

**GRAND JUNCTION CITY COUNCIL
WORKSHOP AGENDA**

**MONDAY, JANUARY 3, 2005, 7:00 P.M.
CITY HALL AUDITORIUM, 250 N. 5TH STREET**

MAYOR'S INTRODUCTION AND WELCOME

- 7:00 **COUNCILMEMBER REPORTS**
- 7:10 **CITY MANAGER'S REPORT**
- 7:15 **REVIEW FUTURE WORKSHOP AGENDAS** [Attach W-1](#)
- 7:25 **REVIEW WEDNESDAY COUNCIL AGENDA**
- 7:30 **CITY COUNCIL DISTRICT BOUNDARY ADJUSTMENTS:** City Council to review possible adjustments to the City Council voting district boundaries for the 2005 election cycle. [Attach W-2](#)
- 7:55 **REPORT ON VISIT TO EL SALVADOR:** Jennifer Hensel from the Foundation for Cultural Exchange will report back to City Council on her group's trip to El Salvador. [Attach W-3](#)
- 8:15 **SMOKING ORDINANCE UPDATE - ONE YEAR BEFORE FULL IMPLEMENTATION:** Staff will present outreach efforts to educate the public on the impacts of the smoking ordinance. Then legal staff will discuss possible clarifying amendments to the ordinance. [Attach W-4](#)
- 9:00 **ADJOURN**

This agenda is intended as a guideline for the City Council. Items on the agenda are subject to change as is the order of the agenda.

Attach W-1

Future Workshop Agenda

CITY COUNCIL WORKSHOP AGENDAS

**** JANUARY 17, 2005 MONDAY 11:30 AM at Two Rivers Convention Center
11:30 MEETING WITH THE GRAND JUNCTION HOUSING AUTHORITY***

JANUARY 17, 2005 MONDAY 7:00PM

- 7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND REVIEW FUTURE WORKSHOP AGENDAS
- 7:25 CITY MANAGER'S REPORT
- 7:30 JIM LOCHHEAD: UPDATE ON WATER ISSUES
- 8:15 REVIEW YOUTH COUNCIL BYLAWS
- 8:30 EMS TRANSPORTING DECISION MAKING PROCESS

**** JANUARY 31, 2005 MONDAY 11:30 AM
11:30 OPEN***

JANUARY 31, 2005 MONDAY 7:00PM

- 7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND REVIEW FUTURE WORKSHOP AGENDAS
- 7:25 CITY MANAGER'S REPORT
- 7:30 NEIGHBORHOOD PROGRAM UPDATE AND OVERVIEW

**** FEBRUARY 14, MONDAY 11:30 AM AT TWO RIVERS CONVENTION CENTER***

***11:30 DOWNTOWN DEVELOPMENT AUTHORITY BOARD
(Changed from 31 January 2005)***

FEBRUARY 14, MONDAY 7:00PM

- 7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND REVIEW FUTURE WORKSHOP AGENDAS
- 7:25 CITY MANAGER'S REPORT
- 7:30 JARVIS PROPERTY PLAN
- 8:15 DEPARTMENT PRESENTATION: CODE ENFORCEMENT

**** FEBRUARY 28, 2005 MONDAY 11:30 AM
11:30 OPEN***

FEBRUARY 28, 2005 MONDAY 7:00PM

- 7:00 COUNCIL REPORTS, REVIEW WEDNESDAY AGENDA AND REVIEW FUTURE WORKSHOP AGENDAS
- 7:25 CITY MANAGER'S REPORT
- 7:30 OPEN

BIN LIST

1. Traffic calming: Discussion of current policy
2. Discussion of Burkey Park
3. Clifton Sanitation District #2 boundary expansion (see attached)

Department Presentations to City Council

2005

February	City owned property update
March	Golf Course/Recreation
April	Public Works Utilities – Water

POTENTIAL FUTURE WORKSHOP ITEM FOR JANUARY OR FEBRUARY

ISSUE REGARDING CONTINUED EXPANSION OF THE URBAN GROWTH BOUNDARY THROUGH CLIFTON SANITATION DISTRICTS 1 AND 2 ANNEXATIONS

BACKGROUND

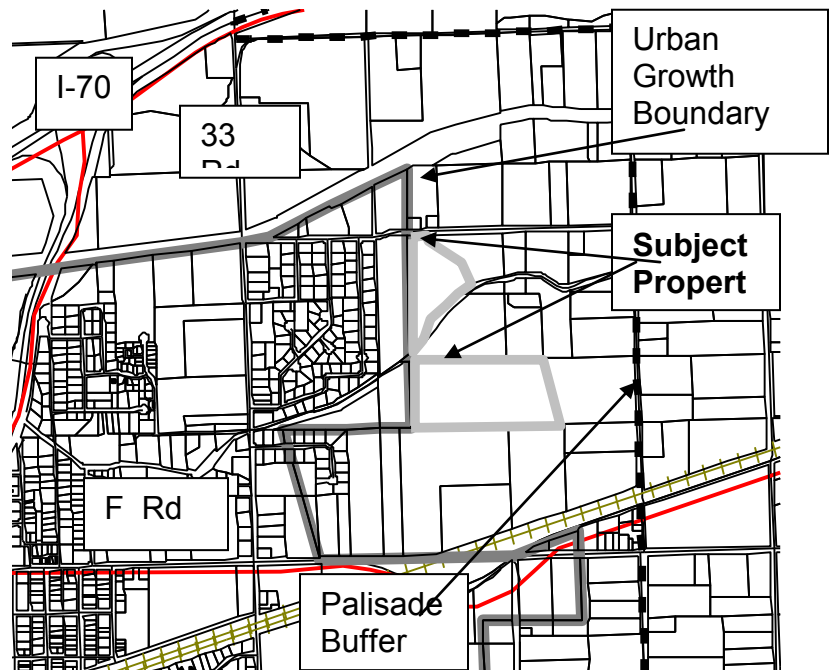
In most areas surrounding the City of Grand Junction, the Urban Growth Boundary and the Persigo 201 boundary are the same. However, this is not the case to the east where the Persigo 201 boundary is the western boundary of the Clifton 1 and 2 Sanitation Districts and the Urban Growth Boundary is the eastern boundary of the Clifton districts.

The adopted Future Land Use Map included in both the City's Growth Plan and Mesa Countywide Land Use Plan has a note which states: "The Urban Growth Boundary (UGB) coincides with the area included in the Persigo Wastewater Treatment Plant 201 service area, as amended and the Clifton Sanitation District #1 and #2 service areas, as amended. Please check the latest amendments to those service areas for the current UGB."

The County has received an application to change the Future Land Use Map for two properties at 3327 F 5/8 Road that are currently split by the Urban Growth Boundary. These properties lay on the eastern edge of the existing Clifton 1 and 2 Sanitation Districts. The hearing date for this County map amendment application is March 31, 2005.

Through the 1998 Persigo Agreement, the City and County have established a policy and procedure of how amendments to the Persigo 201 boundary can occur. Requests for boundary amendments are considered at the annual Persigo meeting held generally in the summer of each year with the City Council and Board of County Commissioners.

There is no such policy or procedure that addresses how amendments to the Urban Growth Boundary in areas beyond the eastern limits of the Persigo 201 boundary are reviewed. In fact, at this time, the Clifton Sanitation District unilaterally acts under State law when annexing property into its district. Because of the language noted on the Future Land Use Map, the UGB is amended as a result of any action taken by Clifton Sanitation without any required action of the City or County.



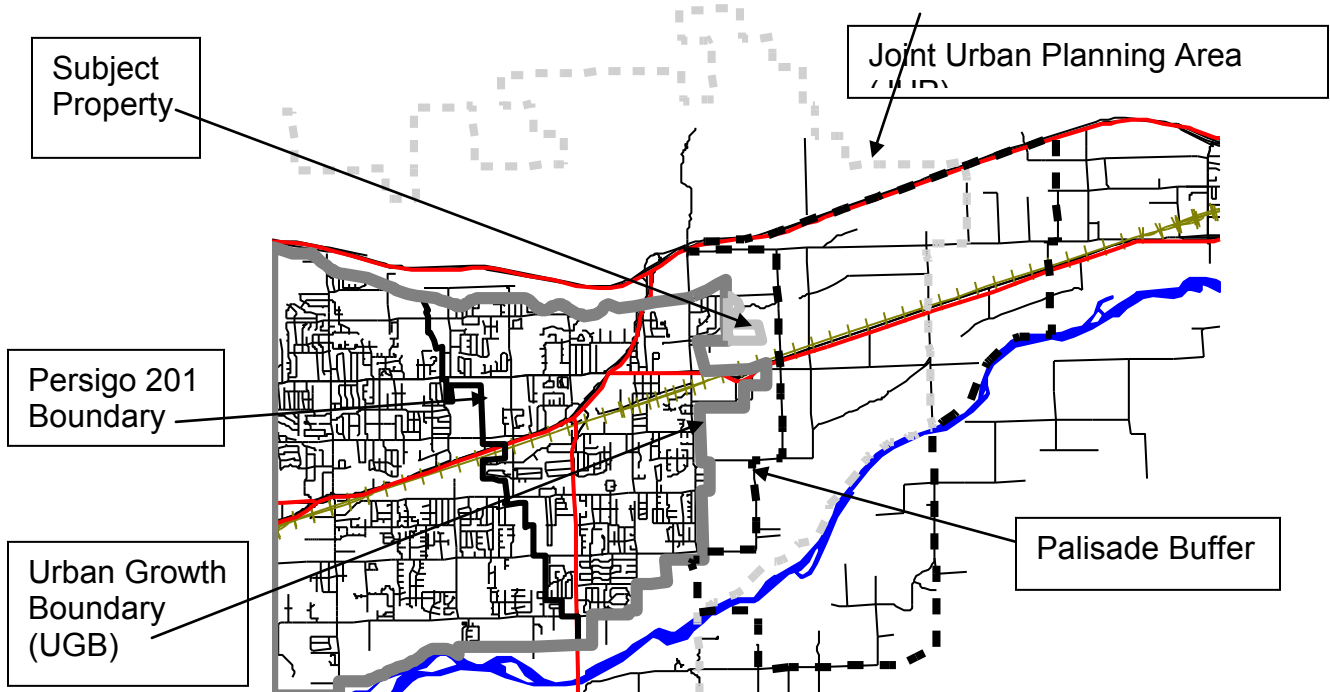
ISSUE

The County has received an application to change the Future Land Use Map for two properties at 3327 F 5/8 Road that are currently split by the Urban Growth Boundary, Clifton Sanitation says they are capable of providing sewer service to the properties and are willing to annex them into their District . This annexation would automatically extend the UGB.

Since these properties are well beyond our Persigo 201 boundary, as noted above, there currently is not a process whereby the City and County review and consider together any changes to the UGB, only the future Land Use Map. The current Development Code for both the City and County includes a provision whereby the City Planning Commission reviews any proposed changes to the land use map with Mesa County Planning Commission anywhere outside of the UGB, but within the Joint Urban Planning area (JUP).

If Clifton were to annex the subject properties, amending their boundaries moves the UGB and puts pressure on changing the land use plan to reflect urban densities for this additional area. City staff understands that the County is working on an Intergovernmental Agreement (IGA) with Clifton Sanitation to hopefully resolve this issue in the future.

City staff considers this an important emerging issue. With the recent ballot issue that approved the Clifton Sanitation Districts constructing additional capacity, the continued expansion of urban scale growth and expansion of the Urban Growth Boundary could continue unabated to the east without any review by the City and County except through review of requested amendments to the Future Land Use Map. This represents a definite change in circumstances since the adoption of the Intergovernmental Agreement that should be considered by the City Council and County Commission.



Attach W-2
CITY COUNCIL DISTRICT BOUNDARY ADJUSTMENTS
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject		City Council District Boundary Adjustments				
Meeting Date		January 3, 2005				
Date Prepared		December 28, 2004			File #	
Author		Stephanie Tuin		City Clerk		
Presenter Name		Kelly Arnold		City Manager		
Report results back to Council		X	No		Yes	When
Citizen Presentation			Yes	X	No	Name
X	Workshop		Formal Agenda			Consent
						Individual Consideration

Summary: The voting district boundaries were redrawn in 2000. At that time every effort was made to balance the population in the districts using the most current information and to keep communities of interest together. Since that time, tremendous growth has occurred in two districts – District B and C. The adjustments proposed could better balance the population in the five districts.

Budget: There is no budget impact since at this time the two documents that will be affected (the district maps and the City Charter) are scheduled for reprinting, pending the outcome of this discussion.

Action Requested/Recommendation: Review the two scenarios being presented and direct staff on how to proceed. If there are changes to be made for this election cycle, a resolution will need to be scheduled for the January 5, 2005 Council meeting.

Attachments: District map depicting two scenarios for boundary adjustments

Background Information:

When the last change was put in place, the final census numbers were not available so estimates were made. The result was the districts were not as well balanced as anticipated. The growth that has occurred in the north and east areas of town have also had an impact on the balance of population within the districts.

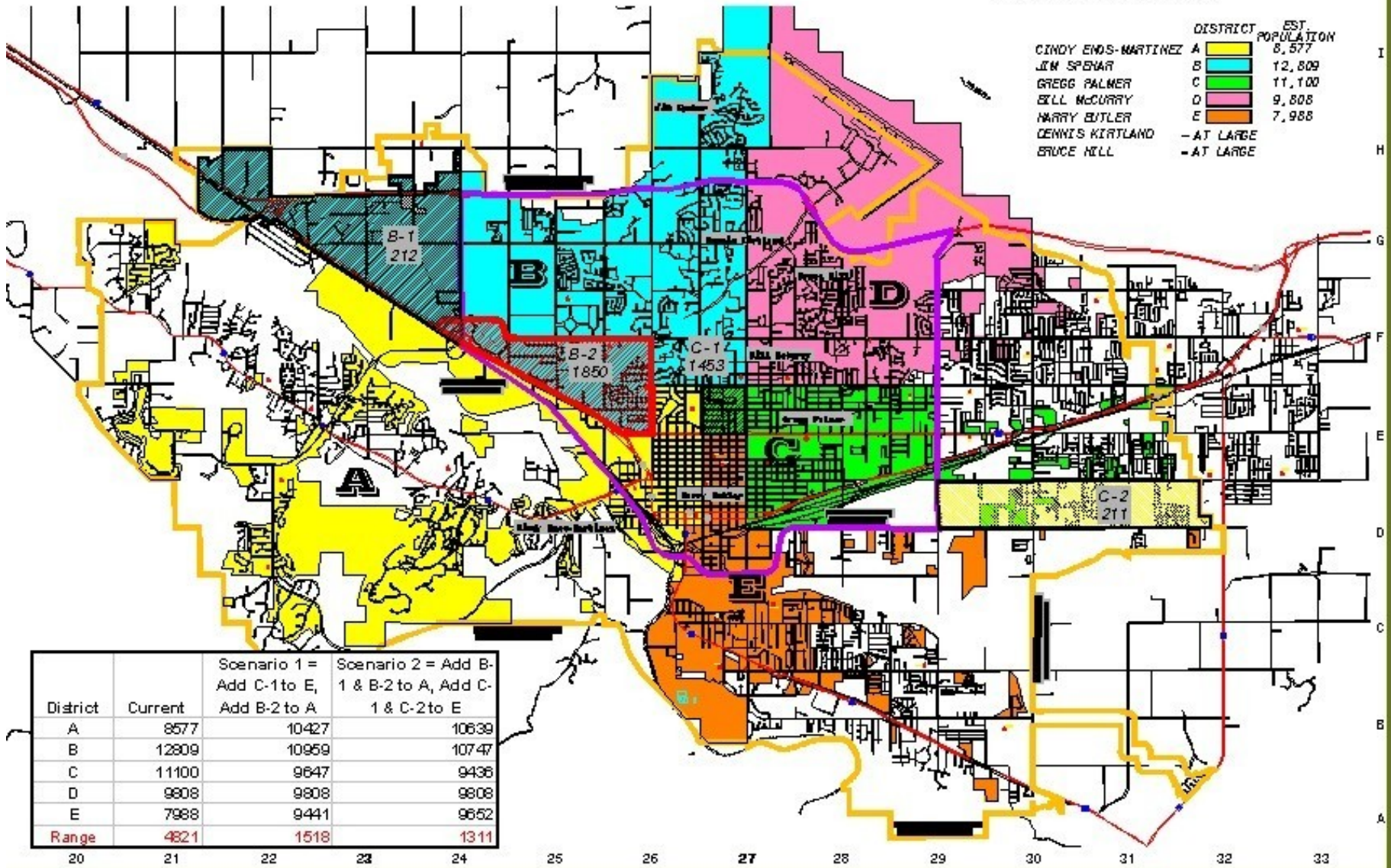
The two proposals being presented come as close to rebalancing population without affecting seated Councilmembers, they maintain communities of interest and they do not remove area from any Councilmember districts whose seats are up for election in

2005. The proposals shift areas from Districts B and C, which are not up for election, to the two areas whose population has not grown as quickly.

Other scenarios were explored that, although they met the criteria as outlined above, did not come near to balancing as the two being put forth (range is over 2,000). That information is available upon request.

20 21 22 23 24 25 26 27 28 29 30 31 32 33

AS ADOPTED BY THE CITY COUNCIL 12/20/2006



DISTRICT	EST. POPULATION
CINDY ENDS-MARTINEZ A	8,577
JEN SPENAR B	12,809
GREGG PALMER C	11,100
BILL MCCURRY D	9,808
HARRY BUTLER E	7,988
DENNIS KIRTLAND	- AT LARGE
BRUCE HILL	- AT LARGE

District	Current	Scenario 1 = Add C-1 to E, Add B-2 to A	Scenario 2 = Add B- 1 & B-2 to A, Add C- 1 & C-2 to E
A	8577	10427	10639
B	12809	10959	10747
C	11100	9647	9436
D	9808	9808	9808
E	7988	9441	9652
Range	4821	1518	1311

20 21 22 23 24 25 26 27 28 29 30 31 32 33

**Attach W-3
El Salvador Trip**

December 29, 2004

Dear City Council of Grand Junction

The following information is pertaining to the Sister City Relationship we (Foundation for Cultural Exchange) are interested in establishing between Grand Junction and San Pedro Perulapan, El Salvador.

This past summer a group of Mesa State students came before you requesting a Sister City relationship prior to our trip to El Salvador. At that time, the council felt there was not enough information available to make such a proclamation, and at this time we would request that the relationship be established.

The Foundation for Cultural Exchange is interested in creating a Sister Cityship for the benefit of both El Salvador and Grand Junction. There are no obligations or expectations of Grand Junction, but there are enormous benefits if the relationship is strongly embraced. Hundreds of other cities around America are establishing these relationships, including Atlanta, Chicago, Seattle, Glenwood Springs, and Lakewood.

HISTORY OF SISTER CITY RELATIONSHIPS

The initiative for the Sister City Program is attributed to Dwight Eisenhower. His statement is quoted as follows: **“The Sister City Program is an important resource to the negotiations of governments in letting people themselves give expression to their common desire for friendship, goodwill and co-operation for a better world for all.”** The initial objectives of these programs focused on the development of durable networks of communications between cities of the world for the principal purpose of reducing the likelihood of misunderstandings and conflict among nations. In this sense, the program could be viewed as foreign relations at the local level. These agreements are formalized when two communities from different nations join together to develop a “friendly and meaningful” relationship. The central element is the exchange of people, ideas, culture, education and technology. Perhaps more importantly, Sister City relations were associated with an increased amount of personnel exchanges involving young adults.

EXPECTATIONS OF CITY COUNCIL

The FCE expects nothing more than an agreement that the City of Grand Junction supports a relationship with San Pedro Perulapan. There is not a financial obligation. We would like the use of the title Grand Junction Sister City for our fundraising projects and publicity. The expectations from El Salvador is that this community and its members will take a more active role in designing and supporting development projects in San Pedro Perulapan (population 28,000). However, our group recognizes that the extent to which the relationship is formed depends on the Council. It is perfectly acceptable for the City to agree to a Sister City relationship, and not push a strong bond with the village.

BENEFITS TO GRAND JUNCTION

The benefits to Grand Junction are numerous. There is the possibility for the school district to become involved with the schools in San Pedro, whether that take form in pen pals for the children, new educational/travel opportunities for high schoolers, or assistance to and from teachers. The Chamber of Commerce and Business Incubators could begin to establish economic development strategies that will aid both cities. There is the chance for travel, education and sharing all that Grand Junction has to offer!

OUR PLANS

Our goals are to perpetuate travel to and from El Salvador, to inform members of the community about history and culture, and to fundraise for specific development projects in San Pedro. Our first major project was helping the village construct a road. Our next plan (provided to us by the city of San Pedro) is to create a community computer lab. Another goal we have is to establish scholarships for the high schoolers of the village to attend the university. The plans of the FCE are created through our Board of Directors, made up of those who traveled to El Salvador, and community members. This board makes all decisions regarding money, projects and publicity.

Since our return we have also created a Sister Parish through Immaculate Heart of Mary Catholic Church and the church in San Pedro Perulapan. We have participated in the Alternative Christmas Fair, and two of our members, Anna Stout and Jamie Richardson are currently in San Pedro planning for this summer's trip. We would love the support of the Council and the community, and are excited for the future of this relationship. We are energized to transform San Pedro and Grand Junction into informed, compassionate, internationally aware cities. We invite you to go on this journey with us!

Sincerely,

Jennifer Hensel

Member, Foundation for Cultural Exchange

**Attach W-4
Smoking Implementation**

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject		Smoking Ordinance Implementation				
Meeting Date		January 3, 2005				
Date Prepared		December 19, 2011			File #	
Author		Stephanie Tuin Ivy Williams		City Clerk Code Enforcement Supervisor		
Presenter Name		Stephanie Tuin Ivy Williams		City Clerk Code Enforcement Supervisor		
Report results back to Council		<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	When
Citizen Presentation		<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No	Name
<input checked="" type="checkbox"/>	Workshop	<input type="checkbox"/>	Formal Agenda		<input type="checkbox"/>	Consent
						Individual Consideration

Summary: Ordinance No. 3540 regulating smoking in public places was adopted on July 2, 2003 and went into effect on January 1, 2004. The ordinance provides that any restaurant, bowling alley, bingo hall or other business in which smoking was lawful on May 1, 2003, without adding any additional seats or tables and without increasing the square footage of the designated smoking area, is entitled to continue such lawful use until January 1, 2006. It is now one year until that amortization period is over. Besides the amendments being proposed by the legal department, which will help clarify the provisions and help the rest of City staff in explaining, interpreting and enforcing the ordinance, the City Clerk's Office and the Code Enforcement Division propose a number of outreach efforts to help those affected understand how to come into compliance.

Budget: Nominal costs for printed material.

Action Requested/Recommendation: Feedback on outreach plan. Authorize placement of amending ordinance on City Council agenda.

Attachments: Smoking Implementation Notice

Background Information: In order to provide opportunity for those affected to be reminded that compliance must be achieved within the next year and afford the opportunity for asking questions, the City Clerk's Office and the Code Enforcement Division propose a presence at a variety of meetings and trainings in which the audience would include possibly affected parties. The City Clerk's Office also completed a mailer in December to all restaurants, bars, bingo halls and bowling alleys that included the enclosed implementation notice, a letter of explanation and the certification form for "free standing bars". Specifically, the additional outreach efforts are proposed as follows:

- January 7 Alcohol Server Responsibility Training conducted by City staff
- A public forum first week in February offered and conducted by City staff (this has been tentatively scheduled for February 4 in the Municipal Hearing Room – see postcard attached)
- Article in 1st quarter newsletter "Grapevine" distributed to all City liquor licensees
- Article in the City newsletter & in the City Page
- Post notices in liquor license hearings as a reminder with staff contact information
- Include Implementation Notice in Health Department Newsletter in April, 2005

Code Enforcement will also:

- Mail the implementation notice to other businesses that have violated the ordinance
- Conduct inspections of all restaurants to confirm compliance with the code. These began in November, 2004 and will continue throughout 2005.
- Continue to comment on proposed development projects about the ordinance
- Add a page to the City website about the smoking ordinance (completed December 2004)
- Coordinate media involvement with Public Communications and Community Relations Coordinator Sam Rainquet as warranted



All businesses must be in compliance with the City of Grand Junction Smoking in Public Places Municipal Ordinance by January 1, 2006. If you have questions about implementing the ordinance in your business, bring them to:

What: Question and Answer Forum about the Smoking Ordinance and how your business could be affected.

When: 9:00 A.M. on Friday, February 4th, 2005

Where: Municipal Hearing Room in City Hall
250 North 5th Street, Grand Junction, CO

The entire ordinance is available at www.gjcity.org. If you have questions about the forum, please call 244-1593

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA						
Subject		Smoking Ordinance Amendments				
Meeting Date		January 3, 2005				
Date Prepared		December 19, 2011			File #	
Authors		Jamie B. Kreiling John Shaver		Assistant City Attorney City Attorney		
Presenter Name		John Shaver Jamie B. Kreiling		City Attorney Assistant City Attorney		
Report results back to Council		<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	When
Citizen Presentation		<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No	Name
<input checked="" type="checkbox"/>	Workshop	<input type="checkbox"/>	Formal Agenda		<input type="checkbox"/>	Consent
<input type="checkbox"/>		<input type="checkbox"/>			<input type="checkbox"/>	Individual Consideration

Summary: Ordinance No. 3540 regulating smoking in public places was adopted on July 2, 2003 and went into effect on January 1, 2004. Since that date, questions have arisen regarding defined and undefined terms contained in the ordinance as well as the intent of certain provisions of the ordinance. The staff has concluded that amendment of the ordinance is necessary in order to clarify its intent, its meaning and its enforceability.

Budget: Nominal costs for printed material.

Action Requested/Recommendation: Authorize and direct the staff to prepare specific amendments to Ordinance 3540.

Attachments: A marked version of the Smoking Code. Proposed changes and indications where direction is needed for possible changes are shown.

Background Information: Over the past year, there have been numerous inquiries concerning the implementation of the new no-smoking ordinance. Through the process of responding to those questions, the staff has determined that parts of the ordinance are contradictory and not as clearly written as they could be. Even though it is a common rule of statutory construction that the specific terms will control the general terms, the ordinance could be written to be more understandable by both the regulators and the affected businesses. As written, certain parts of the ordinance may be interpreted differently and those interpretations vary based on the reader's subjective understanding of the intent of the ordinance. For example, amending certain sections to clarify the intent of the provisions relative to "freestanding" and "attached bars" would go along way to improving the ordinance.

Staff is sensitive to the effort made by the Council and the community in the adoption of the current ordinance; however, staff believes that the amendments will improve the ordinance. Because of the importance of this issue staff did not want to prepare the amendments without first consulting with Council about its interest in considering amendatory language.

Sec. 16-127. Smoking in workplaces and public places.

(1) Definitions. The following words and phrases, whenever used in this Section 16-127 shall have the following meanings:

Attached Bar means a bar area of a restaurant. An “attached bar” shall not include any area where full meals are served, but may include premises in which appetizers and snacks are served. Although a restaurant may contain a bar, the term “bar” shall not include any restaurant dining area.

Definition for Attached Bar may change based on direction for Freestanding Bar.

Enclosed Area means all space between a floor and ceiling within a structure or building which is enclosed on all sides by solid walls, doors or windows which extend from the floor to the ceiling. *Enclosed Area* also includes all space that is not physically separated from any areas in which smoking occurs or is allowed.

Freestanding Bar means an establishment licensed for on-premises consumption of alcohol in an enclosed area that is physically separated from restaurants and other public places in which smoking is prohibited. Taverns, nightclubs, cocktail lounges and cabarets are typical examples of Freestanding Bars.

Definition for Freestanding Bar may change based on direction.

Private Function means any activity which is restricted to invited guests in a nonpublic setting and to which the general public is not invited.

Public Place means any area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, schools, health facilities, laundromats, public transportation facilities including bus stations and stops, taxis, shelters, airports, train stations, reception areas, restaurants, retail food production and marketing/grocery establishments, retail service establishments, retail stores, theaters and waiting rooms. A private club is considered a *public place* when functions are held at the club which are open to the general public and are not restricted to the members of the club. A private residence is not a *public place* except during times when it is being used as a child care, adult care or health care facility, and for thirty (30) minutes before such uses.

Restaurant means a business with fifty-five percent (55%) or more of its gross annual sales coming from the sale of food or meals prepared on site, typically for consumption on site. Examples of restaurants are coffee shops, cafeterias, sandwich stands, private or public schools or other cafeterias, and other eating establishments which give or offer food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities. Also see Section 16-127(8).

Structure is defined in the International Building Code, including the International Residential Code, ("IBC") as adopted by the City from time-to-time. The term structure includes the term *building*, also defined by the IBC.

Tobacco is defined in § 25-14-103.5(2)(c), C.R.S.

Workplace means an enclosed area in which three or more (≥3) persons work at gainful employment.

(2) Application to City property.

All enclosed areas and motor vehicles that are owned or leased by the City shall be subject to the provisions of this Section as though such areas and vehicles were public places.

(3) Prohibition of Smoking in Public Places.

a. Except as provided herein smoking shall be prohibited in all public places within the City, including, but not limited to, the following:

7. Restaurants except that smoking is allowed: (a) in an attached bar that is physically separated from enclosed areas of the business in which smoking is prohibited; and (b) in outdoor seating areas of restaurants that are not enclosed and are not under a roof (or a projection of a roof) as defined by the IBC as a *roof assembly*, such as patios.

9. Any structure primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance except as covered in Section 16-127(6)(a)(iv).

10. Whether enclosed or outdoors: sports arenas, convention halls and bowling alleys; except that smoking is allowed in an attached bar in a bowling alley that is physically separated from areas in which smoking is prohibited.

11. During such time as a public meeting is in progress: every room, chamber, place of meeting or public assembly; including school buildings, under the control of any board, council, commission, committee, and including joint committees and agencies of the City and political subdivisions of the State.

12. Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including hospitals, clinics, therapists' offices and facilities, physical therapy facilities, doctors' offices, dentists' offices and the offices and facilities of other health care providers.

14. Bingo halls except that smoking is permitted in a portion of a bingo hall that is physically separated from the rest of the bingo hall.

15. Polling places.

Notwithstanding any other provision of this Section 16-127, any person or business who controls any business or facility may declare that entire establishment, facility or grounds as smoke-free.

(4) Smoke-free Workplace.

Except in the areas in which smoking is allowed by this Section 16-127, in workplaces in which smokers and nonsmokers work in the same enclosed areas, offices or rooms, the employer shall provide a smoke-free workplace to accommodate an employee who requests a smoke-free workplace.

(6) Where indoor smoking is not prohibited.

a. Notwithstanding any other provision of this Section 16-127 to the contrary, the following areas shall be exempt from the prohibition contained in Section 16-127(3):

(i) Private residences; except when used as a child care, adult day care or health care facility and during the thirty (30) minutes in advance of such use(s).

(v) A freestanding bar that may lawfully allow smoking pursuant to Section 16-127(8), and an attached bar that is physically separated from nonsmoking areas.

(vi) In a bingo hall, that portion of an enclosed area that is physically separated from the nonsmoking areas of the bingo hall.

(vii) An attached bar in a bowling alley if the attached bar is physically separated from the rest of the bowling alley.

b. Notwithstanding any other provision of this Section 16-127, any owner, operator, manager or other person who controls any establishment described in this Section 16-127(6) may declare that entire establishment, facility, or grounds as smoke-free.

(7) Signs.

Each owner, operator, manager and other person having control of an enclosed area or public place subject to the provisions hereof shall be jointly and severally responsible to clearly and conspicuously post:

(i) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it) in every public entrance or other areas where smoking is prohibited by this Section 16-127.

(ii) In public places where smoking is allowed pursuant to this Section 16-127, a sign with the words "Smoking is Allowed Inside" at each public entrance to, or in a position clearly visible on entering, the enclosed area in which smoking is permitted.

b. All signs referred to in this Section 16-127(7) shall be a minimum size of twenty (20) square inches and must be placed at a height of between four to six feet (4' – 6') above the floor.

(8) Freestanding Bar Annual Certification/Affirmative Defense.

Direction needed. Propose that Hotel/Restaurant Licensees and/or Brew Pub licensees have to qualify as Freestanding Bar. (Taverns are Freestanding bars by definition and would not have to qualify.)

(9) No Retaliation.

No person or employer shall discharge, refuse to hire or retaliate in any manner against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to, or complains about the lack of, a smoke-free environment afforded by this Section 16-127.

(10) Violations and Penalties.

a. It shall be unlawful for any person or business who owns, manages, operates or otherwise controls the use of any premises, enclosed area, public place, or place of employment subject to regulation under this Section 16-127 to fail to comply with any of its provisions.

b. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Section 16-127.

c. Each violation of any provision of Section 16-127 shall be deemed to be a separate violation. Each day shall be treated as a separate violation for continuing violations of Section 16-127(4), (7), and (9)

(11) Other Applicable Laws.

This Section 16-127 shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(13) Amortization.

Any restaurant, bowling alley, bingo hall or other business in which smoking was lawful on May 1, 2003 shall be entitled to allow such lawful use as it existed on May 1, 2003, as long as the square footage of the designated smoking area is not increased and no additional seats or tables are added to the designated smoking area, until January 1, 2006, notwithstanding the provisions of Section 16-127(3) hereof.

(14) Effective Date.

This Section 16-127 shall be effective on January 1, 2004.

