

**CITY OF RIFLE, COLORADO
ORDINANCE NO. 3
SERIES OF 2016**

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, APPROVING A
LEASE AGREEMENT BETWEEN THE CITY OF RIFLE AND 139
RAILROAD, LLC.

WHEREAS, the City of Rifle (the "City") is a home rule municipality with all powers granted by Article XX of the Colorado Constitution and the City's Home Rule Charter; and

WHEREAS, Article XX, § 6 of the Colorado Constitution states: "The statutes of the state of Colorado, **so far as applicable**, shall continue to apply to such cities and towns, except insofar as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters." Colo. Const. Art. XX, § 6 (emphasis added); and

WHEREAS, Section 4.4 of the City's Home Rule Charter provides that ordinances adopted by the City Council become effective ten (10) days after final publication; and

WHEREAS, C.R.S. § 31-15-801 purports to require that municipalities approve long term lease agreements by ordinance not to be effective for at least thirty (30) days after passage; and

WHEREAS, C.R.S. § 31-15-801 conflicts with Section 4.4 of the City's Home Rule Charter, which provides that ordinances are effective ten (10) days after final publication; and

WHEREAS, C.R.S. § 31-15-801 contains no declaration of statewide concern and specifically applies to a "city" or a "town", which terms have been construed to mean a statutory city and statutory town by the Colorado Court of Appeals in the case of *Allely v. City of Evans*, 124 P.3d 911 (Colo. App. 2005); and

WHEREAS, the City Council hereby finds and determines that the procedures for approval of long term lease agreements are a matter of purely local concern; and

WHEREAS, as a home rule municipality, in the matter of deciding the procedures applicable to the approval of long term lease agreements, which is a matter of purely local concern, the City is not subject to those portions of C.R.S. §§ 31-15-801 and -802 which conflict with Section 4.4 of the City's Home Rule Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIFLE, COLORADO, THAT:

1. Incorporation of Recitals. The foregoing recitals are incorporated herein as if set forth in full.

2. Approval of Lease. The Property Lease between the City of Rifle and 139 Railroad, LLC is hereby approved in substantially the form attached hereto as **Exhibit A** and incorporated herein by this reference. The City Manager is hereby authorized and directed to execute the Property Lease on behalf of the City with any changes approved by the City Attorney.

INTRODUCED on February 3, 2016, read by title, passed on first reading, and ordered published by title as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on February 17, 2016, passed without amendment, approved, and ordered published in full as required by the Charter.

Dated this ___ day of _____, 2016.

CITY OF RIFLE, COLORADO

BY _____
Mayor

ATTEST:

City Clerk