

AGENDA
CITY OF GUNNISON
PLANNING & ZONING COMMISSION
REGULAR MEETING
Rev 4/20/11

DATE: WEDNESDAY, APRIL 27, 2011
TIME: 7:00 P.M.
PLACE: CITY HALL, COUNCIL CHAMBERS, 201 WEST VIRGINIA AVE.

- 7:00PM**
- I. CALL TO ORDER**
 - II. PLEDGE OF ALLEGIANCE TO THE FLAG**
 - III. CONSIDERATION OF THE APRIL 13, 2011 MEETING MINUTES**
 - IV. EXCUSE COMMISSIONERS SZYMANSKI AND FERCHAU FROM THE APRIL 13TH MEETING.**
 - V. UNSCHEDULED CITIZENS**
 - VI. COUNCIL UPDATE**
 - VII. COMMISSIONER COMMENTS**
 - VIII. PLANNING STAFF UPDATE**
 - IX. ADJOURN INTO WORKSESSION**

WORKSESSION

- I. DISCUSSION OF MEDICAL MARIJUANA REGULATIONS**
- II. LAND DEVELOPMENT CODE UPDATE. (Discussion will begin with Section 4.8 Signs, of the March 2011 Draft)**

**TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL
NEEDS ARE REQUESTED TO CONTACT THE CITY OF GUNNISON
COMMUNITY DEVELOPMENT DEPARTMENT AT 641.8090**

This agenda is subject to change, including the addition or deletion of items at any time. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are posted at City Hall and on the City website at www.cityofgunnison-co.gov. Work sessions are not recorded and formal action cannot be taken. For further information, contact the Community Development Department at 641-8090.

MEMBERS	PRESENT	ABSENT	EXCUSED
Bob Beda, Chair	X		
Dusty Szymanski		X	
Erich Ferchau		X	
Ed Seymour	X		
Carolyn Riggs	X		
Greg Larson	X		
Councilor Ellen Harriman	X		

OTHERS PRESENT: Director Steve Westbay, Planning Technician Pam Cunningham

I. CALL TO ORDER AT 7:03 PM BY CHAIR BOB BEDA

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. CONSIDERATION OF THE MARCH 24, 2011 MEETING MINUTES

Commissioner Riggs moved to approve the March 24, 2011 meeting minutes as presented, Commissioner Larson seconded the motion.

Roll Call Yes: Ed, Bob, Greg, Carolyn

Roll Call No:

Roll Call Abstain: Ellen

Motion Carried

IV. UNSCHEDULED CITIZENS

There were none.

V. COUNCIL UPDATE

Councilor Ellen Harriman provided an update on the April 12th Council meeting. The Council:

- discussed the Council's stand on a plan being developed in response to the Governor's request for an economic development plan from each county;
- approved a pole attachment agreement with Time Warner Cable;
- discussed additional appropriations to the 2011 budget to address the expenses associated with the employees' health insurance issue and the carbon monoxide incident at the ice rink;
- cancelled the May 10th meeting for Election Day and scheduled the reorganization meeting the following Monday;
- heard several reports, including:
 - the Hartman Rocks recreation area is open north of the power line;
 - crews have finished cleaning the downtown ditches and will begin cleaning the other ditches so that the ditch water can be turned on sometime the first week of May;
 - the health of Tomichi Creek may be at risk and there is a potential for mitigation based on a pipe that goes under the airport that may be emitting something into the stream;
 - there will be a forum for the six City Council candidates on the 18th from 7:00-9:00pm in the ballroom of the College Student Center and at the meeting the Mayor will make presentation on medical marijuana;
 - a report from RTA that the Continental and American Airlines guarantees for next year have been prepaid; RTA will be putting \$75,000 into air guarantees and CBMR

- will be putting in \$1 million; and, they are hoping for 8 trips per day with a \$2 charge for the bus but there may be enough money that the winter bus could be free; and,
- the Sage Grouse Festival was successful.

VI. COMMISSIONER COMMENTS

- Commissioner Larson elaborated on the Governor's economic review. He attended the Region 10 kickoff meeting. At the April 21st meeting the document will be finalized and compiled with other Region 10 reports.
- Commissioner Riggs observed that the City has done a great job on the downtown ditches. The work was done efficiently and quickly and business owners have been surprised how quick it was and it looks great.
- Commissioner Riggs will be absent at the April 27th and May 11th meetings;
- Chair Beda will be absent on April 27th.

VII. PLANNING STAFF UPDATE

Director Steve Westbay provided an update on activity in the Community Development department:

- Staff has been working on an overview of the outline for an ordinance to address medical marijuana in the event it is passed by the voters. He will provide an update at the next meeting.
- Community Cleanup is April 30th.
- He attended the Sage Grouse Summit which focused on scientists presenting technical papers, rather than policy. The US Fish and Wildlife Service has targeted development as the primary issue for the listing of the species and their message was that life would not significantly change if listing occurs. He will keep the Commission posted.
- The High School has contacted the Community Development department with a plan to build bleachers and lighting at the high school football field. The City has little regulatory authority over land uses on school property. According to State Statutes, the local Board of Education has oversight to determine what facilities are needed. The School District anticipates the use to be 6 to 8 times in the fall season.
- Director Westbay has been working with the City Attorney on an easement across the Wilson tracts, east of the Holiday Inn Express. Property owners were requested to grant an easement for a high pressure sewer line to serve Tomichi Village hotel. Both the City and County are a party to the easement for utilities. The City will receive a trail easement across a portion of the property to tie into the outer loop. A draft agreement will be presented to City Council in the next few weeks.

VIII. ADJOURN

Chair Bob Beda adjourned to a work session at approximately 7:25p.m.

Bob Beda, Chair

Attest:

Pam Cunningham, Secretary

Medical Marijuana Ordinance Outline

If the voters approve the ballot question for the operation of medical marijuana centers there will be several different parts of the *Municipal Code* that would be amended. They include the following:

- Title 3: Finance
- Title 5: General Offenses
- Title 8: Business Regulations
- Title 15: Land Development Code.

The following narrative provides a summary outline of the ordinance being developed by City staff.

1. Amend **Title 3** to include language adding a 5% sales tax increase to medical marijuana and medical marijuana products, should the ballot issue pass.
2. The City Attorney is reviewing **Title 5**. The amendments will add a penalty section to General Offenses dealing with medical marijuana businesses and/or will include criminal prosecution provisions into Title 8, which is described below.
3. **Title 8** will include a new Chapter, entitled Medical Marijuana Business Regulations.

- A. **License Required.** There will be three license types and the City may issue a single license, or a combination of licenses from any of the following classes:

Medical Marijuana Center License
Optional Premises Cultivation License
Medical Marijuana Infused Products Manufacturing License

1. The total number of licenses held by one licensee shall be limited to one license for each type of medical marijuana business.
2. The total number of licenses issued by the City shall be limited to five licenses for each type of medical marijuana business.

- B. **Application for License.** Application process will be concurrent with the State Application Process. Application contents are summarized herein:

1. a notarized Authorization of Agent statement from the property owner will be required if the applicant is not the owner of the proposed location of the medical marijuana business premises;
2. a sworn statement by all affected parties acknowledging that they may be subject to prosecution under state and federal controlled substance laws;
3. a sworn statement by all affected parties indemnifying the City from legal liability in connection with the approval and subsequent operation of the medical marijuana business;
4. an acknowledgement by the applicant that the City will conduct a background investigation;
5. a comprehensive business plan to ensure compliance with the law which shall contain, without limitation: (i) a description of the security provisions and systems; (ii) hours of

- operation; (iii) number of employees; (iv) security plan; and (v) a description of all products to be sold, cultivated or manufactured;
6. a disclosure of all persons who have a corporate interest of 10 percent or greater in the said corporation;
 7. a plan for the disposal of unwanted medical marijuana, by-products and paraphernalia, which is subject to approval by the Police Chief or their designee;
 8. building plan information to ensure compliance with the *International Existing Building Code* and/or the *International Building Code*, as adopted by the City of Gunnison; description/plans of existing or proposed mechanical systems (commercial kitchen and hood system, and heating, ventilation, air-conditioning system); and a description/plan of the existing or proposed electrical system;
 9. building plans of the licensed premises shall clearly delineate all “limited access areas” and depict walls, partitions, counters and all areas of ingress and egress. The building plans shall also reflect all propagation, vegetation, flowering, hash manufacturing, infused product manufacturing, and retail sales areas;
 10. an instrument that is approved by the City Attorney, which establishes the fact that by applying for a medical marijuana business license and accepting a license issued pursuant to this Chapter, a licensee waives and releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of licensee, owners, operators, employees, clients or customers for a violation of State or federal laws, rules or regulations.

C. Application Fee. The application fee for 2011 is proposed to be \$1,000.00. Thereafter, the amount of the application fee and annual renewal shall be set by Resolution approved by the City Council.

D. Review Process and Procedures. The City Clerk has 14 days to review applications for completeness. A background check will be initiated on complete applications with a review by the Police Chief, Fire Marshal and Building Official. A Public Hearing will be scheduled within 30 days. Council will then conduct a hearing to consider the application and direct the City Clerk to issue the license or not.

E. Review Standards for License Application

1. Application complete
2. Fee paid
3. Application does not contain any falsehoods or misrepresentations
4. Applications comply with all requirements of other titles of the *Municipal Code*
5. Applicant is of good moral character
6. Proposed premise location is in compliance with Ordinance. (discussed further under land use)

F. Transfer of Ownership, Change of License Class, or Change in Location. Will be treated as new applications.

G. License Renewal. Licenses will be renewed annually with the renewal fee to be set by Council.

H. General Operational and Compliance Standards for all Medical Marijuana Businesses.

These general operational standards will apply to all three license types:

1. compliance with all state and local laws and ordinances;
2. compliance with state licensing requirements;
3. identification signs shall be posted at the entrance to all restricted areas;
4. retail sale of Medical Marijuana may only take place from a licensed medical marijuana center;
5. surrounding property must be protected from odors, debris, fluids, etc.;
6. warning signs must be posted indicating that: products are sold for medical use only; use of marijuana may impair vehicle operation; loitering is prohibited; and possession and distribution of marijuana is federally prohibited;
7. paraphernalia may only be sold at Medical Marijuana Centers;
8. no one under the age of 18 may be inside a medical marijuana business;
9. the licensee must maintain worker's compensation insurance and public liability insurance;
10. Medical Marijuana must be stored indoors;
11. signage must meet the *Municipal Sign Code*;
12. on-premise consumption of marijuana or marijuana products is prohibited; and,
13. on-premise possession, consumption or sale of alcohol is prohibited.

I. Security and Security System Operational Standards. State standards for alarms and security systems must be met. Additionally, exterior lighting must meet City standards.

J. Records Keeping Operational Standards. Record keeping must meet State standards.

K. Medical Marijuana Centers - Operational Standards. These operational standards will apply to the retail operations of Medical Marijuana Centers:

1. medical marijuana, medical infused products and paraphernalia may be sold;
2. cultivation of medical marijuana or manufacture infused products is prohibited;
3. hours of operation is 8:00 AM to 8:00 PM;

4. compliance with the State's 70/30 rule for the cultivation of medical marijuana;
5. infused products may be purchased for retail sales;
6. sales to properly permitted patients and care givers only;
7. retail products must be labeled pursuant to State standards;
8. delivery service is prohibited;
9. product must be stored in secured cabinets;
10. the sale of non-medical marijuana food is prohibited;
11. sale of merchandise that may be used as a drug or in the manufacturing of drugs is prohibited.

L. Optional Premises Cultivation Operational Standards. These operational standards will apply to Optional Premises Cultivation facilities:

1. compliance with Medical Marijuana Business General standards;
2. retail sales of products are prohibited.

M. Medical Marijuana Infused Products Manufacturing Operational Standards. These operational standards will apply to Infused Products Manufacturing facilities:

1. compliance with Medical Marijuana Business General standards;
2. retail sales of products are prohibited;
3. a licensed infused manufacturer that also operates a licensed optional cultivation premise must use 100% of the cultivated marijuana for infused products.

N. Violations and Penalties—Remedies Cumulative. All violations are prosecuted as misdemeanors with a fine up to \$1000 and 90 days in jail.

O. No Waiver of Governmental Immunity and Insurance Requirements. The City does not waive governmental immunity.

P. No City Liability. Licensee waives and releases the City from liability.

Q. Indemnification of City. Licensee agrees to indemnify, defend and hold the City harmless.

R. Conflicting Regulations. Should there be any conflicts with the new Ordinance provisions or State Statute the most restrictive provision shall apply.

S. Other Laws Remain Applicable. Nothing prevents a licensee from being prosecuted under any applicable law including Federal.

T. Severability. Should any portion of the ordinance be found unconstitutional the remaining portions of the ordinance would remain in effect.

4. Amend **Title 15, Land Development Code**, definitions of “Home Business” and “Home Occupation” are amended to exclude medical marijuana businesses. A new definition for a “Medical Marijuana Licensed Premise” is included.

5. Amended the tables in Section 15.70.030.

A. The staff is submitting two land use options for consideration by City Council concerning Medical Marijuana Businesses.

Option 1 would allow Medical Marijuana Centers as Conditional Use in the Commercial and Industrial zone districts; infused product manufacturing business would be a Conditional Use allowed only in the Industrial zone district. Optional Premises Cultivation of marijuana is an allowed use only in the Industrial zone district. All medical marijuana businesses are prohibited in residential districts, the B1 district, and the CBD zone district.

Option 2 requires that all medical marijuana businesses be located exclusively within the Industrial zone district. All medical marijuana businesses, except for Optional Premises Cultivation, are subject to Conditional Use approvals.

These options are depicted in Attachments 1 and 2 at the end of this document.

B. Land Use Regulations establish buffer separation standards as follows:

1. 1,000 feet of a school, alcohol or drug treatment facility, college campus, seminary, daycare home, daycare center or daycare school;
2. 500 feet of a public park or the Gunnison County Fairgrounds;
3. 150 feet of any residential zone district.

C. **Building Code Definitions.** Medical Marijuana Centers would be defined as a Mercantile occupancy; Optional Premises Cultivation would be defined as a Utility/ Miscellaneous occupancy; and Medical Marijuana Infused Manufacturing would be defined as Factory Moderate Hazard occupancy.

D. **Building Code Requirements**

1. Optional Premise Cultivation
 - a. a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emitted from operation;
 - b. a negative air pressure or sufficient barrier wall system to prevent pesticides, fertilizers, and other chemicals artificial and natural from moving into the ambient air in the area open to the public; and
 - c. a carbon dioxide monitoring system may be required by the Building Official or Fire Marshal.

2. Infused Product Manufacturing
 - a. a ventilation system with carbon filters sufficient in type and capacity to eliminate marijuana odors emitted from operation;
 - b. at a minimum, kitchen facilities shall be equipped with Type 2 hood-system, and if the operation generates grease laden vapor the kitchen equipment shall include a Type 1 hood system.
6. Amend **Title 15**, Off-Street Parking Standards by Use, will include medical marijuana businesses. Medical Marijuana Centers are subject to the same parking standards as other retail space. Parking standards for infused manufacturing and cultivation licenses are the same as a warehouse use.
7. Amend **Title 15**, Prohibited Signs, to include medical marijuana business. Symbols and/or slang terms associated with marijuana shall be prohibited.
8. Amend **Title 15**, Conditional Use, to include wording addressing Medical Marijuana Businesses in the application contents. Other amendments include new review standards, explicit use regulations, and sunset provisions of the Conditional Use approval if a licensed business closes.

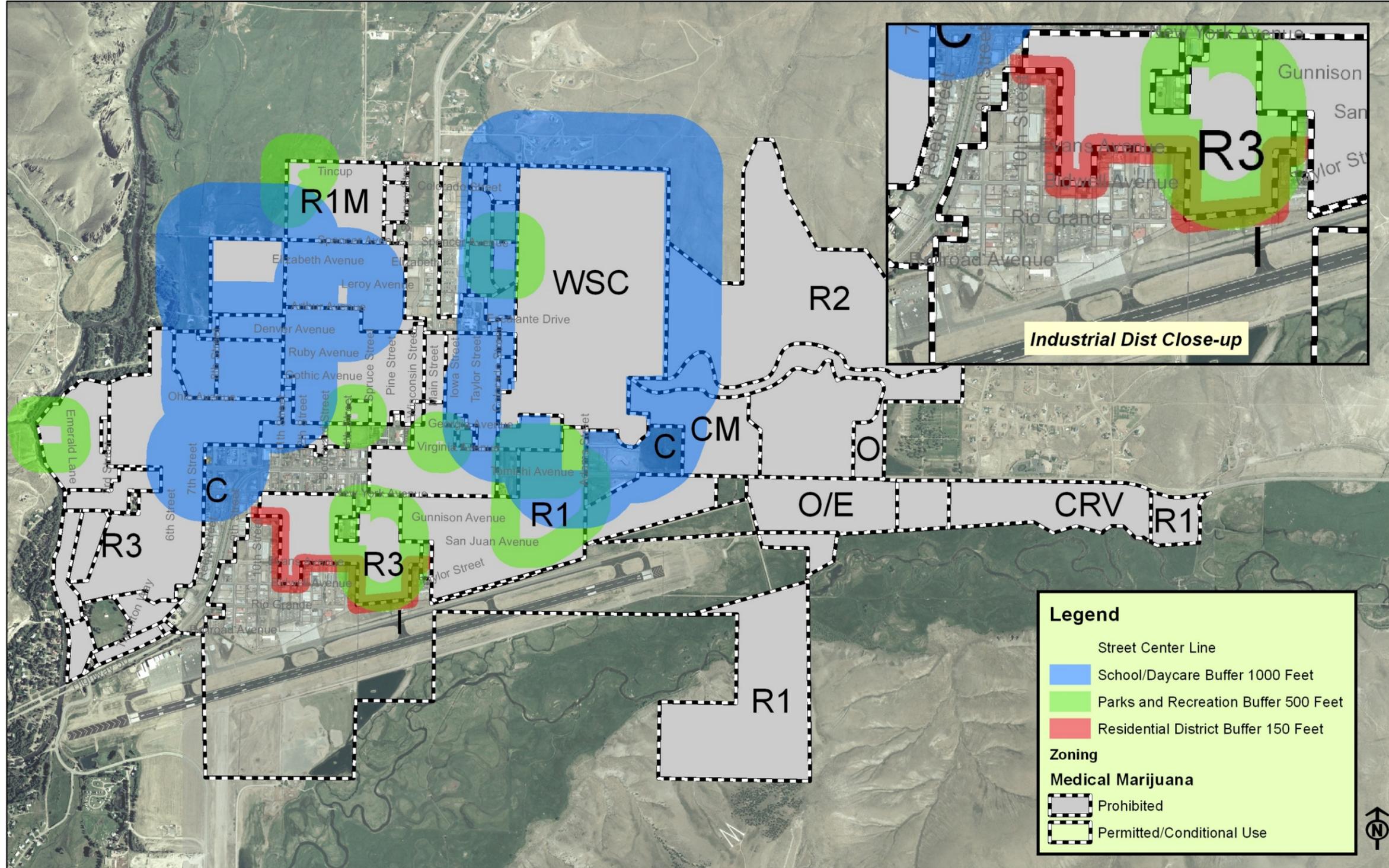


Figure 1 Industrial and Commercial

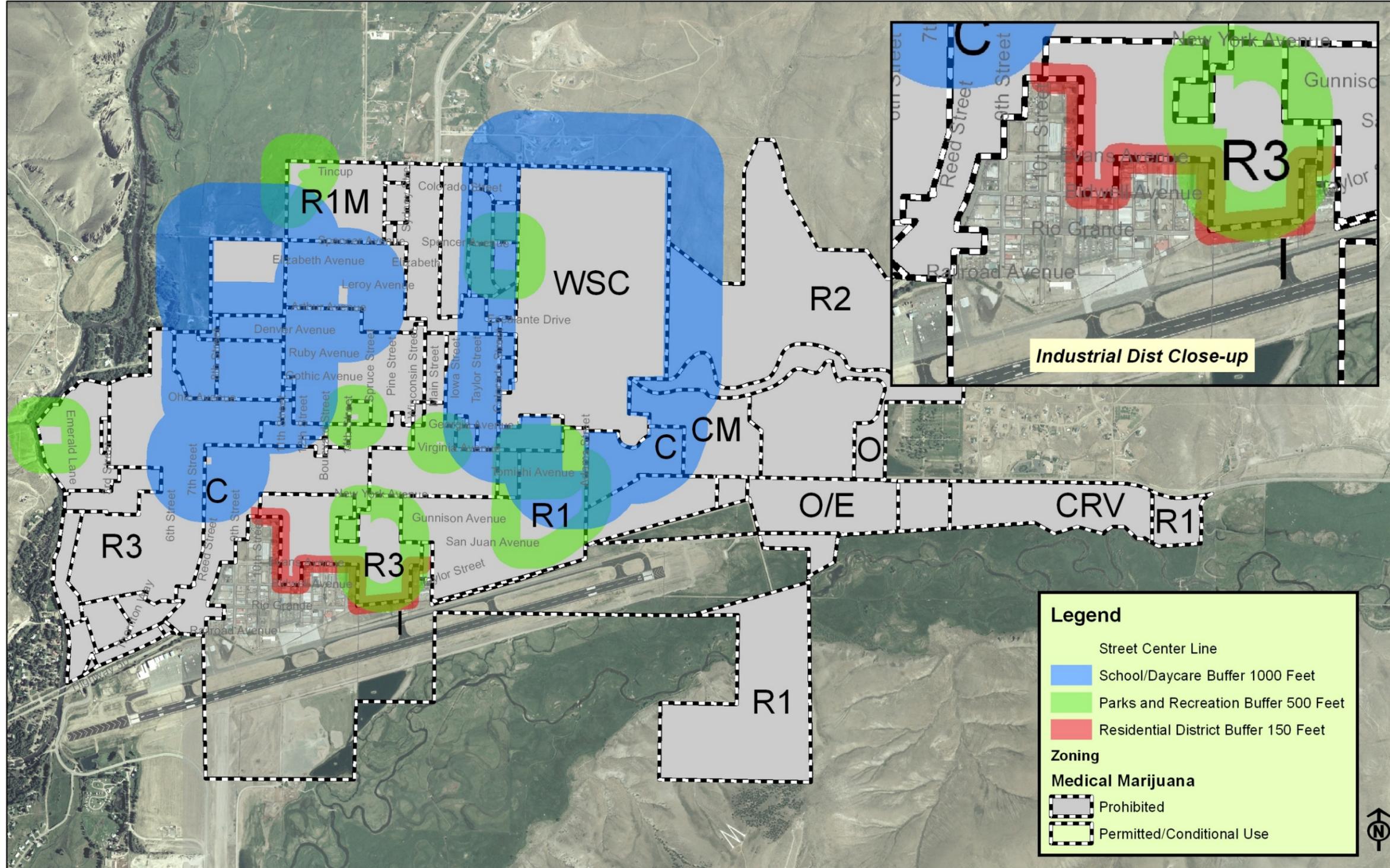


Figure 2 Industrial Only