

**CITY OF GUNNISON COUNCIL AGENDA
MEETING IS HELD AT CITY HALL, 201 W. VIRGINIA AVENUE
GUNNISON, CO, IN THE 2ND FLOOR COUNCIL CHAMBERS**

TUESDAY

JUNE 9, 2015

REGULAR SESSION

7:00 P.M.

- I. Call Meeting to Order:
- II. Consideration of Minutes:
 - A. Minutes of May 26, 2015, Regular Session Meeting
 - B. Minutes of June 2, 2015, Special Session Meeting
- III. Pre-Scheduled Citizens: None.
- IV. Unfinished Business: None.
- V. New Business:
 - A. Action to Excuse Councilor Morrison From Regular Session Meeting
- VI. Resolutions and Ordinances:
 - A. Ordinance No. 5, Series 2015; Re: *Gunnison Municipal Code and Land Development Code Text Amendments Regarding Marijuana Facilities Regulations*; 1st Reading
 - B. Ordinance No. 6, Series 2015; Re: *Gunnison Municipal Code Text Amendment Regarding Noise/Idling Engines*; 1st Reading
- VII. City Attorney: Kathleen Fogo
- VIII. City Manager: Ken Coleman
Acting City Manager: City Clerk Gail Davidson
City Clerk: Gail Davidson
- IX. Non-Scheduled Citizens: **At this agenda time, non-scheduled citizens may present issues of City concern to Council. Per Colorado Open Meetings Laws, NO action or Council discussion will be take place until a later date, unless an emergency situation is deemed to exist by the City Attorney. Speaker has a time limit of 3 minutes.**
- X. City Council Discussion, Meeting Reports, Items for Future Work Sessions:
- XI. Adjournment

The City Council Meeting agenda is subject to change. 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 at www.cityofgunnison-co.gov. Work sessions are recorded, minutes are not produced and formal action cannot be taken. For further information, contact the City Clerk's office at 970-641-8140. **TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL NEEDS ARE REQUESTED TO CONTACT THE CITY CLERK 24 HOURS BEFORE ALL MEETINGS AT 970-641-8140.**

The City Council Regular Session meeting was called to order at 7:00 P.M., by Mayor Hagan, with Councilors Ferguson, Drexel, Morrison and Schwartz present along with City Attorney Fogo, City Manager Coleman, City Clerk Davidson, Parks & Recreation Director Ampietro, Finance Director Cowan, Community Development Director Westbay, Streets Supervisor Summer, several citizens and the press. A Council quorum was present.

Consideration of Regular Session Meeting Minutes of April 28, 2015.

Councilor Drexel moved and Councilor Ferguson seconded the motion to approve the Regular Session Meeting Minutes of April 28, 2015, as submitted.

Roll call vote, yes: Ferguson, Drexel, Hagan. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Morrison, Schwartz. They were not present as City Councilors at the meeting.

Consideration of May 18, 2015, Reorganization Meeting.

Councilor Schwartz moved and Councilor Morrison seconded the motion to approve the Reorganization Meeting minutes of May 18, 2015, as submitted.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Ferguson. He was absent from the meeting.

Pre-Scheduled Citizens:

Quinn Travis and Ian O'Bannion; Re: Youth Challenge Grant Presentation. City Manager Coleman stated that a Youth Challenge Grant was granted to Project Grad. One of the conditions of the grant is the applicants are to make a follow-up presentation to Council on the event. City Clerk Davidson reported that the two applicants were not present. Mayor Hagan stated that if and when they appear, they can make their presentation later in the meeting.

Consent Agenda: these items have already been discussed or are considered routine matters and action may be taken by a single motion and vote. Mayor Hagan asked if anyone wanted any item removed from the Consent Agenda to be discussed and acted upon separately.

- **Arts Center Sundays @ 6 Multi-Day City Event Permit.**
- **Action on IGA Between City, Gunnison Volunteer Fire Department and Gunnison County Fire Protection District**
- **Action on Fire Truck Bid in Amount Not to Exceed \$387,209.**
- **Set Special Session Meeting for 7pm, June 2, 2015, for a Public Hearing on Ordinance No. 5, Series 2015, Re: City Marijuana Facilities Regulations as stated in the Public Hearing Notice.**

Councilor Ferguson moved and Councilor Drexel seconded the motion to approve the five items listed on the consent agenda.

Roll call vote, yes: Hagan, Morrison, Schwartz, Ferguson, Drexel. So carried.

Roll call vote, no: None.

Unfinished Business: None.

New Business:

Action to Excuse Councilor Ferguson from May 18, 2015, Council Meeting.

Councilor Drexel moved and Councilor Morrison seconded the motion to excuse Councilor Ferguson from the May 18, 2015, Council Reorganization meeting since he was out of town for personal reasons.

Roll call vote, yes: Morrison, Schwartz, Drexel, Hagan. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Ferguson.

Action on 2015 Slurry Seal Bid with Foothills Paving & Maintenance in an Amount Not to Exceed \$140,000.

Councilor Ferguson moved and Councilor Schwartz seconded the motion to award the 2015 Slurry Seal Bid to Foothills Paving & Maintenance, the low qualifying bidder, in an amount not to exceed the budgeted \$140,000.

Roll call vote, yes: Schwartz, Ferguson, Drexel, Hagan, Morrison. So carried.

Roll call vote, no: None.

Councilor Ferguson stated the City streets are in good condition because of the continued maintenance that takes place. Crack filling and slurry sealing is protecting the City's investment. The life of the street is extended because the continued maintenance keeps the water out of the subbase materials. Councilor Drexel commended the street painting that is taking place. It looks great. Councilor Morrison asked about the bike lanes status on Tomichi. City Manager Coleman stated the City is awaiting the go-ahead from CDOT on that project. CDOT has not responded to the City's request that was submitted weeks ago. We will keep trying to get an answer.

Action on Ice Rink Compressor Additional Appropriation in Amount of \$10,500. This item was discussed at last week's Council Work Session meeting. Councilor Schwartz asked what fund the monies would be taken from. Finance Director Cowan and Parks & Recreation Director Ampietro indicated the funds would be taken out of the Recreation Fund Reserves.

Councilor Schwartz moved and Councilor Ferguson seconded the motion to approve the expenditure of \$10,500 out of the Park and Recreation Fund Reserves for the rebuild of Compressor #1 at the City Ice Rink.

Roll call vote, yes: Ferguson, Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

Action on Adoption of Measurement Periods Regarding the Patient Protection and Affordable Care Act. This item was discussed at last week's Council Work Session meeting. Finance Director Cowan stated that the proposed time period is the maximum period that can be used under the Affordable Care Act and this will help protect employees.

Councilor Ferguson moved and Councilor Schwartz seconded the motion to adopt a Standard Measurement Period from November 1 through October 31, an initial measurement period from the employee's start date through the following 12 months, an administrative period from November 1 through December 31, and a Stability Period from January 1 through December 31 in accordance with the provisions of the Patient Protection and Affordable Care Act.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz, Ferguson. So carried.

Roll call vote, no: None.

Action to Approve City Employee Handbook dated May 26, 2015. This item was discussed at last week's Council Work Session meeting. No changes were made to the document since that time. Finance Director Cowan stated that the handbook had been reviewed by Mountain States Employers Council and they said the provisions were appropriate and legal.

Councilor Drexel moved and Councilor Schwartz seconded the motion to approve the City Employee Handbook dated May 26, 2015, as presented.

Roll call vote, yes: Hagan, Morrison, Schwartz, Ferguson, Drexel. So carried.

Roll call vote, no: None.

Action on Filing Opposition to Water Court Case. City Manager Coleman informed Council that it is the City's stand to submit opposition to water cases that fall within the City's water basins. This filing ensures that the City receives information from the Water Court on the status of the case. If the City doesn't file then it is difficult to obtain information on the status of the case. This filing of opposition is for Case No. 15CW3021, Link LLC regarding the filing to increase the originally decreed well field from 6 shared wells to 12 individual lot wells at its Vista Business Center on Tomichi Creek east of Gunnison.

Councilor Drexel moved and Councilor Schwartz seconded the motion to approve the City Manager to sign the statement of opposition in Case No. 15CW3021 to allow the City to remain active in the water court proceedings.

Roll call vote, yes: Morrison, Schwartz, Ferguson, Drexel, Hagan. So carried.

Roll call vote, no: None.

Ordinance and Resolutions:

Resolution No. 11, Series 2015; Re: Recognizing Gunnison Rising Annexation Agreement Conditions for Subdivision and Development Have Been Met. Councilor Morrison introduced Resolution No. 11, Series 2015, and it was read by title only by the City Manager.

Community Development Director Westbay came forward and gave a brief overview of the three Annexation Agreement stipulations that had been met by the Annexor. The applicant has conformed to all obligations. The Annexor has agreed not to utilize the existing City water system and not have to guarantee the quality and quantity of the Tomichi Creek basin water supply.

Councilor Morrison moved and Councilor Ferguson seconded the motion that Resolution No. 11, Series 2015, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, RECOGNIZING THAT THE ANNEXOR OF THE GUNNISON RISING ANNEXATION HAS FULFILLED CERTAIN OBLIGATIONS OF THE ANNEXATION AGREEMENT RELATED TO THE RIGHT TO SUBDIVIDE AND DEVELOP REAL PROPERTY COMPRISING THE ANNEXATION TERRITORY**, be introduced, read, passed and adopted this 26th day of May, 2015.

Roll call vote, yes: Schwartz, Ferguson, Drexel, Hagan, Morrison. So carried.

Roll call vote, no: None.

City Attorney Kathleen Fogo: no report. Mayor Hagan asked about the Lazy K Property. The City Attorney stated there is a plan in place to hopefully clear up the title on the Lazy-K property. Clear title is the responsibility of the seller, not the City. City Manager Coleman stated that in all of the various land parcel transactions over the years, some of the deeds were not properly recorded. Those parcel deeds are now being examined and clarified. Councilor Morrison asked about the environmental study. The City Manager stated that once the property is acquired then follow-up will take place. We don't want to make the investment on property that is not owned by the City. He has talked with a consultant about performing a Phase I environmental study once the property is acquired. That will cost approximately \$1,600.00. If, after the Phase I study is complete, further analysis is required, than follow-up will be undertaken at that time. He doesn't foresee any environmental issues with the property.

City Manager: Ken Coleman reported on the following: the City Council and Staff tour of city facilities will take place tomorrow morning starting at 8:30 and the van will be in front of City Hall; the tour should take about 4 hours; the City is hosting the June Mayors'/Managers' meeting next Thursday in the Council Chambers and all of Council is invited to attend; the marijuana facilities regulations are coming along and the public hearing will take place next Tuesday, June 2nd at 7pm; the Gunnison Growler saw very successful events this past weekend with 700 participants and the success was due to amazing volunteers; a phone conference has been set up with CDOT the first part of June to discuss the complete streets project on Highways 50 and 135; and Public Works Director Bradford is following the potential extension of the WAPA hydro-power contract that could affect the City's future WAPA energy allocations.

Acting City Manager: Finance Director Ben Cowan gave the City Financials Report. He has made some modifications to how the report was given in the past. If Council wants to see more, less or different information, the format can be changed. Director Cowan reviewed the following topics: a review of departures or changes from the adopted budget; the investment report and investment performance is lagging slightly right now; there are several old CD maturities and the new City Investment Policy Committee will be meeting to discuss investments; the City check register is open to anyone who would like to see it and we have very strong check processing controls in place; Purchase Card Report includes the same level of review as checks, a new coding process is in-place and employees are being trained and UMB has fraud coverage in place; Sales Tax Trend shows an increase of approximately up 5% this year to date and this is slightly higher than the amount projected in the 2015 budget; Revenue and Expenditure Reports show a few items over budget year-to-date but this isn't unusual at this time. A brief Council discussion ensued with Council stating they like the thoroughness of the financial report.

Director Cowan stated his Semi-Annual Departmental Report is included in their Council packets. If Council has any questions on the report they can get with him. He is investigating the possibility of refinancing the 2007 pool and rink bonds since rates are still at a historic low. He will keep Council informed about those discussions.

City Clerk: Gail Davidson reported that advertising for the vacancies on the Zoning Board of Adjustments and Appeals, the Building Board of Appeals and the Election Commission will be advertised. If Council knows of anyone interested in serving in any of these capacities to encourage them to submit a letter of interest.

Community Development Director: Steve Westbay reported he will be attending the Housing Forum at the Crested Butte Center for the Arts on Thursday at 6:30 p.m.

WSCU Liaison: Absent until fall semester.

Non-Scheduled Citizens:

City Council Discussion, Meeting Reports, Items for Work Session:

Councilor Ferguson: reported he had no meetings to report on.

Mayor Pro Tem Drexel: reported he attended the Growler and there were a lot of dollars on the pavement in the form of expensive bicycles. He, Stu and Matt attended the Parks Master Plan meeting on Monday evening. He reported he will be unable to attend the Mayors/Managers meeting on Thursday since he will be out of town.

Councilor Morrison: reported she attended the Community Builders Task Force meeting and they are doing great things. She also attended the One Valley Prosperity community where she had a great vibrant table to share ideas. She attended the Chamber meeting this morning and plans are underway for the June 25th Block Party event downtown. This is a new event and the new businesses on Main Street will be showcased. There will be music and other festivities.

Councilor Schwartz: reported there is a great start on the Parks & Recreation Master Plan. There has been a lot of community input and good ideas. He volunteered at the Growler event and the downtown area was busy.

Mayor Hagan: reported he was in Montana all last week and has no meetings to report. Mayor Hagan called for any items for upcoming agenda. He would like to have an update on the Comprehensive Plan scheduled. City Clerk Davidson will schedule that update.

Adjournment: Mayor Hagan called for any further discussion from Council, staff or the public, and hearing none, adjourned the meeting at 8:19 P.M.

Mayor

City Clerk

JUNE 2, 2015

**CITY OF GUNNISON COUNCIL
SPECIAL SESSION MEETING MINUTES**

7:00 P.M.

The City Council Special Session meeting was called to order at 7:00 P.M., by Mayor Hagan with Councilors Ferguson, Drexel, Morrison and Schwartz present along with City Manager Coleman, City Clerk Davidson, Police Chief Robinson, Finance Director Cowan, Community Development Director Westbay, many citizens and the press. A Council quorum was present. The Special Session meeting was set by motion and affirmative Council vote at the May 26, 2015, Regular Session meeting.

JUNE 2, 2015

PUBLIC HEARING

7:00 P.M.

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

Mayor Hagan opened the Public Hearing at 7:00 P.M. and stated for the record that it is Tuesday, June 2, 2015, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, Colorado. Present at the public hearing are Mayor Richard Hagan, City Councilors Stu Ferguson, Robert Drexel, Leia Morrison, and Matt Schwartz, City Manager Ken Coleman, City Clerk Gail Davidson, Community Development Director Steve Westbay, Police Chief Keith Robinson and Finance Director Ben Cowan.

The purpose of this Public Hearing is to 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.

Mayor Hagan called for Proof of Publication. City Clerk Davidson responded she has the affidavit or publication and a copy of the legal notice is included in Council packets and the official record of the hearing.

Mayor Hagan then called for City Staff Comments and Recommendations. Community Development Director Steve Westbay addressed Council. Director Westbay stated the following items: the regulation ordinance is a unique process as it changes both the Gunnison Municipal Code (GMC) and the Land Development Code (LDC); the change to the LDC is a text amendment that was initiated by him as the Community Development Director applicant; the Planning and Zoning Commission discussed the proposed amendments and held a public hearing on the LDC provisions that would be amended and have made a recommendation to Council; Director Westbay reviewed the City Council moratoriums and Election processes that have taken place to date regarding marijuana facilities in the City of Gunnison; the State of Colorado has two statutory components for marijuana facilities, one for medical marijuana and one for retail also known as recreational marijuana facilities; the Planning Commission started in December 2014 and held 6 meetings and showed due diligence in developing the LDC regulations; the Planning Commission bases their decisions on maintaining the health, welfare and safety of the citizens; they reviewed 29 different marijuana regulation codes and spent a lot of time on the development because they wanted to do it right; the LDC provisions include location standards, those being the 1000 foot buffers between marijuana facilities and schools, daycares, the university, and mental health facilities and buffers between residential districts and marijuana facilities so that they are not adjacent; co-occupancy of marijuana facilities and other business presented a multitude of issues; airflows and HVAC systems were discussed and the final recommendation from the Planning Commission is to allow co-tenancy on individual cases based on filtration systems and control of air flow migration between the tenants; wastewater discharge was examined to prevent the discharge of hazardous materials into the City's wastewater stream through the Wastewater Treatment Plant; the City regulates the discharge for many types of businesses including car repair shops, manufacturing businesses, car washes, and Western State Colorado University, so the City is not singling out marijuana businesses with these regulations; the discharge of large amounts of nitrates and phosphates is regulated by the Colorado Department of Health and Environment (CDHE) in an effort to control eutrophication or excessive plant growth in the state's rivers and waterways that depletes the oxygen in the water and kills aquatic plants and animals; the recent CDHE Rule 85 sets limits of phosphates and nitrates discharge and if the amounts are exceeded it

would jeopardize the City's wastewater plant discharge permits; the daily loading factor for nitrogen is set at 0.035 lbs. and phosphate at 0.015 lbs. the same as what a single-family residence would generate; if the levels are exceeded by a business then they would have to install a pre-treatment system on the discharge before it enters into the City's wastewater stream.

Director Westbay continued and addressed the contents of the Ordinance. Those contents are: taxation section stating a 5% sales tax on products sold in the City and a 5% excise tax on marijuana products exported for sale outside the City be collected ; business regulations for the licensing of marijuana facilities; the City regulations streamline the application process and utilize the same forms required by the State application process; applications are obtained and submitted to the City Clerk, inspections and review will take place by the Community Development Department, the Police Department and the Public Works Department if applicable, a public hearing will be held to hear public testimony and determine the findings of fact on the application by City Council prior to licensing; business regulations regarding revocation and suspension are outlined in the ordinance; modifications to Chapter 14 Technical Codes are included to address fire, electric, plumbing, mechanical and building standards to be met and the types of occupancies are allowed by the code; retail licenses are mercantile uses, cultivation, manufacturing and testing are industrial in nature; industrial-type uses may require review and permitting for types of equipment being utilized; inspections for chemical discharges may be required including testing by licensed engineers and laboratories; the use of chemicals and gases in cultivation businesses may be prohibited or require additional safety measures; in-line filtration systems may be required by the mechanical code to guarantee air quality for adjacent businesses or outside air quality; the LDC Principal Use Table allows for retail in certain areas as a conditional use; product manufacturing may require equipment inspection for safety and product cleanliness and safety, including the use of an annually-inspected commercial kitchen; and on the cultivation side, odor, and sewer discharge requirements are included to maintain health and safety of the community. The public has had many ongoing opportunities to give comments at public meetings or to City staff during the regulation development process.

Mayor Hagan then called for public input for the record on the issue. He asked that anyone wishing to speak to step forward to the table, introduce themselves and sign in for the record. The Mayor requested that comments be addressed to the provisions of Ordinance No. 5 and to please be brief. If others have previously given the same comments, please indicate that without restating the comments.

Carolyn Riggs, Gunnison Resident. Provided a handout containing concerns and comments she has on the Ordinance. Regarding tax collection, in Section 3 C. it is not clearly stated where the 5% sales and excise tax will be deposited. She would like that defined. She asked the deposited funds be primarily focused for education programs that emphasize youth development through a grant program. The funds should be clearly defined and the granted programs should have specific measureable outcomes. In Section 8.50.050 she would like clarification on the items she has outlined in the handout. In the Land Development Code (LDC) Section 3.14 she would like cohabitation of cannabis businesses to be allowed. She cited a location in Denver where cohabitation of cannabis businesses exist. In LDC Section 3.14 C.3. she believes the cultivation and processes shouldn't be limited to allow for future innovation in processing products. In Section 3.15 she wants the buffer amended to not prohibit a marijuana business if 50% of the property is adjacent to restricted zones.. The business should be allowed if 51% of the property is not in the designated buffer boundary, then the entire deeded property should be allowed to be licensed. Regarding signage, she thinks businesses should be allowed opportunities to succeed and the signage restrictions do not allow for that to occur. The current draft allows for on-site signage but that is very limited.

Lou Costello, County resident and owner of the commercial cultivation center in the County Industrial Park. He thanked Ms. Riggs for her impressive comments. He plans to apply for a retail license and he has had several locations reviewed. Many of the locations are not allowed under the current ordinance. He does have a location now and he plans to construct a new building. Section 5.15 B.4 regarding signage doesn't allow the graphic of a marijuana leaf to be used. That provision is very limited. He has spent a lot of money on his business logo development and it includes a marijuana leaf to identify the business. He would like that provision changed to allow the graphic for identification purposes.

Ed Slaughenhaupt, Gunnison resident. Mr. Slaughenhaupt passed out a handout to Council entitled "Marijuana on Main Street". He then informed Council he has worked with inmates for the past 10 years and most of their problems stem from drug and alcohol use. He has seen the downside of drugs including marijuana. It is a harmful substance. Our population of minors has not been addressed in these regulations. Mr. Slaughenhaupt read sections regarding marijuana statistics use and abuse from a parent's guide from the Gunnison County Substance Abuse Prevention Program (GCSAPP). The ordinance allows for marijuana stores in the North Main Street commercial areas, the West Tomichi commercial areas and in the Industrial Zone. He is most concern with marijuana stores in the North Main Street commercial area. A lot of children walk to the parks and the community center in that area. They will be exposed to the marijuana stores. Exposure on kids is not just a revenue source for the City. We get a new crop of under 21 years old minors every year at Western State. The statistics are out there. We need buffers and restrictions and not have the stores on the main entries in town. Statistics show harm from marijuana use and it changes how the brain works. He has a personal motivation since two of his grandkids didn't graduate from college because of their addiction to marijuana. He would like the marijuana shops to follow the same process as the Sexually Oriented Businesses that were addressed 12 years ago. These are only allowed in the Industrial zone. He has made some concessions and would only like the businesses in the Industrial Zone and the Commercial Zone on West Tomichi. There is not the exposure to kids in those areas. The Gunnison Country Times held a survey regarding the location of marijuana facilities and it overwhelmingly showed the Industrial Zone was the preferred location. He also reminded Councilor Morrison he voted for her because she stated in her campaign that she didn't want to see marijuana stores on Main Street. Mr. Slaughenhaupt reminded Council in their first discussion that there was a buffer zone around parks and churches. That has been thrown out. He is asking for marijuana stores to be located in the Industrial Zone and in the West Tomichi Commercial areas and not on North Main Street.

Jonathan Jones, Gunnison resident and Pastor of the First Baptist Church. He is arguing for marijuana facilities to be located only in the Industrial Zone. The original buffer maps had buffers around churches and parks. Those buffers are now gone. He is asking that the buffers around churches and parks to be reinstated. He works with youth and children's ministries and wants the children protected.

John Billingsly, Gunnison County resident. Mr. Billingsly thanked Council, present and past, and staff for their work on the regulations. He thanked Council for the opportunity to have a marijuana business in Gunnison. He is a father and believes in protecting children. The City should use the tax revenue that is generated for programs to educate children and keep marijuana out of the hands of children. Having legitimate, regulated business will accomplish that. Mr. Billingsly read part of an article from the Huffington Post regarding marijuana. People die from alcohol overdoses but there has never been a death from a marijuana overdose. The article discussed the evolution on the prohibition of marijuana. We are now at the forefront of ending marijuana prohibition. We need to use tax dollars for the education of youth.

Mayor Hagan asked if any other letters, emails or other comments were received from the public to be entered into the record. City Clerk Davidson stated that no additional new comments were received. The previous letters received are included in their packets and these are from: Eric Norum, Robert Drexel, Tony Cecere, Merlin Schafer, and Matt Schwartz. [Note: an email regarding the issue was sent by Lou Costello prior to the Public Hearing but was not seen until after the Hearing was closed. A copy of the email is included in the official Public Hearing record.]

Mayor Hagan thanked all of the citizens for their comments. Mayor Hagan called for any final comments to be entered into the record. Hearing none, Mayor Hagan closed the Public hearing at 8:10 P.M.

Mayor

City Clerk

Memorandum

To: City Council
CC: City Manager Ken Coleman
From: City Clerk Gail Davidson
Date: 6/5/2015
Re: Excusing Councilor Morrison

City Council:

Councilor Morrison has asked to be excused from the June 9, 2015, City Council meeting.

Councilors are allowed to be formally excused from a Regular, Special or Reorganization Session meeting by a quorum vote of the City Council via Section 4.4, Section F, of the Gunnison Municipal Home Rule Charter. Councilors do not have to be formally excused for absences from Work Session meetings where no action is taken.

Action requested of Council: A motion, second and vote of Council to excuse Councilor Morrison from the June 9, 2015, Council Regular Session meeting.

**ORDINANCE NO. 5
SERIES 2015**

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

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

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

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

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

WHEREAS, in 2011, the City Council adopted Ordinance 2, Series 2011, prohibiting the establishment of Medical Marijuana Centers, Optional Premises Cultivation Operations and Medical Marijuana-Infused Product Manufacturers within the City of Gunnison; and

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

WHEREAS, since the action of voters in 2010, and the City's action in 2013, regulations regarding the marijuana industry, both medical and retail, have been developed and refined by the State legislature, and members of the public have requested that the City determine whether to continue the prohibition on medical and retail marijuana establishments within the City; and

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

WHEREAS, voters approved the establishment of medical and retail marijuana establishments within the City limits, as well as taxation on sales of the same, subject to such rules, regulations, limitations and restrictions as may be adopted by City Council; and,

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

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

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

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

- A. The Colorado Medical Marijuana Code, C.R.S., Title 12, Article 43.3;
- B. The Colorado Retail Marijuana Code, C.R.S. Title 12, Article 43.4;
- C. The authority granted to home rule municipalities by Article XX of the Colorado Constitution;

- D. The powers contained in the City of Gunnison Home Rule Charter;
- E. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- F. Part 3 of Article 23 of Title 31, C.R.S., (concerning municipal zoning powers);
- G. Section 31-15-103, C.R.S., (concerning municipal police powers);
- H. Section 31-15-401, C.R.S., (concerning municipal police powers); and,
- I. Section 31-15-501, C.R.S., (concerning municipal authority to regulate businesses).

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

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

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

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

Chapter 8.50 MARIJUANA BUSINESS LICENSING REGULATIONS

8.50.010 License Required.

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

8.50.020 Application and License Fee Required.

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

8.50.030 Application for License.

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

8.50.040 License Application Processing and Procedure.

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

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

B. Retail Marijuana Establishment

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

8.50.050 Findings of Fact.

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

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

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

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

8.50.060 Modification or Alteration to Premises Following Issuance of License.

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

8.50.070 License Renewal.

Licenses are valid for one (1) year.

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

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

8.50.080 Transfer of Location of License.

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

8.50.090 Transfer of Ownership.

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

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

8.50.100 License Suspension or Revocation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

| TABLE 2-3 PRINCIPAL USE TABLE | | | | | | | | | | | |
|--|--|------------------------------|----------------|----------------|----------------|----------------|----------------------------------|-----|----------------|---|---------------|
| Use Categories | Specific Uses | RESIDENTIAL ZONING DISTRICTS | | | | | NON-RESIDENTIAL ZONING DISTRICTS | | | | Use Standards |
| | | R-1 | R-1M | R-2 | RMU | R-3 | B-1 | CBD | C | I | |
| Residential Use Categories (§3.2) | | | | | | | | | | | |
| Household Living | Accessory Dwelling ¹ | | | P | P | P | P | P | P | P | §3.3H |
| | Duplex dwellings | | | P | P | P | C | | C | | §3.3C |
| | Manufactured homes | P | P | P | P | P | P | C | C | | §3.3B |
| | Mobile home parks | | | | | C | | | | | §3.3I |
| | Multi-family dwellings | | | | P | P | C | | C | | §3.3D |
| | Single-family dwellings | P | P | P | P | P | P | C | C | | §3.3C |
| | Townhouses | | | | P | P | | | | | §3.3F |
| | Upper story residential ¹ | | | | | | P | P | P | P | §3.3G |
| | Zero lot line dwellings | | | P | P | P | | | | | §3.3E |
| Congregate Living | Assisted Living homes | C ² | C ² | C ² | C ² | C ² | | | C ² | | §3.3J |
| | Nursing home | | | C | C | C | | | C | | §3.3J |
| | Rooming and boarding houses, dormitories, fraternities or sororities | | | | C | C | | | | | §3.3K |
| Home Occupation and Home Business | Home Occupation | P | P | P | P | P | P | P | P | | §3.3L |
| | Home Business | C | C | C | C | C | P | P | P | | §3.3L |
| Marijuana | Personal Use of Marijuana | P | P | P | P | P | P | P | P | | §3.3M |
| Public, Civic and Institutional Use Categories (§3.4) | | | | | | | | | | | |
| Community Service | Detention Center | | | | | | | | | P | -- |
| | Mausoleum, columbarium | C | C | C | C | C | C | C | P | | -- |
| | Neighborhood or community centers | C | C | C | C | C | P | | P | | -- |
| | Public garage or shop | | | | | | | | | P | -- |
| Educational Facilities | School, public or private | C | C | C | C | C | C | C | C | | §3.4A |
| | School, trade or business | C | C | C | C | C | C | C | C | C | |
| Day Care | Daycare Center | | | C | C | C | | C | | | §3.5A |
| | Daycare Home | C | C | P | P | P | P | P | P | C | |
| | Daycare School | | | C | C | C | C | C | C | C | |
| Marijuana-Related Business | Marijuana Club or Vapor Lounge | | | | | | | | | | -- |
| Medical | Hospitals | | | | | | C | | P | | -- |
| Parks and Open Space | Parks and recreational facilities | P | P | P | P | P | P | P | P | P | -- |
| Religious Institutions | Churches or places of worship | C | C | C | C | C | C | C | P | | §3.5B |
| Utilities | Major utilities (private only) | C | C | C | C | C | C | C | C | P | -- |
| | Minor utilities | P | P | P | P | P | P | P | P | P | -- |
| Accommodation, Retail, Service - Commercial Use Categories (§3.6) | | | | | | | | | | | |
| Entertainment Event, Major | Auditoriums | | | | | | | C | P | P | -- |
| | Fairgrounds | | | | | | | | | P | -- |
| Office | Banks and financial institutions | | | | | | C | P | P | | -- |
| | Government offices | | | | | C | P | P | P | P | -- |
| | Medical clinic or dental office | | | | | | P | P | P | | -- |
| | Professional offices | | | | | | P | P | P | C | -- |
| | Radio and television studios | | | | | | P | P | P | | -- |
| Parking, Commercial | Commercial parking lots and garages | | | | | | | C | P | P | -- |
| Retail Sales, Rental and Service, Sales-Oriented | Art Galleries | | | | | | P | P | P | | -- |
| | Auto sales and rental | | | | | | | | P | P | -- |
| | Automotive Supplies | | | | | | | | P | P | -- |
| | Book stores | | | | | | P | P | P | C | -- |
| | Convenience Stores, without gas pumps | | | | | | | P | P | P | -- |
| | Drive-in | | | | | | C | C | C | C | §3.12B |
| | Furniture and Appliance Stores | | | | | | | P | P | P | -- |

¹ See special allowances in the Use Standards.

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

| TABLE 2-3 PRINCIPAL USE TABLE | | | | | | | | | | | |
|--|--|------------------------------|------|-----|-----|-----|----------------------------------|-----|---|---|---------------|
| Use Categories | Specific Uses | RESIDENTIAL ZONING DISTRICTS | | | | | NON-RESIDENTIAL ZONING DISTRICTS | | | | Use Standards |
| | | R-1 | R-1M | R-2 | RMU | R-3 | B-1 | CBD | C | I | |
| | Printing, publishing and lithography | | | | | | C | P | P | P | -- |
| | Woodworking and cabinet shops | | | | | | | | C | P | -- |
| Marijuana Manufacturing and Production | Marijuana manufacturing | | | | | | | | | P | §3.15 |
| | Medical marijuana-infused products manufacturing | | | | | | | | | P | §3.15 |
| | Marijuana cultivation | | | | | | | | | P | §3.15 |
| | Medical marijuana optional premises cultivation operation | | | | | | | | | P | §3.15 |
| | Marijuana testing facility | | | | | | | | P | P | §3.15 |
| Self-storage Warehouse | Mini-warehouses and mini-storage | | | | | | | | | P | -- |
| Vehicle Repair | Auto body shops | | | | | | | | C | P | §3.7.B.2 |
| | Auto, truck and boat repair | | | | | | | | C | P | §3.7.B.2 |
| | Quick lube service | | | | | | | | P | P | §3.7.B.2 |
| Warehouse and Freight Movement | Air cargo terminal | | | | | | | | | P | -- |
| | Outdoor storage, general | | | | | | | | C | P | §3.9B. |
| | Post Office | | | | | | | P | P | P | -- |
| | Recreational vehicle storage | | | | | | | | C | P | §3.9B. |
| | Utility service yards or garages | | | | | | | | C | P | §3.9B. |
| | Warehouses and truck terminals | | | | | | | | | P | §3.9B. |
| Waste-Related | Transfer stations | | | | | | | | | P | -- |
| | Recycling centers | | | | | | | | | P | -- |
| Wholesale Sales | Mail order houses | | | | | | P | | P | P | -- |
| | Wholesalers of food, clothing, and parts | | | | | | | | C | P | -- |
| Other Uses Categories §3.10 | | | | | | | | | | | |
| Adult entertainment | Sexually oriented businesses | | | | | | | | | C | §3.10 C. |
| Alternative Energy | Solar Voltaic and Wind Turbines | C | C | C | C | C | C | C | C | C | §3.11 D. |
| Aviation and Surface Transportation | Airports and related facilities, public | | | | | | | | | P | §3.11 A. |
| Mining | Processing of aggregate mineral or other subsurface resources | | | | | | | | | C | §3.11 E. |
| | Asphalt Batch Plant | | | | | | | | | C | §3.11 E. |
| Telecommunications Facilities | Telecommunications facilities and towers | | | | | | | C | C | P | §3.11 B. |
| Temporary Commercial Activity | General retail sales or other commercial use operated outside of a building on a seasonal basis. | | | | | | | C | C | C | §3.13 |

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

3.14 Marijuana Use Categories

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

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

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

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

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

1. Characteristics. Marijuana cultivation incorporates facilities with specific climate controls; ventilation and mechanical systems; equipment for watering and fertilizing plants; and storage of various gases, materials, and equipment required for the growing of marijuana plants. Cultivation facilities cannot cohabitate with any other uses not licensed and permitted as a marijuana establishment.
2. Accessory Uses. Accessory uses may include offices, warehouses, truck fleets and fully enclosed and secured storage facilities. Open storage yards are not permitted.
3. Examples. Marijuana cultivation establishments are licensed in compliance with all local and state regulations. Licensed marijuana cultivation establishments grow and produce marijuana. There are numerous process types that may be used the cultivation of marijuana. Processes may include the injection of compressed gas (generally Carbon dioxide) or using nutrient rich media to enhance plant growth. Primary life-safety concerns include depleted oxygen levels within the facilities, wastewater discharges with elevated nutrient levels from fertilizers, phosphates, odor nuisances, and wastewater discharge of pesticides and other constituents which affect the state and federal licensing compliance provisions related to the City's sewer system and sewer plant. Public access to facilities are prohibited. Generally, licensed marijuana cultivation establishments are classified in the *International Building Code* as Factory Industrial, F-1, Moderate Hazard Occupancy.

D. Testing Facilities

1. Characteristics. Testing facilities are laboratory facilities licensed to analyze and certify the safety and potency of marijuana.
2. Accessory Uses. Accessory uses may include offices, and secured storage areas.

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

Memorandum

To: City Council
From: Keith Robinson
Date: June 7, 2015
Subject: Ordinance No. 6, Series 2015
Unattended or Idling Motor Vehicles



Ordinance No. 6, Series 2015, pertaining to Unattended or Idling Motor Vehicles is being presented to council for review and is recommended for adoption on June 16, 2015.

This ordinance was presented at the June 2, 2015, work session. Following that work session, the following modifications were made to the draft presented.

1. Ordinance number was changed to 6
2. Title of the ordinance and description in Section 1 were both changed to more fully identify the ordinance being modified.

The body of the ordinance is unchanged from the draft presented on June 2nd.

**ORDINANCE NO. 6
SERIES 2015**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON AMENDING
TITLE 5 GENERAL OFFENSES, CHAPTER 5.20 TRAFFIC, SECTION 5.20.020
ADDITIONS OR MODIFICATIONS, PART 12 PARKING, SECTION 1206
UNATTENDED MOTOR VEHICLES, OF THE CITY OF GUNNISON MUNICIPAL
CODE**

WHEREAS, the Model Traffic Code for Colorado, was adopted by reference subject to additions and modifications with Ordinance No. 8, Series 2010, and approved December 14, 2010; and

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, City 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. Title 5 General Offenses, Chapter 5.20 Traffic, Section 5.20.020 Additions or Modifications, Part 12 Parking, Section 1206 Unattended Motor Vehicles, of the *City of Gunnison Municipal Code*, 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) 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 sixty-minute period to maintain passenger comfort while non-driver any 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.

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

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this 9th day of June, 2015, on first reading, and introduced, read, passed and adopted on second and final reading this _____ day of _____, 2015.

Mayor

(SEAL)

ATTEST:

City Clerk

Published by Title Only in the
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Thursday, June __, 2015