

GUNNISON CITY COUNCIL AGENDA

THE MEETING WILL BE HELD IN THE CITY COUNCIL CHAMBERS OF CITY HALL
201 W. VIRGINIA AVENUE IN GUNNISON

**TUESDAY,
JUNE 2, 2015**

SPECIAL SESSION

7:00P.M.

Receive Public Input on the merits of Ordinance No. 5, Series 2015, amending Title 3 Finance, Title 8 Business Regulation, and Title 14 Technical Codes, of the *City of Gunnison Municipal Code*, and amendments to Section 2 Zoning Districts, and Section 3 Specific Use Regulations, of the City of Gunnison *Land Development Code*, establishing rules, standards and policies for the taxation, licensing and regulating the retail sale, cultivation, manufacturing and testing of marijuana and marijuana products in the City of Gunnison.

**TUESDAY,
JUNE 2, 2015**

WORK SESSION

TBD

Following Closure of Public Hearing

- | | |
|----------|-------------------------------------------------------------------------------------------------------------------|
| 10 mins. | A. Gunnison Valley Regional Housing Authority Update on Single Family Owner Occupied Rehabilitation-Murtaza Naqvi |
| 20 mins. | B. City Marijuana Licensing Fees – City Manager Coleman, City Clerk Davidson |
| 15 mins. | C. City Criminal Code Marijuana Violations – PD Chief Robinson |
| 15 mins. | D. Noise Violations Code Amendment – PD Chief Robinson |
| | E. City Council and Staff Discussion, Meeting Reports, Items for Future Work Sessions |
| | F. Adjournment |

This agenda is subject to change, including the addition or deletion of items at any time. **Times are approximate** and the agenda may proceed faster or slower than listed. The City Manager and City Attorney reports may include administrative items not listed. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are posted at City Hall and on the City website www.cityofgunnison-co.gov No formal action can be taken at a Work Session. For further information, contact the City Clerk's office at 641-8140.

TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL NEEDS ARE ASKED TO CONTACT THE CITY CLERK AT 641-8140 AT LEAST 24 HRS. BEFORE THE MEETING.

PUBLIC HEARING FORMAT

7:00 P.M., Tuesday, June 2, 2015

On the Merits of Ordinance No. 5, Series 2015, amending Title 3 Finance, Title 8 Business Regulation, and Title 14 Technical Codes, of the *City of Gunnison Municipal Code*, and amendments to Section 2 Zoning Districts, and Section 3 Specific Use Regulations, of the City of Gunnison *Land Development Code*, establishing rules, standards and policies for the taxation, licensing and regulating the retail sale, cultivation, manufacturing and testing of marijuana and marijuana products in the City of Gunnison.

- I. **Mayor Open Public Hearing**
Open Public Hearing and State the time, date, location, and name those in attendance – City Council, City Attorney, City Manager, City Clerk, Finance Director, Police Chief, Community Development Director, and
_____.
- II. **State Reason for Public Hearing - Mayor**
Receive Input on the merits of Ordinance No. 5, Series 2015, amending Title 3 Finance, Title 8 Business Regulation, and Title 14 Technical Codes, of the *City of Gunnison Municipal Code*, and amendments to Section 2 Zoning Districts, and Section 3 Specific Use Regulations, of the City of Gunnison *Land Development Code*, establishing rules, standards and policies for the taxation, licensing and regulating the retail sale, cultivation, manufacturing and testing of marijuana and marijuana products in the City of Gunnison;
- III. **Proof of Publication - City Clerk**
- IV. **City Staff/Applicant Comments/Recommendation – City Staff and Planning & Zoning Commission on Land Development Code Provisions**
- V. **Public Comment**
Ask anyone wishing to comment – pro or con - on the provisions of Ordinance No. 5, Series 2015, to please step up to the microphone, state their name, and sign the sign-in sheet for the record.
- VI. **Enter letters, emails or other comments received from the public into the record - City Clerk**
- VII. **Call for any final comments – when hearing none, Mayor Close the Public Hearing.**

**City of Gunnison
NOTICE OF PUBLIC HEARING
MARIJUANA REGULATIONS**

TO WHOM IT MAY CONCERN:

PLEASE TAKE NOTE THAT, a Public Hearing will be held at the hour of 7:00 P.M. on the 2nd day of June, 2015, in the City Council Chambers, Gunnison Municipal Building, 201 W. Virginia Avenue, Gunnison, Colorado, on the merits of Ordinance No. 5, Series 2015, amending Title 3 Finance, Title 8 Business Regulation, and Title 14 Technical Codes, of the *City of Gunnison Municipal Code*, and amendments to Section 2 Zoning Districts, and Section 3 Specific Use Regulations, of the City of Gunnison *Land Development Code*, establishing rules, standards and policies for the taxation, licensing and regulating the retail sale, cultivation, manufacturing and testing of marijuana and marijuana products in the City of Gunnison;

AT WHICH TIME AND PLACE you may attend and give testimony, if you so desire.

CITY OF GUNNISON
CITY COUNCIL

/s/ Gail A. Davidson
City Clerk

Published in the Gunnison
Country Times Newspaper
May 14, 2015

erry Greene PE - Bldg Const	400.00
hn Roberts Mtr Wks - Eq Parts	62.13
J-M Pharm Svc - Pharm Supp	934.21
iation - Engineering	6,480.05
Biesemeyer - Cell Phone	70.00
Commerford - Cell Phn, Travel	139.88
Fulton - Stipend	250.00
McFarland - Travel	248.72
Stewart - Cell Phone	35.00
ithleen Fogo, PC - Legal Svc	693.75
is Bros Equipment - Eq Parts	788.56
ibat Equip & Svc-Bldg Repair	1,463.41
they - Mtg Meals	112.81
Jewman - Cell Phone	45.00
Partch - Cell Phone	90.00
Perical - Cell Phone	35.00
Rascon - Cell Phone	45.00
idick Napa Auto - Shop Supp	582.82
xis Nexis - Software	50.00
coln Natl Life Ins-Ins&Bonds	2,482.22
Birmie - Cell Phone	75.00
Cheever - Cell Phone	45.00
Crosby - Cell Phone	45.00
Dial - Cell Phone	70.00
Dougherty - Cell Phone	45.00
Elias - Cell Phone	35.00
Lee - Cell Phone	45.00
Roper - Cell Phone	35.00
anaging Results-Softwr Sub	9,600.00
ario's - Mtg Meals	88.00
armi, Ltd - Rent	2,000.00
ster Petroleum - Fuel	1,312.76
ster's Touch - Printing	4,621.92
Kesson Med Surgical-Supp	1,456.99
IC Kenworth - Eq Parts	748.90
IM Project Consult - Pr Svc	1,500.00
ntrose Cty H&HS-Pr Svc	1,156.80
ntrose FordLincoln Merc-Parts	173.35
ntrose Mem Hosp-Autopsies	750.00
ntrose Wtr Factory-Mtg Meals	24.00
nty's Auto Parts	2,190.12
n Clean - Janitorial Svc	3,625.26
n Surfaces - Bldg Imp	26.00
n View Apts-Replace Rsrsv	1,050.00
n Vly Distrib - Prisoner Meals	270.00
nicip & Contractrs Equip-Parts	229.56
slik - Eq Repair & Maint	1,571.38
pa Auto Crbondale-Oil, Grease	138.13
tl Trust Historic Preserv-Dues	250.00
sbit & Co - Rent	670.00
S Coresource-Stp Lss/Fees	56,465.10
rth Am Weather - Pr Svc	19,791.00
rthern Safety Co - Lab Supp	204.95
X Netwk Consult-Comp Eq	38,360.00
Miner Steakhouse-Mtg Meals	400.00
erator Cert Prog-State Fees	85.00
Reilly Auto Parts	35.92
erhead Door Co GJ-BldgImp	1,077.60
lge Co Containers-Off Supp	335.50
nia Farm & Home - Eq Parts	51.02
er Clip - Off Supp	3,309.55
ish Oil - Fuel	12,750.68
IC Pharmacy-Prisoner Medical	355.97
ak Fitness-Club Membership	120.00
ormance Radiator-Ins Claim	1,046.00
on Mesa Automtcs-Bldg Imp	474.61
insman - Furn & Fixtures	6,270.00
Com - Pr Svc	34.00

80 Tomichi Tire - Tires	1,396.64
04 Town Clinic CB - Pharm Sup	10.00
12 Town of CB - Sales Tax	32,548.15
12 Town of Marble - Sales Tax	139.67
12 Town of Mt CB - Sales Tax	16,107.80
12 Town of Pitkin - Sales Tax	103.32
43 Trio Investment - Rent	5,000.00
92 Truex Mgt Svc - Mgt Svc	6,300.00
01 Two Way Comms - Eq	12,460.00
01 Tyler Technologies-Softwr Sub	7,968.87
01 UMB Bank Card - A/P Misc	39,481.91
51 UNCC - Subscriptions	1.43
02 United Co - Bldg Imp	22,569.21
01 United Parcel Service - Litigation	26.88
01 United Reprog - Plat Mach Supp	96.00
01 University of Co-Mtg Registration	290.00
80 Upper Gunn River Water-Pr Svc	112.26
90 US Dept Hum Svc, ACA - Ins	17,955.00
** USA Blue Book - Eq Drum Lifter	471.62
80 Varsity Distributing - Shop Supp	114.94
80 VIP Trash Svc - Trash Removal	90.00
01 W Wilcox - Stipend	250.00
** Wagner Eq - Parts	5,846.04
** Walmart - Mtg Supp	245.57
** Wells Fargo Bank - PR & Int	4,204.79
01 Wells Fargo Fin Leasing - Lease	373.49
01 West Pmt Ctr - Law Library	806.57
51 Westech - Repair & Mtc	444.00
02 Western Lumber Supp-Bldg Imp	184.39
** West Slope Connection-Bld Imp	3,141.43
02 West Slope Materials-Gravel	1,761.90
02 Williams Engineer - Bldg Const	580.00
80 Winter Equip Co - Parts	9,479.18
** Wright Express - Fuel	14,543.84
01 Write On - Advertising	50.00
80 Wurth USA - Shop Supp	862.61
** Zions First Natl Bank-Interest	458,690.21
Total	\$2,632,093.23

The above and foregoing is a condensed statement of the Commissioners' Proceedings at the regular meeting held in the Planning Commission's Meeting Room in the Blackstock's Government Center, in Gunnison, Colorado, on the 24th day of February, 2015, A.D.

NOTE: The Commissioners' Proceedings will no longer be published in both newspapers each month, but will be published alternate months in the Crested Butte News and the Gunnison Country Times. They are available as well at <http://www.GunnisonCountry.org/347/AccountsPayable>.

Gunnison Country Times
Gunnison, Colorado
Publication date of May 14, 2015

149

NOTICE OF FORECLOSURE

AMENDED COMBINED NOTICE -

LOT 55, ANTELOPE HILLS MOBILE HOME SUBDIVISION, ACCORDING TO THE PLAT THEREOF FILED FOR RECORD JANUARY 12, 1981 BEARING RECEPTION NO. 356397, COUNTY OF GUNNISON, STATE OF COLORADO.

Also known by street and number as: 21 Sage Lane, Gunnison, CO 81230.

THE PROPERTY DESCRIBED HEREIN IS ALL OF THE PROPERTY CURRENTLY ENCUMBERED BY THE LIEN OF THE DEED OF TRUST.

NOTICE OF SALE

The current holder of the Evidence of Debt secured by the Deed of Trust, described herein, has filed Notice of Election and Demand for sale as provided by law and in said Deed of Trust.

THEREFORE, Notice Is Hereby Given that I will at public auction, at 10:00 A.M. on Wednesday, 06/24/2015, continued from previous sale date of 06/17/2015 per C.R.S 38-38-802 (5)(b), at Treasurer's Office, 221 N. Wisconsin, Suite T, Gunnison, CO 81230, sell to the highest and best bidder for cash, the said real property and all interest of the said Grantor(s), Grantor(s)' heirs and assigns therein, for the purpose of paying the indebtedness provided in said Evidence of Debt secured by the Deed of Trust, plus attorneys' fees, the expenses of sale and other items allowed by law, and will issue to the purchaser a Certificate of Purchase, all as provided by law.

First Publication: 4/30/2015
Last Publication: 5/28/2015
Name of Publication: Gunnison Country Times

IF THE SALE DATE IS CONTINUED TO A LATER DATE, THE DEADLINE TO FILE A NOTICE OF INTENT TO CURE BY THOSE PARTIES ENTITLED TO CURE MAY ALSO BE EXTENDED.

IF THE BORROWER BELIEVES THAT A LENDER OR SERVICER HAS VIOLATED THE REQUIREMENTS FOR A SINGLE POINT OF CONTACT IN SECTION 38-38-103.1 OR THE PROHIBITION ON DUAL TRACKING IN SECTION 38-38-103.2, THE BORROWER MAY FILE A COMPLAINT WITH THE COLORADO ATTORNEY GENERAL, THE FEDERAL CONSUMER FINANCIAL PROTECTION BUREAU (CFPB), OR BOTH. THE FILING OF A COMPLAINT WILL NOT STOP THE FORECLOSURE PROCESS.

Colorado Attorney General
1300 Broadway, 10th Floor
Denver, Colorado 80203
(800) 222-4444
www.coloradoattorneygeneral.gov
Federal Consumer Financial Protection Bureau
P.O. Box 4503

Case Number 15 PR 30009

All persons having claims against the above-named estate are required to present them to the Personal Representative or to the District Court of Gunnison County, Colorado on or before September 10, 2015, or the claims may be forever barred.

Tracey Coleman, Personal Representative
c/o Kathleen L. Fogo, P.C.
Attorney for Personal Representative
P.O. Box 7200, Gunnison, CO 81230

Gunnison Country Times
Gunnison, Colorado
Publication dates of April 30, May 7, 14, 2015

129

PUBLIC HEARING

**City of Gunnison
NOTICE OF PUBLIC HEARING
MARIJUANA REGULATIONS**

TO WHOM IT MAY CONCERN:
PLEASE TAKE NOTE THAT, a Public Hearing will be held at the hour of 7:00 P.M. on Tuesday, the 2nd day of June, 2015, in the City Council Chambers, Gunnison Municipal Building, 201 W. Virginia Avenue, Gunnison, Colorado, on the merits of Ordinance No. 5, Series 2015, amending Title 3 Finance, Title 8 Business Regulation, and Title 14 Technical Codes, of the City of Gunnison Municipal Code, and amendments to Section 2 Zoning Districts, and Section 3 Specific Use Regulations, of the City of Gunnison Land Development Code, establishing rules, standards and policies for the taxation, licensing and regulating the retail sale, cultivation, manufacturing and testing of marijuana and marijuana products in the City of Gunnison;
AT WHICH TIME AND PLACE you may attend and give testimony, if you so desire.

CITY OF GUNNISON
CITY COUNCIL

/s/ Gail A. Davidson
City Clerk

Gunnison Country Times
Gunnison, Colorado
Publication date of May 14, 2015

146

PUBLIC HEARING

**NOTICE OF PUBLIC HEARING
REQUEST FOR WAIVER OF
GUNNISON COUNTY STANDARD**

partment, 195 Basin Park Drive, Gunnison, CO 81230), so long as they are received by 5:00 p.m. the evening before the date of the meeting so that they may be submitted for the public record during the hearing. Additional information may be obtained by calling the Public Works Department office at (970) 641-0044.

ADA ACCOMMODATIONS: Anyone needing special accommodations as determined by the American Disabilities Act may contact the Public Works Department prior to the day of the meeting.

/s/ Marlene Crosby
Public Works Director

Gunnison Country Times
Gunnison, Colorado
Publication dates of May 7, 14, 2015

138

PUBLIC NOTICE

**NOTICE OF GUNNISON COUNTY, BLM
AND USFS ROAD CLOSURES**

Gunnison County, the Bureau of Land Management (BLM) and the United States Forest Service (USFS) have temporarily closed a number of roads to all motor vehicles to protect Gunnison Sage-grouse during their mating season and to prevent road damage during wet spring conditions. These roads were closed March 15 and will reopen on May 15, 2015. The U.S. Forest Service Closures extend through June 15 to protect nesting Gunnison Sage-grouse.

The cooperation of the public is required to successfully implement these road closures. The closures will aid in the preservation of the Gunnison Sage-grouse and may assist in reducing impacts on residents and visitors of Gunnison County from the Federal listing of the grouse under provisions of the Endangered Species Act.

Copies of the closure list and maps are available at Gunnison County Public Works, 195 Basin Park Drive, Gunnison County Community Development Department, 221 N. Wisconsin, Colorado Parks and Wildlife office, 300 W. New York, Bureau of Land Management office, 210 West Spencer, Unit A, and the U.S. Forest Service office, 216 N. Colorado, Gunnison, Colorado.

These closures apply to all motor vehicles. Do not park at the closures in a manner that blocks access through the closure gates. All non-motorized trail users are also requested to use Gunnison Basin roads/trails only after 9 a.m. during this period to help reduce disturbance to Sage-grouse.

**DRAFT 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

C. 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		§3.3 C
	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	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	--
	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.	

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		
	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	
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.	
	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	Marijuana manufacturing									P	§3.15	

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		
Manufacturing and Production	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	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).

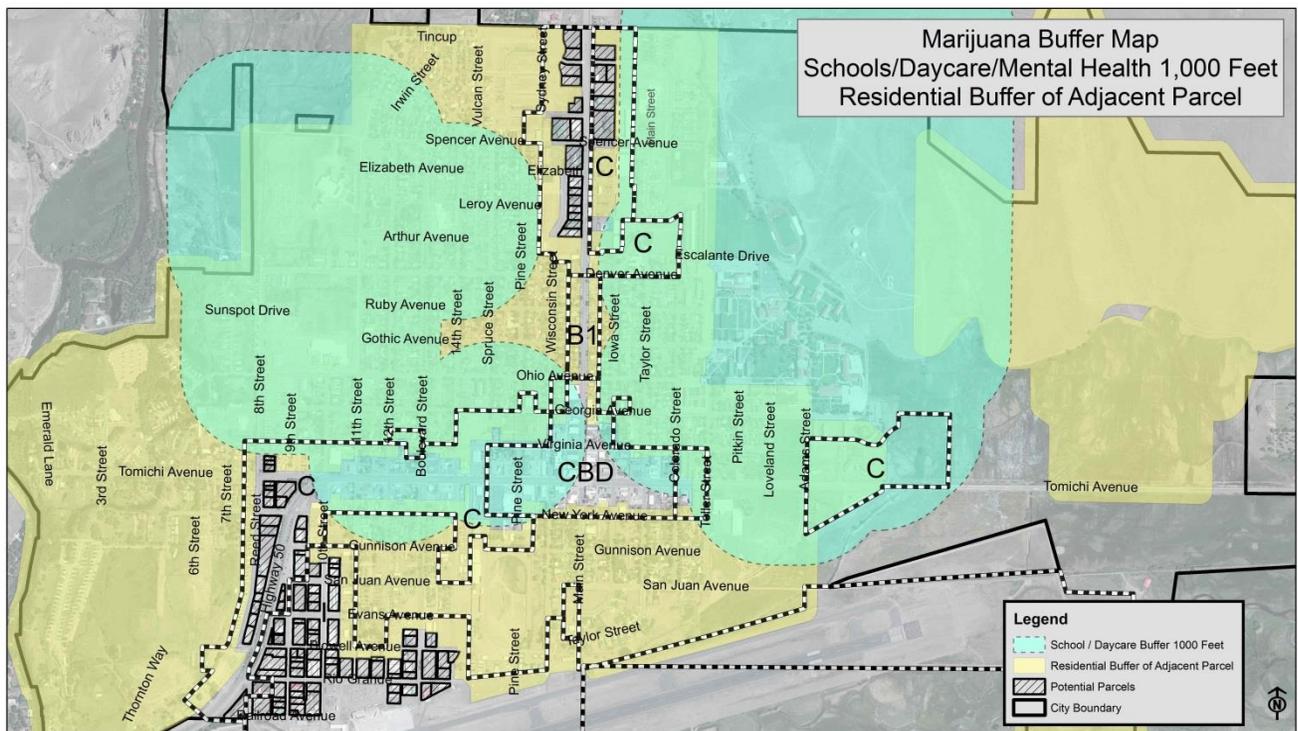
3.15 Marijuana Use Standards

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.



- 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).
- Licensed Marijuana establishments are subject the district zone location standards as set forth in Table 2-3 (Principal Use Table) of this *LDC*.
- 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.
- 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

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

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

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

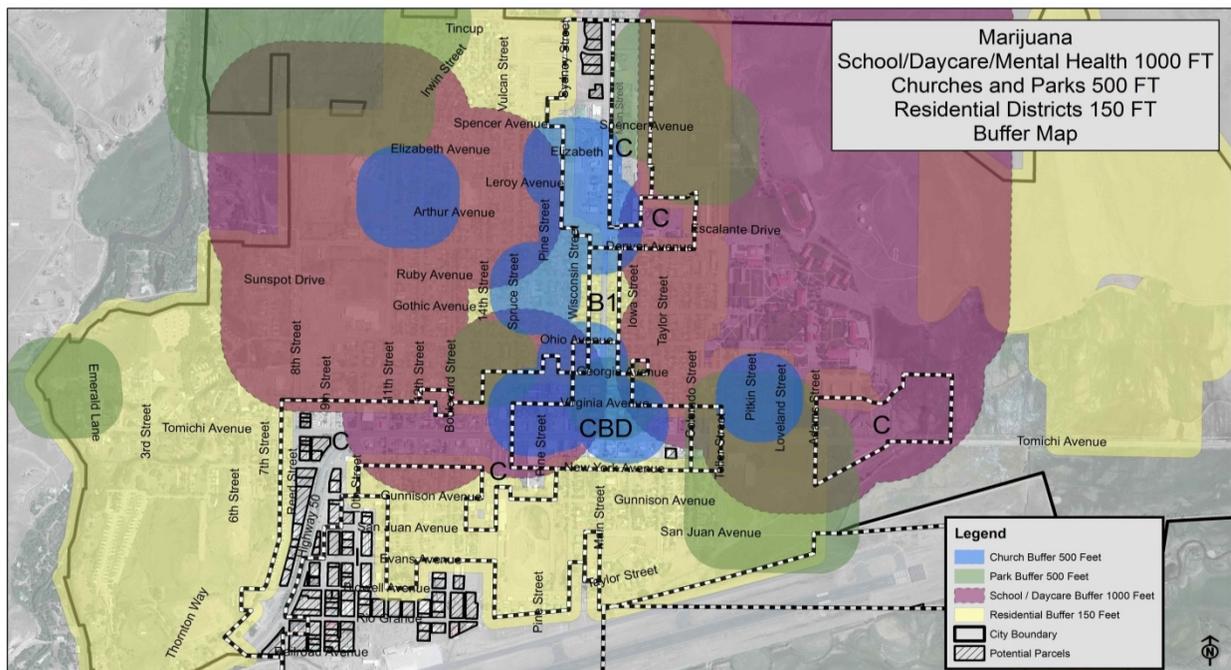
After the approval of the ballot question, City staff started developing an ordinance to address regulatory provisions for medical and recreational marijuana. Regulatory oversight of the new marijuana business market requires amendments to the City Sales and Use Tax Code (Chapter 3.10), Business Regulations (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.

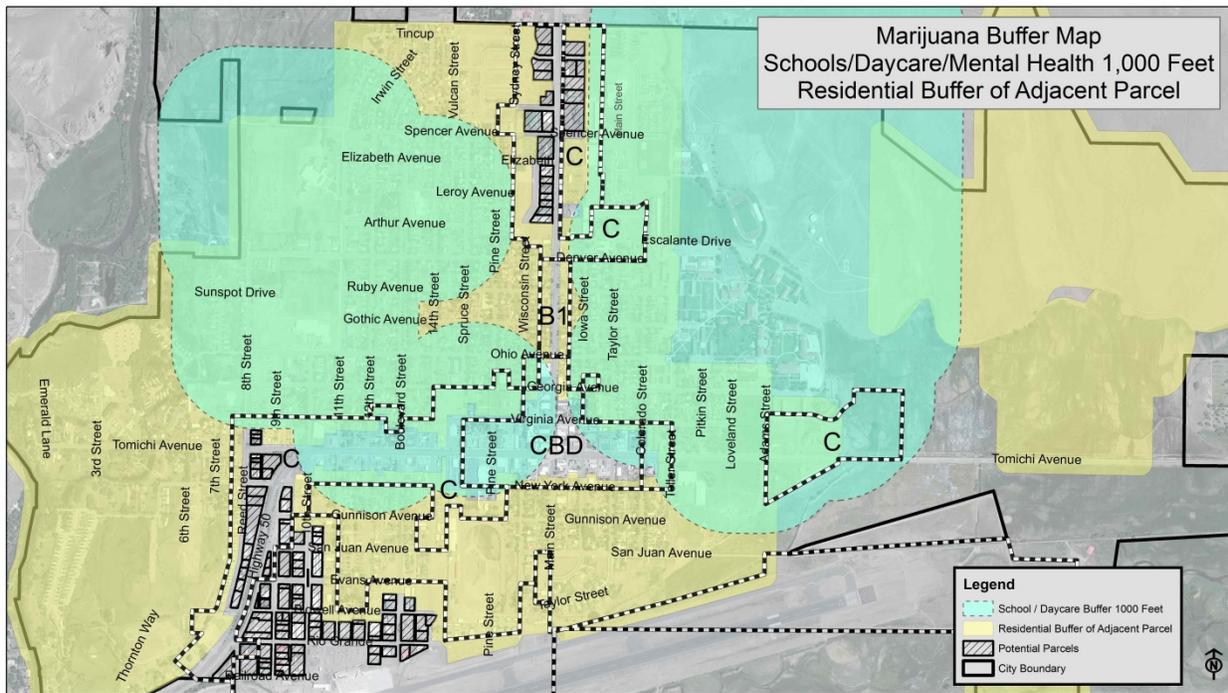
Use Location and Buffers. Early on in the review process the Commission deliberated these topics and the Commission’s consensus was to follow state buffer standards (1000’ from schools, etc.), apply residential buffer standards, and prohibit retail marijuana establishments in the CBD and B-1 districts. 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



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

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.

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

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.

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

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	
	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).

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

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	
	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.

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

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	
	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.

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

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		
	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.

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

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.

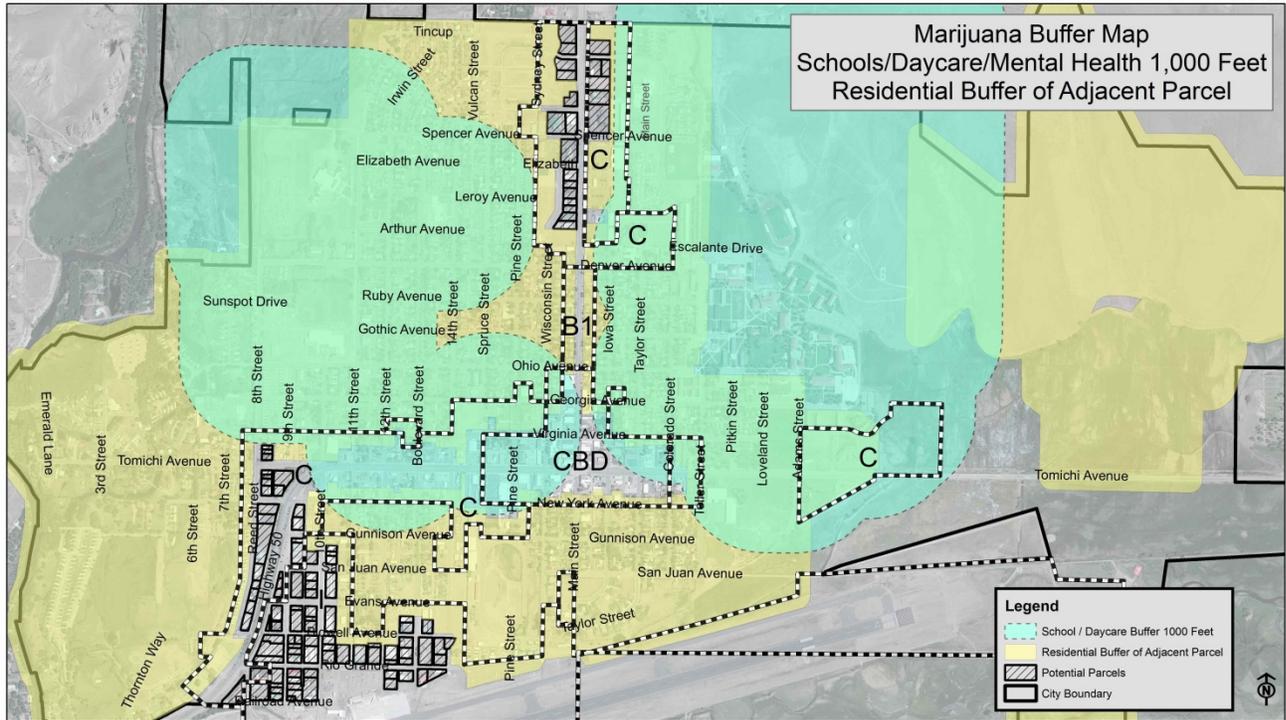
D. Testing Facilities

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).

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



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;

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

- 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.

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

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.

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

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

STAFF REPORT AND PLANNING AND ZONING COMMISSION RECOMMENDATION
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.

STAFF REPORT AND PLANNING AND ZONING COMMISSION RECOMMENDATION
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.

STAFF REPORT AND PLANNING AND ZONING COMMISSION RECOMMENDATION
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:

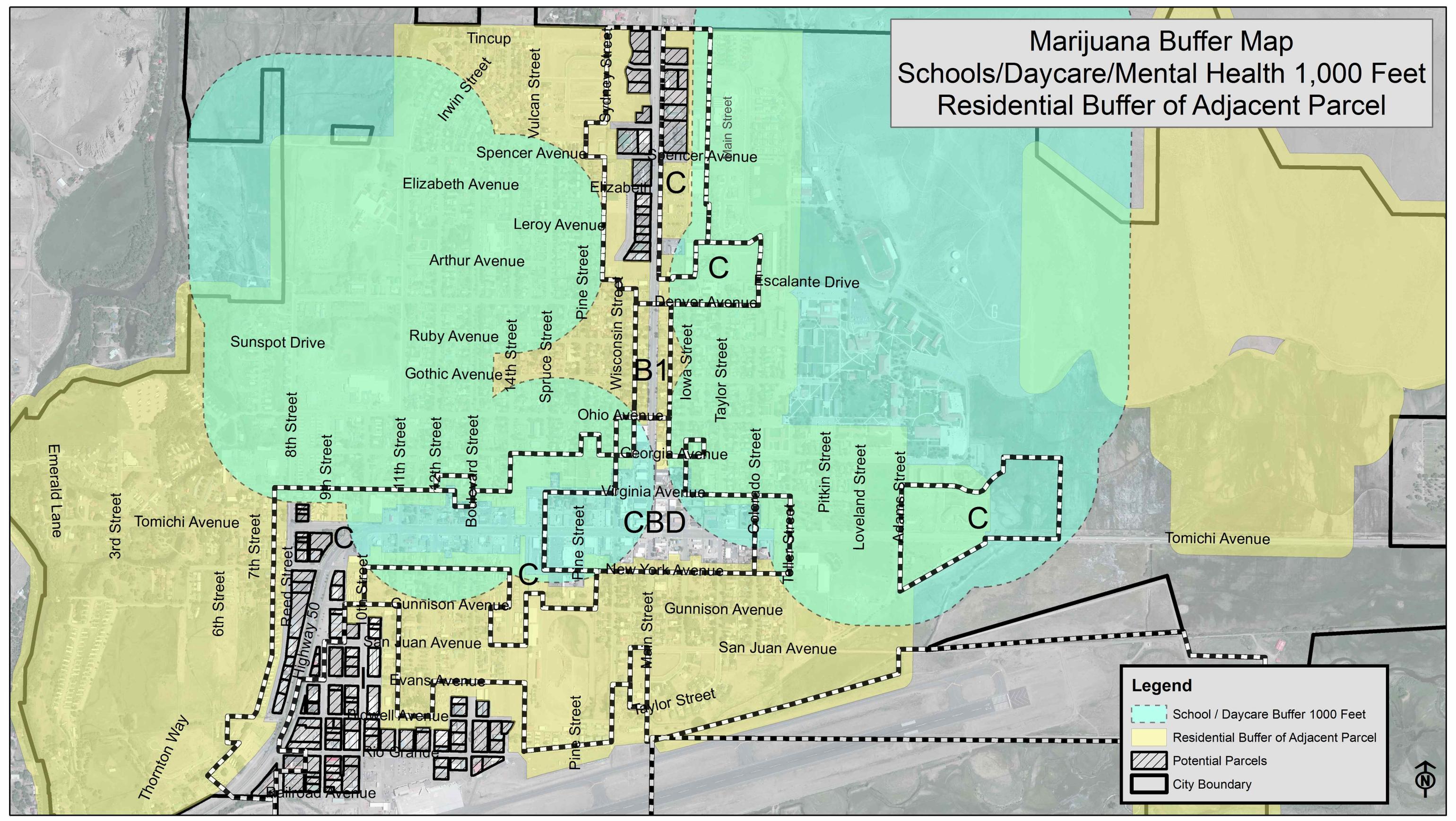
1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.
2. 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.

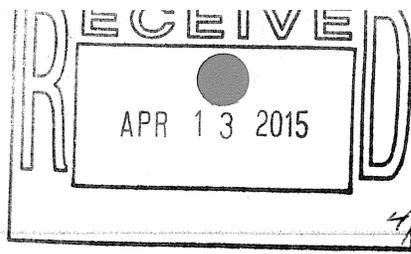
By way of reference, the Colorado Marijuana Code allows licensed marijuana establishments in “premises” which are defined as a “distinct and definite location, which may include a building, a part of a building, a room, or any other contiguous area”. Also, the Colorado Code defines the operation of an “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.

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

Gunnison Valley Regional Housing Authority helps homeowners!

Contact the GVRHA at 970-641-7900 for home improvement planning and budgeting!

Weatherization

Gunnison County Electric Association and Housing Resources of Western Colorado

- Weatherization services through Housing Resources of Western Colorado are available to residents of the City of Gunnison and GCEA members.
- Weatherization services are FREE to income qualified applicants and any household member who receives: LEAP, TANF, AND, SNAP, OAP & SSI.
- Weatherization services can reduce your energy bills and increase comfort in your home year-round.
- Qualification for the program is determined by household income in relation to household size.

To learn more about eligibility and to sign up, contact:

Housing Resources of Western Colorado at 970-241-2871 x101.

Rehabilitation Loans for Home Improvement

Needing home repairs?

- **Help is available to low and moderate income households in most of Gunnison County. For example: for a family of 4, with total income less than \$57,350.40 per year (\$4,779.20 per month) you qualify.**
- **Technical and financial assistance is provided for general repair and improvements.**
- **Inspection, consulting, and construction management services are free of charge.**
- **Funds are provided through low - interest loans with easy terms. Loans rates range from 1 – 4 % depending on qualification**
- **The homeowner chooses approved contractors to do the work, and in some cases homeowners can finance the materials only.**

**To learn more about eligibility, loan information, project design, and construction planning contact:
Gunnison Valley Regional Housing Authority
(970) 641-7900**

Gunnison County Electric Association (GCEA) Energy Efficiency

- GCEA offers FREE energy audits to co-op members.
- GCEA assists members with their purchase of Marathon water heaters and offers rebates for other electric appliances.
- Rebates available for LED light bulbs 300 lumens or greater.

Some restrictions apply.

For more information or to schedule an audit, call GCEA's energy use specialist 970-641-3520.

LEAP/Energy Outreach Colorado

- LEAP is designed to help low-income households meet their winter home heating costs.
- Households must pay heating costs to a utility company or fuel supplier, or pay heating costs as part of their rent.
- Apply for LEAP between November 1st and April 30th.
- Energy Outreach Colorado (EOC) funds may be available year round and when LEAP is closed for those who qualified during the heating season.

For LEAP and EOC Assistance, contact
Gunnison-Hinsdale County Department of Human Services,
225 N. Pine St., Gunnison, CO 81230 970-641-3244

If you qualified for LEAP this current heating season, EOC can coordinate emergency furnace repair or replacement of your heating system. Call toll-free 1-855-469-4328 for emergency appliance help.

Energy Smart Colorado

- Energy Smart for Homes offers energy assessments for residents of the Gunnison Valley.
- Energy Smart provides information for rebate programs in the Gunnison Valley by sponsoring utility providers.

To learn more about Energy Smart Colorado in Gunnison County, contact the
Office for Resource Efficiency at 970-641-7682

Couple together Home Improvement Rehabilitation and Weatherization to maximize efficiency and safety of your home today!

Contact the Gunnison Valley Regional Housing Authority at (970) 641-7900 to learn more!

Call **970-874-7266 ext. 3** for more
Information and latest income limits.



deltahousingauthority.org

Email: dharehab@bresnan.net

Purpose:

- Conserve and improve the supply of housing affordable to low and moderate-income households
- Assist in removing architectural barriers, improve accessibility or provide age-in-place upgrades.
- Remove blighted conditions in Delta, Montrose, Hinsdale, Gunnison, Ouray and San Miguel Counties.



Housing Rehabilitation Program
Delta Housing Authority
501 14th Street, Delta, CO 81416
970-874-7266 ext. 1 or 3



The Housing Rehabilitation Program seeks to combine efforts and cooperate with other local agencies, non-profits and governments engaged in helping provide and improve housing for low and moderate income households.

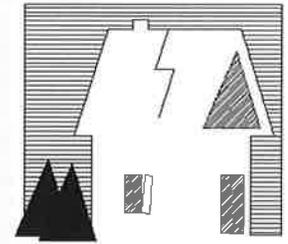
In partnership with the San Miguel Regional Housing Authority, Ouray County, Hinsdale County, Gunnison Valley Regional Housing Authority, Montrose Housing Authority and Delta Housing Authority.

Administered by the Colorado Division of Housing Department of Local Affairs.

Housing Rehabilitation / Delta Housing Authority
501 14th Street, Delta, CO
81416 970-874-7266 ext. 1 or 3

Regional

Housing Rehabilitation Program



Needing home repairs?

Help is available to low and moderate income households in Delta, Montrose, Hinsdale, Gunnison, Ouray and San Miguel Counties

Home Repairs...available and affordable

The Housing Rehabilitation Program exists for the benefit of low and moderate income homeowners throughout Delta, Montrose, Hinsdale, Gunnison, Ouray and San Miguel Counties.

Technical and financial assistance is provided for general repairs and improvements.

Inspection, consulting and construction management services are free of charge.

Funds are provided through low-interest loans with easy terms. (The payment is based on what the borrower can afford)

The homeowner chooses approved contractors to complete the work. In some cases the homeowner, if qualified, may choose to finance only the material costs and complete part or all of the work themselves.

Housing Rehabilitation Program
Delta Housing Authority
501 14th Street, Delta, CO 81416
970-874-7266



Eligibility

This program is for homeowners who may be unable to borrow from a bank because of their lower income level. Those who earn less than 80% of the median may qualify. Income limits are specific to each county and are updated annually. Call 970-874-7266 ext. 3 for the latest information.

The applicant must occupy the property and be listed on the deed.

The property must have at least one deficient structural component or related health and safety hazard to be addressed. Other improvements may also be funded.

Examples of typical repairs:

Roof
Siding, porches,
Windows,
Painting
Structural repairs
Insulation, Weatherization
Heating, Plumbing Electrical
Foundation, drainage
Mold, asbestos, radon mitigation
Interior finishes and repairs
Accessibility improvements
Age-in place alterations

Loan Information

Loans will be secured by a Promissory Note and Deed of Trust. Interest rates are typically low and the term of the loan can be lengthened if necessary to allow for very small monthly payments.

Project Design and Contractor Selection

The goal is to give the homeowner the highest quality work for the lowest cost. To achieve this, the bidding protocol is often flexible and informal. Homeowner input and participation is encouraged. Contractor's bids may reflect various options. Once the best materials and methods are determined, the contractor is selected; the contract and specifications are finalized and signed.

Construction Monitoring and Completion

Regular inspections by the Housing Rehabilitation Specialist are conducted to help insure contract compliance and good workmanship. Payments to contractors and suppliers are released upon approval of work by homeowner.



To: City Councilors
CC: City Manager Ken Coleman
From: City Clerk Gail Davidson
Date: May 28, 2015
Re: Draft Resolution 12; Re: Marijuana Licensing Fees

Councilors:

For your consideration, attached please find draft Resolution No. 12, Series 2015, Re: Setting City Fees for Marijuana Establishments. City Staff has been working as a team over the past six months to develop both the regulations and proposed fees. Licensing provisions are included in proposed Ordinance No. 5, Series 2015, that is currently under consider by Council. The Ordinance addresses licensing procedures and regulations in Chapter 8.50 Marijuana Business Licensing Regulations of the *Gunnison Municipal Code*. Section 8.50.020 requires an applicant to pay a City application fee and a license fee when the application is filed. The fees will be set by Resolution. If an application is later withdrawn, the City shall refund the license fee paid by the applicant, however, the application fee is nonrefundable if the application is withdrawn or denied.

The proposed fees were set after examining 14 municipalities and counties that license marijuana businesses. The group also investigated/estimated the staff time that will be required to process an application. The time will include items such as: conducting the local background investigation; application review by the City Attorney, City Clerk and other Staff members; posting of the public hearing; newspaper publication costs; site visits and inspections to confirm the business's compliance with the required provisions of the *Land Development Code and Gunnison Municipal Code* regarding marijuana facilities; and Staff time to meet with the applicants, answer questions to ultimately forward the application onto Council for final review and their consideration for approval. The fees are not the same for every type of application because the amount of Staff time varies with different types of facilities. Hence, a retail-type of business doesn't require the same level of inspection time that a production or cultivation facility will require.

There are other fees included in the resolution such as an annual renewal fee. This is the same for all types of marijuana facilities since the initial examinations have already been conducted and were approved. Annual or more frequent inspections will be made to confirm continued compliance.

Thank you for your consideration of the proposed fees.
Gail

**DRAFT RESOLUTION NO. 12
SERIES 2015**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, SETTING FEES FOR MARIJUANA ESTABLISHMENT REGULATION PURSUANT TO CITY OF GUNNISON ORDINANCE NO. 5, SERIES 2015.

WHEREAS, City of Gunnison, Colorado, Ordinance No. 5, Series 2015, was adopted after second reading by the City Council on _____, 2015; and

WHEREAS, pursuant to such Ordinance, the City Council is directed to determine the fees to be charged for marijuana license applications, licensing fees, premises modification fee, license renewal fee, transfer of location of license fee, and transfer of ownership fee; and

WHEREAS, City staff has provided input for Council as to the amounts to be charged.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO:

City Fees shall be charged for the following:

City Marijuana License Fee - all facilities:	\$ 2,000.00
City Application Fees:	
Medical Marijuana Center	\$ 2,500.00
Retail Marijuana Store	\$ 2,500.00
Cultivation Facility: Medical Optional Premises	\$ 3,000.00
Cultivation Facility: Retail Cultivation	\$ 3,000.00
Marijuana Product Manufacturing – medical or retail	\$ 3,000.00
Marijuana Testing Facility	\$ 3,000.00
Other Fees:	
Annual License Renewal all classes	\$ 2,000.00
Premises Modification Fee	\$ 1,000.00
Transfer of Location of License Fees:	
Transfer of Location – Medical Marijuana Center	\$ 2,500.00
Transfer of Location – Retail Marijuana Store	\$ 2,500.00
Transfer of Location – Cultivation Facility-Medical	\$ 3,000.00
Transfer of Location – Cultivation Facility–Retail	\$ 3,000.00
Transfer of Location – Marijuana Product Manufacturing	\$ 3,000.00
Transfer of Location – Marijuana Testing Facility	\$ 3,000.00
Transfer of Ownership of License	\$ 2,000.00

INTRODUCED, READ, PASSED AND ADOPTED at a Regular Session meeting of the City Council of the City of Gunnison, Colorado, held this ____th day of June, 2015.

Mayor

(SEAL)

(ATTEST)

City Clerk

Town of Crested Butte Fees

Business Fees:		
Business License	\$25.00 per year	
Occupation Tax	\$75.00 per year	
Pillow Tax	\$10.00 per pillow	
Business License Renewal-Late Fees:		
Renewals received after January 31st	\$25.00	In addition to the regular license fee
Renewals received after March 31st	\$50.00	In addition to the regular license fee
Renewals received after June 30th	\$75.00	In addition to the regular license fee
Renewals received after September 30th	\$100.00	In addition to the regular license fee
Sales Tax License	No charge	
Transfer of Business License	\$15.00	
Business License Relocation	\$5.00	
Duplicate Business License	\$5.00	
Cart Vending License	\$25.00	
Farmers Market Application	\$25.00	
Street performers permit	\$25.00	
Sidewalk Seating Revocable License	\$3.00/Square Foot	
Late Night Food Truck License:		
Application Fee	\$10.00	
License	\$400.00	
Marijuana Establishment License:		
Transfer of permit to business entity	\$1,000.00	
Changes in members	\$200/member	
New Application	\$1,500 per license	
Renewal	\$500, 1 license/ \$750, dual license	
Modification of Premise	\$50.00	
Dogs:		
License, spayed or neutered	\$7.00 per year	
License, not spayed or neutered	\$15.00 per year	
Duplicate License	\$3.00	
Dog Care/Maintenance	\$10.00 per day	
Dog Redemption	\$7.50	
Publications:		
Crested Butte Area Plan	\$57.00	
CB/Gunnison Housing Needs Assessment	\$10.00	
Building and Zoning Section of Town Code	\$42.00	
Community Profile	\$10.00	
Design Review Guidelines	\$20.00	
Eccher Ranch Wetland Study	\$10.00	
Flood Plain Studies	\$25.00	
Land Use Plan	\$50.00	
Slate River Hydrology Study	\$10.00	
Town Code	\$80.00	
Town Code on CD	\$25.00	
Wetlands of the CB Vicinity	\$10.00	
Town Code Updates	Actual Cost	

**CITY OF GUNNISON, COLORADO
MARIJUANA ESTABLISHMENT LICENSE APPLICATION**

CITY CLERKS DEPARTMENT
201 W. VIRGINIA AVENUE
P.O. BOX 239
GUNNISON, CO 81230
970-641-8140 (phone) 970-641-8051 (FAX)
gail@cityofgunnison-co.gov (Email)

Date Application Received by Clerk: ___/___/___
Application Fee Paid: ___/___/___ (see attached fee schedule)
License Fee Paid: ___/___/___
Application Received By: _____

TYPE OF LICENSE: (please choose ONE)

- Medical Marijuana Center
 - Retail Marijuana Store
 - Cultivation Facility: Medical Optional Premises _____ Retail _____
(check one above)
 - Marijuana Product Manufacturing Facility
 - License Renewal
 - Modification of Premises
 - Transfer License Ownership
 - Transfer of License Location
 - Other (please specify) _____
-

BUSINESS PREMISES INFORMATION

Legal Business Name: _____
Trade Name of Business (dba): _____
FEIN: _____ City Sales Tax # _____
State Sales Tax # _____
Physical Address of Business: _____
Mailing Address of Business: _____
Business Telephone Number: _____
Business Email: _____
Property Owner Name: _____
Property Owner Address and Phone Number: _____
Building Owner Name: _____
Building Owner Address and Phone Number: _____

If the applicant is not the owner of the land or building where the facility is to be located, the applicant shall submit a lease and a notarized "Property Owner Consent Form" granting consent from the property and/or building owner for the City to initiate the review process).

APPLICANT INFORMATION

APPLICANT is applying as a: (please choose ONE):

- Corporation
- Limited Liability Company (LLC)
- Partnership (includes Husband/Wife Partnerships)
- Individual (Sole Proprietor)
- Other (Specify)

APPLICANT NAME: _____

Individual or Sole Proprietorship:

Applicant Full Legal Name: _____ Social Security Number _____ DOB: ____/____/____

Applicant's Physical Address: _____

Applicant's Mailing Address: _____

Applicant's Home and Cell Phone Numbers: _____

Applicant's Current Email Address: _____

What Marijuana License(s) does the Applicant or any member of the LLC, Corporation, Partnership/Association currently hold with the State of Colorado?

- Medical Marijuana Center License #: _____
- Retail Marijuana Store License #: _____
- Marijuana Product Manufacturing License #: _____
- Marijuana Testing License #: _____
- Cultivation Center License #: _____
- Other License #: _____
- None

What Marijuana License(s) does the Applicant hold with the City of Gunnison?

- Type: _____ License #: _____
- None

REQUIRED ATTACHMENTS

Attach results of local background check by City of Gunnison Police Department.
 Attach approved Site Development Application and/or Conditional Use Permit.
 Attach Completed State of Colorado License Application to this form.

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Marijuana Code which affect my license.

Authorized Signature: _____

Printed Name and Title: _____

Date: _____

CITY OF GUNNISON DEPARTMENTAL APPROVALS

Each Department Must Review, Approve, Sign, Check-Off, and Date for Application Approval to be forwarded to City Council for approval.

CITY CLERK'S DEPARTMENT

- Includes payment of application and licensing fees; submission of complete application forms and any other forms as required.

Date approved: _____ By: _____

COMMUNITY DEVELOPMENT DEPARTMENT

- Compliance with Mechanical, Fire and Technical Codes of the Gunnison Municipal Code
- Compliance with Land Use Requirements as defined in the Gunnison Land Development Code.

Date approved: _____ By: _____

FINANCE DEPARTMENT

- Compliance with sales tax collection and remittance Code requirements

Date approved: _____ By: _____

POLICE DEPARTMENT

- Successful completion of local background checks and investigations

Date approved: _____ By: _____

PUBLIC WORKS DEPARTMENT

- Compliance with City Utilities Codes

Date approved: _____ By: _____

Date Application Accepted by City Council: ___/___/___

Date of Public Hearing: ___/___/___

APPLICATION APPROVED: ___/___/___

APPLICATION DENIED: ___/___/___

CITY OF GUNNISON, COLORADO
MARIJUANA FACILITY LICENSE – PROPERTY OWNER CONSENT

CITY CLERKS DEPARTMENT
201 W. VIRGINIA AVENUE
P.O. BOX 239
GUNNISON, CO 81230
970-641-8140 (phone) 970-641-8051 (FAX)
gail@cityofgunnison-co.gov (Email)

BUSINESS NAME: _____

APPLICANT NAME: _____

STREET ADDRESS OF PROPOSED LICENSED PREMISES:

LEGAL DESCRIPTION: _____

OWNER'S CONSENT TO SUBMISSION OF APPLICATION
FOR MARIJUANA FACILITY ON OWNED PREMISES

As owner of the real property listed above, I hereby authorize the submission of this application for my property to be used as a (check all that apply):

- Medical Marijuana Center
- Retail Marijuana Store
- Cultivation Facility: Medical _____ Retail _____ (check one)
- Marijuana Product Manufacturing Facility
- Marijuana Testing Facility

_____ Property Owner (Printed Name)

_____ Property Owner (Signature)

_____ Date

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____.

WITNESS my hand and official seal.
My commission expires _____.

Notary Public

**CITY OF GUNNISON
MARIJUANA FACILITIES FEES SCHEDULE**

City Marijuana License Fee for all facilities:	\$ 2,000.00
City Application Fees:	
Medical Marijuana Center	\$ 2,500.00
Retail Marijuana Store	\$ 2,500.00
Cultivation Facility: Medical Optional Premises	\$ 3,000.00
Cultivation Facility: Retail Cultivation	\$ 3,000.00
Marijuana Product Manufacturing-medical or retail	\$ 3,000.00
Marijuana Testing Facility	\$ 3,000.00
Other Fees:	
Annual License Renewal all classes	\$ 2,000.00
Premises Modification Fee	\$ 1,000.00
Transfer of Location of License Fees for:	
Medical Marijuana Center	\$ 2,500.00
Retail Marijuana Store	\$ 2,500.00
Cultivation Facility – Medical	\$ 3,000.00
Cultivation Facility - Retail	\$ 3,000.00
Marijuana Product Manufacturing-medical or retail	\$ 3,000.00
Marijuana Testing Facility	\$ 3,000.00
Transfer of Ownership of License	\$ 2,000.00

Fees set per City of Gunnison Resolution No. ____, Series 2015.

June ____, 2015.

(Fees subject to change by City Council Resolution)

Memorandum

To: City Council
From: Keith Robinson
Date: May 28, 2015
Subject: Ordinance 6, Amending
Chapter 5.10 Pertaining to Marijuana



I last appeared before Council on April 16, 2015 with an update on work pertaining to amending Chapter 5.10, General Offenses as it pertains to enforcement related to marijuana. The current ordinance was adopted prior to the City allowing medical or retail marijuana businesses. Further several other changes have occurred related to marijuana enforcement at the state level and addressing changes through municipal ordinance is suggested.

By way of review the Gunnison Police Department is charged with enforcing Colorado State Statute as well as Gunnison Municipal Ordinances. In adopting Municipal Ordinances the City has typically limited violations to what would be lower level misdemeanors, petty offenses and traffic offenses under Colorado State Statute. In the states adopting of the marijuana laws they gave a lot more flexibility to local government to set their own laws and not be bound to strictly follow the state statutes.

As with other municipal ordinances there is overlap between Municipal and State laws giving officers a range of charges to apply based on the situation.

The attached draft is provided for Councils review. Research is still ongoing into a few other areas such as; private cultivation of more than six plants and disposal of waste from private grows. As you review the draft the language in red is proposed with existing language marked out.

For discussion on June 2, 2015 is the identification of other violations Council would suggest for enforcement at the City level and review that those violations already identified are appropriate for Municipal Court.

ORDINANCE NO. 6
SERIES 2015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO AMENDING TITLE 5 OF THE CITY OF GUNNISON MUNICIPAL CODE, ESTABLISHING GENERAL OFFENSES RELATED TO THE SALE, CULTIVATION, MANUFACTURING AND TESTING OF MARIJUANA AND MARIJUANA PRODUCTS BY LICENSED AND UNLICENSED INDIVIDUALS.

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 12-43.4-101, et. seq., C.R.S.; and,

WHEREAS, administrative regulations pertaining to both medical and retail 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 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 has approved Ordinance 5, Series 2015 authorizing the licensing and regulating of medical and retail related commercial businesses.

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 3, 8 and 14 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 5, General Offenses, Chapter 5.10, General Offenses, Section 5.10.180 Possession of marijuana is hereby repealed and reenacted to read as follows:

5.10.180 Possession of marijuana

- A. No person under the age of 21 who does not possess a medical marijuana card in compliance with the Colorado Revised Statutes shall possess marijuana or consume marijuana within the City.
- B. No person 21 years of age or older who does not possess a medical marijuana card in compliance with the Colorado Revised Statutes shall possess more than one ounce of marijuana. Except as permitted pursuant to Colorado Constitution, Article XVIII, Section 16 (3)(b).
- ~~C. Possession of not more than two ounces of marijuana by a person under the age of 21 is a petty offense~~

- C. No person who possess a medical marijuana card in compliance with Colorado Revised Statute shall possess more than two ounces of marijuana. Except as permitted pursuant to Colorado Constitution, Article XVIII, Section 14 (4)(b).
- ~~D. Possession of more than one ounce but less than two ounces of marijuana by a person 21 years or older is a petty offense~~
- D. Individual engaged in the transportation or movement of marijuana, in the course of doing business for a licensed marijuana facility are exempt from this section 5.10.080.
- E. Possession of not more than ~~two~~ one ounces of marijuana or consumption of marijuana by a person under the age of 21 is a petty offense. Possession of more than one ounce but less than two ounces of marijuana ~~by a person 21 years or older in violation of this section~~ is a petty offense. Possession of two ounces but less than 6 ounces of marijuana ~~by a person, regardless of age, in violation of this section~~ is a misdemeanor.

Section 4. City of Gunnison Municipal Code, Title 5, General Offenses, Chapter 5.10, General Offenses, Section 5.10.182 Transfer, sale and purchase of marijuana, is hereby repealed and reenacted to read as follows:

5.10.182 Unlicensed transfer, sale or purchase of marijuana

- ~~A. No person shall commercially cultivate marijuana, manufacture marijuana products, sell marijuana or accessories or operate a marijuana test facility until such time as the city of Gunnison adopts rules, regulations and standards addressing the commercial cultivation of marijuana, the manufacturing of marijuana products, the operation of marijuana test facilities, or the retail sales of marijuana and marijuana products and accessories, whether for recreational or medical purposes.~~
- AB. No person shall transfer, sell, trade, exchange, or give, with or without remuneration, any amount of marijuana to a person under the age of 21.
- BC. No person under the age of 21 may obtain marijuana by any means, with or without remuneration.
- CD. No person shall transfer, sell, trade, or exchange, with remuneration, any amount of marijuana to a person 21 years of age and older without a license.
- DE. No person shall give, without remuneration, more than one ounce of marijuana to a person 21 years of age and older.
- EF. No person 21 years of age or older may obtain more than one ounce of marijuana, with or without remuneration.

- FG. Restriction placed on transferring, exchanging or giving of marijuana does not apply to individuals who are in compliance with the Colorado Revised Statutes pertaining to medical marijuana.
- GH. The transfer, sale, trade, or exchange of marijuana in violation of this section is a misdemeanor. Obtaining marijuana in violation of this section is a petty offense

Section 5. City of Gunnison Municipal Code, Title 5, General Offenses, Chapter 5.10, General Offenses, Section 5.10.183 Personal cultivation of marijuana, is hereby repealed and reenacted to read as follows:

5.10.183 Personal cultivation of marijuana.

~~A. No individual 21 years of age or older shall possess more than six marijuana plants, three of which are mature flowering plants. The marijuana produced by such cultivation, in excess of one ounce, shall be maintained on the premises where grown. Marijuana cultivated by an individual shall not be sold.~~

- A. It is unlawful for a person to knowingly cultivate, grow, or produce a marijuana plant or knowingly allow a marijuana plant to be cultivated, grown, or produced on land that the person owns, occupies, or controls.
- B. ~~Cultivation shall be conducted in an enclosed space which shall be locked.~~ Cultivation shall be conducted in compliance with city building and life/safety codes as the same may be amended from time to time.
- C. No person shall openly or publicly cultivate marijuana. “Openly or publicly cultivated” means the plants, lights, sounds and odors associated with cultivation are clearly visible and identifiable from a public place or cause a public nuisance.
- ~~D. Cultivation shall only occur on real property over which the plants’ owner has control.~~
- E. It is not a violation of this subsection A. if:
 - 1. The person is lawfully cultivating medical marijuana pursuant to the authority granted in section 14 of article XVIII of the state constitution;
 - 2. The person is lawfully cultivating marijuana in an enclosed and locked space pursuant to the authority granted in section 16 of article XVIII of the state constitution; except that, if the cultivation area is located in a residence and:
 - a. A person under twenty-one years of age lives at the residence, the cultivation area itself must be enclosed and locked; and
 - b. If no person under twenty-one years of age lives at the residence,

the external locks of the residence constitutes an enclosed and locked space. If a person under twenty-one years of age enters the residence, the person must ensure that access to the cultivation site is reasonably restricted for the duration of that person's presence in the residence.

~~—E.F.~~ Violation ~~of any part of this section~~ involving up to six plants is a misdemeanor

Section 6. City of Gunnison Municipal Code, Title 5, General Offenses, Chapter 5.10, General Offenses, is hereby amended to add a new Section 5.10.185, Unlawful acts related to licensed commercial marijuana establishments.

5.10.185, Unlawful acts related to licensed commercial marijuana establishments

- A. Allowed unauthorized person into a limited-access area.
- B. Person licensed pursuant to state statute to be within a limited-access area without the person's license badge displayed as required by state statute, except as provided in section 12-43.3-701 and 12-43.4-701 of Colorado Revised statute.
- C. It is unlawful to sell or permit the sale of marijuana or marijuana products to a person under twenty-one years of age.
- D. It is unlawful to sell or permit the sale of medical marijuana or medical marijuana products to a person not authorized to purchase medical marijuana pursuant to Colorado Statute.
- E. Person presented false, altered or fraudulent identification or documents at time of purchase
- F. Person under twenty-one years of age purchased marijuana, marijuana concentrate or marijuana products. Persons' in compliance with state medical marijuana provisions are exempt.
- G. Person not authorized to purchase medical marijuana or medical marijuana products purchased from a medical marijuana business.
- H. It is unlawful to sell more than a quarter of an ounce of retail marijuana and no more than a quarter of an ounce equivalent of a retail marijuana product during a single transaction to a nonresident of Colorado.
- I. It is unlawful to sell, serve, or distribute marijuana, marijuana concentrate or products containing marijuana except during the hours provided for in Municipal Ordinance.
- J. It is unlawful for a person to consume marijuana or products containing marijuana or marijuana concentrate in a licensed marijuana establishment, and

it is unlawful for a marijuana licensee to allow marijuana or products containing marijuana or marijuana concentrate to be consumed upon its licensed premises.

- K. It is unlawful to have on any licensed premises any marijuana, marijuana products, or marijuana paraphernalia that shows evidence of marijuana usage or marijuana products having been consumed or partially consumed.
- L. It is unlawful for any person licensed to sell marijuana or marijuana products to:
 - (1) Display any signs that are inconsistent with Gunnison Ordinances;
 - (2) To use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors
- M. All sales, transfers and distribution of marijuana by a licensed marijuana business shall occur only upon licensed premises, and the licensee shall be strictly prohibited from delivery of marijuana to any person at any other location.

Section 7. City of Gunnison Municipal Code, Title 5, General Offenses, Chapter 5.10, General Offenses, is hereby amended to add a new Section 5.10.186, Extraction of marijuana concentrate prohibited.

5.10.186 Extraction of Marijuana Concentrate Prohibited.

- A. Except as provided in paragraph C of this section, it shall be unlawful for any person to process or manufacture marijuana concentrate anywhere in the city.
- B. Except as provided in paragraph C of this section, it shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises anywhere in the city to allow marijuana concentrate to be processed or manufactured on the premises.
- C. It shall not be an offense under 5.10.186 A or 5.10.186 B if:
 - 1. The production of marijuana concentrate is done in a licensed marijuana manufacturing facility and in compliance with all applicable state and municipal ordinances, and all rules and regulations promulgated thereunder, including any and all necessary permits; or,
 - 2. The production of marijuana concentrate is done by means of water-based extraction or food-based extraction methods, and is done in full compliance with any and all other applicable state and municipal ordinances, and all rules and regulations promulgated thereunder, including any and all necessary permits

- (a) For purposes of this section:
 - (1). “Food-based extraction” means producing marijuana concentrate by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil, or other typical cooking fats.
 - (2). “Water-based extraction” means producing marijuana concentrate by extracting cannabinoids from marijuana through the use of only water, ice or dry ice.

D. Violation of this section is a misdemeanor.

Section 8. City of Gunnison Municipal Code, Title 5, General Offenses, Chapter 5.10, General Offenses, is hereby amended to add a new Section 5.10.187, Immunity for persons who suffer or report an emergency drug or alcohol overdose event.

5.10.187, Immunity for persons who suffer or report an emergency drug or alcohol overdose event.

- A. A person shall be immune from criminal prosecution for an offense described 18-1-711 (3) Colorado Revised Statute which is comparable to a Municipal Ordinance violation if:
 - 1. The person reports in good faith an emergency drug or alcohol overdose event to a law enforcement officer, to the 911 system, or to a medical provider;
 - 2. The person remains at the scene of the event until a law enforcement officer or an emergency medical responder arrives or the person remains at the facilities of the medical provider until a law enforcement officer arrives;
 - 3. The person identifies himself or herself to, and cooperates with, the law enforcement officer, emergency medical responder, or medical provider; and
 - 4. The offense arises from the same course of events from which the emergency drug or alcohol overdose event arose
- B. The immunity described in subsection 1. of this section also extends to the person who suffered the emergency drug or alcohol overdose event.

Section 9. City of Gunnison Municipal Code, Title 5, General Offenses, Chapter 5.10, General Offenses, is hereby amended to add a new Section 5.10.188, Relationship to Colorado Retail Marijuana Code, Colorado Medical Marijuana Code and Colorado Revised Statute.

5.10.188, Relationship to Colorado Retail Marijuana Code, Colorado Medical Marijuana Code and Colorado Revised Statute

- A. Except as otherwise specifically provided the City of Gunnison Ordinances related to marijuana incorporates the requirements and procedures set forth in the Colorado Retail Marijuana Code, the Colorado Medical Marijuana Code and Colorado Revised Statutes (C.R.S.). In the event of any conflict between the provisions of this section and the provisions of the Colorado Retail Marijuana Code, Colorado Medical Marijuana Code and C.R.S. or any other applicable state or local law, the more restrictive provision, article or section shall be used.

Memorandum

To: City Council
From: Keith Robinson
Date: 05/28/15
Subject: Idling engines/vehicles



As Council is aware complaints have been received concerning vehicles parked around Gunnison with engines running at all hours of the day on city streets and private property. The complaints revolve around noise and pollution and typically involve diesel engines. In some cases the complainants also identify the source of the complaint to be accessory engines running as part of an extended semi-trailer.

Colorado State Statute, 42-14-103, uniformed standard – local governments, limits local authority to enact ordinances pertaining to idling of vehicles associated with commerce. A local government cannot pass an ordinance that is more restrictive than article 42 as it applies to commercial diesel vehicles with a gross weight greater than 14000 pounds. See state statute 42-14-101 thru 42-14-106 attached.

The City has had an idling engine ordinance for many years which was last updated in 2010. The current ordinance in place, does allow for continued enforcement under state statute, but it does not adequately address the current concerns and is more lenient than provided by state statute. Specifically the current ordinance does not make a distinction between types of engine, size of vehicle, specific conditions for idling and allows 30 minutes. City ordinance was modeled after state statute 42-4-1206 and is not directed at commercial vehicles as much as it is unattended vehicles of any type left idling. Current model traffic code 1206 is attached.

The state has been working on the idling engine issues and as of 2014 the issue is addressed in two sections; 42-4-1206 for unattended vehicles and 42-14-105 which deals with large diesel vehicles typically used in commerce.

In looking at city ordinances I would propose not amending model traffic code 1206 (1) as adopted it reflects the wording in state statute 42-4-1206. Following the intent of state statute this ordinance reduces pollution from running vehicles, has vehicles parked safely and deters theft. Two additional distinctions to consider would be keeping the language in city ordinance that would allow for locked vehicles to idle and enforcement on private property.

Model traffic code 1206(2) would be amended to reflect wording and intent from state statute 42-14-105 which deals with diesel commercial vehicles. Inclusion of this language

in 1206(2) would make it applicable to all vehicles but could still be worded to fairly address those concerns for all commercial vehicles not just those over 14,000 pounds and powered by diesel engines. Main points identified would be 5 minutes in any one hour period, unless the temperature is 10 degrees or lower, the time limit would be 20 minutes, would exempt vehicles to defrost windows, emergency vehicles, and service vehicles while working, power take-off equipment used to perform jobs, warming of passengers on mass transit buses but not the driver of any vehicle. Drivers taking rest breaks would be required to park 1000 feet from residential housing, a school, a daycare facility, a hospital, a senior citizen center, or a medical outpatient facility providing primary, specialty, or respiratory care. Areas for rest breaks could also be designated by the Chief of Police.

This ordinance does not address auxiliary engines but I believe is a workable ordinance and address most vehicles left idling in a typical situation where the intent is to warm up or cool the vehicle engine and/or occupants. The draft ordinances presented deals with these vehicles to reduce pollution, length of time running and moving them away from the sources of most complaints. The ordinance further brings us into compliance with state restrictions.

The other tool available to the City without ordinance change is implementing a policy of restricted parking between business and commercial zones that adjoin residential areas. On street parking can be restricted by size of vehicle or time of day to keep vehicles from parking in areas where the noise could be disruptive.

The noise issue related to auxiliary engines or power sources is still being researched. Currently the city ordinance for noise deals with “unreasonably loud or unusual noise which seriously inconveniences other persons in the area”. Other municipalities researched deal with this type of noise through their noise ordinances and land use, but expand the definitions to include many more sources of noise. Enforcement is also tied to setting time of day standards and decibel levels with specific distances and comparisons. The police department supervisory staff has discussed the options of increasing the noise ordinance but recommended that it might cause more issues. Solutions are still being researched.

REFERENCE STATUTES AND ORDINANCES PERTAINING TO NIOSE COMPLAINTS

42-14-101. Legislative declaration

The general assembly hereby finds and determines that the operation of a motor vehicle in commerce has important statewide ramifications for commercial diesel vehicle operators because the transportation of people and property is not confined to one jurisdiction. Therefore, the general assembly hereby declares that idling standards are a matter of statewide concern.

42-14-103. Uniform standard - local governments

A local authority shall not adopt or enact a resolution, ordinance, or other law concerning idling of a covered vehicle that is more stringent than this article.

42-14-104. Applicability

(1) This article applies to:

(a) Commercial diesel vehicles with a gross vehicle weight rating of greater than fourteen thousand pounds that are designed to operate on highways; and

(b) Locations where commercial diesel vehicles load or unload if a local authority has adopted or enacted a resolution, ordinance, or other law consistent with this article.

(2) This article does not supersede an ordinance of a local authority if the authority has an average elevation of over six thousand feet and if the ordinance was in effect on January 1, 2011.

42-14-105. Idling

(1) Standard. The owner or operator of a covered vehicle shall not cause or permit the vehicle to idle for more than five minutes within any sixty-minute period except as authorized by subsection (2) of this section.

(2) Exemptions. Subsection (1) of this section does not apply to an idling, covered vehicle:

(a) When it remains motionless because of highway traffic, an official traffic control device or signal, or at the direction of a law enforcement officer;

(b) When the driver is operating defrosters, heaters, or air conditioners or is installing equipment only to prevent a safety or health emergency, and not for rest periods;

(c) In the case of a law enforcement, emergency, public safety, or military vehicle, or any other vehicle used to respond to an emergency, when it is responding to an emergency or being used for training for an emergency, and not for the convenience of the vehicle operator;

- (d) When necessary for required maintenance, servicing, or repair of the vehicle;
- (e) During a local, state, or federal inspection verifying that the equipment is in good working order if required for the inspection;
- (f) During the operation of power take-off equipment if necessary for operating work-related mechanical or electrical equipment;
- (g) In the case of an armored vehicle, when a person is inside the vehicle to guard its contents or during the loading or unloading of the vehicle;
- (h) In the case of a passenger bus, when idling for up to five minutes in any sixty-minute period to maintain passenger comfort while nondriver passengers are on board;
- (i) When used to heat or cool a sleeper berth compartment during a rest or sleep period at a safety rest area as defined under 23 CFR 752.3, fleet trucking terminal, commercial truck stop, or state-designated location designed to be a driver's rest area;
- (j) When used to heat or cool a sleeper berth compartment during a rest or sleep period at a location where the vehicle is legally permitted to park and that is at least one thousand feet from residential housing, a school, a daycare facility, a hospital, a senior citizen center, or a medical outpatient facility providing primary, specialty, or respiratory care; or
- (k) When idling for up to twenty minutes in any sixty-minute period if the ambient temperature is less than ten degrees.

42-4-1206. Unattended motor vehicle

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, and effectively setting the brake thereon, and, when standing upon any grade, said person shall turn the front wheels to the curb or side of the highway in such a manner as to prevent the vehicle from rolling onto the traveled way. Any person who violates any provision of this section commits a class B traffic infraction.

Model Traffic code 1206, Unattended Motor Vehicles:

(1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first removing the key from the ignition or locking the doors, and when standing upon any grade, said person shall effectively set the brake thereon, and turn the front wheels to the curb or side of the highway in such a manner as to prevent the vehicle from rolling onto the traveled way.

(2) No person driving or in charge of a motor vehicle shall permit it to idle, whether attended or unattended, for a period in excess of thirty (30) minutes in any one (1) hour period anywhere

within the city, other than a location designated for such activities by either the City Manager or the Chief of Police.

(3) Any person who violates any provision of this section commits a class B traffic infraction.

**ORDINANCE NO. 7
SERIES 2015**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON
AMENDING SECTION 1206 OF THE MODEL TRAFFIC CODE FOR COLORADO TO
ADDRESS UNATTENDED OR IDLING MOTOR VEHICLES.**

WHEREAS, the Model Traffic Code for Colorado, was adopted by reference subject to additions and modifications with Ordinance #8, Series 2010 and approved December 14, 2010;

WHEREAS, the State of Colorado has amended the traffic laws related to 42-4-1206, Unattended Motor Vehicles and 42-14-105, Idling since adoption of the Model Traffic Code in 2010; and

WHEREAS, council has asked staff to address citizen complaints concerning noise and pollution caused by idling engines and staff makes the following recommendation.

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

Section 1. Section 1206, of Part 12, of the Model Traffic Code for Colorado, is hereby repealed and re-enacted to read as follows:

1206, Unattended or Idling Motor Vehicles:

(1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first removing the key from the ignition or locking the doors, and when standing upon any grade, said person shall effectively set the brake thereon, and turn the front wheels to the curb or side of the highway in such a manner as to prevent the vehicle from rolling onto the traveled way.

~~(2) No person driving or in charge of a motor vehicle shall permit it to idle, whether attended or unattended, for a period in excess of thirty (30) minutes in any one (1) hour period anywhere within the city, other than a location designated for such activities by either the City Manager or the Chief of Police. The owner or operator of any motorized vehicle shall not cause or permit the vehicle engine to idle for more than five minutes within any sixty-minute period except as authorized by this subsection (2).~~

- ~~(a) When it remains motionless because of highway traffic, an official traffic control device or signal, or at the direction of a law enforcement officer;~~
- ~~(b) When the driver is operating defrosters, heaters, or air conditioners or is installing equipment only to prevent a safety or health emergency, and not for rest periods;~~
- ~~(c) In the case of a law enforcement, emergency, public safety, or military vehicle, or any other vehicle used to respond to an emergency, when it is responding to an emergency or being used for training for an emergency, and not for the convenience of the vehicle operator;~~
- ~~(d) When necessary for required maintenance, servicing, or repair of the vehicle;~~
- ~~(e) During a local, state, or federal inspection verifying that the equipment is in good working order if required for the inspection;~~
- ~~(f) During the operation of power take-off equipment if necessary for operating work-related mechanical or electrical equipment;~~

- (g) In the case of an armored vehicle, when a person is inside the vehicle to guard its contents or during the loading or unloading of the vehicle;
 - (h) In the case of a passenger bus, when idling for up to five minutes in any sixty-minute period to maintain passenger comfort while non-driver passengers are on board;
 - (i) In the case of a commercial or delivery vehicle when used to heat or cool the drivers compartment during a rest or sleep period at a fleet trucking terminal, commercial truck stop, state-designated location designed to be a driver's rest area or other parking area designated by the Chief of Police;
 - (j) In the case of a commercial or delivery vehicle used to heat or cool the drivers compartment during a rest or sleep period at a location where the vehicle is legally permitted to park and that is at least one thousand feet from residential housing, a school, a daycare facility, a hospital, a senior citizen center, or a medical outpatient facility providing primary, specialty, or respiratory care; or
 - (k) When idling for up to twenty minutes in any sixty-minute period if the ambient temperature is less than ten degrees.
- (3) This section shall apply to all public and private property.
- ~~(3)~~(4) Any person who violates any provision of this section commits a class B traffic infraction.

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

Mayor

(SEAL)

ATTEST:

City Clerk