

MEMORANDUM

To: Town Council
From: Jester Gibson & Moore, LLP
Robert R. Marsh, Esq.
Date: April 9, 2024
Re: An Ordinance Amending the Minturn Municipal Code re: Civil Infractions

Amendments of Minturn Municipal Code sections 1-2-10 (concerning the definition of “misdemeanor”), 2-5-20 (concerning municipal court procedures), and 8-1-50 (concerning interpretation of the traffic code) are proposed to clarify that, notwithstanding any other provisions of the code, the Model Traffic Code, or the Municipal Court Rules to the contrary, violations of the Town code constitute civil matters and are not criminal offenses.

Section 1-4-20 of the code provides that violations of its terms constitute “misdemeanors.” Code section 1-2-10 defines the term “misdemeanor” as a “violation” and specifies that it is “not intended to mean crime or criminal conduct.” Other sections of the code, the Model Traffic Code as adopted by the Town, and the Colorado Municipal Court Rules applied in Minturn’s court, however, include language commonly associated with criminal offenses and criminal procedures. Related questions have arisen that resulted in unnecessary delay, expense and inconvenience for the Town and individuals involved in municipal court proceedings. Such unresolved questions may also have been used by defendants in municipal court matters to attempt to gain advantage by increasing the burden and expense to the Town of resolving their cases.

To avoid continuing issues, Section 2 of the proposed ordinance amends section 1-2-10 of the code, which defines the term “misdemeanor.” The existing definition is deleted entirely and replaced with a new definition clarifying that, despite any terms of the code to the contrary, misdemeanor violations of the Town code are civil infractions. The new definition is consistent with the intent expressed in the existing language, but clarifies and strengthens the definition.

Section 3 of the proposed ordinance amends section 2-5-20 of the code, which requires that procedures in Minturn’s municipal court will be in accordance with the Municipal Court Rules of Procedure. Those rules provide that trial shall be to the court unless a defendant is entitled to jury trial by the Constitution of the State of Colorado, an ordinance or charter of a municipality, or by Colorado state law generally.

The proposed amendments to section 2-5-20 clarify that, despite any provisions of the Town Charter, the code, or the Municipal Court Rules to the contrary, trials in the Minturn municipal court will be to the court, and there shall be no jury trial unless required by the state Constitution or applicable state law, and a defendant timely demands a jury trial in accordance with that law. The amendments should eliminate questions concerning whether the Town Charter or any provision of the Town code requires or enables jury trials in the municipal court.

Demands for jury trials are rare in Minturn's courts. When a jury trial has been necessary, however, it has been burdensome and sometimes practically impossible for the municipal court to efficiently and effectively summon a group of Town residents for jury service, and to administer a jury trial.

In addition, the majority of matters in Minturn's municipal court are traffic infractions. Colorado law indicates that jury trials are not required for non-criminal violations of municipal traffic codes. The proposed amendments clarifying the civil nature of code violations and limited availability of jury trial are consistent with state law. They are also expected to reduce the number of jury demands received in the municipal court, with corresponding benefits to the efficiency of the court in resolving matters presented to it.

Without regard to the proposed amendments, jury trial will remain available to defendants in the municipal court in some circumstances. Where the conduct at issue is also unlawful under a state statute, and a conviction could be punishable by imprisonment under state law, jury trial will remain available as a matter of controlling state statute. There may also be extreme circumstances where conduct in violation of the Town code would be considered criminal despite the terms of the code to the contrary. Although those circumstances are expected to be extremely rare if encountered at all, the state Constitution includes a right to jury trial in all criminal matters.

Consistent with the above, Section 4 of the proposed ordinance adds language to section 8-1-50 of the Town's traffic code specifying that violations of the traffic code are civil matters and not crimes or criminal offenses.