

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 4463

**AN ORDINANCE AMENDING SECTION 21.02.110, CONDITIONAL USE PERMIT, OF
THE GRAND JUNCTION MUNICIPAL CODE**

Recitals:

On April 5, 2010 the Grand Junction City Council adopted the updated 2010 Zoning and Development Code, also known as Title 21 of the Grand Junction Municipal Code of Ordinances.

Staff makes the following proposals in an effort to maintain the effectiveness of the Zoning Code.

Section 21.02.110, Conditional Use Permit, currently does not contain language to amend a Conditional Use Permit (CUP). The ability to amend a CUP would provide a valuable tool for citizens when development or business circumstances change after a CUP has been granted. The opportunity to amend a CUP would provide flexibility to adapt and be responsive to such changes.

Prior to adoption of the updated 2010 Zoning and Development Code (Title 21), Section 21.02.110 contained specific terms related to compatibility with adjoining properties that were inadvertently deleted from the 2010 Code when it was approved. In the approval of the 2010 Code the terms were not intended to be deleted.

The deletion was not part of or approved by the Ordinance adopting the 2010 Code and therefore the omission may be considered a scrivener's error. An Administrative Regulation was issued by the Director of Public Works and Planning in June 2010 to afford notice of the problem until such time as Section 21.02.110 could be amended to correct the deletion.

After public notice and a public hearing as required by the Charter and Ordinances of the City, the Grand Junction Planning Commission recommended approval of the proposed amendment for the following reasons:

1. The request is consistent with the goals and policies of the Comprehensive Plan.
2. The proposed amendment will help implement the vision, goals and policies of the Comprehensive Plan.

After public notice and a public hearing before the Grand Junction City Council, the City Council hereby finds and determines that the proposed amendment will implement the vision, goals and policies of the Comprehensive Plan and should be adopted.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

Section 21.02.110 related to Condition Use Permit is amended by the addition of subparagraph (h) as follows.

(h) Amendment or Revocation of Conditional Use Permit.

(1) Interested Party. Any interested party may apply to the City for the amendment or revocation of a conditional use permit. For purposes of this Section, "interested party" shall include the following:

(i) The original applicant or successor in interest, or the current owner or lessee of the property for which the conditional use was granted (may also be referred to as the permit holder);

(ii) The City;

(iii) Any owner or lessee of property that lies within five hundred feet (500') of the property for which the conditional use permit was granted.

(2) Fee. Any person or entity, other than the City, seeking to amend or revoke a conditional use permit, shall pay a fee in the amount established for an application for a conditional use permit.

(3) Preliminary Criteria. An applicant for amendment or revocation of a conditional use permit must establish the following to the satisfaction of the decision maker before the requested change(s) can be considered by the decision maker:

(i) Grounds for Amendment – Permit Holder. A conditional use permit may be amended at the request of the holder of the permit (the holder of the permit being the original applicant or successor in interest or the current owner or lessee of the land subject to the conditional use permit) upon a showing that a substantial change in circumstance has occurred since the approval of the permit which would justify a change in the permit.

(ii) Grounds for Revocation or Termination – Permit Holder. A conditional use permit may be revoked or terminated at the request of the holder of the permit upon a showing that, under this Title 21, the use is an allowed use in the zone in which it is now established.

(iii) Grounds for Amendment or Revocation – Other Interested Party. A conditional use permit may be amended or revoked at the request of any other interested party if one or more of the following is established:

(A) The conditional use permit was obtained by misrepresentation or fraud;

(B) The use, or, if more than one, all the uses, for which the permit was granted has ceased or has been suspended for six months,

(C) The holder or user of the conditional use permit has failed to comply with any one or more of the conditions placed on the issuance of the permit;

(D) The holder or user of the conditional use permit has failed to comply with any City regulation governing the conduct of that use;

(E) The holder or user of the conditional use permit has failed to construct or maintain the approved site as shown on the approved site plan;

(F) The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a Court of competent jurisdiction in any civil or criminal proceeding.

(iv) Due Process. No conditional use permit shall be amended or revoked against the wishes of the holder of the permit without first giving the holder an opportunity to appear before the Planning Commission and show cause as to why the permit should not be amended or revoked. Amendment or revocation of the permit shall not limit the City's ability to initiate or complete other legal proceedings against the holder or user of the permit.

(4) Decision Maker. All applications for amendment of a conditional use permit shall be processed in the same manner as a new request for a conditional use permit, as set forth in Subsection (e) of this Section.

(5) Approval Criteria. An application for amendment or revocation of a conditional use permit shall demonstrate that the development or project will comply with all of the criteria set forth in Section 21.02.110(c).

Section 21.02.110(c) related to Condition Use Permit is amended by the addition of subparagraph (5) as follows.

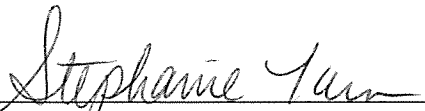
(5) Compatibility with Adjoining Properties. Compatibility with and protection of neighboring properties through measures such as:

- i. Protection of Privacy. The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants;
- ii. Protection of Use and Enjoyment. All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.
- iii. Compatible Design and Integration. All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emission and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

INTRODUCED on first reading the 14th day of March, 2011 and ordered published in pamphlet form.

PASSED and ADOPTED on second reading the 4th day of April, 2011 and ordered published in pamphlet form.

ATTEST:



City Clerk



President of the Council