retail marijuana testing facilities?
4. Whether to provide a phase-in period during which only current medical marijuana licensees may be allowed to convert to retail marijuana establishments or add a retail marijuana license to current operations?
 - a) if so, for how long?
 - b) allow changes of ownership during the phase-in period?
 - c) allow changes in location during the phase-in period?
5. Whether to allow collocation (i.e., dual use of the same location) for medical marijuana businesses and retail marijuana businesses?
6. Whether to limit the number of businesses allowed in any of the four classes of state licensing and, if so, determine how to prioritize those who would compete for the limited number of approvals.
7. Whether to establish and administer a separate local licensing requirement, per se, or instead depend entirely on other laws (e.g., zoning and land use laws) to enforce "time, place, and manner" restrictions on retail marijuana establishments?
8. Whether to adopt counterpart local regulations addressing some or all of the same subject matter being addressed in state regulations, or instead focus local regulations entirely on aspects of "time, place, and manner" that are not being regulated by the state?
 - a) character and background checks for state license applicants?
 - b) business operational standards?
 - c) product standards?
9. Whether to establish hearing procedures and approval criteria for retail marijuana establishments?
 - a) only for retail marijuana stores, or for other classes of state licensing as well?
 - b) mandate public hearing requirements?
 - c) criteria for approval: "needs and desires" and "reasonable requirements of the neighborhood" as it is for liquor licensing or something else?
 - d) apply same approval procedures and criteria equally

⁴ *Id.* at § 16(5)(f).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*; C.R.S. § 12-43.4-103(11).

to existing medical marijuana licensees who seek to convert to or add a retail marijuana license?

10. Whether to impose spacing restrictions?
 - a) for retail marijuana stores, or for other classes of state licensing as well?
 - b) carry forward any existing spacing requirements currently imposed upon medical marijuana centers?
 - c) carry forward any existing grandfathering provisions currently enjoyed by medical marijuana centers and cultivators under previous city licensing and zoning laws?
 - d) adopt new forms of spacing requirements to be applied to retail marijuana establishments?
11. Whether to impose other location restrictions on retail marijuana establishments through zoning or otherwise, e.g., by identifying specific zone districts in which retail marijuana establishments are or are not allowed?
12. Whether to impose special restrictions on signs and advertising?
 - a) defer to state restrictions?
 - b) carry forward restrictions previously imposed on medical marijuana centers and apply the same to retail marijuana establishments?
 - c) adopt new restrictions?
13. To the extent a municipality establishes a local licensing and regulatory regime, what is an appropriate annual "operating fee" to impose upon licensed retail marijuana establishments?
14. Whether board or council members want to allow retail marijuana businesses to exist in the municipality at all if the state defaults on its licensing and regulatory responsibility by failing to adopt necessary regulations by July 1, 2013; or, failing to act on any license application, the state licensing authority receives within 90 days?

15. In general, any implementing ordinance allowing retail marijuana establishments to exist should establish "civil penalties" for violation of city requirements.

16. Any implementing ordinance allowing retail marijuana establishments to exist should:
 - a) clearly identify a single point of contact with whom the state licensing authority will interact to determine whether or not a particular license application or other licensing action complies with local requirements; and
 - b) specify deadlines for responding to the state regarding new license approvals and other licensing actions.

Revenue and taxation

The major marijuana taxation bill of the session was HB 13-1318, which refers a single question to the November 2013 statewide ballot with two revenue raising components: a wholesale 15 percent excise tax on cultivated marijuana earmarked for school capital construction as described in Amendment 64; and a special 10 percent sales tax to be imposed over and above the state's normal 2.9 percent sales tax. The legislature will have the ability through legislation to increase the tax. Of the special 10 percent sales tax revenue, 15 percent will be shared with the local jurisdictions in which the tax is collected, similar to the cigarette tax share back, with the exception that local governments would not be penalized for retaining their own sales tax authority and existing taxes.

Both HB 1317 and 1318 capture sales tax and fee revenue derived from retail marijuana businesses and dedicate these revenues to the "direct and indirect costs" of administering the state regulatory regimes for both medical and retail marijuana. However, the local share-back of revenue derived from the special 10 percent

sales tax is not earmarked by 1318 for any particular purpose.⁸

Policy makers should consider a variety of options including:

- Whether to budget and appropriate monies to provide additional resources for marijuana-related regulatory enforcement and services?
- Whether to require marijuana establishments to post a marijuana tax bond to ensure the payment of local taxes by these retail establishments?
- Whether to refer to the ballot a question imposing additional local sales or excise tax on marijuana?
 - if your board or council decides to refer a ballot question
 - at what rate?
 - earmark the revenues for a purpose?
 - additional tax considerations include
 - what to do with state share back?
 - what to do with existing sales tax revenues derived from medical and/or retail marijuana operations?
 - opt to levy an additional sales or excise tax?
- Whether to impose operating fees on retail marijuana establishments?

FAQs

Is dual licensing at both the state and local level (like liquor licensing) contemplated in the legislation?

Dual licensing is expressly allowed, but not mandated. However, unlike liquor licensing, an applicant will get conditional state approval before any local approval is considered.⁹

Can an adult purchase and consume marijuana in the same location?

No, consumption of marijuana is prohibited on public premises that are licensed to sell retail marijuana or products.¹⁰

⁸ The ballot title designates that tax revenues will be used "to fund the enforcement of regulations on the retail marijuana industry and other costs related to the use and regulation of retail marijuana." Some may argue this creates a limitation.

⁹ C.R.S. § 12-43.3-104(3) (2013).

¹⁰ *Id.* at § 12-43.4-901(4)(c).

Reports of co-ops and mobile marijuana delivery services have emerged after the passage of Amendment 64. Does the legislation curb these activities?

Co-ops, and mobile delivery of marijuana are prohibited.¹¹

Municipalities may be better served by enacting clearer local prohibitions in zoning ordinances or other local land use and regulatory tools.

Social clubs (where adults gather in a commercial space to consume but not sell marijuana) have become another recent concern. What options do local governments have to regulate these?

The state legislation prohibits on-site consumption in licensed establishments,¹² and language added to HB 13-1317 late in the session is largely insufficient to effectively prohibit social clubs. Some municipalities have regulated private cannabis clubs with local ordinances under their land use authority.

Can a person be charged with stoned driving, similar to DUI?

Yes. In addition to existing laws prohibiting driving under the influence, the legislature passed a “driving under the influence of drugs” (DUID) bill this session, specific to marijuana, which creates a “permissive inference” of intoxication if a person tests positive for five or more nanograms of active THC.¹³

Can adults use marijuana while operating a motor vehicle or possess an open container?

No, the open container law has been amended to include marijuana in addition to alcohol.¹⁴

Does the Clean Indoor Air Act apply to marijuana smoking in addition to cigarette smoking indoors?

Yes, the Clean Indoor Air Act was amended to prohibit marijuana smoke in an identical manner to the existing prohibition on cigarette smoke.¹⁵

Do the same 1,000-foot distance requirements from a school; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential child care facility, as medical marijuana establishments apply to retail marijuana operations?

No, there is no 1,000-foot distance limitation for retail marijuana establishments as it pertains to qualifications for a state license, so municipalities should consider addressing this in their local ordinances or rules.

Can a municipality act as the grower or owner?

No, state law prohibits government-run retail marijuana operations.¹⁶

Does the same requirement for the state to issue a state license between 45 and 90 days also apply to local jurisdictions?

No. There is no constitutional or statutory requirement specifying how long a local government may take to indicate its approval or denial of a conditional state license. However, in the event the state fails to meet any of the obligations that would otherwise cause an applicant to apply directly to the local government under the constitutionally required local licensing ordinance, then the local government must act within 90 days.¹⁷

If we choose to license retail marijuana establishments, can the city or town prohibit use in public buildings and parks?

Yes. While consumption of marijuana “openly and publicly”¹⁸ is not allowed, Amendment 64 specifically allows for the prohibition of marijuana possession, consumption, use, display, transfer, sale, transportation, or growing in public buildings.¹⁹ The state legislation does not define “open and public,” so municipalities might consider doing so in their local codes.

Can a municipality limit the size of personal home grows authorized by Amendment 64?

While Amendment 64 allows each adult to grow six plants “provided that the growing takes place in an enclosed, locked space, is not conducted openly and publicly, and is not made available for sale,”²⁰ the law does not define those terms, so municipalities may consider clearly defining what constitutes an “enclosed, locked space” in their municipal codes. Much like they can with medical marijuana, municipalities can use land use, building, and fire codes to regulate home grows. Some municipalities have limited the number of plants per household (regardless of the number of residents), some have dictated the minimum space needed per plant, others have restricted indoor grows to specific types of lights, while others have prohibited home grows in multifamily housing.

Additional Resources

CML has sample ordinances and a table tracking municipal actions on retail marijuana at www.cml.org/marijuana.aspx. Please contact CML Staff Attorney Rachel Allen at 303-831-6411, 866-578-0936, or rallen@cml.org to request copies of additional sample ordinances.

If you have questions, please contact CML Deputy Director Kevin Bommer (kbommer@cml.org) or CML Staff Attorney Rachel Allen (rallen@cml.org). Both can be reached at 303-831-6411 or 866-578-0936.

Special thanks

CML would like to extend a special “thank you” and acknowledgement to Denver Assistant City Attorney David Broadwell for authoring the “Key Decision Points” section of this document.

11 C.R.S. 12-43.4-901(4)(c) and (h) (2013).

12 *Id.* at § 12-43.4-901(4)(c).

13 C.R.S. 42-4-1301 (2013).

14 C.R.S. § 42-4-1305.5 (2013).

15 C.R.S. § 25-14-203 to 204, et seq. (2013).

16 C.R.S. § 12-43.4-103 (2013).

17 COLO. CONST. art. XVIII, § 16(5)(h).

18 *Id.* at § 16(3)(d).

19 *Id.* at § 16(6)(d).

20 *Id.* at § 16(3)(b).



Colorado Municipal League
1144 Sherman Street
Denver, CO 80203-2207

KNOWLEDGE



Official Minutes

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

Wednesday June 4, 2014

**Work Session – 5:00 pm
Regular Session – 6:30 pm**

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

COUNCIL MEMBERS:

Shelley Bellm
Earle Bidez
John Rosenfeld
Matt Scherr
Jason Osborne

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 – 5:00 pm

- Work Session: Town Council CIRSA training – Powell Council asked for a separate training on quasi-judicial matters.
- Discussion regarding 2015 World Cup – Metteer

Regular Session – 6:30pm

1. Call to Order

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

- Roll Call

Those present included: Mayor Hawkeye Flaherty, Town Council members, George Brodin, John Rosenfeld, Matt Scherr, Earle Bidez, Ozzy Osborne, and Shelley Bellm.

Staff present: Acting Town Manager Willy Powell, Town Attorney Jeff Conklin, Town Planner Janet Hawkinson, Economic Dev Coordinator Michelle Metteer, and Town Clerk/Treasurer Jay Brunvand.

- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added

Addition: 2015 World Cup funding

Motion by Shelley B., second by Jason O., to approve the agenda as amended. Motion passed 7-0

3. Liquor Authority

- Town of Minturn 4th of July Request for Special Event Permit; 800 Cemetery Rd.; Michelle Metteer, Town Economic Dev Coordinator – Brunvand

Michelle M. reviewed the events scheduled for the day.

Motion by Jason O., second by Earle B., to approve the Town of Minturn 4th of July Request for Special Event Permit to sell malt, vinous and spirituous liquor beverages to be located at Little Beach Park as defined on the attached location map; 800 Cemetery Rd.; Michelle Metteer, Town Economic Dev Coordinator as presented with the following conditions. Motion passed 7-0.

- The application was received on May 13, 2014 and the Notice of Public Hearing on this matter was posted on the premises by the Town Treasurer on May 22, 2014 at least 10 days prior to the Council Meeting consideration.
- That the selling liquor in the manner currently proposed in the application is not in violation of the Minturn Municipal Code.
- Staff requests that at least one experienced T.I.P.S certified, or equivalent, server be present at all times while alcoholic beverages are sold. We would like that those servers and certifications be identified to us in advance.
- Staff requests each entrance/exit be monitored to ensure no outside liquor is introduced to the event and that no liquor is removed from the premises

4. Approval of Minutes and Action Report

- May 21, 2014

Matt S. noted several items that were corrected.

Motion by John R., second George B., to approve the minutes of May 21, 2014 Council Meeting as amended. Motion passed 7-0.

- Action Item Report

The Eagle CO Sheriff contract for police services was discussed and updated. Hawkeye stated it should be ready for the next meeting.

Shelley B. stated she had noted several changes regarding the Memorialization which were not changed. She stated it was important for Council to be involved with this issue and that it is not in process but that guidelines are being created, there is not a draft.

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

Mr. Berry Clark, 974 main St, thanked the Council for their Work Session discussion regarding some of the aesthetic challenges the Town has and for agreeing to move them up the priority list. Mr. Clark asked the Council to considered a lower contribution amount to the 2015 World Cup.

Mr. Lou Meskimen, 23698 Hwy 24, agreed with the lower contribution amount to 2015 and asked the Council to pressure the North end of town owners to clean up their property through the Code Enforcement.

6. Special Presentations

PUBLIC HEARINGS AND DISCUSSION/ACTION ITEMS

7. Discussion/Action Item: Funding for 2015 World Cup

Michelle M. has been in contact with the Vail Valley Foundation. The original request from VVF was for \$38,000 in cash and \$12,000 in in-kind donations. After discussions they have amended their request to only ask for \$35,000. This would still entitle Minturn to maintain the a sponsorship package level.

The Council as a whole spoke in favor of working with the donation and finding the monetary investment to support the program. The Council also felt the financial request was steep for the Town in consideration of the size of the Town and our budget. The Council also felt it was important to complete some tasks in Town that would increase our curb appeal.

Motion by George B., second by Shelley B., to commit \$35,000 to the Vail Valley Foundation to support the World Cup 2015 program. Motion passed 7-0.

8. Discussion/Action Item: Presentation and Update on the Minturn Fitness Center – Powell/Rosenfeld

John R. updated the Council. They did a final walk-through today and are looking at 100% completion inside by June 6 of all construction and will only need to install the athletic sports floor which will be done as items are delivered. Paving will commence in the next week or so. They are looking at a soft opening in approximately mid July and a Grand Opening in September.

Michelle M. noted membership rates are being reviewed by the Minturn Fitness Center Board. The rates will be very favorable to Minturn residents and membership will be valid from the soft opening for use this summer. Rates and what those rates include will be available in June once they are finalized.

9. Discussion/Action Item: 494 Eagle Street Design Review Call-up by Council – Hawkinson

Janet H. gave a Staff overview of the project as approved by the Planning Commission.

Shelley B. stated that the Town has never enforced the front street setbacks to the extent that the lot is unbuildable. She stated this is setting a precedent by allowing two front setbacks and on how front set backs are set and enforced. Our current code does not have regulations on setting a front yard on a corner lot. She stated on this project we should require one front yard and not two and for this project we should restate it as one front yard.

Mr. Michael Pukas, property designer on this project, noted our code does not have a corner lot definition and this presents an inconsistency for corner and flag lots. Mr. Pukas stated the Town could correct this by the use of a variance. Shelley B. felt it was not reasonable to require a variance for each corner lot.

Shelley B. stated a second issue is the clear view for the corner. Discussion ensued and agreed that the Planner and the Planning Commission determined they would not require a variance because they determined the clear view was not impeded upon by a parking space being allowed within 15 of the corner. Earle B. stated this would not be allowed on Main St so it should be a concern in this issue as well. Shelley B. stated this is a safety issue for children in the neighborhood. Earle B. stated that the parking in the clear view setback is mitigated on this parcel because Eagle Street is a one way and dead ends at Meek and Meek Ave is a dead end at the Eagle River. Earle B. stated this should be codified in our code to create a rule when the issue is as specific as and defined as this.

Hawkeye asked if the Eagle St is wide enough to have a sidewalk; limited because it is a 12 foot Right-Of-Way and a one-way street. Hawkeye stated he felt the vote by the Planning Commission was in-valid because they allowed a phone vote when the member was out of Town. We have always held that you must be physically present on a vote. Janet H. stated she called CIRSA and they stated the vote was valid based on the fact that we don't have a rule against it.

Town Attorney Jeff Conklin stated a phone vote is allowed in law and if we do not want to allow the phone vote, then we need to expressly state that in our procedural rules and bylaws and state that all Councils, boards, and commission will follow the same rules and procedures. Hawkeye also stated the 50% improvement is exceeded so the noncompliant area should be brought compliant. Mr. Pukas read the Town Code for the Council as pertains and stated the noncompliance is not affected because this is an addition and an addition does not affect the noncompliance. Hawkeye stated the snow storage for the property is not addressed. Mr. Pukas stated the snow storage is in compliance as is the snow shedding from the roof on

to adjacent properties. Jeff C. concurred with Hawkeye that the property value is based on the current assessment from the County. Hawkeye stated he felt the Planning Commission had a complete disregard for the parking and clear view. The Planning Commission's charge is to enforce the law; he felt this was not done in this case. Shelley B. concurred with Hawkeye as relates to the parking; she was required to apply for a variance on her property which meets the same corner lot concerns as 494 Eagle St. She stated if the property required a variance they should have been required to file a variance, if they stated they would not apply and would move their parking, then they should have moved their parking.

A Point of Order was called by John R. where he stated the discussion was off point.

Motion by John R., second by Jason O., to end debate and call the question. Motion passed 5-2. Note: Shelley B. and Hawkeye voted nay.

Motion by John R., second by Jason O., to uphold the approval of option "A" as passed by the Planning Commission. Motion passed 5-2. Note: Shelley B. and Hawkeye voted Nay.

COUNCIL AND STAFF REPORTS

10. Town Planner

Updated the Council on the paving of Harrison Ave which will begin on Thursday June 5.

11. Town Attorney

- Definition of "present" for purposes of decision making

Jeff C. reiterated that neither the code nor state statute ban votes by phone. He stated he will review the issue in light of the previous discussion and will propose options for the Council at the next meeting.

Hawkeye stated he felt the person needed to be physically present and he felt the code should reflect that the Planning Commission should follow the same rules as the Council. He felt it was not an option that the Council play by one set of rules and the other boards and commissions that report to the Council have a second set of rules. Discussion ensued as to the use of absentee voting.

12. Town Manager

Lisa Osborne Resignation

Lisa has announced her resignation, with goal of leaving on or before July 1 and giving at least a two week notice. Lisa's departure is for personal reasons, as she and her family are moving to Grand Junction. At my request, Lisa has provided a detailed list of job duties which Staff is reviewing. As you are aware, Lisa is a valuable employee and provides a wide and lengthy list of services. In general, these services can be broken down to the following areas: Police Records Clerk, Police Property Technician, Court Clerk, Public Information Officer, Emergency

Management technician, Code Enforcement, and a variety of other duties. Some of the duties will be handled under the contract with ECSO, most particularly Police Property Management.

Code Enforcement

In evaluating the needs for a replacement employee I would like to know from Council their policy direction as it relates to Code Enforcement. Currently it appears that code enforcement is being handled primarily on a complaint basis. Is this the manner in which Council desires for enforcement to be handled? Or does Council desire to take a more aggressive approach of: “let’s clean up the town. “

At the June 4 meeting we will have a more detailed discussion regarding Council’s policy toward code enforcement. In preparation I would offer the following to think about.

- If code enforcement is handled on complaint basis only, certain cases (largely zoning infractions) could lead to a situation of selective enforcement, which can lead to legal problems.
- Code enforcement is somewhat labor intensive. Much documentation and procedure need to be followed. The Code Enforcement Officer will not be successful in court unless careful procedures are followed.
 - Review that the complaint is valid or not.
 - If valid, thoroughly document the infraction.
 - Notify property owner and request voluntary compliance.
 - If no voluntary compliance, demand compliance with a deadline (which can vary depending on the resources required to rectify).
 - Perhaps a second chance.
 - If no compliance issue a citation for Municipal Court.

Other Items

1. It is customary to hold a retreat for Council after council elections and before final preparation of the 2015 budget. We should be thinking of a date so everyone can arrange their schedules accordingly.
2. I would like to meet individually with all Council members. If you can give me a time to meet I would appreciate.

Willy P. asked for direction from Council on how they want the Code Enforcement enforced over the next few years. Willy P. stated that we have a fair number of enforcement issues and coupled with the duties that the position also has, it is his recommendation that a full time position be hired. He needs to have time to advertise and hire once a job description is evaluated and developed.

Council requested this come back to Council as a discussion item and include a recommendation from Staff.

13. Town Council Comments

Hawkeye thanked John R. and Earle B. for their efforts serving the Minturn Fitness Center. Wished all a Happy Father’s Day.

Hawkeye stated they should plan on a board retreat and asked Council to send ideas of time and topics.

Earle B. stated Yoga in the Park is back for the summer and will be held in Little Beach Park.

FUTURE AGENDA ITEMS

14. Next Meeting – June 18, 2014

- Discussion/Action Item: Marijuana legislation update
- Acceptance of the 2013 Annual Audit
- Eco Sheriff contract
- Retreat
- Code Enforcement

15. Future Meetings:

- County Commissioners

16. Set Future Meeting Dates

a) Council Meetings:

- June 18, 2014
- July 2, 2014
- July 16, 2014

b) Planning & Zoning Commission Meetings:

- June 25, 2014
- July 23, 2014
- August 20, 2014

17. Other Dates:

- June 14, 2014 – Minturn Market begins

18. Adjournment

Motion by John R., second by Earle B., to adjourn at 9:00pm.

Mayor Hawkeye Flaherty

ATTEST:

Town Clerk, Jay Brunvand

Town of Minturn - Action Item Memo

TO: Council Members/Staff Members
FROM: Co-Acting Managers
DATE: June 18, 2014
SUBJECT: Status of Action Items and projects

Action Item	Responsible Party	Progress Report
Eagle River Park – Grant – ‘History Walk in the Park’ & Public Restrooms	Janet Hawkinson Michelle Metteer Earle Bidez Darell Wegert	Eagle River Park sub-committee met to review designs. Took a tour of the LGM facility for review of 3D topography map of the Minturn Valley and building design options. Architect hired to work with Planner in digital fabrication and design. Design choices to be presented to Planning Commission and Town Council
Rec property clean-up / Berm	Arnold Martinez Janet Hawkinson	Berm constructed. Continue grading, clean-up and beautification of site.
Code enforcement	Lisa Osborne	Policies and forms are now being created to coincide with the enforcement of town code. Has begun addressing code issues. Written update submitted for 6/18 packet.
Boneyard Conservation Easement	Janet Hawkinson	Begin drafting of site plan with Eagle County Open Space Director, to be presented for review by Planning Commission and Town Council in May meetings. Council voted Boneyard for name. Clean up slash piles.
Memorialization Guidelines	All Staff Cliff Thompson	No action to date. Move forward with process with a memorialization of Allen Christianson
ECSO IGA 	Michelle Metteer Lisa Osborne George Brodin	Latest version from ECSO similar to Gypsum, not Minturn’s version. Hawkeye, George and staff met June 5 for comments back to ECSO. Comments sent 6/9. <u>Comments accepted by ECSO. Ready for 7/2</u>
Isolation Valve at Toledo and Main St 	Arnold Martinez Janet Hawkinson	Final DOLA grant work for 12” main valves. Council approved 2” overlay on Harrison 4/29/14. <u>Work complete.</u>
TAP Grant – South Minturn Sidewalks *Longer term project. Expect updates to begin early summer.	Janet Hawkinson Michelle Metteer	Requesting letters of support from Town citizens Waiting for grant to Post
2014 Community Master Plan *Longer term project.	Janet Hawkinson	5-year update to the Community Plan per the State of Colorado. Community involvement required. Scheduling design meetings. 1 st meeting scheduled for 2 nd Wed in July

TOWN OF MINTURN JOB DESCRIPTION

POSITION: Records Clerk

Duties may include, but are not limited to, the following:

- ✓ Assist general public, departmental personnel and representatives from other agencies in obtaining police related information and reports;
- ✓ Complete mandated state and federal monthly validations of all Police Department entries into state and federal databases;
- ✓ Submit monthly National Incident Based Reporting System (NIBRS) Reports to the Colorado Bureau of Investigation through the state portal system;
- ✓ Compose and type correspondence as necessary;
- ✓ Respond to CBI hits for service;
- ✓ Enter Court Dispositions into the RMS from Eagle County and Minturn Municipal Courts;
- ✓ Perform related duties as assigned; and,
- ✓ Attend regular RMS/CAD meetings at the Edwards office of the Eagle County Ambulance District.

EXPERIENCE AND TRAINING GUIDELINES:

Licenses/Certifications: Terminal Operator Certification awarded by Colorado Department of Public Safety/Colorado Bureau of Investigation for the Colorado Criminal Information System (CCIC), within three months of employment. The Colorado Records Certification is advisable in this position.

TOWN OF MINTURN JOB DESCRIPTION

POSITION: Property Technician

- ✓ Town may have to accept larger evidence items which County does not have room for .

Duties may include, but are not limited to, the following:

Licenses/Certifications: Terminal Operator Certification awarded by Colorado Department of Public Safety/Colorado Bureau of Investigation for the Colorado Criminal Information System (CCIC), within three months of employment.

Also, it is beneficial to the Town and to the evidence technician to attend a national/international property/evidence training. Once this training has been completed, in addition to the required hours of property/evidence technician work, the employee will then be qualified to take the test to obtain Property/Evidence Technician Certification. This certification is recognized internationally.

TOWN OF MINTURN JOB DESCRIPTIONS

POSITION: Court Clerk

Duties may include, but are not limited to, the following:

- ✓ Create court file for each case assigned to Minturn Municipal Court;
- ✓ Organize and prepare the court docket; arrange hearing, trial and sentencing dates with attorneys and defendants; coordinate court dates with police personnel; distribute court and trial calendars;
- ✓ Prepare monthly Court packet for Municipal Court Prosecutor with all relevant documentation for each case scheduled for Court;
- ✓ Ensure Judge has all appropriate files and paperwork for Court session each month;
- ✓ Prepare and review a variety of court documents including notices of trial dates, delinquencies in payments, refunds, forfeitures, revocation, judgments, dispositions and court calendars, type summons and warrants; file and reclaim file folders and court records;
- ✓ Issue, record and process warrants; research computer data for prior warrants, violations and other pertinent data; prepare “show cause” orders and notifications for payment of bonds, verify indigency status and other matters of record. Enter approved warrants into the Colorado Bureau of Investigation’s (CBI) Colorado Criminal Information System (CCIS);
- ✓ Perform a variety of computer data entry functions, review computer data and correct errors; assist Judge and Town Prosecutor by recording and dispersing information as requested;
- ✓ Call juries and provide related clerical support for this event;
- ✓ Set, log and notify appropriate parties regarding hearings for motions;
- ✓ Issue subpoenas for Town Prosecutor, defendants and defense attorneys;
- ✓ Respond to and resolve difficult and sensitive defendant requests and citizen inquiries and complaints; answer questions and provide service and information to the public regarding the policies and procedures of the Court.
- ✓ Record monies posted for bonds, restitution and fines;
- ✓ Submit weekly cash reconciliation report, compute cash reconciliation of general ledger and confirm balance sheet;
- ✓ Inform court defendants/violators of amounts due; accept fine payments from defendants; issue receipts for payment; process cash and paper bonds accordingly;
- ✓ Mail appropriate documentation to the Department of Revenue, Division of Motor Vehicle in reference to traffic infraction dispositions;
- ✓ Mail appropriate documentation to the Department of Revenue, Division of Motor Vehicle in reference to Outstanding Judgment-Warrants (OJW) or Non-Resident Violation Compact (NRVC) to apply to offender’s driver’s license status;
- ✓ Perform related duties as assigned; and,
- ✓ Review Minturn Municipal court arrest warrants and date entry into statewide law enforcement databases for quality. Modify warrant entry as directed; remove served warrants as directed. Confirm warrant validity on request from other law enforcement agencies.

EXPERIENCE AND TRAINING GUIDLEINES:

Licenses/Certifications: Terminal Operator Certification awarded by Colorado Department of Public Safety/Colorado Bureau of Investigation for the Colorado Criminal Information System (CCIC), within three months of employment. Attend the annual Colorado Municipal Court Conference for training opportunities. Attend the Colorado Open Records Act (CORA) training on a yearly basis to remain current on records request/release laws.

Town of Minturn Other Duties

- ✓ Public Information Officer Duties that include, but are not limited to: Attend the monthly Public Information Officer meetings that are a collaboration of many different disciplines from across the valley; write and issue press releases; go on site to incidences/events to talk with media and establish a media perimeter. Work with the public works supervisor to issue any advance notices in reference to water outages, water works or road repairs that are scheduled. Also, work with the public works supervisor to notify the public when an emergency/unexpected water/road event happens that impacts the public;
- ✓ Emergency Management/Incident Command training so as to help the Town Manager and Chief of Police/First Responders during an emergency or large scale, planned event;
- ✓ Assist other staff members with activities, as needed (which is usually daily);
- ✓ Program and maintain the security codes on the Town Hall doors (Pine Street, Boulder Street, Police Department and Main Office). Distribute security code to all staff and Town Council members;
- ✓ Assist Town Manager with the maintenance of Personnel files;
- ✓ Participate in the audits conducted by the Colorado Bureau of Investigation with the Police Department and the Municipal Court. Ensure all requirements are met and make changes to come into compliance with any deficiencies;
- ✓ Coordinate all Useful Public Service (Community Service) individuals from Eagle County Probation and Parole as well as Minturn Municipal Court;
- ✓ Notarize documents for the public and fellow staff members;
- ✓ Point of Contact for all telephone issues/repairs;
- ✓ Began the process for the Town to have Code Compliance Services to address such things as parking, trash, nuisance violations;
- ✓ Type Purchase Orders, obtain appropriate signatures and submit invoices/Purchase Orders for payment; and,
- ✓ Though this list is thorough; I believe I have not included all duties.

CODE ENFORCEMENT?

Currently taking half of Lisa's time for complaint basis only enforcement

Legend:

Items highlighted in **green** are items that could be taken over by the Eagle County Sheriff's Office when the Contract has been signed. These items need discussed.

Items not highlighted are items that remain "in-house".

Michael J. Sawyer
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Of Counsel
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Employment Lawyers*
** *Fellow of the American Academy of
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June 12, 2014

TO: MAYOR FLAHERTY AND MINTURN TOWN COUNCIL

FROM: TOWN ATTORNEY

RE: TELEPHONIC PARTICIPATION DURING PUBLIC MEETINGS

As discussed at the last Council meeting, neither State law, nor the Town's Charter, nor the Town's ordinances legally preclude members of the Town Council or subordinate boards from participating in meetings by telephone. There are however, several practical considerations that make telephonic participation less than ideal. Further, certain circumstances may arise when it is in the best interests of the Town to permit telephone participation in order to facilitate the efficient conduct of Town business. Attached to this memo is a draft policy on telephonic participation in public meetings. The policy is set up for application to the Town Council. That being said, the policy could be adopted by subordinate boards (such as the Planning and Zoning Commission) or the policy could be adopted as an Ordinance which would be generally applicable to both the Council and subordinate boards. I look forward to discussing this matter with you during Town Council and modifying the policy as directed.

Michael J. Sawyer
mjs@mountainlawfirm.com

June 12, 2014

TO: MAYOR FLAHERTY AND MINTURN TOWN COUNCIL
FROM: TOWN ATTORNEY
RE: TELEPHONIC PARTICIPATION DURING TOWN COUNCIL MEETINGS

I. Purpose.

The purpose of this Town Council Policy is to specify the circumstances under which a member of the Town Council may participate in regular and special meetings and executive sessions by telephone. With advancements in communication equipment, telephonic meeting participation has become more popular within many local governments. However, telephonic participation has does have limitations because telephonic participation can preclude a Council member from viewing documentary information presented during meetings, from fully evaluating a speaker's non-verbal language in assessing veracity or credibility, and from observing non-verbal explanations (e.g., pointing at graphs and charts) during a speaker's presentation or testimony. The Council finds that these limitations with telephonic participation may produce inefficiencies in meetings, increase the expense of meeting, and may undermine the decision-making process, particularly in quasi-judicial matters.

II. Statement of Policy.

A member of the Town Council may participate in a meeting of the Town Council by telephone only in accordance with this Policy. Telephonic participation shall be made available and shall be limited as follows:

- A. Telephonic participation shall be made available to a Town Council member when such member's absence would otherwise constitute an excused absence in accordance with Town Charter Section 11.3.
- B. Telephonic participation is intended to be an infrequent or occasional substitution for physical attendance. The Town Council may, by majority vote of a quorum present, declare a Council member's repeated use of telephonic participation excessive and deny a Council member's privilege to use telephonic participation for a specific meeting or meetings. Such declaration by Town Council shall only be made when

the member seeking to participate telephonically is afforded advance notice and the opportunity to participate in the Town Council's discussion regarding excessive use and the continuation of telephonic participation by the Council member. Provided that the Council member is provided notice of the date and time of the planned Council discussion, the member's inability to be available to participate in the discussion shall not preclude the Town Council's authority to discuss and decide whether such member's use of telephonic participation is excessive.

- C. Telephonic participation must permit clear, uninterrupted, and two-way communication for the participating Council member.
- D. A Council member may neither participate nor vote telephonically in a quasi-judicial public hearing; however, the Council member may maintain the telephone connection and monitor or listen to the hearing.
- E. More than one Council member may participate telephonically during the same meeting where the telephone conferencing system permits clear, uninterrupted, and two-way communication for all participating Council members.
- F. The Town Council may discontinue the use of telephonic participation by one or more members during a meeting where the participation results in delays or interference in the meeting process; e.g., where the telephone connection is repeatedly lost, the quality of the telephone connection is unduly noisy, or a participating member is unable to hear speakers using a normal speaking voice amplified to a level suitable for the meeting audience in attendance.

III. Arranging for Telephonic Participation.

- A. To arrange to participate telephonically, a Town Council member shall:
 - 1. Contact the Mayor, Town Administrator, or Town Clerk in advance of the meeting regarding the reason for the absence.
 - 2. Contact the Town Clerk or the Town Administrator to arrange for telephonic participation and provide a telephone number and any special calling instructions needed to facilitate the telephone contact. All Council members shall endeavor to advise the Town Clerk of their intent to participate telephonically at the earliest possible time and not less than twenty-four (24) hours prior to the requested participation.
 - 3. Be available at the designated telephone number not less than ten minutes prior to the scheduled time of the meeting.
- B. The Town shall initiate the telephone contact not more than 10 minutes prior to the scheduled time of the meeting. Upon telephone disconnection during a meeting, the Town Clerk shall make one attempt to re-initiate the telephone connection unless the Town Council instructs to discontinue the telephone participation in accordance with

I(G) above.

IV. Effect of Telephonic Participation.

Telephonic participation shall constitute actual attendance for purposes of establishing a quorum or for any other purpose.

V. Telephonic Participation by Non-Council Members.

Upon request of the Mayor or any two Council members, appointees of the Town Council (e.g., the Town Administrator and/or the Town Attorney or designees acting on behalf of and at the direction of the Administrator or Attorney), may participate in a meeting of the Council by telephone. For all other persons, telephonic participation shall not be permitted unless approved by a majority of a quorum present of the Town Council.

VI. Limited Applicability of Policy.

This Policy shall only apply to regular and special meetings (including study sessions) of the Town Council for the Town of Minturn.

VII. Reasonable Accommodations.

The Town shall provide reasonable accommodation and shall waive or modify provisions of this Policy to provide handicapped Town Council members full and equal access to Council meetings.

June 12, 2014

To: Town Council
Fr: Willy Powell, Acting Town Manager
Re: **Law Enforcement Agreement with Eagle County**

Following Minturn submitting a proposed agreement to Eagle County for law enforcement services, Eagle County countered with an agreement similar to one they have with the Town of Gypsum. The contract from the County did not have some similar provisions to the one submitted by Minturn.

On June 5th Hawkeye, George, Willy and Michelle met to compare the two agreements. The group decided several important things to be included in the draft from Eagle County. See attached email to Undersheriff Mike McWilliams outlining Minturn's concerns and his response. The Sheriff's office (ECSO) has agreed to all items except Item #3 regarding vehicles. Mc Williams wants Harry Taylor, Fleet Services Director, to meet with me to discuss. I am meeting Taylor and McWilliams the afternoon of June 12.

There is not sufficient time to make the changes to the agreement, then have the County Attorney review and approve before the June 18 meeting. I believe we should be fully ready for the July 2 meeting. Additionally I will push the County to place on the Commissioner agenda as soon as possible.

Willy Powell

From: Mike McWilliam <mike.mcwilliam@eaglecounty.us>
Sent: Monday, June 09, 2014 4:43 PM
To: Willy Powell
Cc: Joseph Hoy; Harry Taylor
Subject: Re: LE Contract with Town of Minturn

Thank you for the input. I have asked Harry Taylor (Eagle County Fleet Manager) to touch base with you. He can explain the vehicle option situation better than I can. After a preference by Minturn has been agreed on, I can put language in the contract about vehicles. The other contract changes seem resonable. Thanks, Mike McWilliam.

On Mon, Jun 9, 2014 at 9:44 AM, Willy Powell <manager@minturn.org> wrote:

Mike:

Last Thursday I met with Mayor Hawkeye Flaherty, Councilman George Brodin and Michelle Metteer to discuss the law enforcement contract between Eagle County and the Town of Minturn. We acknowledge Eagle County would like to keep the agreement with Minturn as similar as possible to the contract with Gypsum. After review of the most recent draft from the County and in comparison with the draft sent from Minturn, the Minturn working group requests several changes which fits the needs of our town. The changes are as follows. Additionally, Town Attorney, Mike Sawyer, will be reviewing the agreement and may have further comment.

1. II.C.1. Term

The Town requests the term start on an agreed upon date in 2014, for example, October 1. Further we request the term to extend for four more years until December 31, 2018. The rationale for the four year request is, in part, to match the lease period of vehicles.

2. III.C. Citations in Municipal Court

Minturn requests that, in addition to traffic offenses, more local infractions be cited into Municipal Court on an as needed basis. Examples of these offenses are: lesser juvenile offenses, drunk and disorderly citations, etc. As the working relationship of the deputies and town officials develops, I believe an understanding of which types of offenses are appropriate to be cited into Municipal Court can be agreed upon.

3. IV.A. Provision of Vehicles

Attached are two options for vehicle leasing, provided by Harry Taylor. Which option is being used in the agreement? If the agreement is not renewed at the end of the term, should Minturn become the owner of the vehicles.

4. VII.A. Increased Cost of Services

Minturn believes the increased costs of services should be the lesser of (a) the Denver/Boulder CPI for the previous year, or (b) 5.0%.

5. Sex Offender Registration

ECSO should handle the sex offender registrations in Minturn because of the specialized nature of training. Currently Minturn has two registered offenders. I have discussed this with Sheriff Hoy and he is agreeable for ECSO to perform this task.

Let's plan a time to discuss these matters. I look forward to hearing from you.

Willy Powell

Acting Town Manager

Town of Minturn

manager@minturn.org

[970-827-5645](tel:970-827-5645)

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Mike McWilliam
Undersheriff
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FAX: (970) 328-1448
mike.mcwilliam@eaglecounty.us

County draft

INTERGOVERNMENTAL AGREEMENT FOR COOPERATIVE LAW ENFORCEMENT SERVICES

INTERGOVERNMENTAL AGREEMENT FOR COOPERATIVE LAW ENFORCEMENT SERVICES (the "Agreement"), made and entered effective the 1st day of January, 2014, between the Town of Minturn, Colorado, a municipal corporation, by and through its Town Council (the "Town"); and the County of Eagle, Colorado, a body corporate and politic, by and through its Board of County Commissioners (the "County"). The Eagle County Sheriff's Office (the "Sheriff") will administer this Agreement on behalf of the County and perform the obligations of the County described herein.

WITNESSETH:

WHEREAS, the Town and the County desire to enter into, and be bound by, an Intergovernmental Agreement for Cooperative Law Enforcement Services dated as of January 1, 2014 whereby the Town contracts with the County for provision of law enforcement services; and WHEREAS, the Town and County now desire to enter into their agreement to the terms and conditions associated with the performance of law enforcement protection services within the Town as provided by the County through the Sheriff.

WHEREAS, such intergovernmental agreements are authorized and provided for under Section 29-1-201, *et seq.*, C.R.S.

NOW, THEREFORE, it is agreed as follows:

I. Purpose of the Agreement

This Agreement is made between the Town and County to provide for law enforcement protection services as described herein.

II. Services to be Provided

The County shall provide the following law enforcement protection services within the corporate boundaries of the Town:

A. Except as otherwise specifically set forth, the services shall be those duties and functions coming within the jurisdiction of the County pursuant to Colorado law.

B. The standards of peace officer performances, the discipline of deputies and other matters incident to the performance of law enforcement services and control of personnel so employed, shall remain in and under the sole control of the County.

C. Except as otherwise specifically set forth, the standard level of services provided shall be the same level of services which are provided for unincorporated areas of similar population density in Eagle County. Said standard level of services shall include, but not limited to, the following:

1. From January 1, 2014, through December 31, 2017, the County will provide 300 hours of patrol services per month within the corporate limits of Town. These hours will include court time, up to 32 hours of training per month, and up to 96 benefit hours per month.
2. On-call response to complaints and services from the Town or the public. On- call availability shall consist of all daily hours not covered by routine or random patrol, and responses to request will be authorized by the on-duty supervisor.
3. The actual time periods during each day spent in providing patrol services shall be dependent upon several factors including, but not limited to, the day of the week, the time of the month, school day versus non-school day, needs of the community, holiday, etc. The normal scheduled hours shall be between 0600 hours and 0300 hours. These times will not include travel time to and from Eagle or briefing time. The County is allowed to use flexible scheduling to prevent the development of patrol hour patterns. Extra hours worked in any month will be applied to any month where the number of hours worked does not total the contracted requirement.
4. Patrol services shall include, but not limited to, the following: general traffic enforcement, business checks by foot patrol or vehicle, vacation checks of private residences (as requested), development and maintenance of crime prevention programs for commercial and residential use, special events (Minturn Farmer's Market, Fourth of July, etc.), investigation of traffic accidents (excluding Hwy 24 which will be covered by the Colorado State Patrol), investigation of criminal offenses (including the use of criminal investigators and forensic laboratory capabilities), narcotics investigations and Vin checks.
5. Patrol services shall also include the enforcement of Colorado state statutes and county and municipal ordinances which are of the same type and nature as Colorado laws enforced by the County within unincorporated Eagle County. The County shall enforce Title 10 (Vehicles and Safety) of the Town's Municipal Code. The County will not handle any non-hazardous animal calls under this Agreement.
6. The County acknowledges that personnel assigned to the Town have been notified of their duty to cooperate with state and federal officials with regards to enforcement of state and federal laws regarding immigration and their duties to comply with the provisions of C.R.S. § 29-29-103(2).

III. Municipal and County Court

A. It is agreed the Sheriff's deputies making arrests or issuing summons to violators for appearance in court shall appear at the appointed time and date to give all evidence and testimony required by the court. Sheriff's deputies failing to comply with this requirement may be subject to disciplinary action by the County. The County shall notify the Town if any disciplinary action is taken by the County in the enforcement of this provision in the monthly report submitted pursuant to Section VI(A).

B. It is agreed that deputies assigned to the Town will not act as court recorders and are not held responsible for scheduling or monitoring of community service sentenced by the court.

C. It is agreed that deputies working in the Town Limits of Minturn and only when issuing traffic citations will cite such violations into Minturn Municipal Court (as opposed to state tickets).

IV. Personnel and Equipment

A. It is agreed that the County shall furnish and supply all labor, supervision, equipment, communication facilities for dispatching, cost of jail detention, and all supplies necessary to maintain services to be rendered.

B. The Town will provide access to the Town Hall and/or other Town owned facilities and equipment for administrative use by the County in conjunction with this Agreement.

V. Liability of the Parties

A. Nothing in this Agreement shall constitute a waiver of any of the rights, remedies or obligations of the Colorado Governmental Immunities Act or other Colorado law.

B. Any person employed by County for the performance of services and functions pursuant to this Agreement shall remain employees of the County on special assignment to the Town for the purposes of this Agreement, and shall not be considered employees of Town. No such County employee shall have any entitlement to compensation, workers' compensation coverage, pension, or civil service benefits from Town. The Town shall not assume any liability for the direct payment of any salaries, wages or other compensation to any County personnel performing services hereunder for the Town, or any liability other than that provided for in this Agreement. Except as herein otherwise specified, the Town shall not be liable for compensation or indemnity to any County employee providing services to the Town under this Agreement, for such employee's injury or sickness, whether or not such injury or sickness arises out of services provided to the Town. The County shall to the extent of County insurance cover such liability, defend and hold harmless the Town against any such claims and provide any required workers' compensation insurance program and unemployment insurance coverage for the County employee. Any release, hold harmless and indemnity given hereunder shall not constitute a waiver of any rights or immunities afforded to the County under § 24-10-107, *et seq.*, C.R.S.

VI. Monthly Reports Provided to the Town

A. It is agreed that the Sheriff or designee shall provide a monthly written report to the Town Manager detailing law enforcement and public services activities provided under this Agreement. Said report shall be submitted to the Town prior to the 15th of the following month. The contents of the report, or portions thereof, shall be released to the public only upon the written authorization of the Sheriff. The report may also include suggestions

and/or accommodation by the Eagle County Sheriff's Office by way of joint efforts between the Town and the County for pro-active community policing programs where applicable.

B. Prior to the first of each month, the County will provide to the Town, through the Town Manager, a schedule of the days and times to be worked in the month. This schedule may be modified during the month to conform to the needs of the community as expressed by the Town. The schedule is confidential and will not be released without the written authorization of the Sheriff.

VII. Payments for Services Delivered

A. The Town hereby agrees to pay the County an amount not to exceed \$330,000 in 2014, with 5% increases each year thereafter in 2015, 2016, and 2017, for the services described herein. The Town will make equal payments quarterly to the Eagle County Sheriff's Office. Payments are due on the 15th of the month in March, June, September, and December.

B. The Town may deduct from its final monthly payment the sum of \$50.00 times the number of hours patrol services shortage occurring cumulatively throughout the year. Extra hours worked in any month will be applied to any month where the number of hours worked does not total contract requirement.

C. County also agrees that all vehicles used by Minturn Deputies are to be marked as "Eagle County Sheriff's Office."

VIII. Termination of the Agreement

Either party shall have the right to terminate this Agreement at any time provided that the party wishing to terminate provides the other party at least one hundred eighty days (180) written notice of its intention to terminate. In the event that either party elects to terminate this Agreement during its term or fails to agree to renewal as provided in Section X, the Town shall be liable for payment in full to the County for its services to the date of the termination of the Agreement.

IX. Liaison Between the Parties

A. It is agreed that the Sheriff shall have full cooperation of the Town, its officers, agents, and employees, so as to facilitate the performance of this Agreement.

B. It is agreed that for the purpose of maintaining cooperation, local control, and general information on existing complaints and problems in the Town, each party shall appoint a liaison through which written and oral communication between the parties shall be directed. The Town's liaison shall be the Town Manager. The Sheriff will appoint the Undersheriff as the

liaison to the Town of Minturn. It is agreed that the Town shall have full cooperation of the Sheriff and his representatives in response to pre-existing complaints and/or problems and they shall promptly take steps to resolve the situation in a manner mutually agreeable to the Town and the County, understanding that the Sheriff is the final authority on such issues.

C. The Sheriff will review this Agreement annually to insure that all elements of the Agreement are being met, and will meet with a representative of the recipient government to review and discuss the performance of the Agreement.

X. Renewal and Modification of the Agreement

A. This Agreement may be renewed in writing signed by the parties. Renegotiation of the terms, payments, and services provided will be included in any renewal agreement.

B. Any changes to this Agreement shall be made only by written amendment signed by the parties.

XI. Term of Agreement

This Agreement shall be effective upon the first day of January, 2014 through the thirty-first day of December, 2017. Notwithstanding the foregoing and any other provisions of this Agreement, the terms and obligations of this Agreement are subject to annual appropriations by the parties so as to not create a multiple fiscal year obligation pursuant to Article X, Section 20 of the Colorado Constitution.

XII. Entire Agreement

This written Agreement embodies the whole agreement between the parties hereto and there are no inducements, promises, terms, conditions, or obligations made or entered into either by the County or the Town other than that contained herein.

XIII. Assignment

This Agreement shall be binding upon the respective parties hereto, their successors or assigns, and may not be assigned by anyone without the prior written consent of the respective parties hereto.

XIV. Severability

All agreements and covenants herein are severable, and in the event that any of them shall be held invalid by a Court of competent jurisdiction, this Agreement shall be interpreted as if such invalid agreement or covenant were not contained herein.

XV. Authority

The Town represents to the County and, likewise, the County represents to the Town that it possesses the legal ability to enter into this Agreement. In the event that a Court of competent

jurisdiction determines that either of the parties hereto do not possess the legal ability to enter into this Agreement, this Agreement shall be considered null and void as of the date of such Court determination.

IN WITNESS WHEREOF, the Town of Minturn, by and through its Town Council, caused this Agreement to be signed by its Mayor and attested by its Town Clerk, and the County of Eagle, by and through its Board of County Commissioners, caused this Agreement to be signed by its Chairman, attested by its Deputy Clerk, and approved by its Sheriff, all on the day and year first above written.

COUNTY OF EAGLE, STATE OF COLORADO, by and through its BOARD OF COUNTY COMMISSIONERS

ATTEST:

By: _____ By: _____
Clerk to the Board of County Commissioners Jill Ryan, Chairman County Commissioners

TOWN OF MINTURN, STATE OF COLORADO, by and through its TOWN COUNCIL

ATTEST:

By: _____ By: _____
Clerk to the Town Council Gordon "Hawkeye" Flaherty, Mayor

APPROVED:

By: _____
Joseph D. Hoy, Eagle County Sheriff

Project Review Report

Planning Commission

June 11, 2014

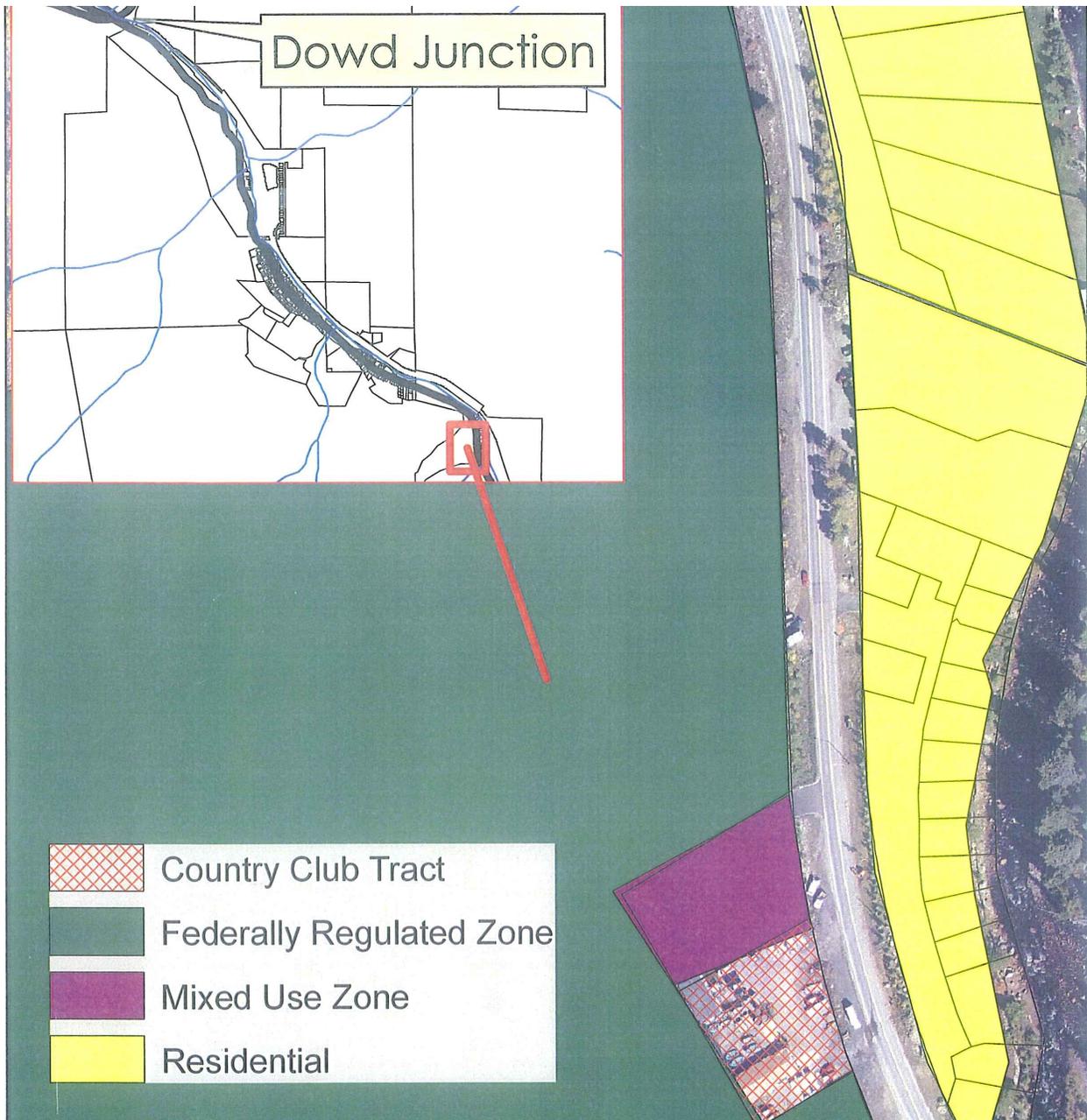


Project Name: Quintana Country Club Subdivision: Pre-application Conference
Project Number: #14DBR010

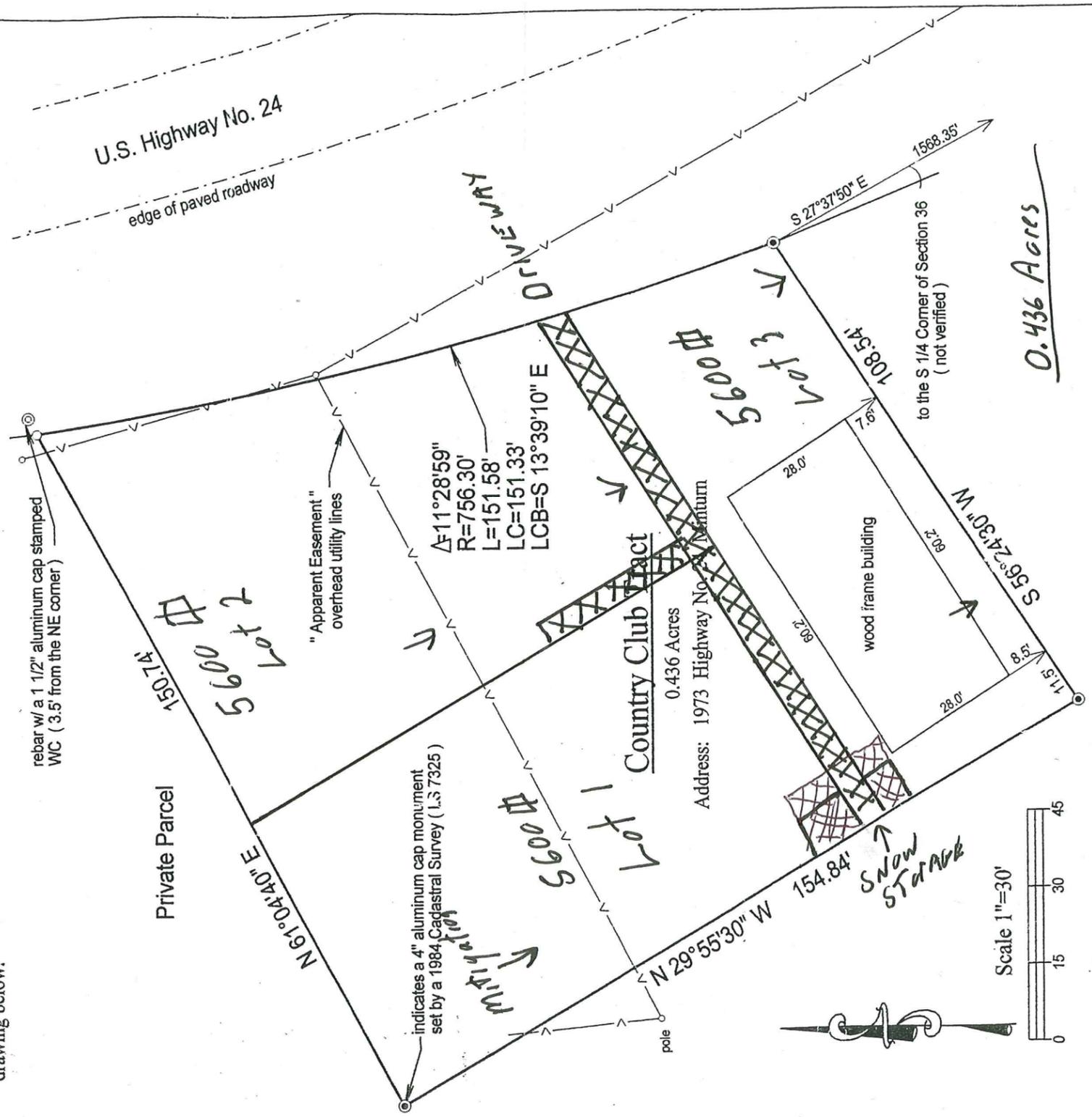
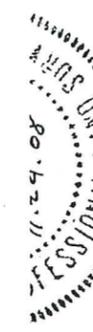
Project Request: The applicant: Frances R. Quintana is requesting the Country Club Tract Parcel to be subdivided into 3 residential parcels. The parcel is presently commercial and would be rezoned residential.

Minturn Codes Regarding this Project:

- Chapter 16 - Article 9 Cross Creek Character Area Section 1116-9-10 to 16-9-80
- Chapter 17 Subdivisions - Article 1 - 7



Notes:
 Recorded information and the legal description was provided by Randy Quintana.
 The legal description was taken from a deed recorded at Reception No. 244602. The monumenting and fencing described in this description have been lost and were replaced by the monuments set in more recent surveys (by others) and are described on the drawing below.



Note: According to Colorado law, you must commence any legal action based upon any defect on this certificate within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten

Project Review Report

Planning Commission

June 11, 2014

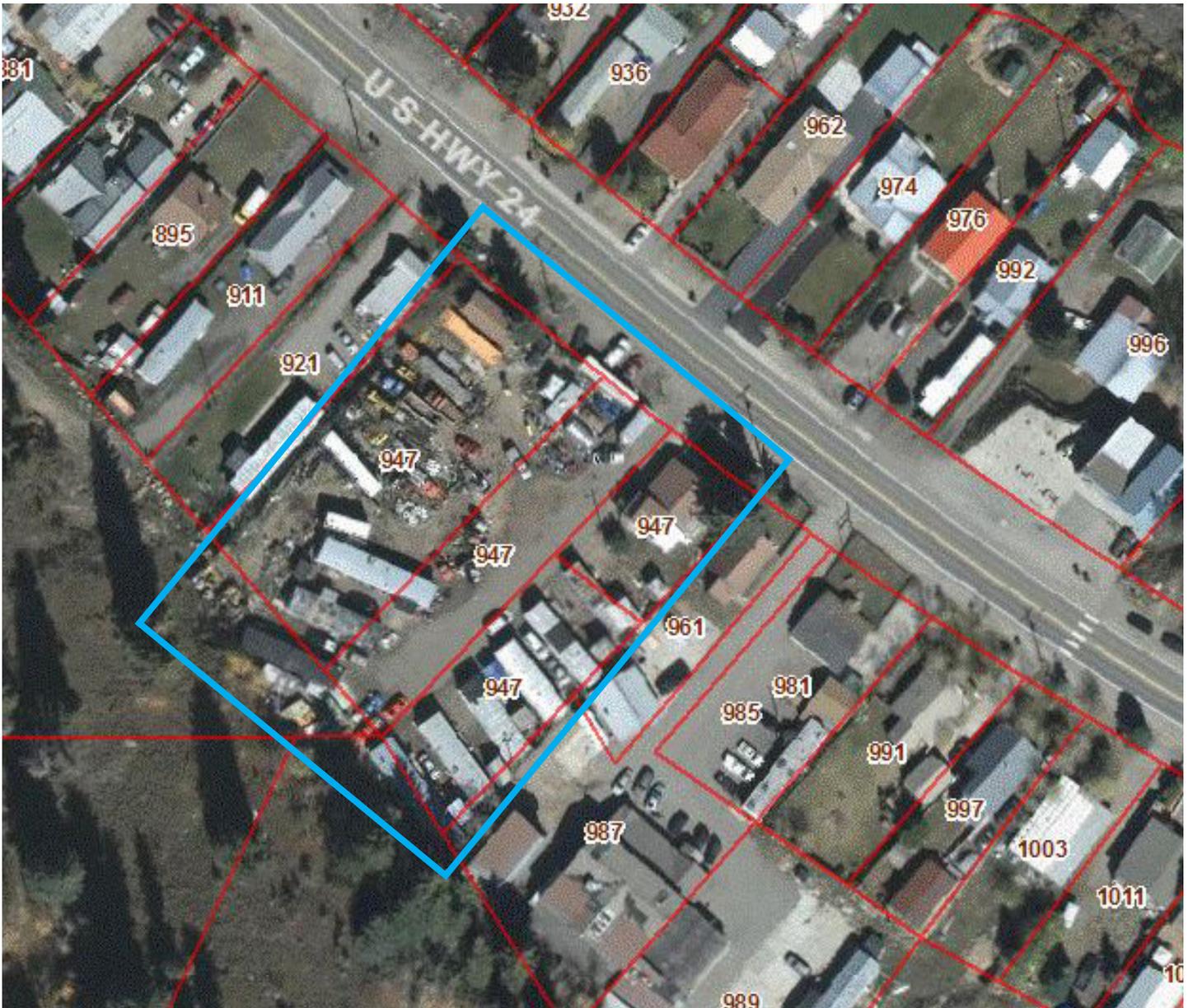


Project Name: Quintana Subdivision I: Pre-application Conference
Project Number: #14DBR011

Project Request: The applicant: Frances R. Quintana is requesting the 4 properties addressed 947 Main Street A-D at 1.08 acres be combined and then divided into 1 lot and subdivided into 8 residential lots at 5,000 or more square feet per lot. The parcel is presently commercial and would be re-zoned residential. There is a preliminary sketch for open space, common space and snow storage.

Minturn Codes Regarding this Project:

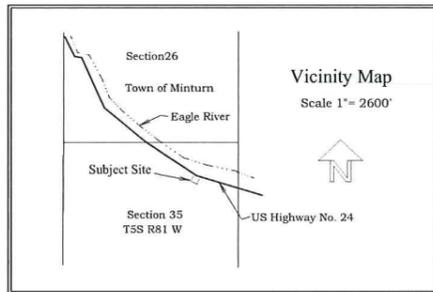
- Chapter 16 - Article 7 - South Minturn Area - Section 16-7-10 to 16-7-80
- Chapter 17 Subdivisions - Article 1 - 7



PL

FINAL PLAT QUINTANA SUBDIVISION

PART OF THE NE 1/4 OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO



Legend
All symbols and line types are labeled.

Preliminary

TITLE CERTIFICATE

_____ does hereby certify that it has examined the title to all lands shown upon this plat and that title to such lands is vested in _____ and is free and clear of all liens, taxes and encumbrances except as follows:

Dated this _____ day of _____, A.D., 2009.

Agent _____

LAND USE SUMMARY

PARCEL	AREA	USE	ADDRESS
LOT 1	Acres	single family	Main Street
LOT 2	Acres	single family	Main Street
LOT 3	Acres	single family	Main Street
LOT 4			
LOT 5			
LOT 6			
LOT 7			
LOT 8			

Addresses are for informational purposes only and may be subject to change. Please verify address with the Eagle County Department of Community Development.

CERTIFICATE OF DEDICATION AND OWNERSHIP

Know all men by these presents that Isidoro O. Quintana and Frances R. Quintana being sole owner(s) in fee simple of all that is described as three parcels of land in a deed recorded in Book 348 at Page 261 of the Eagle County Clerk and Recorder's records the NE 1/4 of Section 35, Township 5 South, Range 81 West of the Sixth Principal Meridian, Town of Minturn, Eagle County, Colorado more particularly described as follows:

Beginning at a point on the southerly boundary line of U.S. Highway No. 24 and the northwest corner of a parcel of land recorded No. 788626 of said records; thence along the northwesterly line of said parcel described at Reception No. 788626 S 38°46'07" W 256.48 feet; thence N 36°44'33" W, a distance of 100.51 feet to the southeast corner of South Minturn Estates according to the records in Book 494 at Page 518 of said records; thence N 42°07'46" W, a distance of 112.38 feet along the northeasterly boundary line of South Minturn Estates; thence departing said northeasterly boundary line N 40°45'14" E, a distance of 209.63 feet along a private land being part of Lot 7 South Addition to the Town of Minturn to said southerly boundary line of U.S. Highway No. 24, thence a boundary line 201.10 feet along a curve to the left having a radius of 2905.00 feet, a central angle of 03°57'59" and a chord that 52°23'09" E 201.06 feet to the Point of Beginning, said described tract containing 1.1 Acres, more or less.

have by these presents laid out, platted and subdivided the same into lots and blocks as shown on this final plat under the name Final Plat, Quintana Subdivision, a subdivision in the Town of Minturn, County of Eagle; and do hereby accept the responsibility for completion of required improvements; and do hereby dedicate and set apart all of the public roads and other public improvements as shown on the accompanying plat to the use of the public forever; and do hereby dedicate those portions of said real property created as easements on the accompanying plat to the public forever as easements for the purposes shown herein, unless otherwise provided thereon; and do hereby grant the right to install and maintain necessary structures to the entity responsible for providing services for which the easements are established.

Executed this _____ day of _____, A.D., 2009.

Owner: Isidoro O. Quintana _____ Frances R. Quintana *Frances R. Quintana*
Address: 947 Main Street
Minturn, Co.

STATE OF _____)
COUNTY OF _____) SS

The foregoing Certificate of Dedication and Ownership was acknowledged before me this _____ day of _____, 2009, by Isidoro O. Quintana and Frances R. Quintana.

My commission Expires: _____

Witness my hand and official seal.

Notary Public _____

SURVEYOR'S CERTIFICATE

I, Leland Lechner, do hereby certify that I am a Professional Land Surveyor licensed under the laws of the State of Colorado, that this is a true, correct and complete plat of "Quintana Subdivision", as laid out, platted, dedicated and shown hereon, that such plat was an accurate survey of said property by me and/or under my supervision and correctly shows the location and dimensions of the easements, and streets of said subdivision as the same are staked upon the ground in compliance with applicable regulations of the subdivision of land.

In Witness Whereof, I have set my hand and seal this _____ day of _____, A.D., 2009.

Leland Lechner
P.L.S. 23506

MINTURN TOWN CERTIFICATE

This Plat approved by the Town Council of the Town of Minturn, County of Eagle, State of Colorado, this _____ day of _____, A.D., 2009, for filing with the Clerk and Recorder of Eagle County. This plat shall supersede the prior plat, subject to the provision that approval in no way obligates the Town of Minturn for financing or construction of improvements on lands, streets or easements dedicated except as indicated. This certificate further evidences the vacation of any and all roadways which may have previously designated on such prior plat or which roadway may have been otherwise conveyed to or acquired by the Town of Minturn, title, interest of Minturn to any such roadway has been divested and this certificate confirms the vacation of such road. Approval of this plat by the Town is a consent only and is not to be construed as an approval of the technical correctness of the any documentation relating thereto.

Witness my hand and seal of the Town of Minturn.

Town Council of the Town of Minturn.

By: _____
Mayor

Attest: _____
Town Clerk

CERTIFICATE OF TAXES PAID

I, the undersigned, do hereby certify that the entire amount of taxes and assessments due and payable as of _____ parcels of real estate described on this plat are paid in full.

Dated this _____ day of _____, A.D., 2009.

Treasurer of Eagle County _____

CLERK AND RECORDER'S CERTIFICATE

This plat was filed for record in the Office of the Clerk and Recorder at _____ o'clock _____ on this _____ day of _____, 2009 and is duly recorded at Reception No. _____.

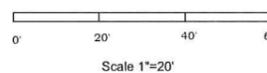
Clerk and Recorder _____

By: _____
Deputy

GENERAL NOTES

- 1) Date of survey: May, 2009
- 2) Bearings are based on a line connecting the NE corner of Section 35 with the E 1/4 corner of Section 35 being S 00°02'00" E. The monuments found are brass cap monuments found in place.
- 3) Monumentation is as indicated on the drawing.
- 4) The purpose of this plat is to subdivide the parcel described hereon in 8 single family residential lots with an Access and Utility Easement as shown.

Notice: According to Colorado Law you must commence any legal action based upon this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.



TOWN OF MINTURN EAGLE PARK RESTROOM

CHECK SET

605

LaN

0.0

06-11-14

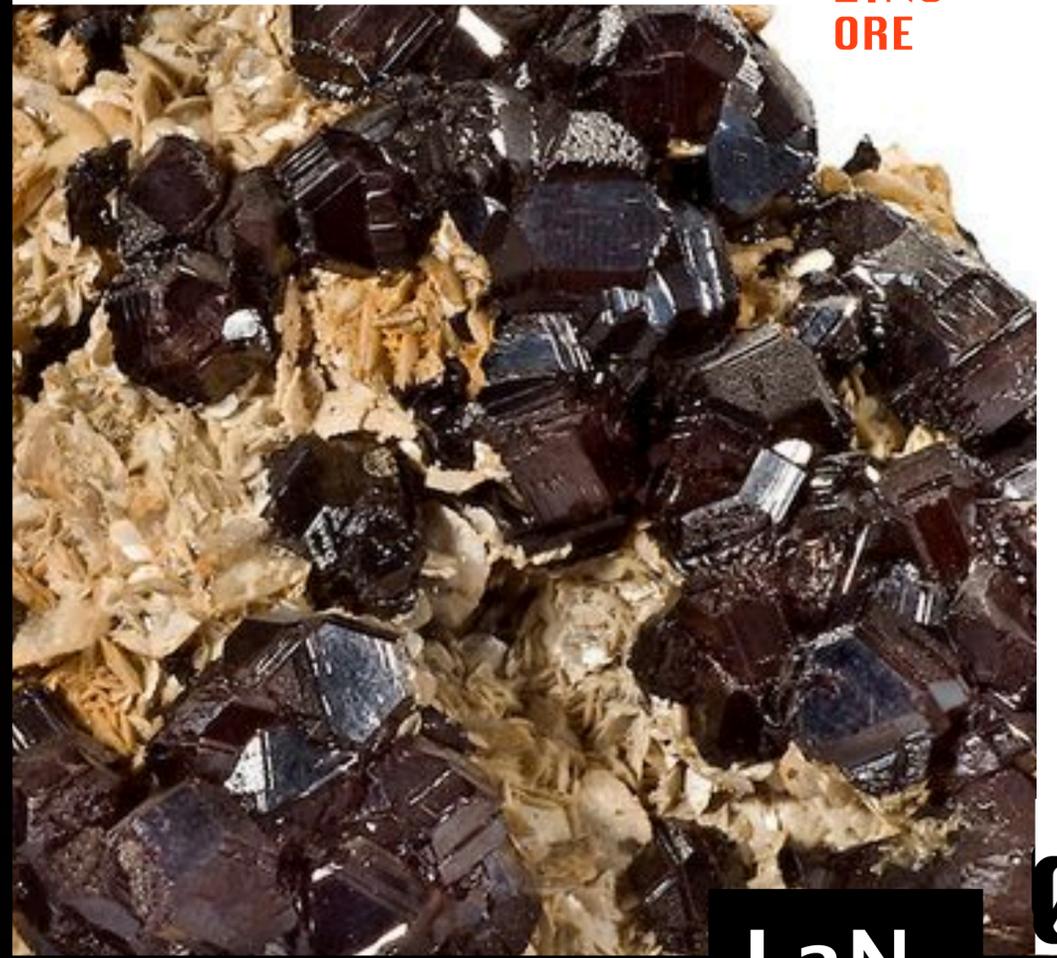
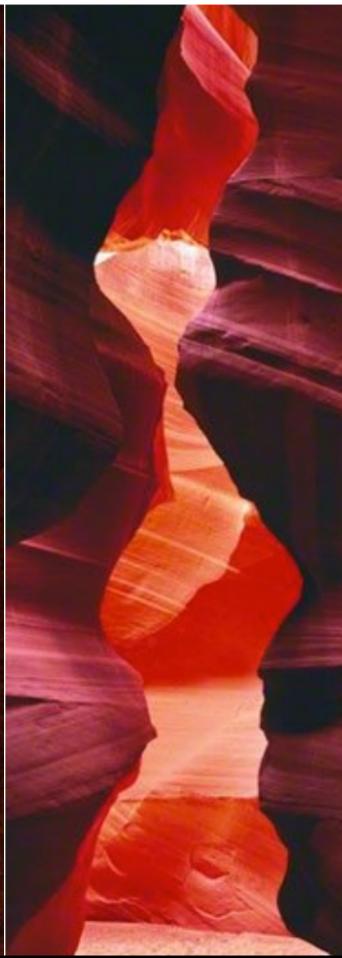


MINE SHAFT ^ COLORADO

DRAMATIC /TACTILE PASSAGeways

EAGLE MINE GILMAN v

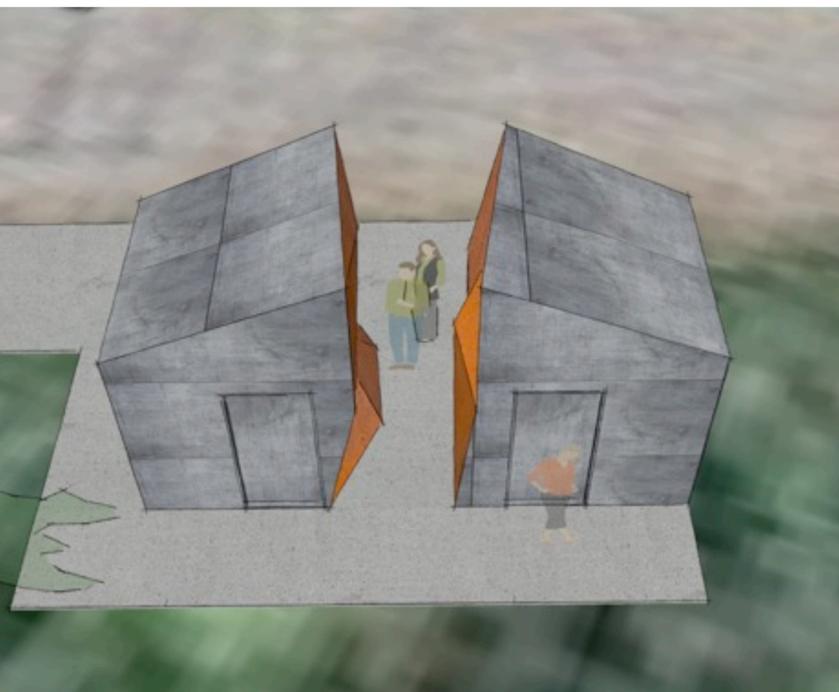
^ MOLTEN ZINC ORE



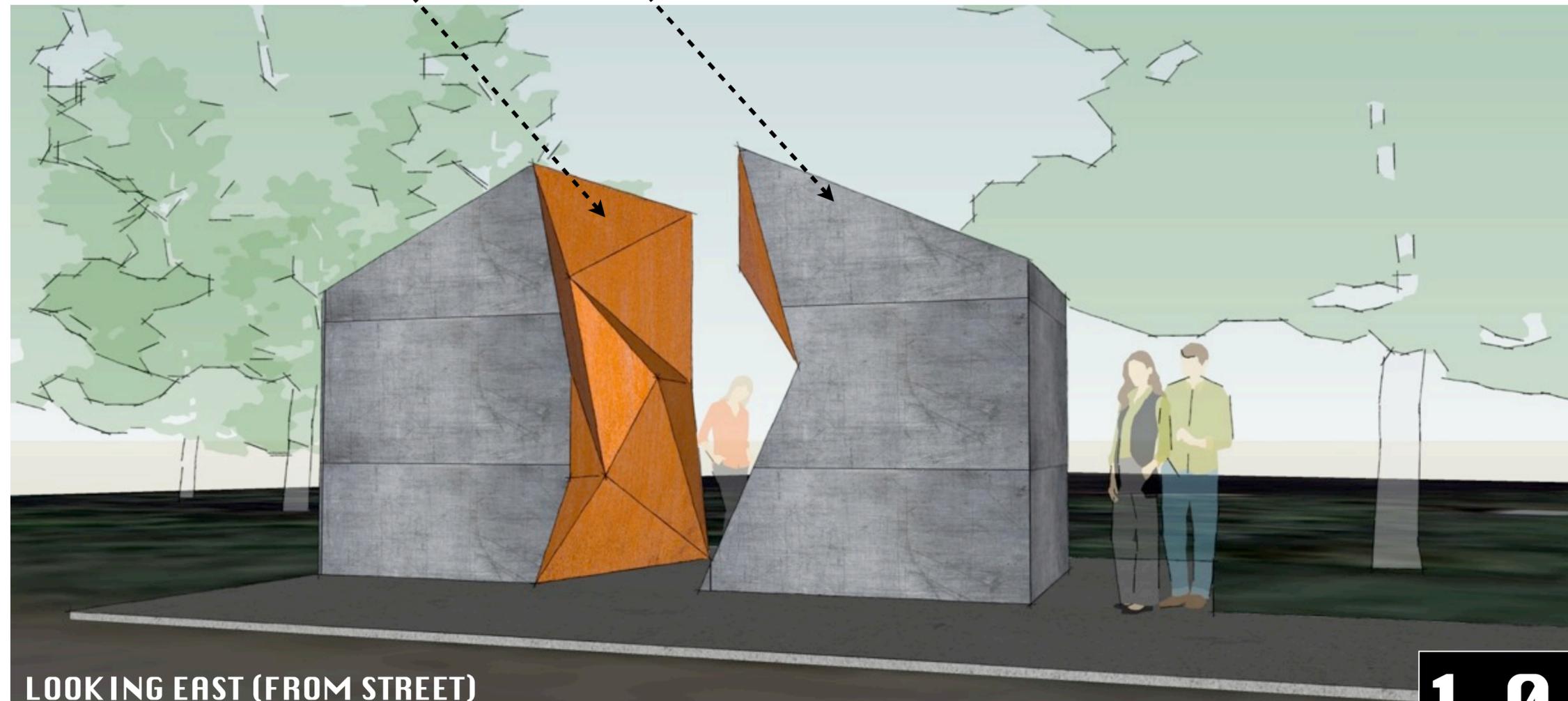
REFERENCE IMAGES



MATERIALS
 GALVANIZED & ETCHED STEEL EXTERIOR,
 W/ CNC CUT MDO PANELS.

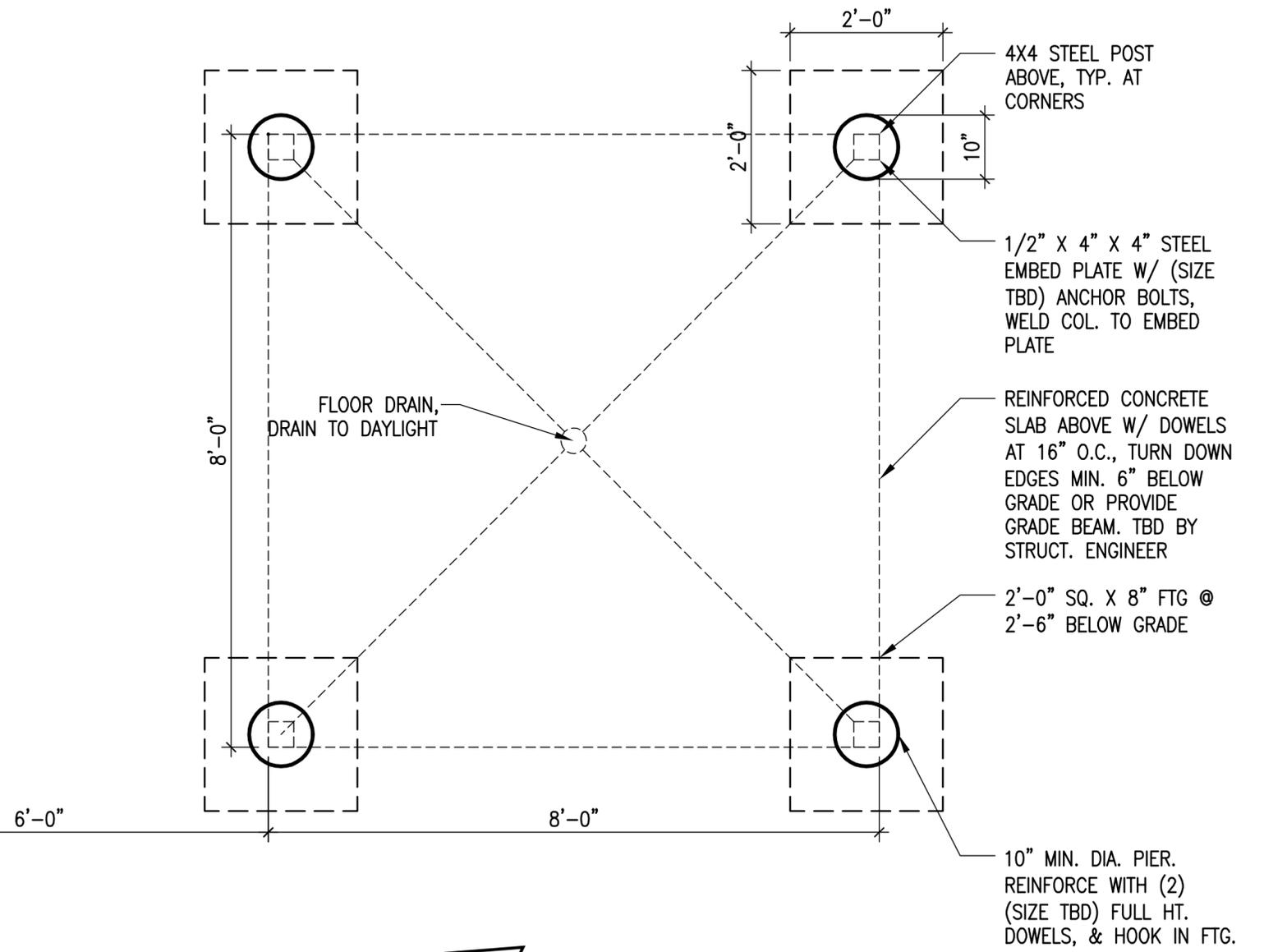
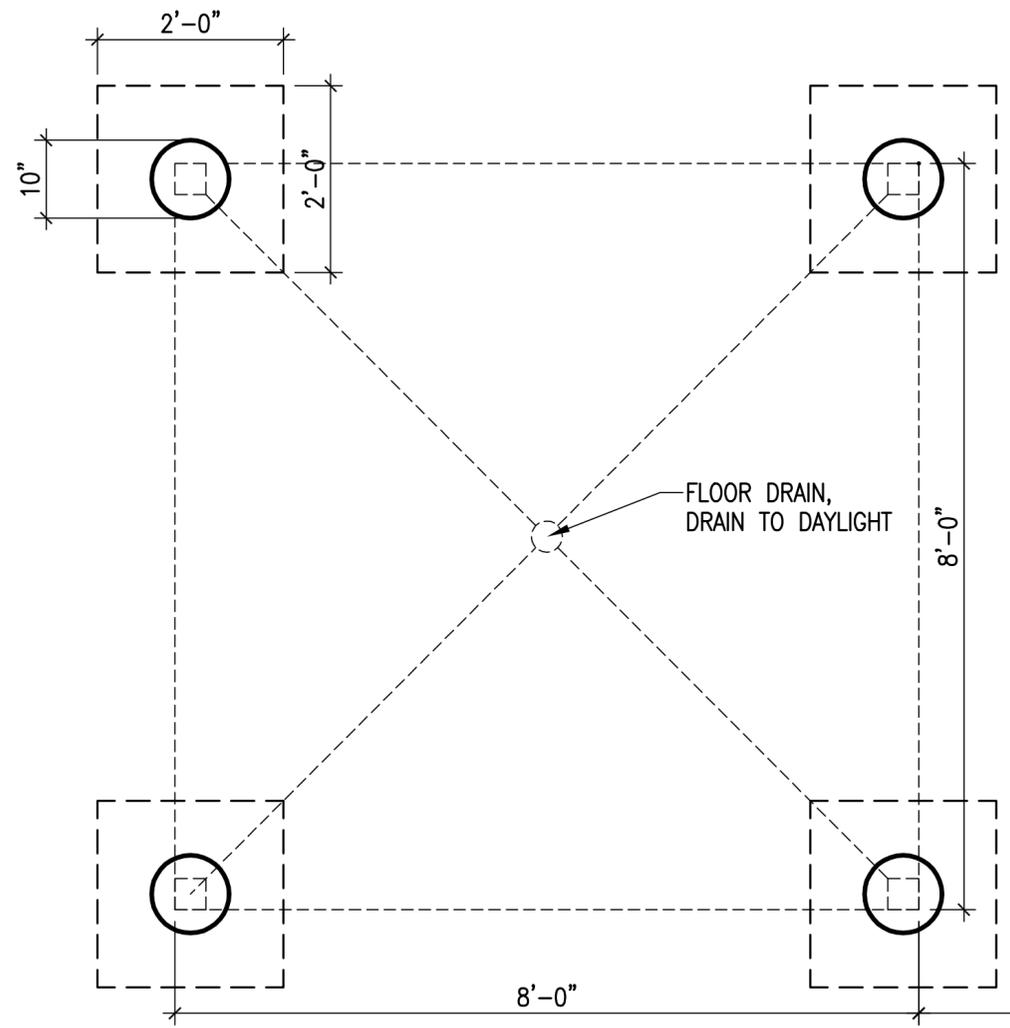


LOOKING WEST
 DOORS AROUND BACK SIDE MAKE FOR
 NECESSARY TRAVEL THROUGH CANYON.

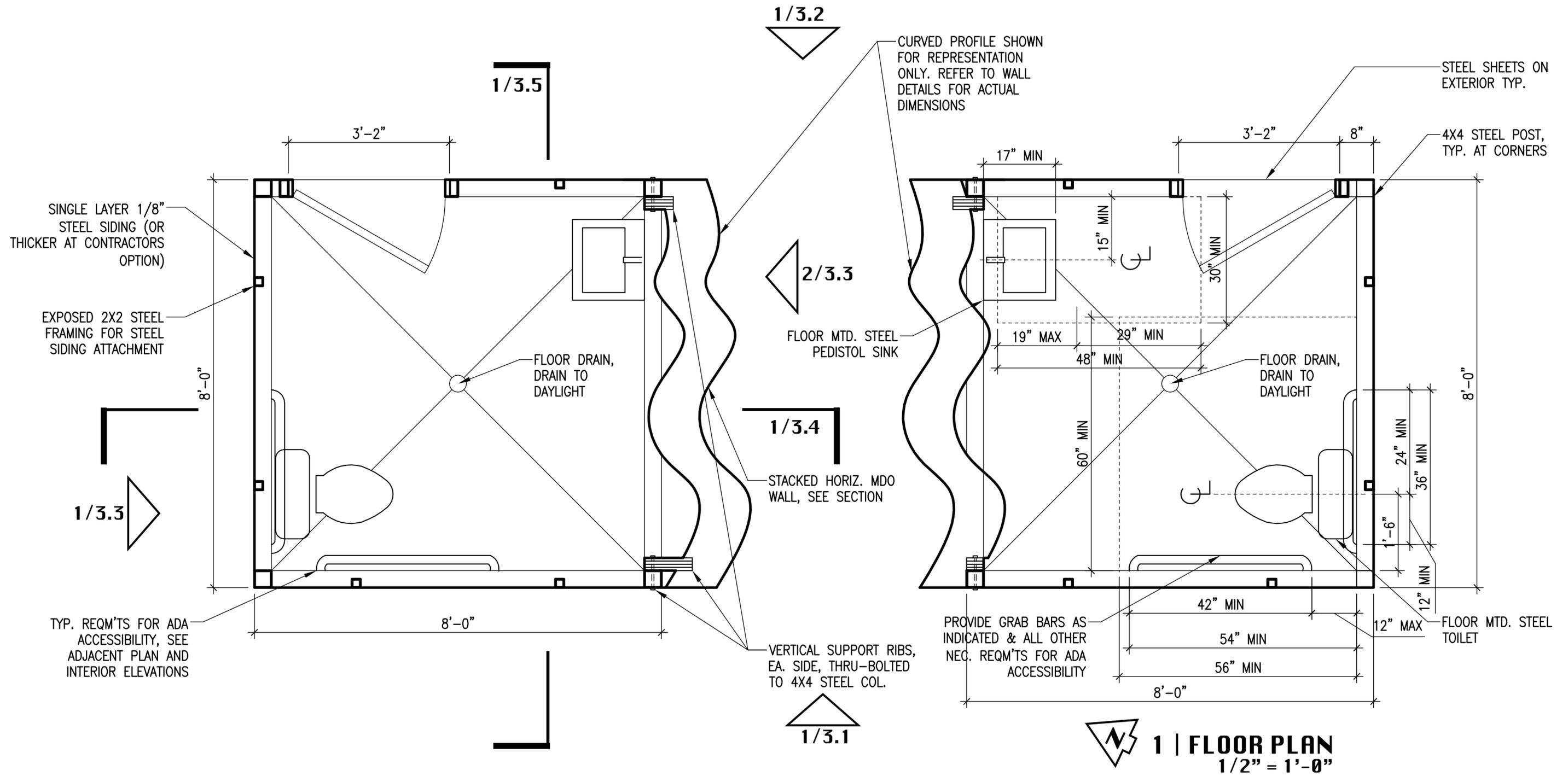


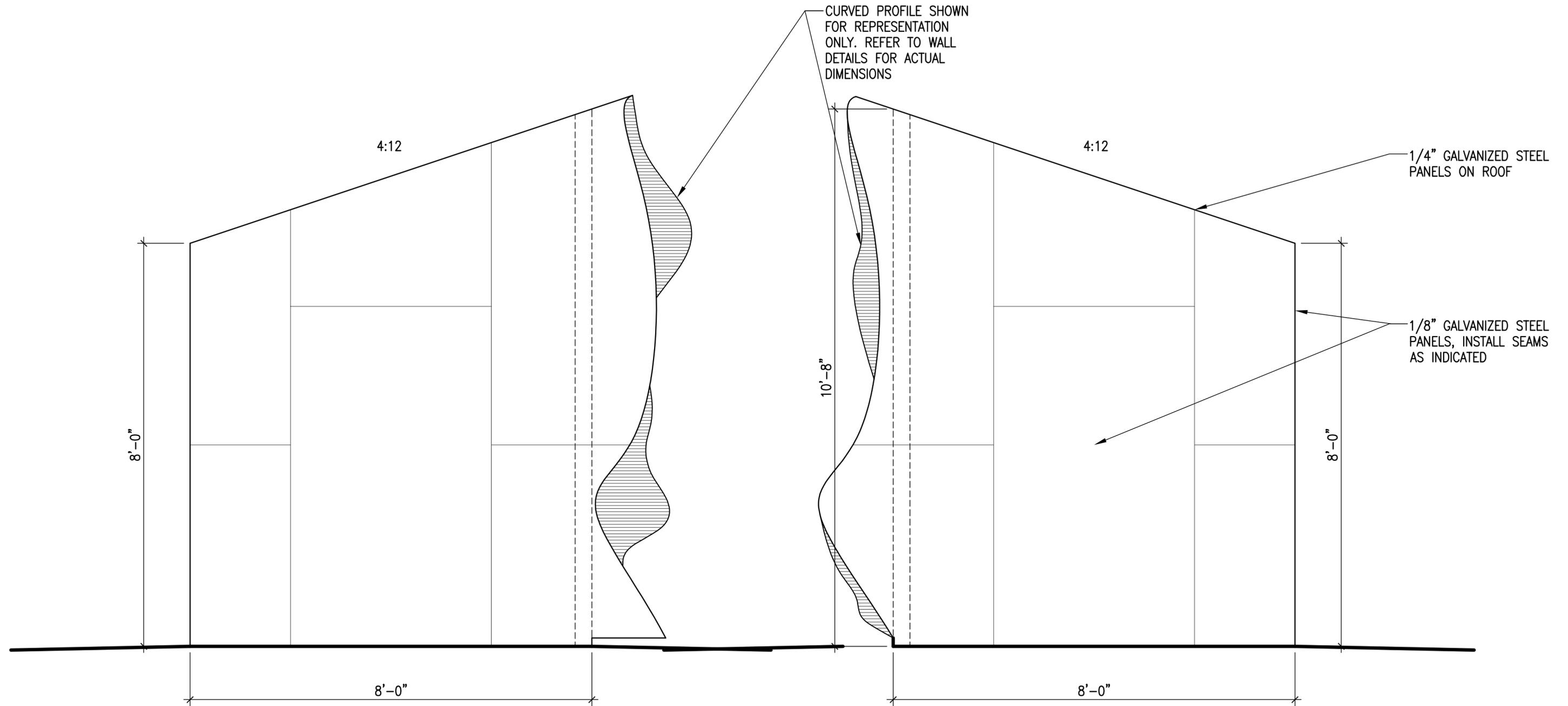
LOOKING EAST (FROM STREET)
 FROM THE STREET, BATHROOMS
 RESEMBLE A SCULPTURE.

PERSPECTIVE VIEWS

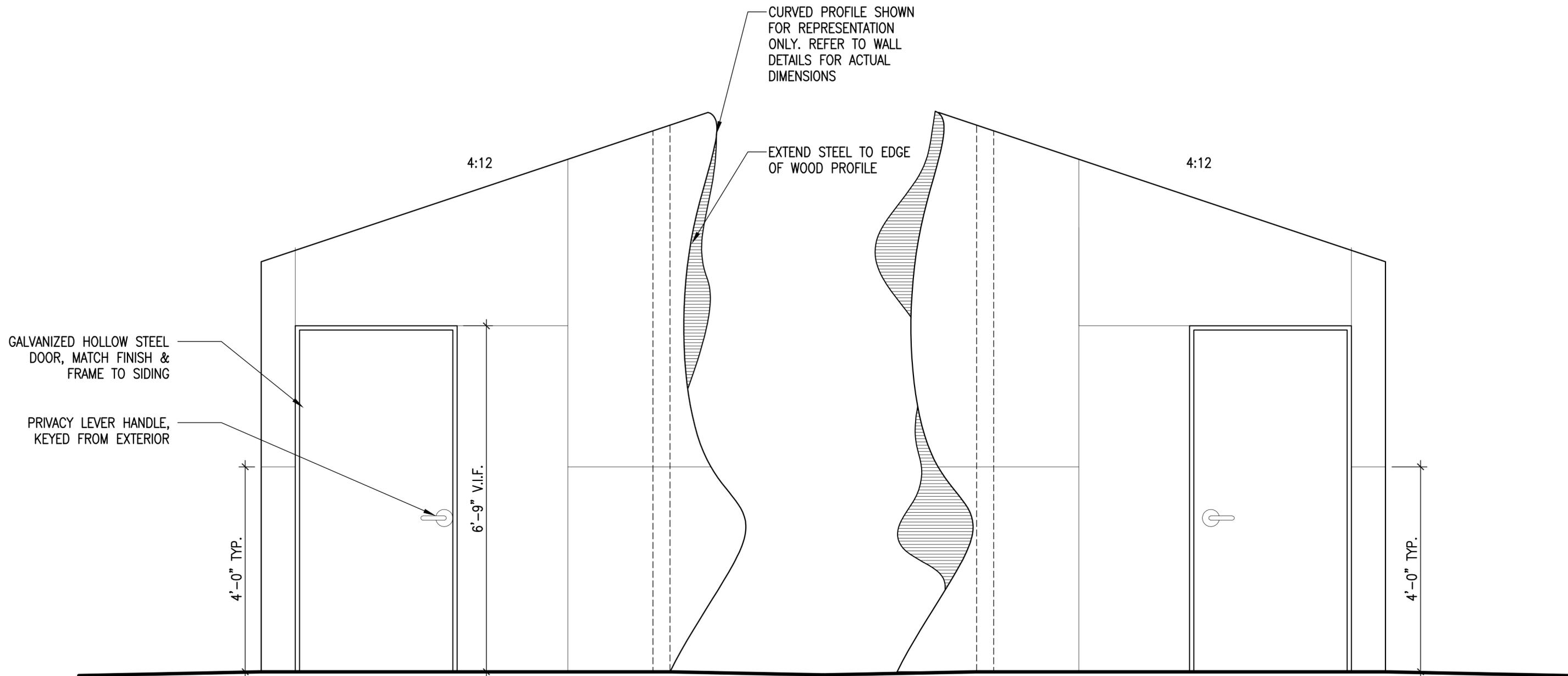


1 | FOUNDATION PLAN
1/2" = 1'-0"

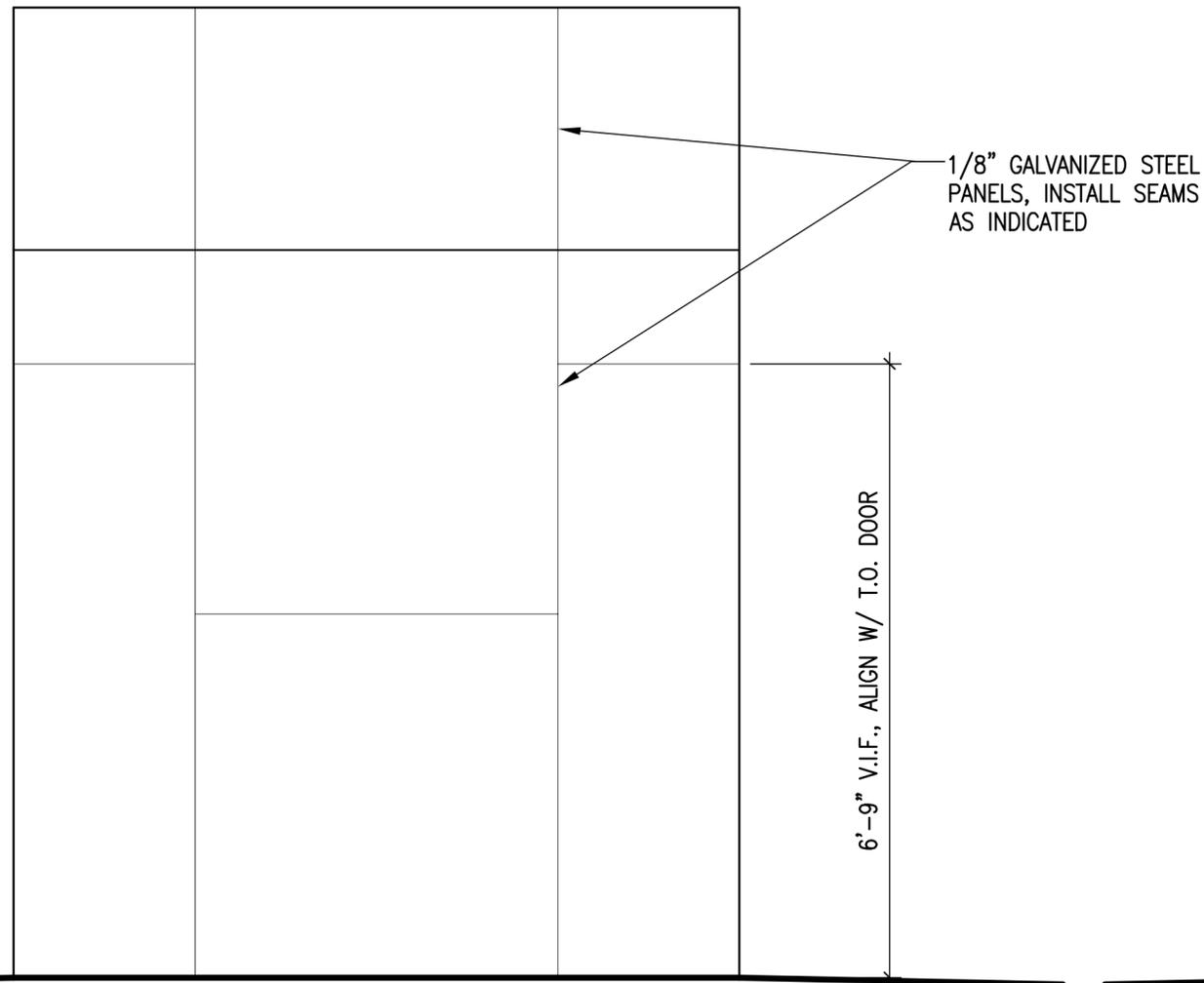




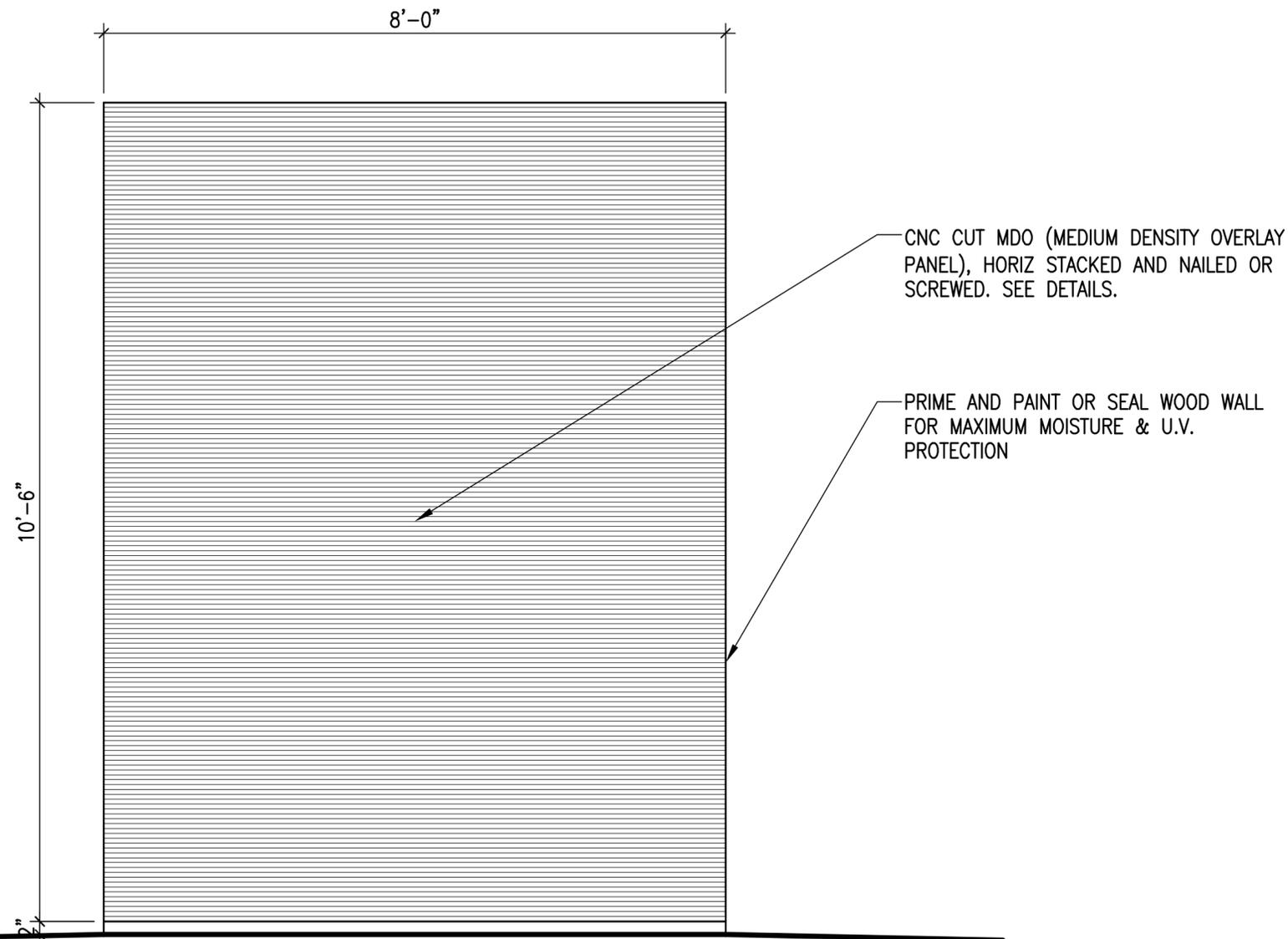
1 | WEST ELEVATION
 1/2" = 1'-0"



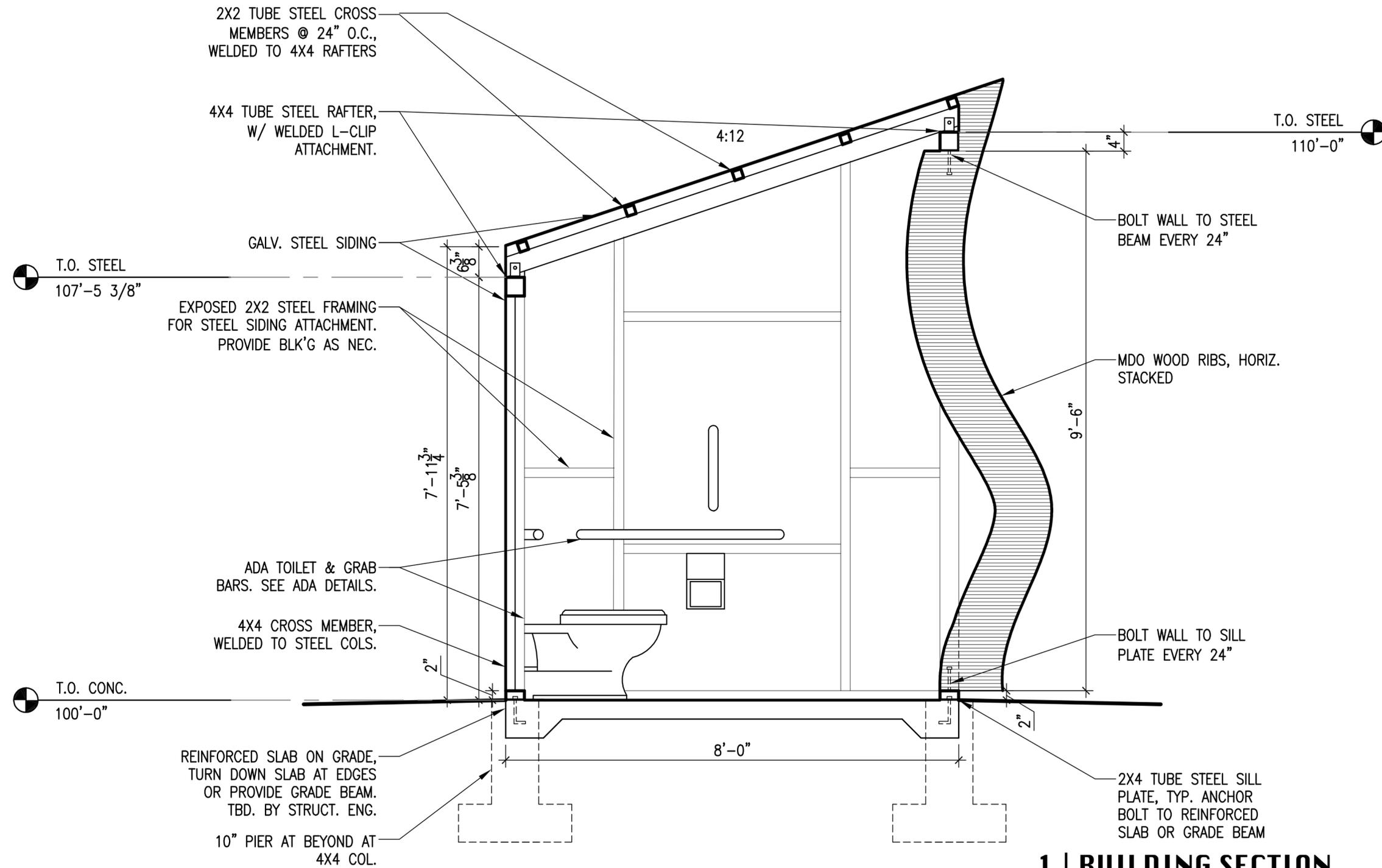
1 | EAST ELEVATION
 1/2" = 1'-0"



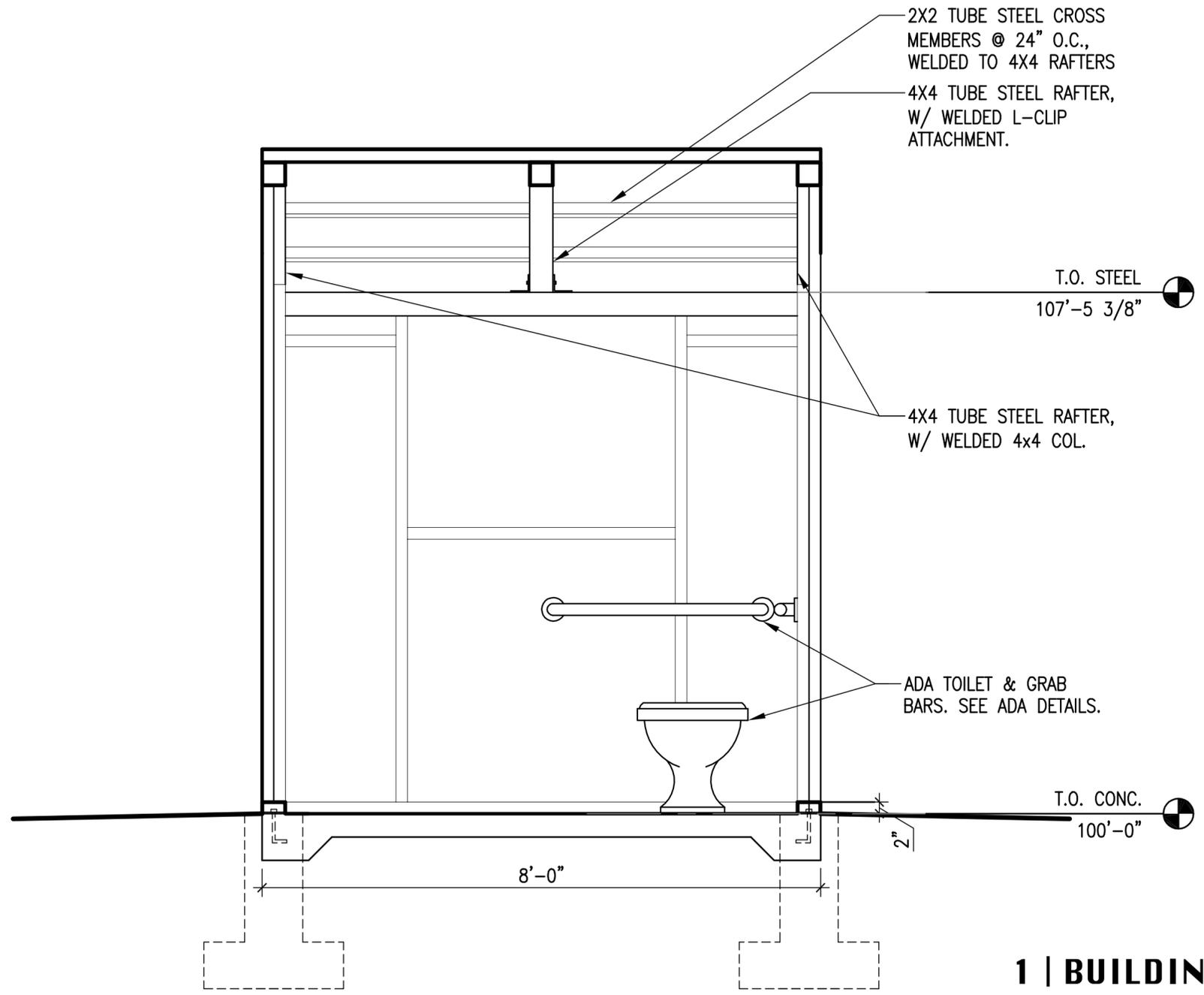
1 | NORTH ELEVATION
1/2" = 1'-0"



2 | SOUTH ELEVATION
1/2" = 1'-0"

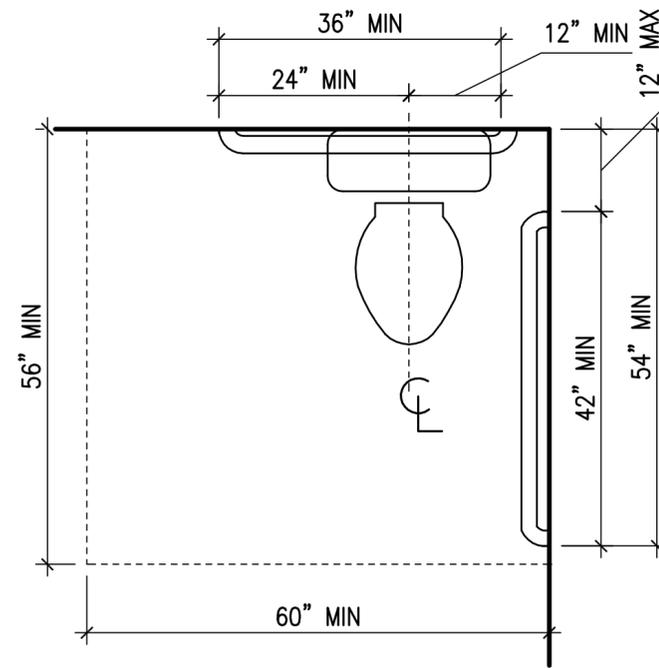


1 | BUILDING SECTION
 1/2" = 1'-0"

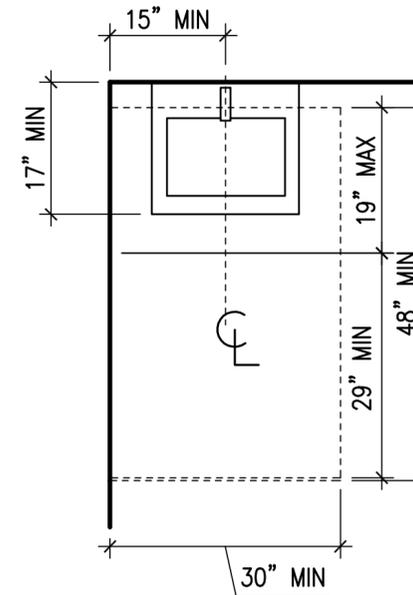


1 | BUILDING SECTION
 1/2" = 1'-0"

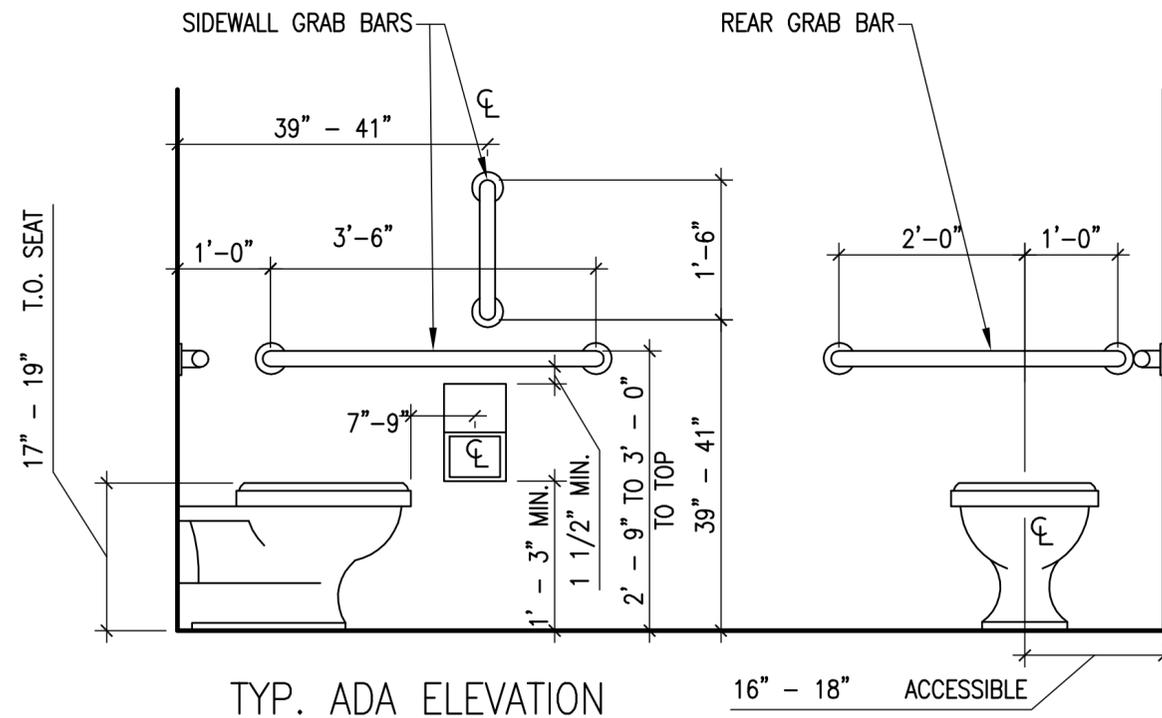
NOTE:
FLUSHING CONTROLS TO BE
MOUNTED FOR USE FROM THE WIDE
SIDE OF THE WATER CLOSET SPACE.



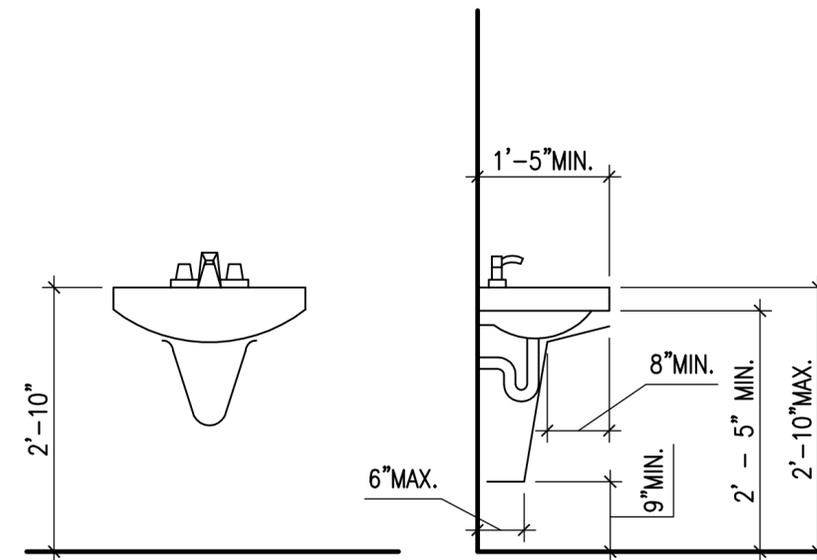
TYP. ADA PLAN



ADA LAV. PLAN



TYP. ADA ELEVATION



ADA LAV. ELEVATION

1 | ACCESSIBLE PLANS
1/2" = 1'-0"

Manager's Report June 18 Town Council Meeting

Taylor Street Parking

Hawkeye, George and Willy discussed the Taylor St. parking situation and the complaints from Mr. Koellhoffer. The three concluded the possible best manner in which to address the situation is the following.

- Keep regulations on the west side of Taylor as is, that is, parallel parking in summer and no parking in winter
- Allow parking on the east side to be all inclusive so long as cars are not parked in the travel lanes. All inclusive means parking which is: parallel, perpendicular and possibly angled.

Importantly Minturn passed Ordinance 2, Series 2014 which proposed angled parking on the entire east side of the street to become effective after regulatory signs are posted. This arrangement followed a series of hearings of the subject in 2013. The signs have not yet been posted.

The group would like to obtain the opinion of Council regarding all inclusive parking. If that option is decided upon, an amending ordinance will need to be adopted. Ordinance 2 is attached.

Lease of Town Manager Home to Jim White

Jim has requested of Hawkeye his desire to lease the Managers Home for several months. I am trying to determine the duration Jim is requesting and should have for the meeting. Hawkeye is asking the blessing of Council.

Start Date for Next Full-Time Manager

Hawkeye and Willy have been discussing Willy's tenure as Acting Manager and the desired start date for the full time Manager. The date is needed to decide the hiring schedule and process. Initially it was thought Powell would work until February, 2015 which is when the severance payments to Jim White end. In this way, Minturn would not be expensed for two full time Managers at the same time.

Retreat Date

Please think about over the weekend.

Training for Quasi-Judicial Hearings

Would Council like to have a presentation by CIRSA or is reading material sufficient with input from the Town Attorney.

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 2 – SERIES 2014**

**AN ORDINANCE ADOPTING A NEW ARTICLE 6 OF
CHAPTER 8 OF THE MINTURN MUNICIPAL CODE,
CONCERNING PARKING ON TAYLOR STREET**

WHEREAS, the Town of Minturn, has reviewed the existing parking needs of the citizens of Minturn and the requirements set forth in the 2003 Model Traffic Code for Colorado, as adopted by reference in the Minturn Municipal Code; and

WHEREAS, public meetings have been held by the Town Council of the Town of Minturn, Colorado, pursuant to notices required by law, at which the public was given an opportunity to express their opinions regarding the traffic and parking conditions along Taylor Street and proposed amendments to the regulation of traffic and parking thereon; and

WHEREAS, following such public hearings, Town Staff evaluated the conditions for parking on Taylor Street and has forwarded reports and recommendations on the proposed amendments to the Town Council; and

WHEREAS, Section 1205(3) of the Model Traffic Code authorizes the Town to permit angle parking on any roadway by ordinance, except that angle parking shall not be permitted on any state highway unless approved by the Colorado Department of Transportation; and

WHEREAS, none of the roadways that are the subject of this ordinance are state highways; and

WHEREAS, based on the evidence, testimony, exhibits, and recommendations of the citizens and Staff of the Town of Minturn, the Town Council of the Town of Minturn, Colorado, finds as follows:

1. The proper posting and public notice was provided as required by law for the meetings before Town Council of the Town of Minturn, Colorado.
2. The meetings before the Town Council were both extensive and complete and all pertinent facts, matters and issues were submitted at those hearings.
3. The proposed amendment to the Minturn Municipal Code regarding parking on Taylor Street otherwise complies with all requirements imposed by the Code, is consistent with the objectives and purposes of the Code and is deemed compatible with surrounding land uses and uses in the area.
4. The amendment to the Minturn Municipal Code is in the best interest of the health, safety, welfare and morals of the citizens of the Town of Minturn, Colorado; and



TOWN OF MINTURN
Post Office Box 309/302 Pine Street
Minturn, Colorado 81645-0309
Telephone: 970-827-5645
Fax: 970-827-5545

June 9, 2014

Listed below are the Code Compliance Services that I have been working on over the past several weeks:

1. 1108 Main Street-Received a report the construction worker(s) have been urinating in public. Talked with the owner of the property on Wednesday, June 4, 2014 and he "assures" me this will not happen again;
2. Property located between 1108 Main Street and the Eagle River. This area is owned by Vail Resorts (VR). On Monday, June 9, 2014 I was able to talk with both Graham Frank and Tom Allender of Vail Resorts. VR has agreed to clean up the debris that is between the property line of 1108 Main Street and the Eagle River. The plan is for this to occur over the next 5-10 days; however, if the River does not recede enough, Mr. Allender will contact me and we will revise the due date for this clean-up to occur as he would like to be able to have all debris removed during one clean-up experience;
3. Union Pacific Railroad buildings on Railroad Road in Minturn. On Monday, June 9, 2014, a community service worker painted over all the graffiti on the two Railroad buildings;
4. 681 Main Street-the owners of this property were requested to repair the damaged fence along the front of their property on Main Street. The letter was mailed on May 22, 2014. The owners responded to the Town on Thursday, June 5, 2014 stating the repairs would be done within a few days. On Monday, June 9, 2014, I went by the property and confirmed the fence had been repaired;
5. 272 Main Street-Various reports have been made. There was a report of running a business out of the home without a business license, noise complaints and the owner's dog bit a neighbor child. Spoke with Animal Control on two occasions to follow-up in reference to how the agency was addressing the bite complaint. On Wednesday, June 5, 2014, while I was at the property on 272 Main Street, an Animal Control officer came to the premises and issued a citation to the animal owner. While on site, I spoke with the renter of the home in reference to running a business without a business license. He assured me he has not been doing so. I will look into this further by speaking with the neighbors. The renter was provided a business license cover letter and an application should he decide this Code does apply to him. In addition, I will return to the property and ask him to produce titles to the snow mobiles and ATV that he claims to own that are on the property. There have been complaints in reference to noise/parties. Discussed this issue with the renter as well. He denied this, too. He was advised there is a noise ordinance within the Town and he was requested to comply or he would be issued a summons into Municipal Court.
6. 543 Boulder Street-A complaint has been made in reference to the debris on the property. Will make contact this week with property owners to clean up the property;

7. 525 Pine Street-A complain has been made in reference to debris on this property. Attempted contact twice, no answer at the home. Mailed a certified letter to the owners and it was returned as "Undeliverable". Will attempt contact again this week to address the complaint/concern.
8. 412 Taylor Avenue-A complaint has been made in reference to debris on this property. Attempted contact at residence, none made. Mailed letter directing the owner to contact me at Town Hall. The owner responded to the letter and we scheduled a meeting at the property for Wednesday, June 4, 2014. On June 4th, we did meet and we inspected the outside of the property in reference to the complaint. The homeowner is in violation and was asked to clean-up the property within two weeks. Will schedule a follow-up appointment to ensure this is done.
9. 432 Taylor Avenue-A complaint has been made in reference to debris on this property. Will contact the owners this week in reference to this matter.
10. 100 Block Main Street-A business owner made a report/complaint in reference to business owners and employees parking along the 100 Block of Main Street, thus preventing customers from parking in that area. Advised business owner that it is public parking on Main Street; however, I agreed to talk with the other business owners in reference to this matter. Talked with the business owners/managers in the 100 Block of Main Street on Tuesday, June 3, 2014.

cc: File
Acting Town Manager