

**ORDINANCE NO. 5
SERIES 2015**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING TITLES 3, 8 AND 14 OF THE CITY OF GUNNISON MUNICIPAL CODE AND THE LAND DEVELOPMENT CODE OF THE CITY OF GUNNISON, ESTABLISHING RULES, STANDARDS AND POLICIES FOR LICENSING AND REGULATING THE USE OF LAND WITHIN THE BOUNDARIES OF THE CITY OF GUNNISON FOR THE RETAIL SALE, CULTIVATION, MANUFACTURING, AND TESTING OF MARIJUANA AND MARIJUANA PRODUCTS.

WHEREAS, the Colorado Medical Marijuana Code is contained in 12-43.3-101, et seq., C.R.S.; and

WHEREAS, the Colorado Retail Marijuana Code is contained in 12-43.4-101, et. seq., C.R.S.; and

WHEREAS, administrative regulations pertaining to both medical and retail marijuana establishments promulgated by the State Licensing Authority are contained in the Colorado Code of Regulations; and

WHEREAS, in 2010, electors of the City of Gunnison voted to prohibit the operation of medical marijuana establishments within the City; and

WHEREAS, in 2011, the City Council 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; and

WHEREAS, in 2013, the City Council of the City of Gunnison, passed Ordinance No. 6, Series 2013, prohibiting the operation of retail marijuana establishments within the City; and

WHEREAS, 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 have requested that the City determine whether to continue the prohibition on medical and retail marijuana establishments within the City; and

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

WHEREAS, voters approved the establishment 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; and,

WHEREAS, both the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code specifically authorize a local jurisdiction which is going to allow the medical and retail marijuana establishments within its boundaries, to adopt its own time, place and manner of restrictions, as well as other local regulations, which rules and regulations may be stricter than those established by the State of Colorado; and

WHEREAS, the City Council of the City of Gunnison has received and considered City staff and public input into the creation of the following regulations regarding the marijuana industry within the City, and specifically the health, safety and welfare of its citizens.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS THAT:

Section 1. Authority. The City Council hereby finds, determines, and declares that it has the power and authority to adopt this Article 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).

Section 2. Definitions. Unless otherwise defined in this Ordinance, or as may be set forth in Chapter 5 of the City of Gunnison Municipal Code (GMC), the City of Gunnison incorporates the definitions for the marijuana industry as set forth in the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, and the regulations propounded by the State Licensing Authority.

Section 3. City of Gunnison Municipal Code, Title 3, Finance, Chapter 3.10, City Sales and Use Tax Code, Section 3.10.060, Schedule of Sales Tax and Distribution of Receipts, is hereby repealed and reenacted to read as follows:

- A. There is imposed a tax in an amount equivalent to three percent of all sales of commodities and services specified in GMC 3.10.040. The receipts of the tax shall be deposited in the general fund of the city and shall be applied as specified in GMC 3.10.380.
- B. Commencing July 1, 2007, through and including June 30, 2032, there is imposed a tax, in addition to the tax set forth in subsection (A) of this section, in an amount equivalent to one percent of all sales of commodities and services specified in GMC 3.10.040. Commencing July 1, 2032, the tax specified in the preceding sentence shall be reduced to a tax, in addition to the tax set forth in subsection (A) of this section, in an amount equivalent to one-quarter of one percent of all sales of commodities and services specified in GMC 3.10.040. The receipts of the tax shall be deposited in the city park and recreation fund and shall be applied as specified in GMC 3.10.380.
- C. Commencing July 1, 2015, there is imposed a tax, in addition to taxes set forth in subsection (A) and (B) of this section, in the amount of five percent (5%) on the sale of medical marijuana, medical-marijuana infused products, retail marijuana and retail marijuana products, and an excise tax in the amount of five percent (5%) of the cash value of the transaction on the sale by a retail marijuana cultivation facility or retail marijuana products manufacturing facility to a licensed marijuana establishment outside the City of Gunnison. All revenues derived from such tax shall be collected and spent to defray costs incurred in regulating the marijuana industry, funding social, recreational, and educational programs within the community as may be determined by the City, including substance abuse prevention, education and counseling programs, and to promote the general purposes of the City of Gunnison.
- D. Retailers shall add to the sale price or charge the tax imposed in subsections (A), (B) and (C) of this section, or the average equivalent thereof, insofar as such average equivalent is expressed in combined form with that of the tax imposed by operation of Part 1 of Article 26 of Title 39, C.R.S., as amended, in accordance with schedules of said combined average equivalents duly adopted and promulgated by the Executive Director of the Colorado Department of Revenue. The retailer shall show such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge and shall be a debt from the consumer or user to the retailer until paid and shall be recoverable at law in the same manner as other debts. The retailer shall be entitled as collecting agent of the city to apply and credit the amount of collections against the rate to be paid under the provisions of GMC 3.10.050, remitting any excess of collections over said rate, less the five percent collection expense allowance, to the director of finance in the retailer's next monthly sales tax return.

Section 4. City of Gunnison Municipal Code, Title 8, Business Regulation, is hereby amended to add a new Chapter 8.50 Marijuana Business Licensing Regulations.

Chapter 8.50 MARIJUANA BUSINESS LICENSING REGULATIONS

8.50.010 License Required.

No person shall operate any marijuana establishment within the City of Gunnison without a license from the State of Colorado and the City of Gunnison. The City may issue a license, or licenses as appropriate, from any of the following classes: medical marijuana center, optional premises cultivation operation, medical marijuana-infused products manufacturing, retail marijuana store, retail marijuana cultivation facility, retail marijuana products manufacturing facility, retail marijuana testing facility. Dual operations are allowed within the City. No person, or entity in which the same person has an interest, may obtain more than one license for each class of marijuana establishment.

8.50.020 Application and License Fee Required.

An applicant shall pay the City an application fee and license fee when the application is filed. City Council shall set these fees by Resolution. If an application is later withdrawn, the City shall refund the license fee paid by the applicant. Application fees are nonrefundable.

8.50.030 Application for License.

- A. General Application Requirements. All applications for licenses authorized pursuant to Section 12-43.3-301, C.R.S. and Section 12-43.4-301, C.R.S., shall be made on forms approved by the State of Colorado.
- B. City-Specific Application Requirements. In addition to the application requirements contained in Section A. above, the City requires the following to be included in all applications submitted to the City and the state licensing authority:
 - 1. Results of local background check performed by the City of Gunnison Police Department for all persons to be involved in the business, including proposed licensee, owner(s), business managers, or financier(s);
 - 2. Consent/Acknowledgment in writing from the landlord and/or property owner if applicable, acknowledging that the premises will be operated as a marijuana establishment and consenting thereto;
 - 3. An approved Site Development application and/or Conditional Use permit as applicable;
 - 4. Approval from Community Development Department, that the intended site, buildings and facilities meet necessary local regulations as well as industry-specific regulations, or any conditions necessary to make the site compliant. A pre-application conference with the Community Development Department staff and review of the proposed site is optional, but is highly recommended, in order to assist in obtaining necessary approvals under this section.

8.50.040 License Application Processing and Procedure.

- A. Medical Marijuana Establishment.
 - 1. Public Hearing - City Council. Upon receipt of a complete application and the fees required for a local license, the City shall set a public hearing on the application to be held not less than thirty (30) days after the receipt by City Council of the application. Notice of such hearing shall be given pursuant to Section 12-43.3-302, C.R.S. The public hearing shall be conducted in the following format:
 - a. Call to Order
 - b. Record of Attendance
 - c. Applicant Identification
 - d. Report from City Clerk/City Attorney
 - e. Determination of the Neighborhood Within City Limits
 - f. Applicant's Testimony
 - g. Testimony in Favor
 - h. Testimony in Opposition

- i. Close Public hearing
2. No action shall be taken by City Council following the public hearing.
3. Following receipt of proof by the state local licensing authority of conditional licensing of the applicant by the state licensing authority, the City shall proceed to make findings of fact and approve or deny the application as set forth below in Section 8.50.050.

B. Retail Marijuana Establishment

1. If the state licensing authority receives an application for original licensing for any retail marijuana establishment, the state licensing authority shall provide, within seven days, a copy of the application to the City, and the City shall determine whether the application complies with the City's time, place, manner restrictions regarding retail marijuana businesses. All City-Specific Application requirements contained in Section 8.50.030B (1-4) must be included in the application and must be completed in order for the City to inform the state licensing authority whether the application complies with such local restrictions as required by Section 12-43.4-301, C.R.S. The City Clerk as the local licensing authority shall provide such determination to the state licensing authority.
2. Public Hearing. If the applicant receives conditional state licensure from the state licensing authority, the City shall set a public hearing before City Council on the application to be held following public notice as set forth in Section 12-43.4-302, C.R.S. The public hearing shall be conducted in the following format:
 - a. Call to Order
 - b. Record of Attendance
 - c. Applicant Identification
 - d. Report from City Clerk/City Attorney
 - e. Determination of the Neighborhood Within City Limits
 - f. Applicant's Testimony
 - g. Testimony in Favor
 - h. Testimony in Opposition
 - i. Close Public hearing
3. Council Action Following Hearing. The City Council may take action on the application following the public hearing, either on the same day as the public hearing, or at such regular session as determined by Council. The City Council shall make findings of fact and approve or deny the application as set forth below in Section 8.50.050.

8.50.050 Findings of Fact.

The City Council shall make written findings approving, approving with conditions, or denying an application for a marijuana establishment within the City. In order to approve an application, Council must make at least the following findings:

- A. The application complies with all relevant provisions of the Colorado Medical Marijuana Code, 12-43.3-101, et. seq., C.R.S., as amended, or the Colorado Retail Marijuana Code, 12-43.4-101, et. seq., C.R.S., as amended, as applicable.
- B. That the application is complete and complies with the City application requirements.
- C. That the applicant has received conditional licensing from the state licensing authority.
- D. That the applicant has paid the application and license fees established by the City.
- E. That the application complies with all relevant provisions of the City of Gunnison Land Development Code.

- F. That all testimony both in favor of or in opposition to issuance of the license sought has been considered.
- G. That the Council has considered the needs and desires of the neighborhood in which the licensed premises will be located.
- H. That the local background check performed by the City of Gunnison Police Department does not establish any concern regarding the applicant's ability to operate the marijuana establishment.
- I. That Consent/Acknowledgment in writing has been received from the landlord and/or property owner as applicable, acknowledging that the premises will be operated as a marijuana establishment and consenting thereto.

Any conditions of approval of the application shall be set forth in writing. A City license will not be issued until conditions of approval have been met. Any denial of an application shall be accompanied by written findings.

8.50.060 Modification or Alteration to Premises Following Issuance of License.

In addition to receiving approval in advance from the state licensing authority, approval from the Community Development Department, the Building Department and the Fire Department must be obtained prior to any modification or alteration of the premises following initial licensure of the premises. Modifications or alterations requiring approval are those that materially or substantially alter the licensed premises or the usage of the licensed premises from the plans originally approved. A determination of the Community Development Department should be sought as to whether any change is material or substantial prior to any modification or alteration being made. If deemed necessary by the Community Development Department, approval from a state licensed engineer, that any proposed modifications are in compliance with all ICC Codes, may be required. The City Council shall set the fee for review of premises modifications by Resolution.

8.50.070 License Renewal.

Licenses are valid for one (1) year.

License renewal applications shall be processed pursuant to Section 12-43.3-311, C.R.S. for medical marijuana establishments and pursuant to Section 12-43.4-310, C.R.S. for retail marijuana establishments. No renewal of a license shall be approved by the City until the license renewal fee set by City Council by Resolution is paid, until results of a local background check are provided by the City of Gunnison Police Department, and until confirmation is received from the Community Development Department, Building Department, and Fire Department, that the licensed premises continue to meet the necessary regulations required for licensure. License renewal may be approved by the City Clerk as the local licensing authority.

The City may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for at least one year.

8.50.080 Transfer of Location of License.

A license for a marijuana establishment may be transferred to another location within the City pursuant to Section 12-43.3-310, C.R.S., for medical marijuana establishments, and pursuant to Section 12-43.4-309, C.R.S. for retail marijuana establishments. An application to transfer the location of a license must be accompanied by the transfer of license location fee set by City Council by Resolution. In addition, the applicant must comply with Section 8.50.030 B, parts 1-4 of the City Code, and will be subject to any reasonable restrictions that exist or may be placed upon the new location by City Council.

8.50.090 Transfer of Ownership.

A marijuana establishment license may be transferred to a new owner pursuant to Section 12-43.3-309, C.R.S. for medical marijuana establishments, and pursuant to Section 12-43.4-308, C.R.S. for retail marijuana establishments. An application to transfer ownership must be accompanied by the transfer of ownership fee set by City Council by Resolution. In addition, the applicant must

comply with Section 8.50.030B, part 1, and shall be subject to the procedures for licensure set forth in Section 8.50.040 of the City Code.

8.50.100 License Suspension or Revocation.

The City may suspend or revoke a license in accordance with the provisions of Section 12-43.3-601, C.R.S., for medical marijuana establishments, and Section 12-43.4-601, C.R.S., for retail marijuana establishments.

- A. A marijuana establishment license may be suspended or revoked by the City for any of the following violations:
1. Conviction of the business, a licensee, or any owner, business manager, or financier of any violation of this chapter or any other law, rule or regulation applicable to the use of marijuana or operation of a marijuana establishment;
 2. Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the marijuana establishment;
 3. Violation of any law which, occurring prior to submittal of the application, could have been cause for denial of the license application;
 4. Distribution of marijuana, including, without limitation, delivering or transporting marijuana in violation of this Chapter or any other applicable law, rule or regulation;
 5. Operation of a marijuana establishment in violation of the specifications of the license application, any conditions of approval by the city;
 6. Failure to comply with all applicable kitchen-related health and safety standards of the Colorado Department of Public Health and Environment regulations as set forth in Code of Colorado Regulations;
 7. Failure to comply with the operation procedures and food service protection provisions of the Marijuana Product Manufacturing Facilities standards of the Colorado Department of Permanent Rules Related to Retail Marijuana Code;
 8. Disposal of organic toxic pollutants, hazardous substances, and toxic pollutants in violation of procedures established by City, state and federal regulations;
 9. Modification of the premises without prior approval pursuant to 8.50.060;
 10. Failure to maintain, or provide to the city upon request, any books, recordings, reports, or other records required by this chapter;
 11. Failure to properly notify the city and to complete necessary forms for changes in financial interest, business managers, financier, agent, or change of address;
 12. Failure to comply with all relevant provisions of the City of Gunnison Land Development Code;
 13. Temporary or permanent closure, or other sanction of the establishment, by the city, or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the establishment or any other applicable law;
 14. Revocation or suspension of another marijuana establishments license or any other license issued by the city, the State of Colorado, or any other jurisdiction, held by a licensee of the marijuana establishment;
 15. Failure to maintain the proper occupational licenses and registrations issued by the State of Colorado for owners, managers, operators, employees, contractors, and

other support staff employed by, working in, or having access to restricted areas of the licensed premises of a marijuana establishment;

16. Failure to correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice and order; and,

17. Suspension or revocation of a license by the State of Colorado.

B. In the event an establishment, licensee, owner, business manager, or financier is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the city may suspend the license pending resolution of the alleged violation.

C. If the city revokes or suspends a license, the establishment may not move any marijuana from the premises except under supervision of the City of Gunnison Police Department or the state licensing authority.

D. In determining whether a license should be suspended or revoked, and in determining what conditions should be imposed in the event of a suspension, the city shall consider:

1. The nature and seriousness of the violation – e.g., public safety, license violations, license infractions;
2. Corrective action, if any, taken by the licensee;
3. Prior violation(s), if any, by the licensee;
4. The likelihood of recurrence;
5. All circumstances surrounding the violation;
6. Whether the violation was willful or deliberate;
7. Previous sanctions, if any, imposed against the licensee; and
8. Whether the owner or manager is the violator or has directed an employee or other individual to violate the law.

Section 5. City of Gunnison Municipal Code, Title 14 (Technical Codes), Chapter 14.10, Building Code, Section 14.10.030 (Amendments) is hereby amended by the addition of the following:

International Building Code, Chapter 3, Section 306.2, F-1 Moderate Hazard Occupancies, shall be amended by adding the following new occupancy designations to the existing list:

Licensed Medical Marijuana Cultivation (Optional Premises Cultivation)
Licensed Retail Marijuana Cultivation
Licensed Medical Marijuana Manufacturer (Medical Marijuana-Infused Products Manufacturer)
Licensed Retail Marijuana Products Manufacturer

Section 6. City of Gunnison Municipal Code, Title 14 (Technical Codes), Chapter 14.20, Mechanical Code, Section 14.20.030 (Amendments) is hereby amended by the addition of the following:

International Mechanical Code, Chapter 5, Section 501.2.2, Exhaust Opening Protection, shall be amended by adding the additional new paragraph:

In order to mitigate odors, all marijuana establishments shall be equipped with a mechanical source capture system. Source capture systems shall comply with all building, mechanical and fire code provisions. In-line exhaust filtration may include carbon filtration

system or other equivalent filtration apparatus approved by the Building Official. Source capture system apparatus shall be maintained in proper working condition.

Section 7. City of Gunnison Municipal Code, Title 14 (Technical Codes), Chapter 14.30, Fire Code, Section 14.30.030 (Amendments) is hereby amended by the addition of the following:

International Fire Code, Chapter 27, Hazardous Materials – General Provisions, shall be amended by adding the following new Sections:

Section 2701.7, Provisions for Marijuana Establishments. All marijuana establishments licensed to operate in the City of Gunnison shall comply with the following standards.

A. Licensed Medical Marijuana-Infused Products Manufacturer and Retail Marijuana Products Manufacturer shall be prohibited from using flammable and combustible liquids and any compressed gases in the processing for marijuana to marijuana concentrates, oil, tinctures or other products.

Exception. Licensed Medical Marijuana-Infused Products Manufacturer and Retail Marijuana Products Manufacturer may use Carbon Dioxide gas in the processing of marijuana into concentrates, oil, tincture or other products. The system must receive permit approval from the City of Gunnison Fire Marshal prior to issuing a certificate of occupancy.

B. All equipment using Carbon Dioxide in the processing of marijuana into concentrate shall possess safety manufacturing labeling from an accredited testing laboratory (Underwriters Laboratories, International Code Council, others). In the event that the equipment has not been tested by an accredited testing laboratory, the design and installation of said equipment may be stamped and certified by a licensed engineer in the State of Colorado.

C. Licensed Marijuana Cultivation establishments shall be prohibited from using flammable and combustible liquids and any compressed gases in the cultivation of marijuana.

Exception. Marijuana establishments licensed by the City of Gunnison for Marijuana cultivation may use Carbon Dioxide gas to enhance the growth of marijuana under the following provisions and standards:

1. All Carbon Dioxide equipment must receive permit approval from the City of Gunnison Fire Marshal prior to issuing a certificate of occupancy.
2. All equipment used for Carbon Dioxide infusion for cultivation shall possess a safety manufacturing labeling from an accredited testing laboratory (Underwriters Laboratories, International Code Council, others). In the event that the equipment has not been tested by an accredited testing laboratory, the design and installation of said equipment may be stamped and certified by a licensed engineer in the State of Colorado.
3. All Carbon Dioxide injection equipment shall be equipped with a horn/strobe alarm that automatically activates when the Carbon Dioxide levels in the facility's ambient air exceeds 5000.0 parts per million.
4. All Carbon Dioxide injection equipment shall be equipped with an automatic shutoff system that activates when the Carbon Dioxide levels in the facility's ambient air exceeds 5000.0 parts per million.
5. Fumigation of a cultivation facility using the injection of Carbon Dioxide shall only be conducted after receiving a marijuana fumigation permit from the City of Gunnison Fire Marshal.
6. Carbon Dioxide Generators using natural gas or propane is prohibited.
7. Any marijuana establishment utilizing Carbon Dioxide shall post signs on all exterior doors indicating that Carbon Dioxide is used in the facility.

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		§3.3C
	Townhouses				P	P					§3.3F
	Upper story residential ¹						P	P	P	P	§3.3G
	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		§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	--
	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	--

¹ See special allowances in the Use Standards.

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

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	
	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.
	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	§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. Facilities

have restricted access areas designated for merchandise displays and conducting transactions, and limited access areas which are prohibited for public access. Generally, marijuana testing 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).

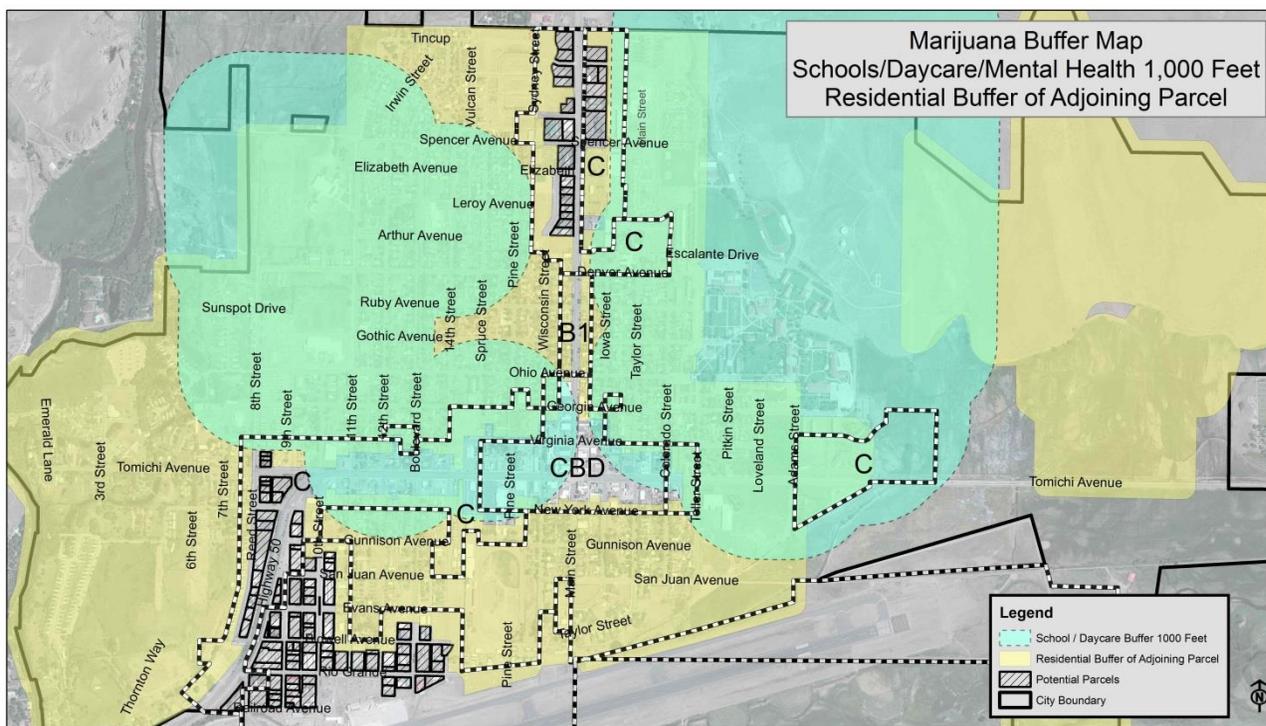
3.15 Marijuana Use Standards

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 or charter school; 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 adjoining to any Residential District zone (R-1,R-1M, R-2, RMU, R-3, PUD-Residential).
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 business or trade name, address, and telephone number of the marijuana establishment. Display of 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;
 - 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.
 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). A licensed retail marijuana establishment 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). A licensed marijuana product manufacturing establishment 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.
 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 cultivation 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). A licensed marijuana cultivation establishment shall comply with the general criteria and standards (Section 3.15 B.) in addition to the following standards:
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 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.).

Section 10. Ordinance Effective Date. The effective date of this Ordinance shall be July 6, 2015.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this ___th day of ____, 2015, on first reading, and introduced, read, and adopted on second and final reading this ___ day of _____, 2015.

Mayor

(SEAL)

ATTEST:

City Clerk

Published by title only in the
Gunnison Country Times Newspaper
_____, 2015