

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 57 – SERIES 2024**

**A RESOLUTION RENEWING CONDITIONAL USE APPLICATION CU 01 – 2020 FOR
BURKE HARRINGTON CONSTRUCTION AND DARIN TUCHOLKE, UPRR
RAILROAD AVE, TOWN OF MINUTURN**

WHEREAS, Burke Harrington Construction and Darin Tucholke submitted a land use application for a Conditional Use Permit (“CUP”) to allow for construction storage in July of 2020; and

WHEREAS, the Town of Minturn (the “Town”) granted the requested CUP through Resolution 24 – Series 2020; and

WHEREAS, The Town Council is commissioned with certain powers and duties contained in the Minturn Municipal Code Sec. 16.21.30; and

WHEREAS, public notice was given pursuant to Minturn Municipal Code Sec. 16.21.610; and

WHEREAS, condition 7 of Resolution 24 – Series 2020 requires review and renewal of the CUP on a 3 year basis; and

WHEREAS, the Town Council renewed CU 01 – 2020 via Resolution 43 – Series 2021 on October 20, 2021; and

WHEREAS, The Town Council may approve the renewal as submitted or may approve the renewal subject to such modifications or conditions as it deems necessary to accomplish the purpose of this Article, or the Town Council may deny the renewal including the following findings:

- 1) Upon receipt of a completed and proper application, the Planning Director shall set a public hearing for the Planning Commission and give public notice as required by this Chapter.
- 2) Criteria; findings. Before acting on a conditional use permit application, the Planning Commission and Town Council shall consider the following factors with respect to the proposed use:
 - a. The relationship and impact of the use on the community development objectives of the Town.
 - b. The effect of the use on distribution of population, transportation, utilities, schools, parks and recreational facilities and other public facilities and public facility needs.

c. The effect upon traffic, with particular reference to congestion, automotive and pedestrian safety, traffic flow and control, access, maneuverability and snow removal.

d. The effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses, the amount of noise, lighting and glare, dust and compatibility of the use with the Character Area it is in and surrounding areas.

e. Necessary findings. The Planning Commission and Town Council shall make the following findings before making a recommendation or decision that a conditional use permit be granted:

1. That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.
2. That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
3. That the proposed use will comply with each of the applicable provisions of this Chapter.

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

Section 1. That the renewal for a Conditional Use Permit for File No. CU 01 – 2020 be approved subject to the following conditions:

1. No vehicle shall exceed 40'2" in length. This restriction does not apply to storage containers that may be used for storage of materials and equipment associated with or incidental to the business operations approved under this CUP. Such container(s) must be maintained in an orderly manner; must be contained and screened to the greatest extent possible with fencing and green mesh screening materials; and, shall not be stacked.
2. No storage of RV's, campers, pop-ups, conversion vans, trailers, or similar camping related vehicles is permitted. Storage of snowmobiles, ATV's, dirt bikes, and other personal recreational vehicles is permitted.
3. No inoperable or unlicensed vehicles are to be kept on the property for longer than five (5) days. (Pursuant to Section 7-2-70 Minturn Municipal Code).
4. Leased lots associated with the CUP are to be maintained in a clean and orderly condition, permitting no deposit or accumulation of refuse or materials other than those ordinarily attendant upon the use for which such premises are legally intended. (Pursuant to Section 7-4-50 Minturn Municipal Code).

5. CUP holders are to maintain and conduct business within the lease areas associated with the approved and valid CUP only.
6. Violations. The following schedule of fines for violations not remedied within 30 days:
 - a. The first violation will be fined \$100.
 - b. The second violation will be fined \$250.
 - c. The third and subsequent violations will be fined \$500.
7. Each CUP will be subject to annual review by the Town staff with regard to compliance with the terms of use and conditions of approval associated with the CUP. The Town staff shall provide a report to the Town Council following such annual review. The report shall, in a general manner, provide updates on the following:
 - a. Any violations or other incidences requiring staff response and Town resources out of the ordinary course of Town business and services. A violation will only be counted if the infraction has not been corrected within 30 days of notice being sent to the CUP holder.
 - b. Compliance with the overall terms of use permitted by the CUP as well as observations regarding the condition of the lease/CUP area.
 - c. Any changes in i) Lessee/Sub-Lessee; and, ii) uses within CUP area.
 - d. At staff's discretion, a recommendation may be made to Council to revoke the CUP having accumulated three violations in a calendar year (Jan 1 to Dec 31).
8. Lessees are required to meet with the Town Council every three (3) years for CUP review. The review shall include but not be limited to inspections by Town staff and the following reporting:
 - a. Report from Code Compliance Office
 - b. Report from Planning Department
9. Hours of operation: 7 days a week. 7:00 a.m. to 7:00 p.m.
10. Uses must be in compliance with the applicable laws, including Minturn Municipal Code, state and federal law. A violation of any law within the permitted premises shall be considered a violation of the CUP.
11. All uses and occupancy associated with activities approved for each individual CUP shall adhere at all times with the noise and vibration standards of the Town (pursuant to Section 16-18-30, Minturn Municipal Code).
12. All leased areas associated with the CUP must be fenced and screened (green mesh screening materials) along the perimeter of leased property.
13. Supplies, parking, vehicles, truck containers, and equipment within fenced area or designated leased area only
14. Proper fuel containment / inspected by Eagle River Fire Protection District for small volume (less than 100 gallons) in OSHA approved containers.

15. All overnight parking must be done within the fenced yard and/or building(s) associated with the approved CUP.
16. Any chemical storage will require material safety data sheets. No chemical storage within 30' live stream setback areas along the Eagle River and/or Game Creek.
17. Emergency access of 20' through the Union Pacific railyard and at both access gates shall be maintained.
18. Off-season use will require site storage of snow and keeping emergency access cleared.
 - a. Maintain proper snow storage or sufficient snow removal
19. Conditional use granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property.
20. Town staff inspects the site for compliance at any time.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 16TH day of October, 2024.

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk