

STAFF REPORT AND PLANNING AND ZONING COMMISSION RECOMMENDATION
Text Amendment to the *Land Development Code*

TO: City Council
FROM: Steven Westbay, Community Development Director
DATE: May 14, 2015
RE: ZA 15-2, Retail and Medical Marijuana Land Use Regulations

CODE PROVISIONS

The *Land Development Code (LDC)*, Section 10.3 specifies that a text amendment to the *LDC* be reviewed by the City of Gunnison Planning and Zoning Commission (Commission) at a public hearing after 15 days public notice. The Commission establishes a recommendation to City Council to approve, approve with conditions, deny or remand the application back to the applicant with instructions for modification. City Council shall consider the recommendation of the Commission at a public hearing and shall, by ordinance, approve, deny or remand the application back to the applicant with instructions for modification or additional information.

A Text Amendment may be initiated by City Council, the Planning and Zoning Commission, the Community Development Director, a resident of the city, an owner of a business within the city, or any person who holds a recognized interest in real property within the city.

APPLICATION

The applicant for this Text Amendment is Steven Westbay, the City of Gunnison Community Development Director. The application proposes to amend Section 2, Zoning Districts and Section 3, Specific Use Regulations to address the location and land use regulations for marijuana establishments.

HISTORY OVERVIEW

In 2010, electors of the City of Gunnison voted to prohibit the operation of medical marijuana establishments within the City. The City Council then adopted Ordinance 2, Series 2011, prohibiting the establishment of Medical Marijuana Centers, Optional Premises Cultivation Operations and Medical Marijuana-Infused Product Manufacturers within the City of Gunnison.

In 2013, with the passing of the State vote regarding retail marijuana, the City Council, passed Ordinance No. 6, Series 2013, prohibiting the operation of retail marijuana establishments within the City. Since the action of voters in 2010 and the City's action in 2013, regulations regarding the marijuana industry, both medical and retail, have been developed and refined by the State legislature, and members of the public had requested that the City determine whether to continue the prohibition on medical and retail marijuana establishments within the City.

On November 4, 2014, the City of Gunnison put the question to registered electors on whether to allow medical marijuana establishments within the City, whether to allow retail marijuana establishments in the City, and whether the sale of medical or retail marijuana, within the City, would be subject to local taxation.

Voters approved the allowance of medical and retail marijuana establishments within the City limits, as well as taxation on sales of the same, subject to such rules, regulations, limitations and restrictions as may be adopted by City Council. Both the *Colorado Medical Marijuana Code* and the *Colorado Retail Marijuana Code* specifically authorize a local jurisdiction, which is

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going to allow the medical and retail marijuana establishments within its boundaries, to adopt its own time, place and manner restrictions, as well as other local regulations, which rules and regulations may be stricter than those established by the State of Colorado.

REGULATION CONTENT SECTIONS

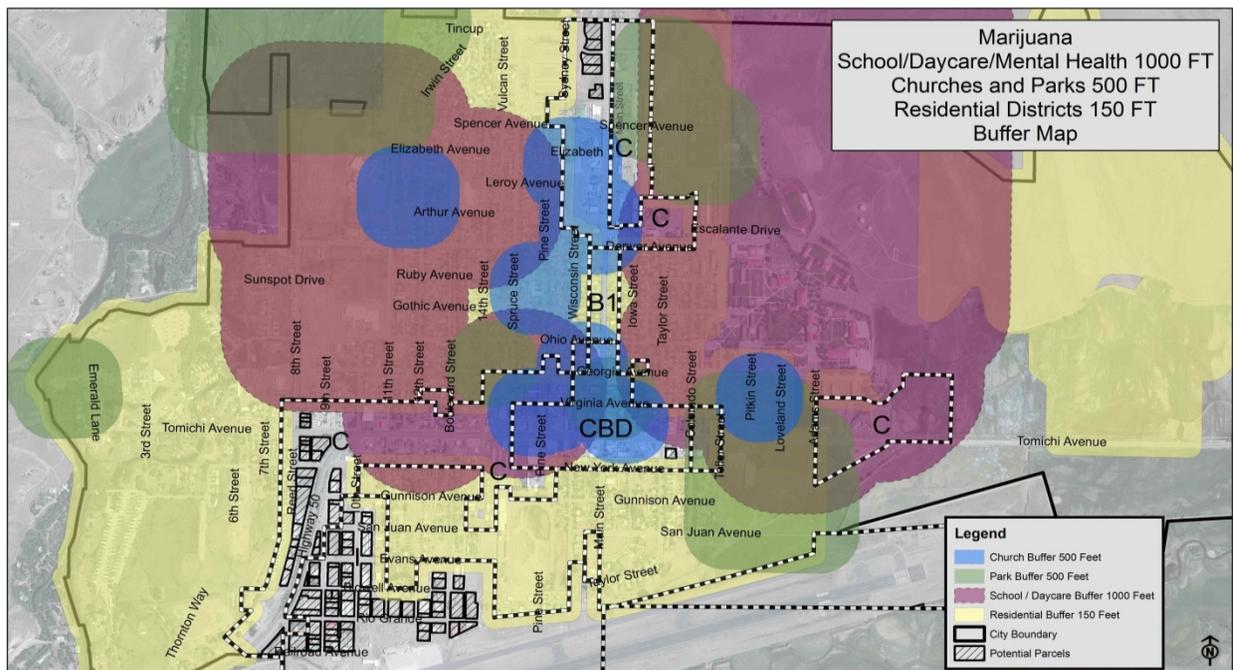
After the approval of the ballot question, City staff started developing an ordinance to address regulatory provisions for medical and recreational marijuana. Regulatory oversight of the new marijuana business market requires amendments to the City Sales and Use Tax Code (Chapter 3.10), Business Regulations (Chapter 8.50), and Technical Codes (Title 14, Building, Mechanical and Fire Codes) of the *City of Gunnison Municipal Code*. Amendments of the *Municipal Code* are reviewed and approved by City Council and are not part of this application.

Amendments to the *City of Gunnison Land Development Code* (LDC) are proposed to address land use regulations for marijuana establishments. Amendments are proposed in Section 2, Zoning Districts, Principal Use Table (Table 2-3) and Section 3, Specific Use Regulations.

PUBLIC INPUT - KEY TOPICS

Since November 11, 2014, the Commission conducted five work sessions concerning the topic of marijuana regulations. Council has also had several discussions and updates regarding this topic. In the March and April 2015 timeframe, the City hosted two public forums to gather community input and comments. While many topics were broached during these sessions, locational standards for retail establishments, the issue of co-occupancy tenants in a single building, and wastewater discharge were of greatest interest.

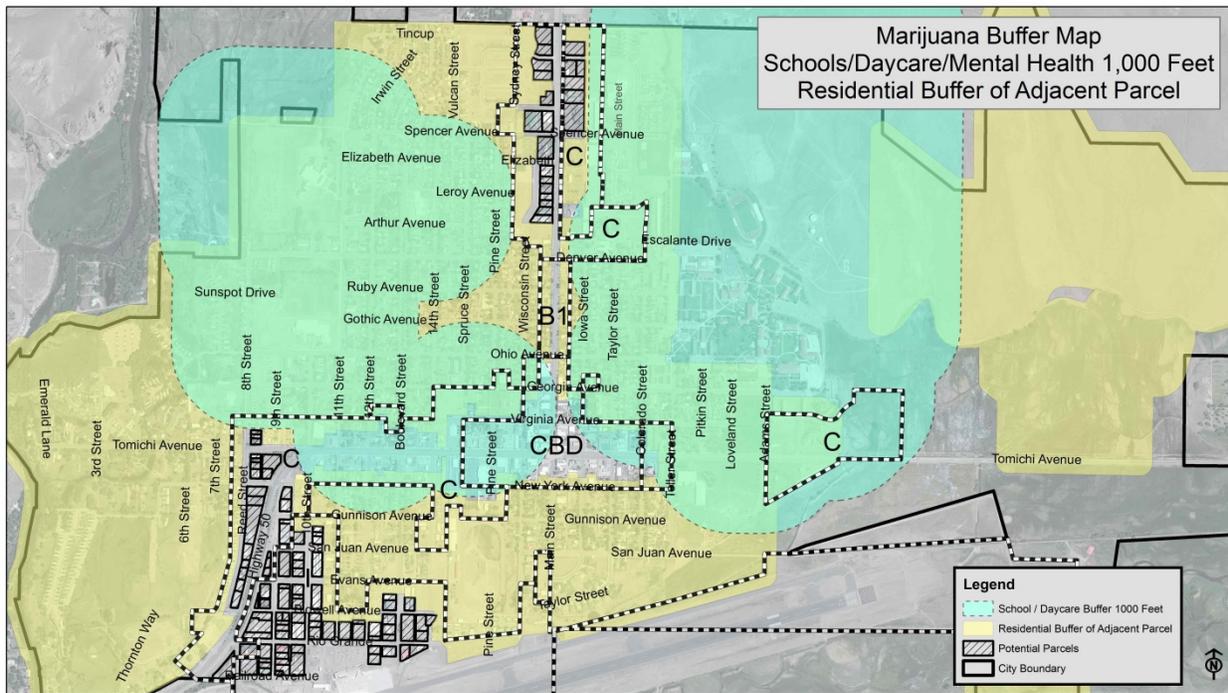
Use Location and Buffers. Early on in the review process the Commission deliberated these topics and the Commission’s consensus was to follow state buffer standards (1000’ from schools, etc.), apply residential buffer standards, and prohibit retail marijuana establishments in the CBD and B-1 districts. The initial draft buffer map included a 1000 foot buffer for schools, daycare facilities, higher education and mental health; 150 foot buffer from all residential districts; and a 500 foot buffer from parks and churches (see map below). After discussions with Council and



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the Commission, staff drafted the buffer map with alternate church and park buffers of 250 feet and 150 feet.

As previously noted, numerous comments were received during the public workshops, and the individual desires filled a spectrum from limiting establishments to only the Industrial District to allowing marijuana establishments in all districts using a conditional use permit process. Based on comments from the first public workshop, staff revised the buffer map to include the 1,000 foot schools, daycare facilities, higher education and mental health buffer and a residential buffer of the adjacent parcel (see map below).



The second workshop was held with the City Council (and Planning and Zoning Commission) and discussion again focused on the location of marijuana establishments and buffers.

Co-Tenant Occupancy. Several public comments focused on a draft proposal to prohibit co-tenant occupancy in buildings with marijuana establishments. A primary concern with co-occupancy was in regard to odors issues affecting tenants occupying a building. Draft regulations were modified to allow shared occupancy in buildings with appropriate mechanical systems that mitigate the potential for odors migrating into adjacent businesses.

Wastewater Discharge. Draft regulations also contemplated the oversight of wastewater discharge from non-retail marijuana establishments. One supposition raised was that the proposed regulations singled-out the marijuana industry as a polluter without regard to other industrial discharge sources. In fact, facilities that produce industrial wastewater have in the past, and continue to be, regulated by the City (Utilities Title 12, Section 12.12.040.2). Examples of regulated industries include but are not limited to WSCU, the hospital, car wash facilities, the city shops, and mechanic shops.

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Historically, nutrients and phosphorous discharge were not a high priority, but the Colorado Department of Public Health and Environment is now reviewing these pollution constituents in a more rigorous manner. The Colorado Water Quality Control Commission is reviewing changes to the Regulation #85, *Nutrients Management Control Regulation* (5CCR 1002-85), and amendments could affect the existing water quality permits that the City’s wastewater treatment operates under.

A City consulting engineer has recommended that in order to protect the wastewater treatment plant’s permit status, the levels for nitrogen discharge be set at .035 pounds per day and phosphorous discharge be set at .015 pounds per day. If anticipated discharge from the licensed facility are quantified to be greater than these thresholds, the marijuana licensed establishment must institute a pretreatment apparatus plan for the facility.

RECORD CONTENTS

Written correspondence submitted by the public includes the following:

- Letter from Tony Cecere, dated April 12, 2015;
- Letter from Eric Norum, dated April 11, 2015;
- Letter from Robert Drexel, dated April 13, 2015;
- Letter from Matt Schwartz, dated April 14, 2015;
- Information on hydroponics from Merlin Schaefer, dated April 29, 2015; and,
- Workshop (March 18, 2015 and April 7, 2015) comment summary, dated April 21, 2015.

PROPOSED AMENDMENT

Section 8. City of Gunnison Land Development Code, Section 2, Table 2-3, Principal Use Table is hereby amended to read as follows:

TABLE 2-3 PRINCIPAL USE TABLE											
Use Categories	Specific Uses	RESIDENTIAL ZONING DISTRICTS					NON-RESIDENTIAL ZONING DISTRICTS				Use Standards
		R-1	R-1M	R-2	RMU	R-3	B-1	CBD	C	I	
Residential Use Categories (§3.2)											
Household Living	Accessory Dwelling ¹			P	P	P	P	P	P	P	§3.3H
	Duplex dwellings			P	P	P	C		C		§3.3C
	Manufactured homes	P	P	P	P	P	P	C	C		§3.3B
	Mobile home parks					C					§3.3I
	Multi-family dwellings				P	P	C		C		§3.3D
	Single-family dwellings	P	P	P	P	P	P	C	C		§3.3 C
	Townhouses				P	P					§3.3F
	Upper story residential ¹						P	P	P	P	§3.3G

¹ See special allowances in the Use Standards.

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		R-1	R-1M	R-2	RMU	R-3	B-1	CBD	C	I	
	Zero lot line dwellings			P	P	P					§3.3E
Congregate Living	Assisted Living homes	C ²	C ²	C ²	C ²	C ²			C ²		§3.3J
	Nursing home			C	C	C			C		§3.3J
	Rooming and boarding houses, dormitories, fraternities or sororities				C	C					§3.3K
Home Occupation and Home Business	Home Occupation	P	P	P	P	P	P	P	P		§3.3L
	Home Business	C	C	C	C	C	P	P	P		§3.3L
Marijuana	Personal Use of Marijuana	P	P	P	P	P	P	P	P	P	§3.3M
Public, Civic and Institutional Use Categories (§3.4)											
Community Service	Detention Center									P	--
	Mausoleum, columbarium	C	C	C	C	C	C	C	P		--
	Neighborhood or community centers	C	C	C	C	C	P		P		--
	Public garage or shop									P	--
Educational Facilities	School, public or private	C	C	C	C	C	C	C	C		§3.4A
	School, trade or business	C	C	C	C	C	C	C	C	C	
Day Care	Daycare Center			C	C	C		C			§3.5A
	Daycare Home	C	C	P	P	P	P	P	P	C	
	Daycare School			C	C	C	C	C	C	C	
Marijuana-Related Business	Marijuana Club or Vapor Lounge										--
Medical	Hospitals						C		P		--
Parks and Open Space	Parks and recreational facilities	P	P	P	P	P	P	P	P	P	--
Religious Institutions	Churches or places of worship	C	C	C	C	C	C	C	P		§3.5B
Utilities	Major utilities (private only)	C	C	C	C	C	C	C	C	P	--
	Minor utilities	P	P	P	P	P	P	P	P	P	--
Accommodation, Retail, Service - Commercial Use Categories (§3.6)											
Entertainment Event, Major	Auditoriums							C	P	P	--
	Fairgrounds									P	--
Office	Banks and financial institutions						C	P	P		--
	Government offices					C	P	P	P	P	--
	Medical clinic or dental office						P	P	P		--
	Professional offices						P	P	P	C	--
	Radio and television studios						P	P	P		--
Parking, Commercial	Commercial parking lots and garages							C	P	P	--
Retail Sales, Rental and Service, Sales-Oriented	Art Galleries						P	P	P		--
	Auto sales and rental								P	P	--

² Conditional Use is limited to not more than eight developmentally disabled or eight mentally ill persons pursuant to CRS §31-23-304(4).

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		R-1	R-1M	R-2	RMU	R-3	B-1	CBD	C	I	
	Automotive Supplies								P	P	--
	Book stores						P	P	P	C	--
	Convenience Stores, without gas pumps							P	P	P	--
	Drive-in						C	C	C	C	§3.12B
	Furniture and Appliance Stores							P	P	P	--
	Greenhouse or nursery						C	C	P	P	--
	Lumber and building material sales								C	P	--
	Outside Sales or Display							C	P	P	§3.7 B.3.
	Recreational Vehicle Sales								P	P	--
	Retail Grocery Store						C	C	P	C	--
Retail Sales and Service, Personal Service-Oriented	Athletic or Health Clubs						P	P	P	P	--
	Barber and beauty shops						P	P	P		--
	Drive-in						C	C	C	C	§3.12.B.
	Dry cleaning drop-off/pick-up						P	P	P	P	--
	Funeral homes and mortuaries							C	P	P	--
	Kennels								C	P	--
	Laundromats					C			P	P	--
	Photography studios						P	P	P	P	--
Veterinary clinic								P	P	--	
Marijuana	Retail Marijuana								P	C	§3.15
	Medical Marijuana Centers								P	C	§3.15
	Marijuana Club										--
Accommodations	Bed and breakfasts				C	C	C	C			§3.7 A.1.
	Hostels				C	C	C	C	P		§3.7 A.2.
	Hotels and motels							C	P		§3.7 A.3.
	RV Parks					C			C	C	§3.7.A.4.
Retail Sales and Service, Eating and Drinking –Oriented	Bars and taverns							P	P	C	--
	Coffee shop/bakery						C	P	P	P	--
	Drive-in							C	C	C	§3.12 B.
	Restaurants						P	P	P	C	--
Retail Sales and Service, Entertainment-Oriented	Private lodges and clubs							P	P	C	--
	Recreation, indoor							P	P	C	--
	Theater							P	P	P	--
Retail Sales and Service, Repair-Oriented	Appliance repair							C	P	P	--
	Bicycle repair/rental						P	P	P	P	--
	Locksmith						C	P	P	P	--
Vehicle Services, Limited	Car washes								P	P	--
	Convenience stores, with gas pumps							C	P	P	§3.7 B.1.

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		R-1	R-1M	R-2	RMU	R-3	B-1	CBD	C	I	
	Service stations							P	P	--	
Industrial Use Categories (§3.8)											
Industrial Sales and Service	Agricultural implement sales/service							P	P	--	
	Building and heating contractors							P	P	--	
	Chemicals or explosives manufacture								C	--	
	Dry cleaning/dyeing plant							C	P	P	--
	Feed and grain sales								P	P	--
	Manufactured home sales/service								C	P	--
	Repair and service of industrial vehicles								C	P	--
	Research laboratories								C	P	--
	Salvage or wrecking yards, or junkyards									C	--
	Sale, rental, leasing of heavy equipment								C	P	--
	Truck Stop								C	P	--
Manufacturing and Production	Catering Services						C	P	P	P	--
	Concrete or redi-mix plant									P	--
	Greenhouse/nursery							C	P	P	--
	Industrial Hemp Production									P	--
	Manufacture or assembly of machinery, equipment, instruments								C	P	--
	Meat Processing									C	--
	Printing, publishing and lithography						C	P	P	P	--
	Woodworking and cabinet shops								C	P	--
Marijuana Manufacturing and Production	Marijuana manufacturing									P	§3.15
	Medical marijuana-infused products manufacturing									P	§3.15
	Marijuana cultivation									P	§3.15
	Medical marijuana optional premises cultivation operation									P	§3.15
	Marijuana testing facility								P	P	§3.15
Self-storage Warehouse	Mini-warehouses and mini-storage									P	--
Vehicle Repair	Auto body shops								C	P	§3.7.B.2
	Auto, truck and boat repair								C	P	§3.7.B.2
	Quick lube service								P	P	§3.7.B.2
Warehouse and Freight Movement	Air cargo terminal									P	--
	Outdoor storage, general								C	P	§3.9B.
	Post Office							P	P	P	--
	Recreational vehicle storage								C	P	§3.9B.
	Utility service yards or garages								C	P	§3.9B.

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		R-1	R-1M	R-2	RMU	R-3	B-1	CBD	C	I		
	Warehouses and truck terminals										P	§3.9B.
Waste-Related	Transfer stations										P	--
	Recycling centers										P	--
Wholesale Sales	Mail order houses						P			P	P	--
	Wholesalers of food, clothing, and parts									C	P	--
Other Uses Categories §3.10												
Adult entertainment	Sexually oriented businesses										C	§3.10 C.
Alternative Energy	Solar Voltaic and Wind Turbines	C	C	C	C	C	C	C	C	C	C	§3.11 D.
Aviation and Surface Transportation	Airports and related facilities, public										P	§3.11 A.
Mining	Processing of aggregate mineral or other subsurface resources										C	§3.11 E.
	Asphalt Batch Plant										C	§3.11 E.
Telecommunications Facilities	Telecommunications facilities and towers								C	C	P	§3.11 B.
Temporary Commercial Activity	General retail sales or other commercial use operated outside of a building on a seasonal basis.								C	C	C	§3.13

Section 9. City of Gunnison Land Development Code, Section 3, is hereby amended to add Section 3.14 Marijuana Use Categories and Section 3.15 Marijuana Use Standards as follows:

3.14 Marijuana Use Categories

A. Retail Marijuana and Medical Marijuana Center Standards (retail marijuana establishments).

1. Characteristics. A licensed retail marijuana sales facility is authorized to sell retail or medical marijuana or manufactured marijuana products.
2. Accessory Uses. Accessory uses may include offices, secured indoor storage areas and sale of marijuana accessories.
3. Examples. Retail marijuana stores and medical marijuana centers are licensed in compliance with all local and state regulations. Retail marijuana establishments sell marijuana and marijuana products manufactured for consumption to the general public, under the provisions of state and local government regulations.

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Facilities have restricted access areas designated for merchandise displays and conducting transactions, and limited access areas which are prohibited for public access. Generally, retail establishments are classified in the *International Building Code* as Business Group M, Mercantile.

B. Marijuana Manufacturing and Medical Marijuana-Infused Products Manufacturing (marijuana product manufacturing establishment).

1. Characteristics. Manufacturing and production facilities serve to prepare, manufacture and package marijuana byproducts. Typically, the manufacturing process includes the distillation of plant materials. The distilled byproducts are generally oils, tinctures, and edible products made from the distilled product. Products may be any part of the plant or a finished product for the wholesale market or other facilities. Goods are not sold on the site.
2. Accessory Uses. Accessory uses may include offices, warehouses, truck fleets and secured indoor storage areas.
3. Examples. Marijuana manufacturing and medical marijuana-infused products manufacturing are licensed in compliance with all local and state regulations. Marijuana product manufacturing establishments process marijuana into various consumable products, under the provisions of state and local government regulations. Processes often involve distillation of marijuana using various types of equipment. Commercial kitchen equipment meeting the standards of the Colorado Department of Public Health and Environment are required. Facilities are limited areas for which public access is prohibited. Generally, Marijuana product manufacturing establishments are classified in the *International Building Code* as Factory Industrial, F-1, Moderate Hazard Occupancy.

C. Marijuana Cultivation and Medical Marijuana Optional Premises Cultivation Operation (licensed marijuana cultivation establishment).

1. Characteristics. Marijuana cultivation incorporates facilities with specific climate controls; ventilation and mechanical systems; equipment for watering and fertilizing plants; and storage of various gases, materials, and equipment required for the growing of marijuana plants. Cultivation facilities cannot cohabitate with any other uses not licensed and permitted as a marijuana establishment.
2. Accessory Uses. Accessory uses may include offices, warehouses, truck fleets and fully enclosed and secured storage facilities. Open storage yards are not permitted.
3. Examples. Marijuana cultivation establishments are licensed in compliance with all local and state regulations. Licensed marijuana cultivation establishments grow and produce marijuana. There are numerous process types that may be used the cultivation of marijuana. Processes may include the injection of compressed gas

(generally Carbon dioxide) or using nutrient rich media to enhance plant growth. Primary life-safety concerns include depleted oxygen levels within the facilities, wastewater discharges with elevated nutrient levels from fertilizers, phosphates, odor nuisances, and wastewater discharge of pesticides and other constituents which affect the state and federal licensing compliance provisions related to the City's sewer system and sewer plant. Public access to facilities are prohibited. Generally, licensed marijuana cultivation establishments are classified in the *International Building Code* as Factory Industrial, F-1, Moderate Hazard Occupancy.

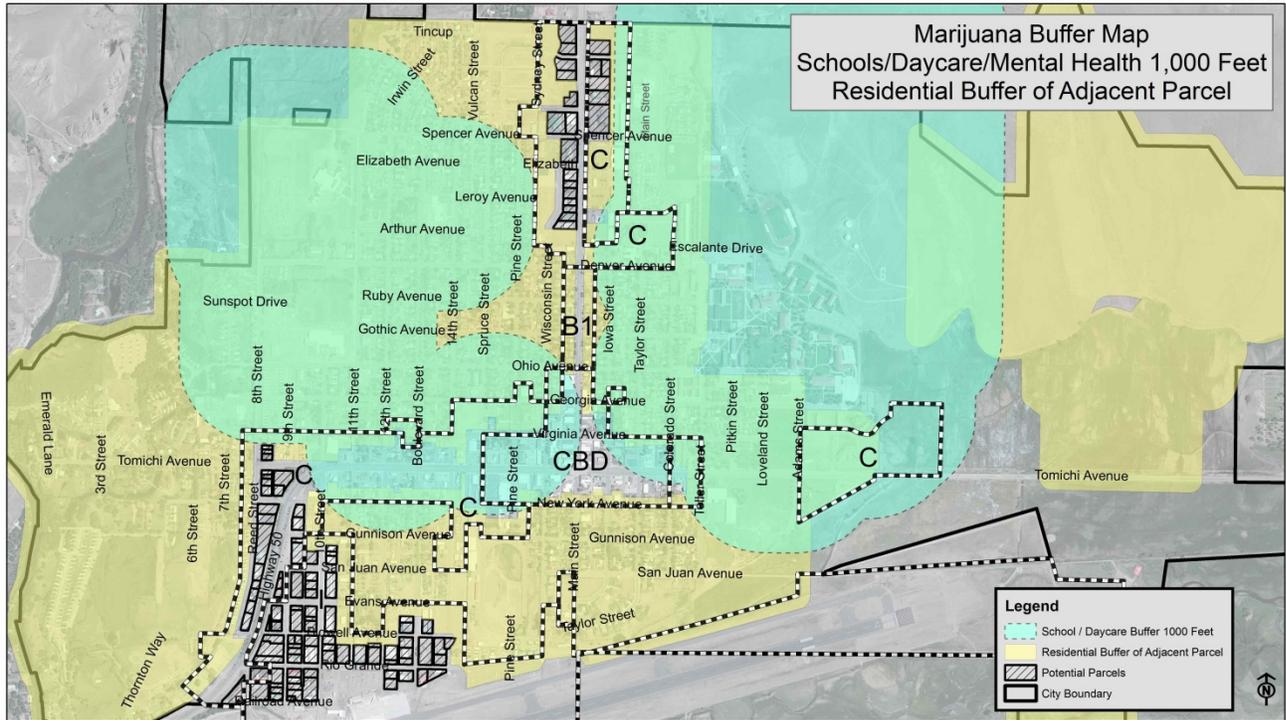
D. Testing Facilities

1. Characteristics. Testing facilities are laboratory facilities licensed to analyze and certify the safety and potency of marijuana.
2. Accessory Uses. Accessory uses may include offices, and secured storage areas.
3. Examples. Marijuana testing facilities are independent of all other licensed marijuana establishments staffed with technicians and equipped with various types of instruments and laboratory equipment. Generally, marijuana testing establishments are classified in the *International Building Code* as Business Group B, Laboratories (Testing and Research).

3.15 Marijuana Use Standards

- A. Site Development Application Required. A Site Development Application is required to be submitted and approved by the Community Development Director.
Exception. Retail Establishments (Medical Marijuana Center and Retail Marijuana Stores) proposed to be located in the city's Industrial District zone, are subject to Conditional Use approval pursuant to Table 2-3 (Principal Use Table).
- B. General Compliance Criteria and Standards. All city licensed marijuana establishments shall meet the following minimum criteria and standards.
 1. Marijuana establishments shall not be located within 1000 feet of a public school; private, charter school or institutions of higher education; daycare school, center, or home; and mental health facilities. The measure is established as a straight line drawn between any points of the respective property boundaries and is designated by the *Marijuana Establishment Buffer Map* adopted by the City Council. If any portion of deeded real property is intersected in any manner by a designated buffer boundary the entire deeded property is prohibited from being licensed as a marijuana establishment.
 2. Licensed marijuana establishments shall not be located on real property that fronts, abuts or is directly adjacent to any Residential District zone (R-1,R-1M, R-2, RMU, R-3, PUD-Residential).

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3. Licensed Marijuana establishments are subject the district zone location standards as set forth in Table 2-3 (Principal Use Table) of this *LDC*.
4. Marijuana establishment signage shall include only the registered or trade name, address and phone number of the marijuana establishment. Display graphic/images of any portion of a marijuana plant on signage associated with marijuana establishments shall be prohibited. Sign standards for marijuana establishments shall comply with all provisions of this *LDC* or other applicable city laws and regulations.
5. Except for permanent signage as permitted in Section 4.8, Signs of this *LDC*, it shall be unlawful for any person licensed by the City of Gunnison, or any other person to advertise any marijuana or retail marijuana product anywhere in the city where the advertisement is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media: billboard, Off-Premise Sign, or other outdoor general advertising device as defined in this *LDC*; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to a person in a public place, left upon a motor vehicle or posted upon any public or private property. The prohibition set forth in this paragraph shall not apply to:
 - a. Any sign located on the same deeded parcel as a licensed marijuana establishment which exists solely for the purpose of identifying the location of the marijuana establishment;

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- b. Any advertisement contained within a newspaper, magazine or other periodical of general circulation within the city or on the internet;
 - c. Any products marked with the name logo of the licensed marijuana establishment, including wearable or non-consumable merchandise, packaging in which marijuana is sold, or on recreational marijuana accessories sold; and,
 - d. Advertising that is purely incidental to sponsorship of a charitable event by the licensed marijuana establishment.
6. Licensed marijuana establishments shall comply with all provisions, standards and regulations of this LDC.
 7. Licensed marijuana establishments shall be served by city water, wastewater, and electrical utility services and shall comply with all provisions, standards and regulations specified in the Utilities (Title 12), *City of Gunnison Municipal Code*.
 8. All licensed marijuana establishments shall comply with all applicable requirements of Colorado State Law.
 9. Licensed marijuana establishments shall comply with Code of Colorado Regulations, Medical Use of Marijuana and the Code of Colorado Regulations, Retail Marijuana Code.
 10. Marijuana-related odors shall not be discharged or emanate from any licensed marijuana establishment. Licensed marijuana establishments involved in the sale, transfer, packaging, processing, cultivation, production, extraction or destruction of plants and their parts, devices, designed for the use of marijuana and marijuana products, or other marijuana related operations and activities, shall provide an approved source capture system capable of removing particulate and odors as required to achieve levels that do not constitute a nuisance to adjacent occupants, structures and properties.
 11. Building Standards. Licensed marijuana establishments shall be located in buildings that comply with the International Code Council codes adopted the City and in effect at the time of the license application submittal.
 12. Hours of Operation. Licensed marijuana establishments shall not sell, distribute, or initiate the transport of marijuana or marijuana products at any time other than between the hours of 8:00 am and 8:00 pm, Mountain Standard Time, Monday through Sunday.

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13. Director or designee shall perform inspections of all licensed marijuana establishments at their discretion. Inspections shall include review of operations and maintenance records.
- C. Retail Marijuana and Medical Marijuana Center Standards (retail marijuana establishments). Licensed retail marijuana establishments shall comply with the general criteria and standards (Section 3.15 B.) in addition to the following standards:
1. Building Standards. Licensed retail establishments shall be located in buildings that comply with occupancy standards established in the International Code Council codes adopted by the City and in effect at the time of the license application submittal.
 2. Licensed retail establishments shall be located on lots in buildings that comply with the regulations in the *LDC* including, but not limited to, landscape standards, buffer standards, lighting standards, screening standards and parking standards.
 3. Store front window glazing shall not be painted or covered with opaque material, but non-reflective tinted glazing is permitted on the building fenestration.
 4. Off-premises retail marijuana establishment storage facilities are prohibited.
- D. Retail Marijuana Products Manufacturing and Medical Marijuana-Infused Products Manufacturing (marijuana product manufacturing establishment). Licensed marijuana product manufacturing establishments shall comply with the general criteria and standards (Section 3.15 B.) in addition to the following standards:
1. Building Standards. Licensed marijuana product manufacturing establishments shall be located in buildings that comply with the International Code Council codes adopted the City and in effect at the time of the license application submittal.
 2. Equipment used in the licensed marijuana product manufacturing establishment shall be tested and approved by Underwriters Laboratories (UL) or equivalent standards testing laboratory. In the absence of a testing laboratory certification, the design and construction of said equipment may be by a mechanical engineer registered and holding a current license in the State of Colorado. In the case where equipment is approved by a licensed engineer, documents pertaining to specific material specifications, pressure, temperature thresholds, specific operating procedures, and other related details shall be provided in a report signed and stamped by the engineer of record.

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3. Licensed marijuana product manufacturing establishments shall, if necessary, be equipped with a commercial kitchen that complies with all related standards, operation procedures, and food service protection provisions promulgated by the Marijuana Product Manufacturing Facilities standards (R 600 Series) of the Colorado Department of Permanent Rules Related to Retail Marijuana Code, as they may be amended.

Licensed marijuana product manufacturing establishments shall, on an annual basis, be inspected. The Community Development Director shall be provided an inspection report demonstrating compliance with established standards, operation procedures and food service protection provisions. Said report shall be the product of a professional who is certified by the American Board of Industrial Hygiene. The licensed manufacturing establishment shall pay all costs for related inspections and reports. The Community Development Director may order an industrial hygiene inspection without notice, and all costs for city ordered inspections and reports shall be the responsibility of the licensed manufacturing establishment.

4. Toxic Pollutants and Hazardous Waste. Licensed marijuana product manufacturing establishments shall, on an annual basis, provide the Gunnison Fire Marshal a list of hazardous material types and quantities used. Disposal of hazardous and chemical waste must be conducted in a manner consistent with federal, state and local laws pertaining to the proper disposal of related materials.

5. Sewer System Discharge.

- a. Wastewater discharged from a marijuana licensed product manufacturing establishment is subject to city regulations (Municipal Code, 12.10.040.2, et al.) established to ensure that industrial wastewater discharge complies with state and federal regulations prior to the actual connection to the city's wastewater facilities.

- b. Testing Requirements. The Public Works Director may order a wastewater discharge inspection without notice, and all costs for city ordered inspections and reports shall be the responsibility of the licensed marijuana product manufacturing establishment. The licensed marijuana product manufacturing establishment shall pay all costs for related inspections and reports established by an independent testing laboratory acceptable to the Public Works Director.

- E. Marijuana Cultivation and Medical Marijuana Optional Premises Cultivation Operation (licensed marijuana cultivation establishment). Licensed marijuana cultivation establishments shall comply with the general criteria and standards (Section 3.15 B.) in addition to the following standards:

STAFF REPORT AND PLANNING AND ZONING COMMISSION RECOMMENDATION
Text Amendment to the *Land Development Code*

1. Outdoor cultivation of marijuana is prohibited.
2. Equipment used in the licensed marijuana cultivation establishment shall be tested and approved by Underwriters Laboratories (UL) or equivalent standards testing laboratory. In the absence of a testing laboratory certification, the design and construction of said equipment may be by a mechanical engineer registered and holding a current license in the State of Colorado. In the case where equipment is approved by a licensed engineer, documents pertaining to specific material specifications, pressure, temperature thresholds, specific operating procedures and other related details shall be provided in a report signed and stamped by the engineer of record.
3. Toxic Pollutants and Hazardous Waste. Licensed marijuana cultivation establishments shall, on an annual basis, provide the Gunnison Fire Marshal a list of hazardous material types and quantities used. Disposal of hazardous and chemical waste must be conducted in a manner consistent with federal, state and local laws pertaining to the proper disposal of related materials.
4. Sewer System Discharge. Wastewater discharged from a licensed marijuana cultivation establishment is subject to city regulations (Municipal Code, 12.10.040.2, et al.) established to ensure that industrial wastewater discharge complies with state and federal regulations prior to the actual connection to the city's wastewater facilities.
 - a. The applicant for a licensed marijuana cultivation establishment shall provide an Industrial Pretreatment Plan developed by a licensed engineer in the state of Colorado. The Industrial Pre-Treatment Plan shall be included with the Site Development Plan and shall provide the following specific information:
 - i. A narrative and graphic plan description of the type of irrigation system to be used.
 - ii. An estimate of the quantity of total discharge into the wastewater collection system in gallons per day.
 - iii. The quantity of phosphorous and nitrogen in the discharge, to be established in pounds per day.
 - b. Discharge Conformance Standards. Licensed marijuana cultivation establishments shall conform to the Colorado Department of Public Health and Environment –Water Quality Control Commission, *Regulation #85, Nutrients Management Control Regulation (5CCR 1002-85)*, nutrient discharge limitation, and subject to change to conform to future nutrient discharge limitations promulgated by the state of Colorado. Nutrient discharge shall not exceed the following levels: Total phosphorous 0.015

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Text Amendment to the *Land Development Code*

pounds per day; Total nitrogen 0.088 pounds per day. Facilities with projected discharges exceed this threshold are subject to demonstrating compliance the *City of Gunnison Municipal Code*, Section 12.10.040.2 (Interceptors and Pretreatment).

- c. Testing Requirements. The Public Works Director may order a wastewater discharge inspection without notice, and all costs for city ordered inspections and reports shall be the responsibility of the licensed marijuana cultivation establishment. The licensed marijuana cultivation establishment shall pay all costs for related inspections and reports established by an independent testing laboratory acceptable to the Public Works Director.

F. Marijuana Testing Facilities. A licensed Marijuana Testing Facility shall comply with the general criteria and standards (Section 3.15 B.).

DEPARTMENTAL COMMENTS

Building Official: No issue.

Fire Marshal: No issue.

Parks and Recreation Department: No issue.

Police Department: No issue.

Public Works Director: No issue.

City Engineer: No issue.

Water and Sewer Superintendent: No issue.

Electric Superintendent: No issue.

City Attorney, Kathy Fogo: No issue.

STAFF OBSERVATIONS

1. The Text Amendment application proposes amendments to Section 2, Zoning Districts, Principal Use Table (Table 2-3) and Section 3, Specific Use Regulations within the *Land Development Code*.
2. On November 4, 2014, the City of Gunnison put the question to registered electors on whether to allow medical marijuana establishments within the City, whether to allow retail marijuana establishments in the City, and whether to apply a local tax on the sale of medical or retail marijuana within the City.
3. Voters approved the allowance of medical and retail marijuana establishments within the City limits, as well as taxation on sales of the same, subject to such rules, regulations, limitations and restrictions as may be adopted by City Council.
4. The City has the power and authority to adopt regulations for licensing marijuana establishments that are more restrictive than those rules adopted by Colorado Revised Statutes.

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Text Amendment to the *Land Development Code*

5. Marijuana uses include Retail Marijuana and Medical Marijuana Centers; Marijuana Manufacturing and Medical Marijuana-Infused Products Manufacturing; Marijuana Cultivation and Medical Marijuana Optional Premises Cultivation; and, Marijuana Testing Facilities.
6. During the March and April 2015 timeframe, the City hosted two public forums to gather community input and comments. A wide spectrum of viewpoints exists, based on comments from community members. They range from allowing uses only in the Industrial District zone to not regulating the industry in any manner. Topics broached during these sessions were varied in content but, locational standards for retail establishments, limiting the number of licenses in the city, issues associated with co-occupancy tenants in a single building, and wastewater discharge were some of the topics of greatest interest.
7. Regulatory oversight of the new marijuana business market requires amendments to the City Sales and Use Tax Code (Chapter 3.10), Business Regulations (Chapter 8.50), and Technical Codes (Title 14, Building, Mechanical and Fire Codes) of the *City of Gunnison Municipal Code*. Amendments of the *Municipal Code* are reviewed and approved by City Council and are not part of this application.
8. Land use regulations for all marijuana establishments include location and buffer standards, signage standards, utility compliance provisions, odor mitigation requirements, building compliance requirements, requirements limiting the hours of operation, and provisions for inspections. Additional standards are required for each marijuana establishment type (i.e. equipment, hazardous waste, sewer system discharge, etc.).
9. The proposed amendments represent a balanced approach for addressing the variety of community viewpoints expressed during the public forums concerning the topics of this emerging industry.
10. The Community Development Director believes that the proposed amendments to the *City of Gunnison Land Development Code* protect the health, safety and welfare of the community and the Director recommends approval of the amendments as presented herein.

REVIEW STANDARDS FOR TEXT AMENDMENTS

LDC Section 6.8 C., states that “....an application that fails to comply with any applicable review standard shall be denied.” The *LDC* Section 10.5 states that “...an application for an amendment to the text of this *Land Development Code* shall comply with the following four standards:”

A. Consistent with Purposes. The proposed amendment shall be consistent with the purposes of this *Land Development Code*.

No Conflict. Purposes of the *LDC* are cited in Section 15.10.030 and include the following headings:

1. *Establish Development Standards* for the review of all proposed development in the City.
- 2) *Protect Quality of Life* by promoting the community’s general health, safety and welfare.
- 3) *Establish Review Process* that is clear, consistent, predictable and efficient.

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Text Amendment to the *Land Development Code*

- 4) *Provide for Orderly Development* of the City that is well-ordered and safe.
- 5) *Conserve Property Values* and respect interests of property owners and citizens.

B. No Conflict with Other Provisions. The proposed amendment shall not conflict with any other applicable provisions of this *Land Development Code*, or shall repeal or amend provisions of this *Land Development Code* which are inconsistent, unreasonable or out-of-date.

No Conflict: The proposed text amendment does not conflict with any sections of the *LDC*.

C. Consistent with *Master Plan*. The proposed amendment shall be consistent with the *Master Plan*, or shall implement a new portion of the *Master Plan*, or shall implement portions of the *Master Plan* which have proven difficult to achieve under the existing provisions of this *Land Development Code*.

No Conflict: The proposed text amendment is consistent with the *City of Gunnison Master Plan*.

Land Use Goal. “Residential, commercial and industrial land uses are appropriately located.”

Economics Goal. “A diversified local economy will support the economic and employment needs of residents and account for social character, land use patterns...”

Utilities Goal. “The City will efficiently deliver its public utilities and continue to be fiscally responsible in the construction of high quality public infrastructure, making forward-looking decisions that maintain low operational, maintenance and energy costs.”

D. Public Health, Safety and Welfare. The proposed amendment shall preserve the public health, safety, general welfare and environment and contribute to the orderly development of the City.

No Conflict: The proposed amendment is intended to preserve the public health, safety and general welfare of the community.

RECOMMENDATION

During the Planning and Zoning Commission meeting held on May 13, 2015, Commissioner Niemeyer moved, Commissioner Cave seconded, and the Planning and Zoning Commission voted to recommend APPROVAL, to City Council of Zoning Amendment application ZA 15-2, for a Text Amendment to Section 2, Zoning Districts and Section 3, Specific Use Regulations regarding medical and retail marijuana regulations within the *LDC*, based on the following findings of fact:

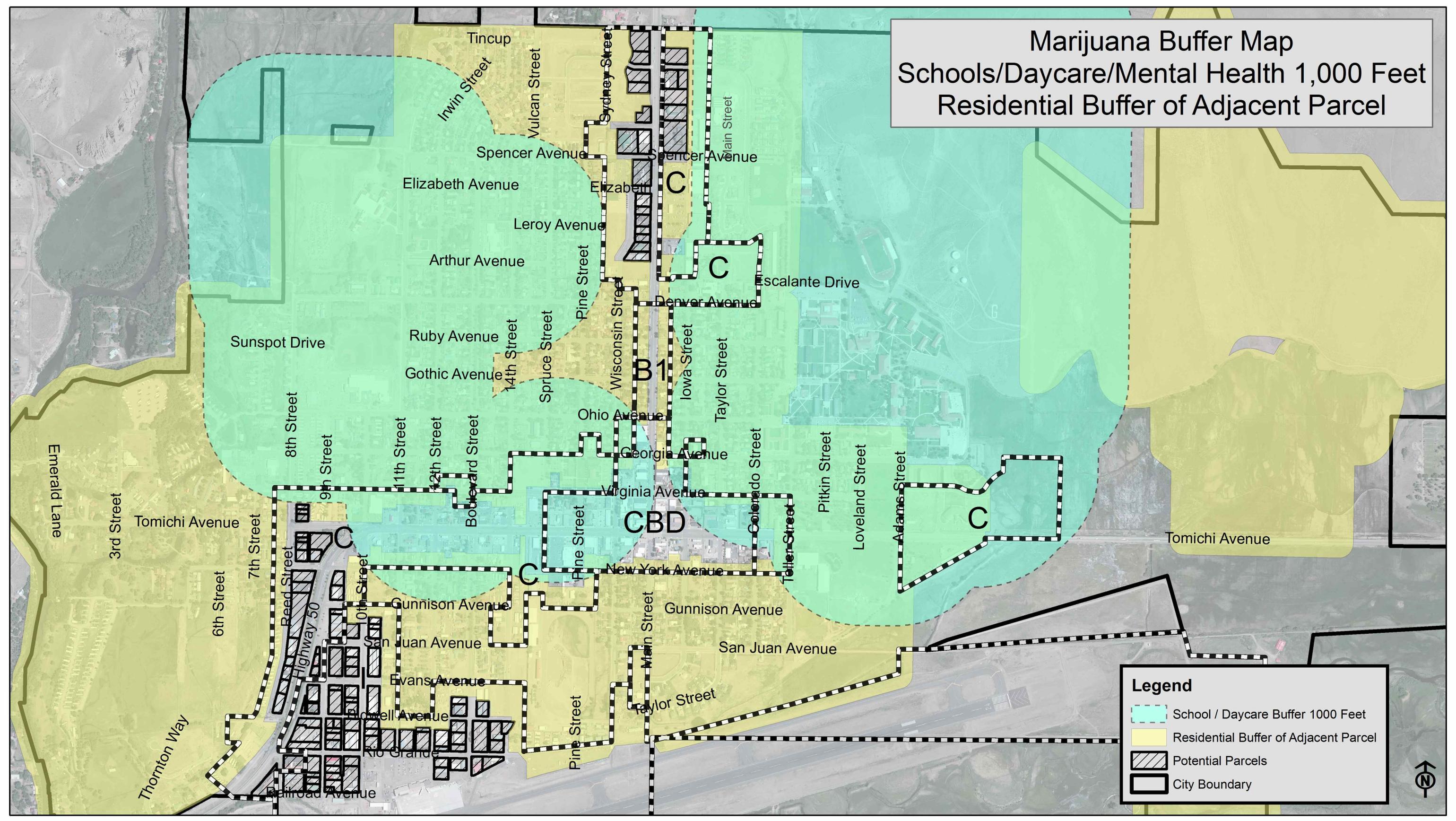
1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.
2. The Planning and Zoning Commission finds that the proposed Text Amendment amends Section 2, Zoning Districts and Section 3, Specific Use Regulations within the *Land Development Code*.
3. The Planning and Zoning Commission finds that on November 4, 2014, the City of Gunnison put the question to registered electors on whether to allow medical marijuana establishments within the City, whether to allow retail marijuana establishments in the

STAFF REPORT AND PLANNING AND ZONING COMMISSION RECOMMENDATION
Text Amendment to the *Land Development Code*

- City, and whether to apply a local tax to the sale of medical or retail marijuana within the City.
4. The Planning and Zoning Commission finds that voters approved the allowance of medical and retail marijuana establishments within the City limits, as well as taxation on the sales of the same, subject to such rules, regulations, limitations and restrictions as may be adopted by City Council.
 5. The Planning and Zoning Commission finds that the City has the power and authority to adopt Articles pursuant to:
 - a. The Colorado Medical Marijuana Code, C.R.S., Title 12, Article 43.3;
 - b. The Colorado Retail Marijuana Code, C.R.S. Title 12, Article 43.4;
 - c. The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
 - d. The powers contained in the City of Gunnison Home Rule Charter;
 - e. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
 - f. Part 3 of Article 23 of Title 31, C.R.S., (concerning municipal zoning powers);
 - g. Section 31-15-103, C.R.S., (concerning municipal police powers);
 - h. Section 31-15-401, C.R.S., (concerning municipal police powers); and,
 - i. Section 31-15-501, C.R.S., (concerning municipal authority to regulate businesses).
 9. The Planning and Zoning Commission finds that marijuana uses include Retail Marijuana and Medical Marijuana Centers; Marijuana Manufacturing and Medical Marijuana-Infused Products Manufacturing; Marijuana Cultivation and Medical Marijuana Optional Premises Cultivation; and, Marijuana Testing Facilities.
 10. The Planning and Zoning Commission finds that a wide variety of community viewpoints were expressed during the public forums conducted in March and April 2015, and the proposed text amendments represent a balanced compilation of standards that protect the community's best interests.
 11. The Planning and Zoning Commission finds that land use regulations for all marijuana establishments include location and buffer standards, signage, utilities, odors, building standards, hours of operation and inspections. The Planning and Zoning Commission further finds that additional standards are required for each marijuana establishment type (i.e. equipment, hazardous waste, sewer system discharge, etc.).
 12. The Planning and Zoning Commission finds that based on the record of the application proceedings, approval of this Text Amendment protects the community's health, safety and welfare.

Marijuana Buffer Map

Schools/Daycare/Mental Health 1,000 Feet Residential Buffer of Adjacent Parcel



Legend

- School / Daycare Buffer 1000 Feet
- Residential Buffer of Adjacent Parcel
- Potential Parcels
- City Boundary



MEMBERS	PRESENT	ABSENT	EXCUSED
Erik Niemeyer	X		
Erich Ferchau	X		
Andy Tocke	X		
Bob Beda	X		
Sharon Cave	X		
Greg Larson	X		
Councilor Stu Ferguson			X

OTHERS PRESENT: Community Development Director Steve Westbay, Planner Andie Ruggera, Lou Costello, John Billingsley, Ed Slaughenaupt, Jason Booth, Ken Bergan, Stephen Pierotti, and Tom Barber.

I. CALL TO ORDER AT 7:00 PM BY CHAIR GREG LARSON

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. PUBLIC HEARING – TEXT AMENDMENT, ZA 15-2, TO AMEND SECTION 2, ZONING DISTRICTS, PRINCIPAL USE TABLE AND SECTION 3, SPECIFIC USE REGULATIONS WITHIN THE LAND DEVELOPMENT CODE, TO ADDRESS THE LOCATION AND LAND USE REGULATIONS FOR MARIJUANA ESTABLISHMENTS.

Open Public Hearing. Chair Larson opened the public hearing at approximately ___7:01 p.m. Chair Larson thanked the public for all their input from previous meetings and attending the public hearing. Larson also thanked staff for their hard work on researching and drafting the marijuana codes.

Proof of publication. Proof of publication was entered into the record.

Review of the Process. Director Westbay reviewed the process of a Text Amendment application to amend the *Land Development Code (LDC)*. Westbay gave the history of marijuana stating in 2013 with the passing of the State vote regarding retail marijuana, the City Council, passed an ordinance prohibiting the operation of retail marijuana within the City. Since the action of voters in 2013 members of the public had requested that the City determine whether to continue the prohibition on medical and retail marijuana establishments within the City.

On November 4, 2014, the City put the question to registered voters on whether to allow medical and retail marijuana establishments within the City of Gunnison. Voters approved the allowance of medical and retail marijuana establishments along with the taxation on sales. Both the *Colorado Medical Marijuana Code* and *Colorado Retail Marijuana Code* authorize a local jurisdiction to allow the marijuana establishments within its boundaries to adopt its own time, place and manner restrictions, as well and other local regulations, which rules and regulations may be stricter than those established by the State of Colorado.

After the approval of the ballot question, City staff began developing an ordinance to address regulatory provision for marijuana establishments. Amendments are proposed to the City Sales and Use Tax Code (Chapter 3.10), Business Regulations (Chapter 8.50), and Technical Codes (Title 14, Building, Mechanical and Fire Codes) of the *City Municipal Code* and are reviewed and approved by City Council.

Amendments to the *LDC* are proposed to address land use regulations for marijuana establishments in Section 2, Zoning Districts, Principal Use Table and Section 3 Specific Use Regulations.

Applicant Presentation. Director Westbay discussed public input received to date. A total of five work sessions concerning the topic of marijuana regulations had been held. While many topics were

broached during these sessions, locational standards for retail establishments, the issue of co-occupancy tenants in a single building and wastewater discharge were of greatest interest.

Westbay discussed the origin of the proposed 1000 foot buffer for schools, daycare and mental health facilities and stated the Federal Drug Enforcement Administration had set the 1000 foot buffer and it was logical that the State used the same buffer. Westbay stated he reviewed a variety (approximately 30) of other City codes within the State and feels very comfortable with the buffer recommendations to the Commission.

Several public comments received focused on a draft proposal to prohibit co-tenant occupancy in the building with marijuana establishments. The primary concern was regarding odor issues affecting tenants in the building. Based on comments received, staff modified the regulations to allow shared occupancy in buildings with appropriate mechanical systems.

Westbay discussed wastewater discharge and stated it was the City's responsibility to protect the multi-million dollar wastewater facility. One belief raised was that the proposed regulations singled-out the marijuana industry as a polluter without regard to other industrial discharge sources. Westbay stated that within the *LDC* there are discharge standards for specific uses such as car washes, auto shops and City shops. Proposed codes set wastewater discharge thresholds and if the discharge, from the licensed facility is greater, the marijuana establishment must institute a pretreatment device plan for the facility.

Director Westbay reviewed the proposed amendments to the *LDC*.

Public Input. The following public comments were received:

Stephen Pierotti – local resident

Mr. Pierotti stated his opinion regarding the buffer map has changed since the last public workshop. He stated the buffer requirement of the 1000 foot buffer from medical marijuana establishments was presented by staff as a minimum for all marijuana establishments. Mr. Pierotti read the medical marijuana section of the state code and said the City had the authority to add or remove buffers all together. He stated he believed the school buffer should be 500 feet [like liquor laws]. Pages three and 17 of the staff report uses the statement, "which rules and regulations may be stricter than those established by the State of Colorado," should say, may be varying distance.

Tom Barber – local resident

Mr. Barber stated he has run hundreds of groups in schools dealing with issues. With all of the groups drugs and alcohol was always involved. He said he can picture places on the Front Range that sell marijuana or sexually oriented business and dislikes how they look. Mr. Barber stated he did not want kids to have to pass these types of places in Gunnison. He encouraged the Commission to consider limiting marijuana establishments to the Industrial district. These establishments shouldn't be shown so blatantly for everyone to see.

Ed Slaughenhaupt

Mr. Slaughenhaupt appealed to the Commission for greater restrictions on marijuana to allow only in the Industrial zone. No Tomichi Avenue or Main Street. Decisions should be based on the protection of children and the next generation of kids that will be impacted as well. The Commission should base their decisions on two things: 1) the protections of minors; and 2) listening to the people.

The Gunnison Times had an opinion poll in their paper where they had 91 people participate. 69% of the participants voted retail marijuana should only be in the Industrial district and 5% felt marijuana should be allowed nowhere.

Lou Costello

You [the Commission] should listen to voters that stated they wanted marijuana in 2014. Mr. Costello stated he likes the buffer map at this point. The process has been delayed long enough. The marijuana establishments should be transparent and open, to hide these businesses is crazy. Mr. Costello agreed with John Billingsley regarding the sign code proposal. He stated, how do you advertise business when you already have an established logo. All of his marketing would have to change.

John Billingsley

Mr. Billingsley commented that he had read the proposed sign code and disagreed with the regulations. He stated the name of the business should not be regulated. He has other stores called "The Pot Shop" and with the existing code he would have to rename his business if he opened in Gunnison. The marijuana establishments should be transparent. Mr. Billingsley stated he doesn't feel the restriction should be part of the Code. He continued saying the staff and Commission has done a great job with drafting and compromising on the marijuana codes and he is happy with the proposed buffers. Mr. Billingsley thanked Director Westbay and stated he has been very responsive in regard to comments on marijuana codes.

Todd Bogard

Mr. Bogard stated he saw that the codes do not allow co-habitants and didn't understand why. He didn't see an issue with it. Director Westbay explained that the original codes did not allow co-occupancy of a marijuana use with a non-marijuana use and the regulations now allow co-tenants.

Staff Presentation. Director Westbay overviewed the staff observations and review standards. Westbay stated the City received a full spectrum of comments. The business regulations and licensing process was established to be very streamlined. The public process is under City Council review with some instances that would require Planning and Zoning Commission review. In regard to the technical codes, staff knows them in concept and future amendments may be needed as marijuana establishments are developed.

Director Westbay stated he recommends approval of the application and that the recommendation is being driven by the health, life safety and welfare of the community.

Commission Discussion. Chair Larson thanked the public for all comments received tonight and at previous meetings.

Commissioner Ferchau recused himself from the vote due to a conflict of interest.

Commissioner Niemeyer expressed he is impressed by the amount of engagement by the community and said nothing ever comes easy. Niemeyer liked the buffer maps as proposed.

The Commission discussed the sign code regulations regarding using the terms "marijuana," "pot," "weed," or other slang terms. A question was raised on whether the name or location was the most important. Both Mr. Billingsley and Mr. Costello stated they were both equally important.

A lengthy conversation continued on the sign code and what the State allows. City Attorney, Kathleen Fogo stated that the State of Colorado does not restrict names unless it is a duplicate name or misleading.

Mr. Billingsley and Mr. Costello requested the Commission to take out the sign code prohibiting marijuana terms used in the business name.

The Commission reached consensus that the sign code language should be changed. The sign code section was amended to read:

“Marijuana establishment signage shall include only the registered or trade name, address and phone number of the marijuana establishment. Display graphic/images of any portion of a marijuana plant on signage associated with marijuana establishments shall be prohibited.”

The Commission thanked City Attorney, Kathleen Fogo for attending the public hearing.

Close Public Hearing. Chair Larson closed the public hearing at 8:25 p.m.

Commissioner Niemeyer moved, Commissioner Cave seconded, and the Planning and Zoning Commission voted to recommend APPROVAL, to City Council of Zoning Amendment application ZA 15-2, for a Text Amendment to Section 2, Zoning Districts and Section 3, Specific Use Regulations regarding medical and retail marijuana regulations with the *LDC*, with the amended sign code section, based on the following findings of fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.
2. The Planning and Zoning Commission finds that the proposed Text Amendment amends Section 2, Zoning Districts and Section 3, Specific Use Regulations within the *Land Development Code*.
3. The Planning and Zoning Commission finds that on November 4, 2014, the City of Gunnison put the question to registered electors on whether to allow medical marijuana establishments within the City, whether to allow retail marijuana establishments in the City, and whether to apply a local tax to the sale of medical or retail marijuana within the City.
4. The Planning and Zoning Commission finds that voters approved the allowance of medical and retail marijuana establishments within the City limits, as well as taxation on the sales of the same, subject to such rules, regulations, limitations and restrictions as may be adopted by City Council.
5. The Planning and Zoning Commission finds that the City has the power and authority to adopt Articles pursuant to:
 - a. The Colorado Medical Marijuana Code, C.R.S., Title 12, Article 43.3;
 - b. The Colorado Retail Marijuana Code, C.R.S. Title 12, Article 43.4;
 - c. The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
 - d. The powers contained in the City of Gunnison Home Rule Charter;
 - e. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
 - f. Part 3 of Article 23 of Title 31, C.R.S., (concerning municipal zoning powers);
 - g. Section 31-15-103, C.R.S., (concerning municipal police powers);
 - h. Section 31-15-401, C.R.S., (concerning municipal police powers); and,
 - i. Section 31-15-501, C.R.S., (concerning municipal authority to regulate businesses).

9. The Planning and Zoning Commission finds that marijuana uses include Retail Marijuana and Medical Marijuana Centers; Marijuana Manufacturing and Medical Marijuana-Infused Products Manufacturing; Marijuana Cultivation and Medical Marijuana Optional Premises Cultivation; and, Marijuana Testing Facilities.
10. The Planning and Zoning Commission finds that a wide variety of community viewpoints were expressed during the public forums conducted in March and April 2015, and the proposed text amendments represent a balanced compilation of standards that protect the community's best interests.
11. The Planning and Zoning Commission finds that land use regulations for all marijuana establishments include location and buffer standards, signage, utilities, odors, building standards, hours of operation and inspections. The Planning and Zoning Commission further finds that additional standards are required for each marijuana establishment type (i.e. equipment, hazardous waste, sewer system discharge, etc.).
12. The Planning and Zoning Commission finds that based on the record of the application proceedings, approval of this Text Amendment protects the community's health, safety and welfare.

Roll Call Yes: Tocke, Larson, Beda, Cave and Niemeyer

Roll Call No:

Roll Call Abstain:

Motion carried

IV. SUBDIVISION RECLASSIFICATION REQUEST FROM A MAJOR TO A MINOR SUBDIVISION, SUBMITTED BY THE GUNNISON COUNTY PIONEER AND HISTORICAL SOCIETY MUSEUM

Director Westbay stated he had received a request from the Gunnison County Pioneer and Historical Society to reclassify a subdivision from a major to a minor. Director Westbay made a determination that the request met the criteria for a reclassification based on a community benefit and stated the Commission had the authority to revoke the determination if they wanted to. The Commission agreed with the determination for a reclassification.

V. UNSCHEDULED CITIZENS. There were none

VI. CONSIDERATION OF THE APRIL 22, 2015 MEETING MINUTES. Commissioner Cave moved and Commissioner Tocke seconded, to approve the April 22, 2015 meeting minutes as presented.

Roll Call Yes: Niemeyer, Ferchau, Larson, Tocke and Cave

Roll Call No:

Roll Call Abstain: Beda – was not present at the April 22nd meeting

Motion carried

VII. COUNCIL UPDATE. The May 12, 2015 Council meeting was cancelled and there was nothing to report.

VIII. COMMISSIONER COMMENTS. Commissioner Tocke moved and Commissioner Beda seconded, to excuse Councilor Ferguson from the May 13, 2015 regular meeting.

OFFICIAL MINUTES MAY 13, 2015
CITY OF GUNNISON PLANNING AND ZONING COMMISSION
REGULAR MEETING

7:00PM

Page 6 of 6

Roll Call Yes: Niemeyer, Ferchau, Larson, Cave, Beda and Tocke
Roll Call No:
Roll Call Abstain:
Motion carried

IX. PLANNING UPDATE. Director Westbay provided an update on recent Community Development activities:

- GOCO informed staff that the City of Gunnison was awarded \$407,200 for the Rivers to Ridges Trails project.

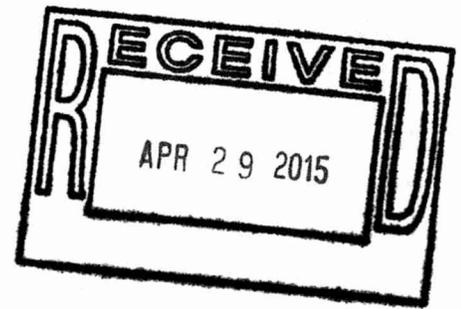
X. ADJOURN. Chair Larson adjourned the meeting to Work Session at 8:50 p.m.

Attest:

Greg Larson, Chair

Andie Ruggera, Secretary

Merlin Schaefer
886 Pashuta Dr.
Gunnison, CO
970 901 6643



This is for a specific technique use in growing tomatoes hydroponically and is easily duplicated for marijuana. Other system are available and are similar

- **In a grow or cultivation scenario the size described would be for 1000 square feet. And for larger, a multiple could be ascertained.**
- **In that 1000 square foot area, plant would use 10 square feet. Therefore there would be 100 plants.**
- **Each plant would use approximately 1/2 gallon of water daily. Thereby requiring 50 Gallons per day.**
- **In watering the plants, an approximate 10 percent extra is used to ensure complete watering and allowed to drain off.**
- **That would total 5 gallons.**
- **The five gallons would contain approximately .113 ounces of phosphates or 41.245 ounces or 2.57 lbs per year.**
- **One can readily see that this is not an overwhelming amount of phosphates nor should be a burden on the waste water system.**
- **It is most likely within the parameters of other businesses and household use.**
- **In fact from research I have ascertained that one person would dispose of 60 gallons of wastewater.**
- **And the total amount of phosphates would be 1.9 lbs per year. A household of 4, would be 7.7 lbs per year....**

Dear City Council Member,

I'm writing to express my thoughts on the proposed Marijuana regulations under consideration by council.

I attended the work session on April 7, 2015, and paid close attention to the comments that were made by the public during the meeting. I did not speak at the meeting because the issue was new to me, and I wished educate myself about it, as well as formulate an educated opinion.

It is my opinion that the Marijuana Buffer Map as presented at the work session meeting should be adopted as is. While the majority of speakers spoke against allowing retail stores on main thoroughfares, I think they should be allowed for the following reasons.

First, the People of the State of Colorado, and the Citizens of the City of Gunnison have voted to make the retail sale of marijuana legal. Whether we agree with this decision or not, it has been made through the democratic process. Anyone pursuing a legal business opportunity should be provided with the best possible chance for success.

It is also my opinion that retail marijuana outlets should be treated like liquor stores. Retail marijuana stores should be allowed to have exposure to our main thoroughfares in order to allow owners who are developing those businesses the best possible chance at becoming successful investors in our community as well as sales tax revenue generators.

As the father of two daughters, I understand the concerns that were voiced about children and the location of retail stores. I disagree that we need to hide these businesses from our kids. I plan to have many open discussions with my children about marijuana and its use, just as I have, and will have discussions about alcohol and its use. Legal marijuana is the new norm in Colorado, and not acknowledging that will do a great disservice to our children and their decision making processes as they grow up.

As a hockey Dad and coach, I spent a lot of time driving around the state this past winter. During my travels I saw numerous retail stores on the main thoroughfares of many of the towns we visited. These establishments were generally well cared for. They also appeared to be busy generating revenue for their owners, and tax revenue for the cities they were built in. In short, most of them were tastefully signed, built, and maintained. I have no reason to expect that investors in Gunnison wouldn't follow suit in an effort to capture the best return on their investment possible.

Thank you for your consideration,

Matt Schwartz

April 13, 2015

City Councilors
City Department Directors
P and Z Commissioners
City of Gunnison
201 West Virginia Avenue
Gunnison, CO 81230

Dear fellow Councilors, Staff and P and Z members,

Thank you fellow Councilors, Staff and members of the P and Z Commission for the very diligent and good work you have done in responding to the many and varied opinions stated in the various hearings and meetings.

I believe those people who expressed the concern about the impact of legalized marijuana having consequences that will change the character of our town may be correct in their thinking. After listening carefully to the many comments through two open forums and many other meetings concerning the use and regulations of marijuana, the point of major contention appears to be concerned with the advantages and disadvantages of retail locations within view of ingress and egress thoroughfares within the City of Gunnison. Both proponents of having retail establishments hidden or in full view of the general public have good and sound rationale for their opinions. I will make these observations:

1. I believe the highest priority in the decision making process should be based on the welfare of our children and youth. The decision for the placement of marijuana establishments should be based on this priority.
2. I believe we need to begin this journey into marijuana regulations slowly and with great care. This means tighter regulations and responsible actions. If we begin this journey with stricter regulations we can always "loosen" them in the future if the situation is deemed necessary. However, it is very difficult to reverse or rescind actions in the future. I believe the process of planning carefully will limit the change in the character of our city.
3. As far as co-occupancy restrictions for marijuana establishments are concerned, I believe that we need to use "best practices" coupled with what is safest for the welfare of the general public and the marijuana establishment workers.
4. As marijuana has become legalized in the State of Colorado, I believe there has been a sense in the general population and especially for the youth of our state that marijuana use no longer contains dangers. As we consider the ramifications of legalized marijuana and the scientifically proven dangers to young, developing minds, we need to consider supporting educational programs that give children, youth and parents information which will allow them to make good, educated decisions concerning the use of marijuana. I am not proposing that the education aspects be taken on by the city. We should work with community entities whose staff members are trained in drug prevention and education. I am suggesting we do so with a portion of the tax receipts from the sale of marijuana.

Thank you for the consideration of the points made in this letter.

Sincerely,



Robert Drexel
Mayor of Gunnison

Eric Norum
518 N. Colorado
Gunnison, Colorado 81230
Cell: 847.322.0657

April 11, 2015

City Council Members
City Commissioners
c/o Ken Coleman, City Manager
City of Gunnison
201 W. Virginia Avenue
Gunnison, Colorado 81230

Re: Proposed Medical and Retail Marijuana Codes

Dear Council Members, Commissioners and City Manager:

I have been a resident of Gunnison for more than two years and will be applying for cultivation, infused products and retail store licenses under the new Code. I am writing you to address my concerns regarding the proposed prohibition against marijuana establishments co-occupying a building with a non-marijuana establishment under the suggested Building and Fire Codes. *See: Gunnison Medical and Retail Marijuana Codes, Workshop Talking Points, March 18, 2015 and April 7, 2015.*

First, I want you to know that I appreciate and applaud the City for all it is doing to bring new economic opportunities to Gunnison that will provide employment and tax revenues to the City. I have been attending the council meetings but I did not speak on this matter since I wanted to do some research before sharing my thoughts. Clearly, the City has the right to enact reasonable land use and zoning regulations designed to preserve the health, safety and welfare of its residents. Under the co-occupancy restriction noted in the Workshop Talking Points, the City is requiring that all marijuana establishments be free standing buildings. The proposed Code bans marijuana businesses from occupying a facility with a non-marijuana business even if the businesses are operating in separate units divided by a common wall and have different entrances. I think the proposed co-occupancy restriction is problematic since it overly broad, unreasonable and favors the rich.

There are no distinctions in the proposed Code regarding the particular type of marijuana license involved, the nature of the building, the design of the premises or the type of the business co-occupying the structure. Under the current proposal, a cultivation establishment could not occupy a separate shop in a multi-unit industrial building with an agricultural supply business, a greenhouse facility, warehouse or any other type of business that does not have a marijuana

license. Likewise, a retail marijuana shop could not occupy a storefront which has other rental space in the same structure - such as a book store, mail order house, or professional offices- even if there are separate entrances or the co-occupant is located in the rear of the building. It is hard to understand how such co-occupancies could adversely affect the public health, welfare or immediate safety of a Gunnison resident.

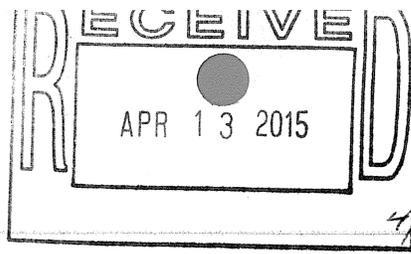
By way of reference, the Colorado Marijuana Code allows licensed marijuana establishments in “premises” which are defined as a “distinct and definite location, which may include a building, a part of a building, a room, or any other contiguous area”. Also, the Colorado Code defines the operation of an “established” marijuana business as meaning “owning or leasing a space with a storefront”. (emphasis added)

The proposed Code indirectly benefits wealthy residents that own, or can afford to rent, an industrial building and disfavors residents with modest means. The Code should be designed to put everyone on an equal playing field which will foster an innovative and strong marijuana industry in Gunnison. Personally, I want to apply my knowledge and passion for organic growing to help build Gunnison’s marijuana industries. I do not have allusions or riches – all I want to do is make a difference through organic cultivation. Accordingly, I hope you will reconsideration the co-occupancy restriction.

Thank you for listening.

Sincerely,

Eric Norum



DEAR CITY COUNCIL & PLANNING AND ZONING COMMISSION,
AS A CONCERNED CITIZEN REGARDING THE
REGULATIONS PERTAINING TO THE MEDICAL AND
RETAIL MARIJUANA ESTABLISHMENTS. I AM AGAINST ANY
AND ALL MARIJUANA CULTIVATION AND RETAIL ESTABLISH-
MENTS PERIOD.

SINCE THIS IS LEGAL IN THE STATE, I WILL PROCEED
WITH THE SPECIFIC POINTS UNDER DISCUSSION.

- 1 - I agree with the City regulations concerning
the Business Regulations, and Building and
Fire codes.
- 2 - CONCERNING LAND DEVELOPMENT CODE - I
WOULD MOVE FOR A 1000' BUFFER FROM
RESIDENTIAL DISTRICTS AND PARKS AND CHURCHES.
- 3 - I would like to see any of these MARIJUANA
facilities to be located only in the industrial
sectors of Gunnison, in an attempt to keep the
family friendly downtown area as is.

THANK YOU ALL FOR YOUR SERVICE
AND CONSIDERATION IN THE ABOVE
MATTER.

SINCERELY,
TONY LECERE

Why “Industrial Zone” Only for Marijuana Merchandising?

1. The Same Solution to the same kind of issue debated, decided and enacted into city code 12 years ago with Sexually Oriented Businesses.

- Establishes reasonable accessibility of sales to adults only.
- Establishes restricted visibility for the protection of youth.

2. A Simple Solution easily added to the existing city code.

- Add “Marijuana Businesses” to the Land Development Code, Principle Use Table, Page 2-9.
- Maintain the same buffer zone and signage standards as for the “adult entertainment” Standards 3.11, para. C.

3. A Satisfactory Solution:

- Marijuana merchants have places to conduct their business.
- Adult patrons have easily accessible places to purchase.
- Citizens, particularly impressionable youth, are not overly exposed to the drug.
- Sexually Oriented Businesses are denied an incentive to lobby for equal business status.

Recent Stats:

Colorado is 2nd in the nation for use of MJ among youth aged 12 and up.

60% of HS students believe MJ is harmless.

61% of Denver HS seniors are users.

1 in 15 HS students are daily users:

Daily users are 60 % less likely to complete High School, and 7 times more likely to attempt suicide.

www.smartcolorado.org

Marijuana Workshop Comment Summary

March 18, 2015 Workshop – Planning and Zoning Commission Meeting

Lou Costello –

- Believes in establishing criteria
- Local resident with lots of business experience
- Marijuana establishments need to be visible and transparent – the City is trying to hide marijuana businesses
- I have two retail locations that would be acceptable (400 N Main and 600 S 11th) – both are not available because they are located within the proposed buffers
- Don't take away the thoroughfares
- Don't make marijuana establishments look shady – treat them like liquor stores
- Marijuana stores are driving tourism – people are coming here for it
- Marijuana is here to stay and the location is important.

Ed Slaughenaupt – local resident

- Marijuana establishments should be treated like the sexually oriented businesses. When codes were proposed for sexually oriented businesses the final analysis was acceptable to our citizens. The simple solution is to use the same standards as sexually oriented businesses
- Complete a situation where most are satisfied
- Restrict all marijuana establishments to the Industrial District
- City needs to protect vulnerable youth. Youth are most impacted in Colorado.
- Citizens and youth not overly exposed to marijuana establishments provides protection
- Our youth are getting marijuana sold to them. I appeal to the City to protect our children.
- Most kids believe marijuana is ok but it has a negative impact on our youth

Jon Billingsley

- The proposed 150' residential buffer dissects my property in the Industrial District. Reconsider the residential buffers.
- A storefront at this location would not have an impact on the residential area.
- I don't think we will have a problem with 10 stores in Gunnison – this needs to be a free enterprise
- It is the parents responsibility to teach kids right from wrong [in regard to marijuana]

Joe Bob Merritt – Property owner on South Main Street

- Not interested in operating a marijuana establishment, but doesn't like to be regulated.
- Under State law a business could operate and make money on their business.
- Stop diminishing property values with regulations on what you can do with your land

Marijuana Workshop Comment Summary

- We need less rules and more freedom. Telluride is amazing in this regard. I love that Telluride is so open to the public
- Establishments should be out in the open – would like to see the City fearless

Ken Burgan – owns seven properties in the Industrial District

- Encourages the City to allow multiple locations and not limit the number of retail establishments
- It is important for marijuana establishments to be successful – tax revenues and increases are limited for these types of businesses
- Highway 135 and 50 corridors should be approved locations and have reputable storefronts
- There are not many parcels that can accommodate for a grow operation and retail
- Please stay with the state buffers only

Stephen Pierotti

- There are always going to be some type of odor – food or other items
- Strongly disagree with additional buffers beyond the schools and daycares.
- Retail is retail and [marijuana establishments] should be allowed anywhere other retail is allowed.

Todd Bogard

- Allow marijuana manufacturing
- Marijuana establishments should be allowed next to other uses with no shared venting
- The shared wall and multiple uses should be reviewed on a case by case basis

Alan Rose

- Why hide marijuana facilities from children? Most kids are smart.
- Treat marijuana facilities like a liquor store with the same requirements

Bob Williams

- I completed the plans for Lou Costello's marijuana facility in the County
- As a developer of VanTuyl Village I had a terrible time surviving the last few years – some of the property is in potential area for marijuana establishments
- The City is better off putting it [marijuana facilities] where it is visible
- The City could use the tax revenues
- Don't over-regulate marijuana – follow the State regulations
- The sales side is different than the grow operations

Marijuana Workshop Comment Summary

Travis Roy – has marijuana retail stores in Crested Butte and Carbondale

- Marijuana establishments need good visibility
- The less confusion on regulations the better

Jeff Wilkinson

- Drug dealers don't pay taxes
- I don't drink alcohol but in the past have used marijuana
- Marijuana should be treated just like alcohol
- More regulations increase the activities of the black market
- Prohibition only helps criminals – don't regulate it [marijuana establishments]

Jonathan Jones

- It would help as a parent to regulate the marijuana establishments so they are out of sight.
- The City needs to protect the youth.

Pete Tramm – owner of several marijuana establishments in Colorado

- There are higher standards and codes for marijuana establishments – kids should not notice a retail marijuana store
- There is 62% taxation right now and there are no deductions whatsoever
- Put marijuana establishments in visible places - where they belong

Marijuana Workshop Comment Summary

April 7, 2015 Workshop – City Council Meeting

Ed Slaughenhaupt – local resident

- It only makes sense to treat marijuana establishments like sexually oriented businesses
- Do not put these establishments out in front of the youth
- The best solution for citizens is to place marijuana facilities in the Industrial District.

Jonathan Jones

- The City needs to protect the youth – [marijuana] does not help children in our community.
- Marijuana establishments should be in the background – in the Industrial District – not in the forefront. Retail [marijuana] should only be allowed in the Industrial District.

Rick Barton – residence of Gunnison since 1967

- Very disappointed that this situation with marijuana has come up
- There are many negative effects on people [with marijuana use]
- We don't need marijuana on Main Street – at least restrict it to the Industrial District

Jon Billingsley

- Strongly disagree with prohibiting co-occupancy of marijuana with non-marijuana use

Lou Costello

- I intend to open a retail store in the City – the location is very important
- I am upset by the prejudice by City Council and Staff – marijuana was voted through.
- To hide us is most ridiculous. Very disappointed at this level. Why is the City taking so long? A decision is supposed to be made by July.

Dr. Hammond

- We come over from Montrose to do medical marijuana evaluations
- Many patients rely on marijuana for pain relief

Chris ?

- I own multiple marijuana stores – 1 in Crested Butte
- The Crested Butte store is on the main thoroughfare as all retail stores should be.

Marijuana Workshop Comment Summary

Steven Pierotti

- I agree with the 1000' buffer for schools and daycares and am glad to see that the parks and church buffers have been taken off the map.

Citizen – didn't state their name

- I don't think the City is prohibiting retail [marijuana] from the City, but I don't think retail marijuana downtown is an image we want either.

Boyd Peterson

- Thank you for undertaking this [marijuana regulations]
- I am pleased to see the buffer maps – buffers for the entrances of town should be included
- I have a problem with the location discussion – marijuana facilities should only be located in the Industrial District.

Jonathan – Mountain Christian Ministries

- I agree with the buffer map
- Marijuana establishments create a character issue for Gunnison
- Restrict the main entrances to town and only allow marijuana uses in the Industrial District.

Paul Shelly – State Electrical Inspector

- I consider Gunnison my home
- I have deep concerns regarding marijuana – it is not moral to allow marijuana
- Read a passage from the bible

Andy Tocke

- I like how the revised map is drawn
- I like allowing marijuana uses in some of the Commercial District and all of the Industrial District.

Application Fact Sheet
City of Gunnison Land Development Code
Minimum Application Contents
In accordance with §6.5 C.

City of Gunnison
P.O. Box 239
Gunnison, CO 81230
(970)641-8090

Applicant Name(s): Steven Westbay, City of Gunnison, Community Development Director

Phone #: 970-641-8152 **Fax #:** _____ **E-Mail:** swestbay@cityofgunnison-co.gov

Mailing Address: 200 E Virginia Avenue

City: Gunnison **State:** CO **Zip:** 81230

Legal Description - N/A

Site Address of Property: _____ **Zoning** _____
Block: _____ **Lot(s):** _____ **Addition:** _____

Disclosure of Ownership- Please provide one of the following: N/A

Assessor Parcel Info Mortgage Deed Judgments

Liens Contract Easement Agreement Other Agreements

Summary of Request: This Application is For A Text Amendment to the City of Gunnison Land Development Code proposed to regulate the licensing and operation of MARIJUANA Establishments.

Attachments: Vicinity Map (8.5"X11") Description of Proposal - See STAFF Report

Names, Addresses and Map of Adjoining Property Owners (From Assessor's Office)

Vested Property Rights Authorization of Agent (Power of Attorney from Owner, if not the applicant)

Site Plan (11"x17") **to scale**, includes dimensions and location of all structures, parking spaces and access, snow storage, landscaping, live cover, utility lines, road/street names, land uses of adjacent properties, setbacks. Include a table for all dimensional requirements based on §2.6. (See attached sample)

YOU ARE REQUIRED TO SUBMIT FOUR (4) COMPLETE COPIES OF YOUR APPLICATION

Signature(s) Steve Westbay **Date** 4.13.15

_____ **Date** _____

For Office Use Only

Conditional Use Variance Zoning Amendment

Major Subdivision Minor Subdivision Subdivision Exemption

Mobile Home/RV Park PUD Vacation

Consolidated Application