



**CITY COUNCIL AGENDA
CITY HALL AUDITORIUM, 250 NORTH 5TH STREET**

MONDAY, FEBRUARY 2, 2009, 7:00 P.M.

Call to Order

Pledge of Allegiance
Invocation – Eric Turner, Liberty Baptist Church

Citizen Comments

Council Comments

City Manager's Report

***** CONSENT CALENDAR ***[®]**

1. **Minutes of Previous Meeting**

[Attach 1](#)

Action: Approve the Minutes of the January 21, 2009 Regular Meeting

2. **Setting a Hearing Amending the Municipal Code Regarding Industrial Pretreatment Regulations**

[Attach 2](#)

The U.S. Environmental Protection Agency (USEPA) conducted an audit of the City's industrial pretreatment program in July of 2008. The resulting audit report included recommendations and some required actions. Staff has prepared amendments to the Code to incorporate some of the changes required by the EPA audit.

*** Indicates New Item

[®] Requires Roll Call Vote

Proposed Ordinance Amending Portions of Article II of Chapter 38 of the Grand Junction Code of Ordinances Pertaining to Pretreatment Regulations, to Incorporate Required Changes to the City's Legal Authority Requested by the United States Environmental Protection Agency through an Audit

Action: Introduction of a Proposed Ordinance and Set a Hearing for April 13, 2009

Staff presentation: John Shaver, City Attorney

3. **Renaming 25 ½ Road to Base Rock Street** [File #MSC-2008-356] [Attach 3](#)

Request to rename 25 ½ Road to Base Rock Street between Rimrock Avenue and Crosby Avenue.

Resolution No. 14-09— A Resolution Renaming 25 ½ Road to Base Rock Street Between Rimrock Avenue and Crosby Avenue

®Action: Adopt Resolution No. 14-09

Staff presentation: Michelle Hoshide, Associate Planner

4. **Purchase an Automated Side Loader Refuse Truck** [Attach 4](#)

This purchase is for the replacement of a Side Loader Automated Refuse Truck for the Solid Waste/Sanitation Division, as identified by the annual review of the Fleet Replacement Committee.

Action: Authorize the City Purchasing Division to Purchase One 2009 Labrie Automizer with Right Handside Loader Mounted on a 2010 Mack Chassis from Faris Machinery, Grand Junction, CO. in the Amount of \$204,377.00

Staff presentation: Jay Valentine, Assistant Financial Operations Manager
Greg Trainor, Utilities and Streets Systems Director

***** END OF CONSENT CALENDAR *****

***** ITEMS NEEDING INDIVIDUAL CONSIDERATION *****

5. Food Distributor for Concessions at City Facilities [Attach 5](#)

Award Sysco Intermountain Food Service the food distributor contract for Concessions at Lincoln Park Stadium and Pools, Orchard Mesa Pools and Canyon View Park.

Action: Authorize the Purchasing Division to Purchase Food/Concession Products Delivered from SYSCO Intermountain Food Services, Inc.

Staff presentation: Tim Seeberg, Convention Center Manager

6. Public Hearing - Colorado Army National Guard Campus Annexation and Zoning, Located at 2800 Riverside Parkway [File #ANX-2008-344] [Attach 6](#)

Request to annex and zone 57.95 acres, located at 2800 Riverside Parkway to CSR (Community Services and Recreation). Colorado Army National Guard Campus Annexation Consist of three parcels.

a. Accepting Petition

Resolution No. 15-09— A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Colorado Army National Guard Campus Located at 2800 Riverside Parkway, is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4322—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Colorado Army National Guard Campus Annexation, Approximately 57.95 Acres, Located at 2800 Riverside Parkway

c. Zoning Ordinance

Ordinance No. 4323—An Ordinance Zoning the Colorado Army National Guard Campus Annexation to CSR (Community Services and Recreation), Located at 2800 Riverside Parkway

®Action: Adopt Resolution No.15-09 and Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance Nos. 4322 and 4323

Staff presentation: Michelle Hoshide, Associate Planner

7. **Strategic Downtown Master Plan**

[Attach 7](#)

The Strategic Downtown Master Plan was developed through a public process involving a steering committee of interested downtown merchants, property owners, and policy makers during 2007-2008. Recognizing that a strong downtown core supports the economic and community development of an entire region, the goal of the plan was to quantify current condition, identify opportunities, and recommend specific actions for the decision makers of the Downtown Partnership and the City of Grand Junction.

Resolution No. 16-09—A Resolution Adopting the Strategic Downtown Master Plan as a Part of the Grand Junction Growth Plan

®Action: Adopt Resolution No. 16-09

Staff presentation: Heidi Hoffman Hamm, DDA Executive Director

8. **Non-Scheduled Citizens & Visitors**

9. **Other Business**

10. **Adjournment**

Minutes of Previous Meeting

GRAND JUNCTION CITY COUNCIL MINUTES OF THE REGULAR MEETING

January 21, 2009

The City Council of the City of Grand Junction convened into regular session on the 21st day of January 2009 at 7:03 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Doug Thomason, and Council President Gregg Palmer. Councilmember Linda Romer Todd was absent. Also present were City Manager Laurie Kadrich, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Palmer called the meeting to order. Councilmember Doody led in the Pledge of Allegiance followed by an invocation by Pastor Paul McGinnett, Central Orchard Mesa Community Church.

Citizen Comments

There were none.

Council Comments

Council President Palmer expressed his appreciation for the job City Clerk Stephanie Tuin did on the consideration of the Brady Trucking petition issue. He praised the way she handled a situation that she was not especially comfortable with.

City Manager's Report

This was removed from the agenda.

CONSENT CALENDAR

Councilmember Hill read the Consent Calendar and then moved to approve consent items #1 through #9. Councilmember Thomason seconded the motion. Motion carried by roll call vote.

1. Minutes of Previous Meetings

Action: Approve the Minutes of the January 5, 2009 and the January 7, 2009 Regular Meeting and the Minutes of the January 5, 2009 Special Session

2. **Setting a Hearing Regarding the Regulation and Licensing of Massage Parlors**

In an ongoing effort to monitor and police community nuisance and criminal activities, the Grand Junction Police Department and the City Attorney have become aware of some growth in criminal activities related to massage parlor establishments. City Staff believes that it would be in the best interests of the community if City Council would consider a new City ordinance to regulate and license massage parlors. Those establishments can be a front for criminal activity. With licensing as proposed, law enforcement will have greater opportunity to monitor businesses before problems arise.

Proposed Ordinance Regulating and Licensing Massage Parlors

Action: Introduction of a Proposed Ordinance and Set a Hearing for February 4, 2009

3. **Lease Agreement with MBC Grand Broadcasting Inc.**

The City owns real property near Whitewater, Colorado which is currently being leased by MBC Grand Broadcasting, Inc. for radio broadcast transmission. The City and the current tenant wish to update their current Lease Agreement and renew the lease for subsequent terms.

Resolution No. 08-09—A Resolution Authorizing and Ratifying a New Lease Agreement between the City of Grand Junction and MBC Grand Broadcasting, Inc.

Action: Adopt Resolution No. 08-09

4. **Energy and Mineral Impact Grant for Planning Software Upgrade**

A request to accept an Energy and Mineral Impact Grant, in the amount of \$200,000, as partial funding for the purchase of Planning Project Submittal and Management Software.

Action: Accept the Grant and Authorize the City Manager to Sign the Grant Contract for the Purchase of Planning Project Submittal and Management Software in the Amount of \$200,000

5. **Amendment No. 3 of Engineering Services Contract with Jacobs Carter Burgess for the 29 Road and I-70B Interchange**

This amendment is a supplement to the original final design contract for the 29 Road and I-70B Interchange Project. During the course of the final design effort,

there have been a number of additions to the project scope that necessitate this supplement. The additions to the scope include surveying, final design and right-of-way acquisitions for sections of Melody Lane and D ½ Road not previously included in the project scope.

Action: Authorize the City Manager to Amend the Engineering Services Contract for the 29 Road and I-70B Interchange Project with Jacobs Carter Burgess for a Total Fee of \$2,592,510 Thereby Increasing the Contract by \$352,198

6. **Intent to Create Alley Improvement District 2009, Phase B**

A successful petition has been submitted requesting a Local Improvement District be created to reconstruct the alley that is east/west from 11th to 12th, between Hill Avenue and Teller Avenue.

Resolution No. 09-09—A Resolution Declaring the Intention of the City Council of the City of Grand Junction, Colorado, to Create within Said City Alley Improvement District No. ST-09, Phase B and Authorizing the City Engineer to Prepare Details and Specifications for the Same

Action: Adopt Resolution No. 09-09

7. **Setting a Hearing on the DeRush Mini Storage Rezone, Located at 2179 H Road** [File #RZ-2008-319]

Request to rezone 4.60 acres located at 2179 H Road, from C-2 (General Commercial) to I-1 (Light Industrial) zone district.

Proposed Ordinance Rezoning the DeRush Mini Storage Unit Property from C-2 (General Commercial) to I-1 (Light Industrial), Located at 2179 H Road

Action: Introduction of a Proposed Ordinance and Set a Hearing for February 4, 2009

8. **Setting a Hearing on Zoning the Colorado Army National Guard Campus Annexation, Located at 2800 Riverside Parkway** [File #ANX-2008-344]

Request to zone 57.95 acres, Colorado Army National Guard Campus Annexation located at 2800 Riverside Parkway, CSR (Community Services and Recreation).

Proposed Ordinance Zoning the Colorado Army National Guard Campus Annexation to CSR (Community Services and Recreation), Located at 2800 Riverside Parkway

Action: *Introduction of a Proposed Ordinance and Set a Hearing for February 2, 2009*

Staff presentation: Michelle Hoshide, Associate Planner

9. **Rename Saccomanno Drive to Seeber Drive and Sentinel Way to Saccomanno Road** [File #MSC-2009-005]

The request originated from Leitner-Poma of America, Inc. to change the street names in the Bookcliff Tech Park Subdivision. The applicant is the first tenant in this subdivision and the company felt the name of their adjacent right-of-way should honor the Owner of the Company.

Resolution No. 10-09—A Resolution Renaming Saccomanno Drive to Seeber Drive and Sentinel Way to Saccomanno Road

Action: *Adopt Resolution No. 10-09*

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing - Night Hawk Drive Right-of-Way Annexation, Located Approximately at 30 and B Roads [File #ANX-2008-301]

Request to annex 1.45 acres, located approximately 660 feet west of 30 Road, adjoining B Road on the north and extending southerly approximately 2,060 feet. The Night Hawk Drive Annexation consists entirely of right-of-way.

The public hearing was opened at 7:10 p.m.

Ivy Williams, Development Services Supervisor, presented this item. She described the site as all right-of-way and advised the reason for the request. She asked that the Staff Report and attachments be entered into the record. The annexation meets all the annexation criteria. The applicant is the City of Grand Junction.

There were no public comments.

The public hearing was closed at 7:11 p.m.

a. Accepting Petition

Resolution No. 11-09—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Night Hawk Drive Annexation, Located at Approximately 660 feet West of 30 Road and Adjoining B Road on the North and Extending Southerly for Approximately 2,060 Feet is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4318—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Night Hawk Drive Annexation, Approximately 1.45 Acres, Located Approximately 660 feet West of 30 Road and Adjoining B Road on the North and Extending Southerly for Approximately 2,060 Feet

Councilmember Thomason moved to adopt Resolution No. 11-09 and Ordinance No. 4318 and ordered it published. Councilmember Beckstein seconded the motion. Motion carried by roll call vote.

Public Hearing - Riverside Parkway and Overpass Annexation, Located at 29 Road and North Avenue and at 29 Road and I-70 B [File #ANX-2008-307]

Request to annex approximately 15.0 acres, located at five locations on Riverside Parkway, a portion of 29 Road adjoining North Avenue on the north and extending southerly to I-70 Business Loop and a portion of I-70 Business Loop beginning at 29 Road northeasterly approximately 2,400 feet. The Riverside Parkway and Overpass Annexation consists only of right-of-way.

The public hearing was opened at 7:13 p.m.

Ivy Williams, Development Services Supervisor, presented this item. She described the site as all right-of-way and advised the reason for the request. She asked that the Staff Report and attachments be entered into the record. The annexation meets all the annexation criteria. The applicant is the City of Grand Junction.

There were no public comments.

The public hearing was closed at 7:14 p.m.

a. Accepting Petition

Resolution No. 12-09—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Riverside Parkway and Overpass Annexation, Approximately 15.0 Acres, Located at Five Sections of Riverside Parkway Right-of-Way, 29 Road From 29 Road Southerly to I-70 Business Loop and I-70 Business Loop from 29 Road Northeasterly, Approximately 2,400 feet is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4319—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Riverside Parkway and Overpass Annexation, Approximately 15.0 Acres, Located at Five Sections of Riverside Parkway Right-of-Way, 29 Road From 29 Road

Southerly to I-70 Business Loop and I-70 Business Loop from 29 Road Northeasterly, Approximately 2,400 feet

Councilmember Coons moved to adopt Resolution No. 12-09 and Ordinance No. 4319 and ordered it published. Councilmember Hill seconded the motion. Motion carried by roll call vote.

Public Hearing – Growth Plan Amendment, Outline Development Plan and Rezone for St. Mary’s Rose Hill Hospitality House Expansion, Located at 609 26 ½ Road
[File #RZ-2008-227]

A request for approval for a Growth Plan Amendment from Residential Medium (4 – 8 du/ac) to Commercial and also a request for approval to zone property located at 609 26 ½ Road known as St. Mary’s Rose Hill Hospitality House to PD (Planned Development) with a default zone of B-1, (Neighborhood Business) by approval of the Outline Development Plan.

Councilmember Teresa Coons recused herself as she still has ties with St. Mary’s Hospital. She left the dais and the meeting room.

The public hearing was opened at 7:15 p.m.

Scott D. Peterson, Senior Planner, presented this item. Mr. Peterson described the request, the site, and the location. The request is to change the zoning of the property to include the Rose Hill Hospitality House in St. Mary’s Hospital’s Master Plan Planned Development District. Approval of the request will bring the property into conformance with the use.

The applicant was present but did not wish to add anything.

There were no public comments.

The public hearing was closed at 7:21 p.m.

Councilmember Hill reviewed the Growth Plan Amendment criteria and agreed there was an error in designation but that the request also met the other criteria for a Growth Plan Amendment.

Resolution No. 13-09—A Resolution Amending the Growth Plan of the City of Grand Junction to Designate Approximately 0.80 +/- Acres Located at 609 26 ½ Road Known as the St. Mary’s Rose Hill Hospitality House Expansion from Residential Medium (4-9 DU/AC.) to Commercial

Ordinance No. 4320—An Ordinance Rezoning Property Located at 609 26 ½ Road known as St. Mary’s Rose Hill Hospitality House to PD (Planned Development) by Amending Ordinance No. 3992 to Include this Property

Councilmember Doody moved to adopt Resolution No. 13-09 and Ordinance No. 4320 and ordered it published. Councilmember Hill seconded the motion. Motion carried by roll call vote.

Councilmember Coons returned to the meeting and took her place on the dais.

Appeal of the Planning Commission's Decision Regarding a Conditional Use Permit for a Bar/Nightclub [File #CUP-2008-158]

An appeal has been filed regarding the Planning Commission's decision to deny a Conditional Use Permit for a Bar/Nightclub, located at 2256 and 2258 Colex Drive. The project sits on 1 lot in an I-1 (Light Industrial) zone district. (The project will include leased parking spaces from the lot immediately to the north.) This appeal is pursuant to Section 2.18.E of the Zoning and Development Code, which specifies that the City Council is the appellate body of the Planning Commission. According to Section 2.18.E.4.h, no new evidence or testimony may be presented, except City Staff may be asked to interpret materials contained in the record.

The hearing was opened at 7:28 p.m.

City Attorney John Shaver explained the process for the issue on the agenda. He explained that this review is separate from the prior review and that the prior record is not relevant to the matter before them. The record they are to review is the testimony heard by the Planning Commission on November 25, 2008 and the Planning Commission's consideration of the matter. The Council is to look at the Planning Commission's consideration, not to substitute their opinion for the Planning Commission's. Mr. Shaver then explained the purpose of a Conditional Use Permit and why a CUP is required. The City Council is not reviewing the entertainment aspect of the establishment. The Council is free to comment on the evidence but it is not a public hearing at this meeting. He advised Staff can address the Council on the application and can answer questions relative to the Code and the review but Staff does not have a presentation. The record provided to the City Council includes a DVD copy of the proceedings, the Staff Report, and the verbatim minutes from the Planning Commission hearing.

Council President Palmer reiterated that the Council acts as the appellant body and it is not a public hearing so no new testimony will be solicited.

Councilmember Beckstein asked City Attorney Shaver to list the City Council's options. City Attorney Shaver stated the Council may remand the matter back to the Planning Commission, they could remand the matter back to Planning Commission with direction, or they may deny the appeal.

Councilmember Coons asked about the residentially used property and the fact that the property is not residentially zoned. City Attorney Shaver stated that the Code rather than regulating the activity itself, regulates the location. The Code says adult entertainment cannot be within 1,000 feet of residentially zoned property. However, that means the Planning Commission is considering the use, adult entertainment specifically, rather than the liquor licensing of the establishment.

Councilmember Coons asked about the Code provision for liquor establishments in that zone district. City Attorney Shaver replied that is not an issue in this situation. City Attorney Shaver stated that Conditional Use Permits are required for all bar and nightclub establishments based upon alcohol usage. A Conditional Use Permit looks at the compatibility criteria. The Conditional Use Permit is also scrutinized at a higher level under the City Code because of the proposed liquor service with adjacent land uses.

Councilmember Thomason asked at what point will the application not keep going back and forth from City Council to Planning Commission.

City Attorney Shaver advised due process ensures the rules are consistent and consistently applied. The Council and Planning Commission may not like the law but changing the law midstream is a concern to him. The matter stops when the Council says it stops. If the Council denies the appeal, it stops at this level. It may go to another process. The other way it would stop would be if the City Council remands back to the Planning Commission and they make another decision that is consistent with the Code.

City Attorney Shaver said he would not recommend any change to the law until this application is resolved.

Council President Palmer asked if adult entertainment can be outlawed. City Attorney Shaver stated that the laws that are upheld are laws that address the secondary effects of such activity such as increase in criminal activity or increase in police calls. Trying to outlaw that specific activity would be an issue under the Constitution. Dance has been defined as free speech and is protected under the First Amendment.

Councilmember Coons asked if the City regulates the secondary effects of liquor licensed establishments. City Attorney Shaver answered not specifically, but the record of every liquor licensed establishment is reviewed annually and there could be sanctions for unlawful conduct of the establishment.

Councilmember Beckstein asked about the requirement for the needs and desires of the neighborhood for a liquor license. City Attorney Shaver said that is required and the City uses a petition process to gather that information. That is not the only consideration when reviewing a license application but certainly the Hearing Officer takes that into consideration.

Councilmember Beckstein asked if it can be assumed that since those businesses in the neighborhood that spoke out against the establishment at the Planning Commission are against it in their neighborhood, then the Planning Commission did act correctly? City Attorney Shaver did not comment specifically on the question but instead cautioned the City Council that the two processes are separate.

Councilmember Coons asked how the neighborhood is defined in the liquor licensing process. City Attorney Shaver said generally it is a square mile but in the case where there are few inhabitants that area may be expanded. The applicant has not yet applied for a liquor license.

Councilmember Doody asked for a restatement of what the direction was previously given to the Planning Commission. City Attorney Shaver said the direction was for the Planning Commission to define the neighborhood other than the entire City.

Council President Palmer noted the non-conforming residential use was discussed. Also, in the planning discussion regarding alcohol service in various industrial zones, City Attorney Shaver could not recall a specific licensee, but the Code does allow for these types of establishments in industrial zone districts. Council President Palmer asked if it was appropriate for the Planning Commission to look forward in making their decision based on speculation about future land use or business activity regarding Conditional Use Permits. City Attorney Shaver advised that Council would not want the Planning Commission to speculate, but instead to follow Code.

The City Council declined the need for any additional information from Senta L. Costello, Senior Planner.

Councilmember Hill read an excerpt from the minutes, a statement by Assistant City Attorney Jamie Beard where she stated that this activity is covered by the First Amendment as free speech. He then noted that even though there is a residential use in the neighborhood, the Code is specific to the zone district. He said he thought the intent was to disallow this activity next door to a residential component. Another Planning Commissioner (Abbott) comments were very specific to the bar/nightclub that he did not feel alcohol use in the area was compatible. Councilmember Hill then looked to the criteria to uphold the appeal. He said he does not find anything that supports the appeal. He has reasons he can support denial of the appeal. He does not believe the Planning Commission was acting erroneously or inconsistently for the Council to make a finding to uphold the appeal and remand it back.

Councilmember Beckstein said she agreed and she does not believe the application will be successful in that neighborhood and it is a residential area even if the long range plan is to change the use in the area. She will not support the appeal.

Councilmember Thomason said he is not quite ready to sign off on the denial as he reads the Code. It is clearly a hot button issue for the community but it still boils down

to the Code. The CUP application for the sale of alcohol should go back to the Planning Commission so the letter of the Code can be followed.

Councilmember Doody supported statements from Dr. Paul Dibble in the record. Even though the activity should not be considered, it was and caused this appeal. Therefore he agrees with Councilmember Thomason.

Councilmember Coons said the City Council and Planning Commission are charged with following the Code and although she hears Councilmember Hill's arguments, she thinks the Commissioners may have stretched the argument. She felt there are probably a lot of liquor licenses in industrial and commercial areas so she thinks the Commissioners' decision expressed their dislike for this activity through their denial. She agreed that if the community wants to address this issue it should be addressed but it is unfair to change the Code in the middle of the process. She cannot support the denial of the appeal.

Councilmember Hill clarified that the residential use is in relation to the adult activity, not the liquor license; the Code is silent on that.

Council President Palmer thanked the Council for their comments. The community should see that the Council takes these issues very seriously. Their charge is to be the appellant body of the Planning Commission regardless of their personal opinion. He did not feel it is supportable that the residential use is a factor for denial. He also cannot support the finding that it is not compatible with the industrial zone. He cannot support denial of the appeal.

Councilmember Thomason asked what the shaded area is as indicated on the site drawing. City Attorney Shaver responded that is the 1,000 foot radius. Councilmember Thomason asked if that is the area for surveying for the liquor licensing. City Attorney Shaver said that would generally be a square mile, or perhaps expanded if needed to incorporate inhabitants.

The hearing was closed at 8:13 p.m.

Councilmember Hill moved to support the appeal of the Planning Commission's decision regarding a Conditional Use Permit for a bar/nightclub at 2256 and 2258 Colex Drive. Councilmember Coons seconded the motion. Motion carried by roll call vote with Councilmembers Beckstein and Hill voting NO.

The City Council then discussed how the issue will be remanded back to the Planning Commission either by defining the error or not, that is with or without direction.

Councilmember Hill said he does not find the Planning Commission acted in error but he wished there was more support for their findings. He asked that the Planning

Commission be more specific. He agreed that they did focus on the bar/nightclub issue.

Councilmember Coons agreed and asked that further justification regarding the commercial/industrial conflict be included in Planning Commission's findings.

City Attorney Shaver noted that if Council wants to give specific direction to the Planning Commission, a motion would be preferred but certainly the Planning Commission will see the record of the discussion and know what the City Council is asking.

Councilmember Hill suggested the Planning Commission members need to be more verbal as to what their position is. There was a lack of that in the record.

Council President Palmer called a recess at 8:21 p.m.

The meeting reconvened at 8:29 p.m.

Public Hearing - Amending the Municipal Code Regarding Minors in Possession of Alcohol and Marijuana

Amendments are being proposed to define and clarify sentencing parameters for repeat Minor in Possession (MIP) offenders. Changes to the Ordinance will help enforce compliance with the City Ordinances governing minors in possession of alcohol and marijuana.

The public hearing was opened at 8:29 p.m.

John Shaver, City Attorney, presented this item. He explained that the ordinance will classify substance abuse offenses as one category so that if a violator gets an alcohol offense and then a marijuana offense, they would not be considered a first offense of each; rather one would be a second offense. It will allow the court more opportunity to make a difference in kids' lives.

Councilmember Doody asked if Staff worked with the Municipal Judge on this. City Attorney Shaver said they did and had prepared the ordinance last fall but had not yet brought it forward.

Council President Palmer agreed it will help address the problem as a combination problem.

Councilmember Coons noted that in many cases the two are not separate behaviors.

Mesa County Partners Director Joe Higgins spoke in favor the proposed ordinance. His program works hand in hand with the juvenile courts for offenses which the majority are minor in possession cases. They do see repeat offenders. They do have them do community service and take a class on substance abuse. It is predictive behavior. He feels the change will help. It will allow the court to give tougher sentences.

There were no other public comments.

The public hearing was closed at 8:36 p.m.

Councilmember Hill supported the ordinance and agreed with Councilmember Doody's comment about closing the loop hole.

Ordinance No. 4321—An Ordinance Amending Ordinance No. 3852, Which Establishes Section 24-22 of the Code of Ordinances and Prohibits the Purchase, Possession or Consumption of Alcohol by Minors and Also Amending Ordinance No. 3853, which Establishes Section 24-23 of the Code of Ordinances and Prohibits the Purchase, Possession or Consumption of Marijuana by Minors

Councilmember Beckstein moved to adopt Ordinance No. 4321 and ordered it published. Councilmember Doody seconded the motion. Motion carried by roll call vote.

Council President Palmer praised the work by Municipal Court Judge McInnis in working with juveniles.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

Councilmember Coons said it strikes her that with the growth of the community, it puts Council in a position to deal with issues that they did not have to deal with in the past. She suggested a community-wide discussion on how to deal with some of these issues. Citizens could take a look at what it would mean to change the Code and requirements, not only the changes, but what are the ramifications.

Councilmember Beckstein added that the vision is the "Best in the West by 2025" and she suggested sharing that with the community and have them discuss how they can make it the best in the west. It does include tolerance and acceptance of things they do not have control over but ways they may lessen the negative experience.

Council President Palmer noted the Council should have a retreat following the election and perhaps that can be discussed further in that setting.

Councilmember Coons said that the pros and cons need to be discussed in public.

Councilmember Beckstein said getting community involvement is being explored more and more by Councils in other formats that is more inclusive and less burdensome on the individuals.

Councilmember Doody noted the investment in parks and recreation, school resource officers, the college and St. Mary's, and he encouraged the Council to discuss it in their retreat. He said he would like to be part of that discussion from the "other side" (as a citizen).

There was no other business.

Adjournment

The meeting was adjourned at 8:43 p.m.

Stephanie Tuin, MMC
City Clerk

**Industrial Pretreatment Regulations
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
Subject	Amending the Code Relating to Wastewater and Industrial Pretreatment Programs		
File #			
Meeting Day, Date	Monday, February 2, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 20, 2009		
Author Name & Title	Mike Shea, Industrial Pretreatment Supervisor		
Presenter Name & Title	John Shaver, City Attorney		

Summary:

The U.S. Environmental Protection Agency (USEPA) conducted an audit of the City's industrial pretreatment program in July of 2008. The resulting audit report included recommendations and some required actions. Staff has prepared amendments to the Code to incorporate some of the changes required by the EPA audit.

Budget: NA

Action Requested/Recommendation: Introduction and first reading of proposed ordinance amendments and set a hearing for April 13, 2009.

Attachments

- Audit Response Letter from City Attorney to USEPA
- Ordinance with proposed revisions showing ~~deletions~~ and additions in red

Background Information: The EPA audit report dated July 16, 2008 requires the City to update its legal authority to implement pretreatment regulations, specifically Chapter 38 – Utilities, Article II, Wastewater System, of the Grand Junction Municipal Code. Amendments to Chapter 38 have been prepared by staff for City Council review.



January 29, 2009

Al Garcia
USEPA Region VIII
999 18th St., Suite 500
Denver CO 80202-2466

Re: Pretreatment Audit – NPDES No. CO0040053

Please accept this letter as a statement of my opinion that the proposed revisions (Attachment 1) to the Grand Junction Code of Ordinances (GJCO), required by the Pretreatment Audit conducted by the USEPA in July, 2008, are in compliance with applicable law. Specifically it is my opinion that the proposed change to the GJCO will positively affect the ability of the Persigo Wastewater Treatment Facility to carry out the responsibilities of the Grand Junction pretreatment program in accordance with all applicable federal and state statutory and regulatory requirements.

In accordance with the City Charter and the rights and responsibilities established therein, the City has the legal authority to adopt ordinances for the protection of the general health, safety and welfare of the citizens of Grand Junction. The content of Attachment 1 is such an ordinance.

Following public notice and the required hearings on the proposed ordinance, the City Council will be duly authorized to adopt the ordinance. The professional staff of the City, including but not limited to the undersigned, will recommend to the City Council that it approval the proposed ordinance as written.

Approval of the proposed ordinance will enhance the commitment of Grand Junction to the IPT program and is consistent with the City's NPDES permit.

Should you have any questions or if I may otherwise be of assistance on this or any other matter, please let me know.

OFFICE OF THE CITY ATTORNEY

By: 
John P. Shaver, City Attorney

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING PORTIONS OF ARTICLE II OF CHAPTER 38 OF THE GRAND JUNCTION CODE OF ORDINANCES PERTAINING TO PRETREATMENT REGULATIONS, TO INCORPORATE REQUIRED CHANGES TO THE CITY'S LEGAL AUTHORITY REQUESTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY THROUGH AN AUDIT

RECITALS:

The United States Environmental Protection Agency (USEPA) conducted an audit of the City's industrial pretreatment program in July, 2008. The intent of the audit is to evaluate local pretreatment programs and identify areas of improvement.

One of the required actions resulting from the EPA audit was that the City update its legal authority to implement and enforce pretreatment regulations. Specific areas of Chapter 28, Article II of the City Code were identified by the USEPA for updates and listed in the audit report.

In compliance with the USEPA audit requirements, City staff has made the required revisions relating to industrial pretreatment to the City Code of Ordinances and now request that the City Council approve the proposed changes to the Code.

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

Article II of Chapter 38 of the Code is amended as follows:

ARTICLE II. WASTEWATER SYSTEM*

*Cross reference(s)--Improper depositing or disposal of animal or human waste declared a nuisance, § 16-61.

Sec. 38-26. Definitions.

Unless otherwise defined in this article, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.

Building sewer means the extension from the building drain to the public sewer.

City Manager means the City Manager or his designee.

Color means the true color due to the substances in solution expressed in milligrams per liter.

Combined sewer means a sewer receiving both surface runoff and sewage.

Easement means an acquired legal right for the specific use of land owned by others.

Equivalent residential unit (EQU) means a single unit providing living facilities for one or more persons including permanent provisions for sleeping and sanitation.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Industrial wastes mean the liquid or water-carried wastes from industrial manufacturing processes, trade or business, as distinct from domestic or sanitary sewage.

Interference means the inhibition or disruption of the Wastewater Treatment Works (“WWTW”) processes or operations which causes or materially contributes to a violation of any requirement of the WWTW’s National Pollutant Discharge Elimination System (“NPDES”) permit, or of the requirements of any agency with jurisdiction over discharges by the WWTW into the receiving waters. The term also includes contamination of WWTW sludge byproducts.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

Normal sewage means that waste having a biochemical oxygen demand of 200 milligrams per liter or less, and having total suspended solids of 250 milligrams per liter or less.

Pass Through means a discharge which exits the WWTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharge from other sources, is a cause of a violation of any requirement of the WWTW’s NPDES permit (including an increase in the magnitude or duration of a violation).

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, septic waste, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, dirt, sand, industrial, municipal and agricultural waste discharged into water.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Sanitary sewer means a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Sewage means the spent water of a community. Also referred to as wastewater.

Sewer means a pipe or conduit for carrying sewage.

Sewer rental charges includes all rates, charges, fees and costs of inspection connected with the WWTW.

~~*Slug* means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen minutes more than five (in case of heavy metals, three) times the average twenty four hour concentration or flows during normal operation and may adversely affect the wastewater facilities.~~

Storm drain (sometimes termed “storm sewer”) means a drain or sewer for conveying water, groundwater, drainage water, or unpolluted water from any source, excluding sewage and industrial wastes.

Storm water means the surface runoff from rainfall and other storm events.

Tap means an opening or connection between the service sewer and the sanitary sewer through which sewage is discharged.

Total suspended solids (“TSS”) means total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, also referred to as nonfilterable residue.

Unpolluted water means the water is of quality equal to or better than effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Wastewater means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with any incidental groundwater, surface water, and storm water that may be present.

Wastewater facilities means the structures, equipment and processes required to collect, convey and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment plant (“WWTP”) means that portion of the WWTW designed to provide treatment to wastewater. The term includes the Persigo wastewater treatment plant which is owned by the County and the City and operated by the City.

Wastewater Treatment Works (“WWTW”) means wastewater treatment works as defined in the United States Code, 33 U.S.C. section 1292, which are owned by the County and the City and which are operated by the City. The term includes “any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature.” It further includes, “any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems.” As used herein, it shall include wastewater facilities that form the WWTW and any sewers that convey wastewaters to the WWTW from persons or sources within the City and outside the City who are, by contract or agreement with the City or connecting sanitation districts, users of the City’s and County’s WWTW.

Watercourse means a natural or artificial channel for the passage of water, either continuously or intermittently.

(Code 1965, § 25-14; Ord. No. 3615, 4-7-04)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 38-27. Jurisdiction.

The provisions of this article shall apply to all sewer users and facilities served by the wastewater facilities and WWTW.

(Ord. No. 3615, 4-7-04)

Sec. 38-28. Damaging or tampering with structures or equipment prohibited.

No unauthorized person shall maliciously, willfully, or in a grossly negligent manner break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the WWTW. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct.

(Code 1965, § 25-40; Ord. No. 3615, 4-7-04)

Sec. 38-29. Authority to enter premises for purposes of inspection, observation, measurement, sampling and testing.

The City Manager and other duly authorized employees of the City ~~bearing proper credentials and identification~~ shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. ~~The City Manager shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper, or other industries, beyond inquiries having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.~~

(Code 1965, § 25-41; Ord. No. 3615, 4-7-04)

Sec. 38-30. Duty to observe safety rules.

While performing the necessary work on private properties referred to in section 38-29, the City Manager or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 38-53.

(Code 1965, § 25-42)

Sec. 38-31. Authority to enter private properties through which City has easement.

The City Manager and other duly authorized employees of the City ~~bearing proper credentials and identification~~ shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the WWTW lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of a duly negotiated easement pertaining to the private property involved.

(Code 1965, § 25-43; Ord. No. 3615, 4-7-04)

Sec. 38-32. Insanitary deposits prohibited.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any insanitary manner on public or private property within the City and County, or in any area under the jurisdiction of the City and County, any human or animal excrement, garbage, or other objectionable waste.

(Code 1965, § 25-15)

Sec. 38-33. Discharge to natural outlets.

It shall be unlawful to discharge to any natural outlet within the City and County, or in any area under the jurisdiction of the City and County, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

(Code 1965, § 25-16)

Sec. 38-34. Construction, maintenance of privies and septic tanks.

Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater when the site is within 400 feet of an existing public sewer with sufficient capacity.

(Code 1965, § 25-17)

Sec. 38-35. Connection mandatory where public sewer available.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the City or County and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City or County are hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 120 days after date of official notice to do so, provided that such public sewer is within 400 feet (122 meters) of the property line.

(Code 1965 § 25-18)

Sec. 38-36. Private disposal systems.

(a) *Connection to private disposal system where public system is unavailable.* Where a public, sanitary or combined sewer is not available under the provisions of section 38-35, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(b) *Type, capacities, location and layout.* The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State's department of public health.

(c) *Connection to public sewer upon availability of public sewer; abandonment of private facilities.* At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 38-35, a direct connection shall be made to the public sewer in compliance with this article within 120 days after the date of official notice to do so, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(d) *Sanitary operation.* The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City and County.

(e) *Additional requirements of the County's health officer.* No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County's health officer.

(Code 1965, §§ 25-19--25-23)

Sec. 38-37. Permit required to connect to, use or alter public sewer.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City Manager.

(Code 1965, § 25-24)

Sec. 38-38. Building sewer--Cost of connection to public sewer to be borne by owner.

All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City and County from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 1965, § 25-25)

Sec. 38-39. Same--Separate sewer required for each building; exception.

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available nor can be constructed to the rear building through an adjoining alley, court, yard or driveway, the

building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Code 1965, § 25-26; Ord. 3615, 4-7-04)

Sec. 38-40. Same--Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination by the City Manager, to meet all requirements of this article.

(Code 1965, § 25-27)

Sec. 38-41. Same--Size, slope, materials of construction, other specifications.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City and County.

(Code 1965, § 25-28)

Sec. 38-42. Same--Elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Code 1965, § 25-29)

Sec. 38-43. Same--Connection of roof downspouts, areaway drains.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer.

(Code 1965, § 25-30)

Sec. 38-44. Same--Connection to public sewer to conform to code requirements, applicable rules; deviations from prescribed procedures and materials.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City and County. All such connections shall be made gastight and watertight and verified by proper

testing. Any deviation from the prescribed procedures and materials must be approved by the City Manager before installation.

(Code 1965, § 25-31)

Sec. 38-45. Same--Guarding of excavations; restoration of streets.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City and County.

(Code 1965, § 25-32)

Sec. 38-46. Changes in direction of private sewers.

When the course of a private sewer is not the same as the junction piece, it must be connected such that no 90-degree turns are used.

(Code 1965, § 25-52)

Sec. 38-47. General construction of private sewers.

The inside of every private sewer connecting with a public or sanitary sewer must be smooth and perfectly clean throughout its entire length, and the ends of all pipes not to be immediately used must be securely guarded against the introduction of sand or earth by brick and cement or other watertight and impervious metal.

(Code 1965, § 25-53)

Sec. 38-48. Connection of property lying two miles outside City.

(a) It is the policy of the City and County to require connections to the WWTW for property lying within two miles of the City's limits by arranging for sewage treatment through the City, either by annexation or through powers of attorney to accomplish annexation in the future, as possible. As annexations occur, the ownership of public or sanitary sewers within the annexed area will be transferred to the City.

(b) No property outside the City shall be connected to the WWTW until and unless the owner thereof shall submit an application, together with a signed and sworn statement, showing the plan, size and type of connection desired and the number of persons who will use the property so connected. Such plans and statement shall be referred to and examined by the City Manager, who shall endorse with approval or disapproval of the same as complying or failing to comply with all of the ordinances, regulations and rules concerning connections with the WWTW.

(Code 1965, §§ 25-45, 25-46; Ord. No. 3615, 4-7-04)

Sec. 38-49. Use of public sewers--Limitations on discharging certain substances, materials, waters, wastes.

(a) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the City Manager that such wastes may harm the WWTW, including but not limited to, the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the City Manager will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewage treatment process, capacity of the WWTP, degree of treatability of wastes at the WWTP and other pertinent factors.

(b) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public or sanitary sewer:

- (1) Any solid or viscous substances in quantities or amounts or of such size capable of causing obstructions to the flow in sewers, Pass Through, or other Interference with the proper operation of the sewerage system.
- (2) Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants, unless agreed to by the City Manager.
- (3) Water accumulated in excavations or accumulated as the result of grading, water taken from the ground by well points, or any other drainage associated with construction without prior approval by the City.
- (4) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit or exceeding any lower limit fixed by the City to prevent odor nuisance where the volume of heated discharge represents a significant portion of the flow through a particular sewer.
- (5) Any waters, pollutants or wastes having a pH lower than 5.5.
- (6) Any waters or wastes containing grease or oil or other substances that will solidify or become discernible viscous at temperatures between 32 degrees and 150 degrees Fahrenheit, or any waters or wastes containing or possessing heat in amounts which will inhibit biological activity in the WWTW resulting in Interference. In no case shall heat be allowed in such quantities that the temperature at the WWTP exceeds 104 degrees Fahrenheit.

- (7) Any waters or wastes containing fats, wax, grease, or oils whether emulsified or not, in quantities or amounts capable of causing obstructions to flow, Pass Through, or other Interference with the proper operation of the WWTW. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.
- (8) Any gasoline, benzene, naphtha, fuel oil, lubricating oil or other flammable or explosive liquid, solid, gas or pollutant which may create a fire or explosion hazard, including but not limited to waste streams with a closed cup flashpoint of less than 60 degrees Celsius or 140 degrees Fahrenheit using the test method specified in 40 CFR Section 261.21.
- (9) Any waters or wastes that contain concentrated dye waste or other waste that is either highly colored or could become highly colored by reacting with any other waste, and which is not removable in the WWTW.
- (10) Any waters or wastes containing or which result in the presence of toxic or poisonous solids, liquids, vapors, fumes or gases in sufficient quantity, either singly or by interaction with other wastes, which contaminate the sludge of any municipal system or injure or interfere with any sewage treatment process or constitute a hazard to the health or safety of humans or animals, create a public nuisance or create any hazard in the receiving waters for the WWTW.
- (11) Any waters or wastes that contain a corrosive, noxious or malodorous gas or substance which, either singly or by reaction with other wastes, is capable of causing damage to the system or to any part thereof, of creating a public nuisance or hazard, or of preventing entry into the sewers for maintenance and repair.
- (12) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Manager in compliance with applicable state or federal regulations.
- (13) Quantities of flow, concentrations of flow, or both, which constitute a “slug” as defined in this article.
- (14) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, to any sanitary sewer, unless special permission is granted in writing by the City. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers.
- (15) Any pollutant, waters or wastes, including oxygen demanding pollutants, discharged at a flow rate or pollutant concentration or in such volume which will exceed the hydraulic capacity of the wastewater facilities or which will cause Interference with the WWTW.

- (16) Any waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the WWTP effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (17) Any trucked or hauled pollutants, except at discharge points designated by the WWTW personnel.
- (18) Mass Based Local limits:

The following nondomestic discharge limitations are established to protect sludge quality and prevent Pass Through and Interference with the proper operation of the WWTW. These limits are shown in pounds per day. They reflect the total industrial contribution that can be discharged by permitted industrial users and received at the headwork's of the WWTP. These are called maximum allowable industrial loads ("mails"):

<u>POLLUTANT</u>	<u>*POUNDS PER DAY</u>
Arsenic	<u>12.30</u>
Cadmium	<u>3.057</u>
Chromium (T)	<u>67.685</u>
Chromium (VI)	<u>2.96</u>
Copper	<u>41.35</u>
Lead	<u>14.095</u>
Molybdenum	<u>7.652</u>
Mercury	<u>0.026</u>
Nickel	<u>23.937</u>
Selenium	<u>0.278</u>
Silver	<u>3.015</u>
Zinc	<u>104.246</u>

*Maximum ~~daily~~ industrial loadings shall be allocated through industrial user permits in either mass based or concentration based limits and the total loading to all permitted industrial users shall not exceed the limits shown.

(19) Ethylene glycol (antifreeze), small amounts are considered to be one-half gallon or less. Large amounts (over one-half gallon) must be held for a reclaimer, unless prior approval and instructions for discharge are obtained from the City.

(20) The following nondomestic discharge limitations are established to protect sludge quality and prevent Pass Through and Interference with the proper operation of the WWTW. These limits are shown in maximum allowable concentrations.

a. Cyanide	1.2 mg/l
b. Benzene	50.0 µg/l
c. BTEX (aggregate parameter of benzene, ethyl benzene, toluene, and xylene),	750 µg/l
d. Fats, Oil & Grease (animal/vegetable)	200 mg/l
e. Total Recoverable Petroleum Hydrocarbons	50 mg/l

(c) Surcharge: Industrial users discharging a nontoxic or nonhazardous wastewater that exceeds the level set forth in this code for BOD and/or TSS, shall be surcharged in accordance with adopted surcharge rates. Based on the actual treatment costs, permitted industrial users shall be surcharged for BOD in excess of 200 mg/l and TSS in excess of 250 mg/l. In no case shall a surcharge be allowed that may cause Pass Through or Interference or otherwise cause a discharge of wastewater that violates any limit or prohibition specified in this section.

(d) Permitted industrial users discharging a nontoxic or nonhazardous wastewater, that is not otherwise identified in the Sewer Rate Schedule, and is in compliance with all pretreatment limits, shall be surcharged based on the actual cost to treat 1,000 gallons of industrial wastewater.

(Code 1965, § 25-33; Ord. No. 2709, § 1(25-33), 10-20-93; Ord. No. 2892, 2-21-96, Ord. No. 3045, 2-18-98; Ord. No. 3615, 4-7-04)

Sec. 38-50. Same--Action of City upon discharge of waters possessing characteristics enumerated in section 38-49.

(a) If any waters or wastes are discharged, or are proposed to be discharged, to the sanitary sewers, which waters contain the substances or possess the characteristics enumerated in section 38-49, and which, in the judgment of the City Manager, may have a deleterious effect upon the

WWTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the sanitary sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 38-55.

(b) If pretreatment or equalization of waste flows is required, the design and installation of the plants and equipment shall be subject to the review and approval of the City Manager, and subject to the requirements of all applicable codes, ordinances and laws.

(Code 1965, § 25-34; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-51. Same-Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or EQU. All interceptors shall be of a type and capacity approved by the City, and shall be located so as to be readily and easily accessible for cleaning and inspection.

(Code 1965, § 25-35; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-52. Same-Maintenance of preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Code 1965, § 25-36)

Sec. 38-53. Same-Manholes.

When required by the City, the owner of any property serviced by a building sewer carrying industrial and/or commercial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall

be installed by the owner at his expense, and shall be maintained by the owner so as to be safe and accessible at all times.

(Code 1965, § 25-37; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-54. Same--Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be performed in accordance with the latest edition of 40 CFR Part 136 at a monitoring location specified in the permit or otherwise specified by the City.

(Code 1965, § 25-38; Ord. No. 2892, 2-21-96)

Sec. 38-55. Service charges--Assessed.

(a) There shall be levied and assessed upon each lot, parcel of land, building or premises having any connection, or eligible for connection with the sewer system of the City, monthly sewer service charges or rentals computed by multiplying the EQU by the following factors, to wit:

- (1) Single-family dwelling, 1.00 EQU.
- (2) Multiple-family dwellings, 0.72 times number of single-family units.
- (3) Hotels and motels:
 - a. No restaurants or kitchen, 0.36 times number of rooms;
 - b. With kitchenette, 0.43 times number of rooms;
 - c. With restaurants, use (3)a then add rates from (4), below.
- (4) Restaurants:
 - a. Twenty-four-hour operation, 0.21 times number of seats;
 - b. Twelve-hour or less operation, 0.14 times number of seats;
 - c. Bar, no food, 0.04 times number of seats.
- (5) Schools:
 - a. No food or showers, 0.04 times number of student capacity;

- b. For cafeterias, add to (5)a 0.02 times number of student capacity;
 - c. For showers, add to (5)a 0.02 times number of student capacity;
 - d. Boarding schools, 0.27 times number of student capacity.
- (6) Service stations:
- a. Without wash rack, 1.00 EQU;
 - b. With wash rack, 2.3 times number of wash racks.
- (7) Shopping centers and stores, 0.35 times number of thousands of square feet of store space.
- (8) Travel trailer parks and courts, 0.25 times number of trailer parking spaces.
- (9) Churches, assembly halls, theaters and arenas, 0.01 times number of seating capacity.
- (10) Drive-in theater, 0.02 times number of car spaces.
- (11) Factory, warehouses, shops and offices (not including industrial waste), 0.05 times number of employees.
- (12) Hospitals, 0.89 times number of bed spaces.
- (13) Institutions, nursing homes, 0.36 times number of residences.
- (14) Laundry, coin-operated, 0.90 times number of washing machines.
- (15) Mobile home parks, 0.67 times number of lots or spaces.
- (16) Car wash, 2.3 times number of bays.
- (17) Fast food takeout (walk-up or drive-up):
- a. Open 12 or more hours, 0.10 times number of employees;
 - b. Open less than 12 hours, 0.06 times number of employees.
- (b) Where recycling of water is used or other conditions prevail which cause the above-listed nonresidential users to produce more or less average daily sewage flow than that computed by

the above formula when the EQU is multiplied by 280 gallons per day, the City Manager may establish the EQU using the formula set forth in the following paragraph. Where the City Manager deems necessary, the sewer service charge may be charged according to the above formula. Then, after the first 12 months of full operation have passed, where actual water use is observed, the user may be remitted down to the sewer service charge computed based on actual water use.

(c) Sewer service charges shall be computed for nonresidential users that are not listed above by computing the hydraulic flow expected from the establishment. The EQU can be computed by dividing the expected flows by 280 gallons per day or by dividing the expected organic load in pounds of BOD₅ per day by 0.47 pound of BOD₅. The higher EQU obtained by the two methods shall be used in computing the sewer service charge.

(d) Industrial waste:

(1) Industries which discharge a nondomestic wastewater, that are not otherwise identified in this section, and are in compliance with federal, state and local limits shall be charged a rate that is equivalent to the actual cost to treat each 1,000 gallons of nondomestic wastewater discharged to the system, such charge to be in addition to the domestic user rate of 0.05 for each employee.

(2) Industries such as food, beverage and meat processing, dairies and feedlots which exceed the established limit for BOD and TSS shall be charged at a rate calculated to represent the actual cost to treat a pound of BOD and TSS; this charge shall be in addition to the rate of 0.05 for each employee.

(3) In those instances when an industry may discharge a wastewater which exceeds the limit for BOD and TSS allowed that industry by other sections of this article, its basic rate shall be calculated and an additional surcharge added to that calculated amount. Once the industry comes back into compliance, the surcharge shall be dropped.

(e) Beginning with the first billings sent out January 15, 1994, the total rate per EQU will be as established by resolution of the City Council and on file in the City Clerk's office for all users situated within or without the boundaries of the City.

(f) No connection shall be made to the WWTW until a permit has been obtained from the building department of the City and a fee as established by resolution of the City Council and on file in the City Clerk's office paid for such permit.

(g) The cost of connection to the WWTW shall be borne by the property owner.

(h) Tank truck operators disposing of wastewater will be assessed a treatment charge based on tank size. Loads are measured by tank size and not gallons. Acceptable water and waste

for disposal shall exclude waste enumerated in section 38-49 or which is otherwise regulated by a valid permit or similar regulated guideline.

(i) Users of the WWTW within the City and County shall be charged the same where the services performed for the users are the same. Where services performed are not the same, the difference in the cost of providing the services shall be determined and the users shall be charged on the basis of the services provided.

(j) The City will determine average numeric criteria for the quality and quantity of sewage collected from residential users. The City will assess a surcharge rate for nonresidential users discharging waters and wastes with quality characteristics greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the costs of treating the higher strength wastes. The surcharge rate structure is subject to revision, when necessary.

(k) The pro rata cost of connection shall constitute a sewer rental charge subject to lien under section 38-58.

(Code 1965, § 25-44; Ord. No. 2719, § 1, 12-1-93; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-56. Same-New service fee.

Whenever a sewer service account is created or is changed, a new service fee in an amount as established by resolution of the City Council and on file in the City Clerk's office shall be charged, unless, at the same time, water service is being commenced or changed and a fee is being charged therefor.

(Code 1965, § 25-47(a))

(b) It shall be unlawful, after sewer service has been disconnected by shutting off the water supply or in any other manner, for any person to reconnect such water supply without the consent of the City, and any person violating this provision shall be deemed guilty of a misdemeanor.

(Code 1965, §§ 25-49, 25-51)

Sec. 38-58. Same--Declared lien; collection.

All sewer rental charges, including but not limited to all rates (see definition), shall constitute a lien upon any lot, land, building or premises served, and if such amounts shall not be paid when due, such service, if within the City's water system, may be disconnected by the City without further notice, by shutting off the water supply therefrom, or, in other areas of the 201 sewer service area, the WWTW, the City Manager may certify the charge to the County Treasurer to be placed upon the tax list for the current year to be collected in the manner other taxes are collected, with 10 percent added thereto to defray the cost of collection; plus interest at the rate of 1

percent per month or as established by resolution of the City Council, and all laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and redemption of the same, shall apply.

(Code 1965, § 25-48; Ord. No. 3615, 4-7-04)

State law reference(s)--Interest rate, C.R.S. § 31-35-609.

Sec. 38-59. Billing procedure.

(a) All sewer charges shall be dated and sent out to the owner of the premises served or to whom the owner may direct at regular intervals. Such sewer service charges shall be added to and made a part of the water bill if customers receive water service from the City, or by separate billing if water service is from other than the City. Provisions of this Code relative to the payment of delinquent water bills shall also apply to delinquent sewer bills in all respects, including the discontinuance of water service for nonpayment of sewer charges as set forth in section 38-58.

(b) The owner of the premises, as well as the occupants thereof, shall have thirty days to notify the utility accounting department of any change of building structure and/or use to ensure correct monthly charges. The City will be under no obligation to credit or refund any account beyond expiration of the thirty-day notification period.

(c) In the event any user of the WWTW neglects, fails or refuses to pay the rates, fees or charges imposed or levied by this article for the connection or use of the WWTW or facilities, such rates, fees or charges shall constitute a lien upon the real property so served by such sewer connection. The amount due will be collected in the same manner as though it were part of the taxes. This is an additional remedy to others of the City.

(Code 1965, § 25-47(b), (c); Ord. No. 2892, 2-21-96; Ord. 3615, 4-7-04)

Sec. 38-60. Same-Review.

The rates and charges for wastewater service are established so that each user class pays its proportionate share of the costs of wastewater treatment services, and the City Manager is hereby directed to annually review the charge structure to assure that proportionality between user classes is maintained and to recommend modifications as appropriate. Each user shall be notified annually by the City of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(Code 1965, § 25-54; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-61. Disposition, use of sewer revenues.

The funds received from the collection of the charges or rentals authorized by this article shall be deposited with the City Manager and shall be deposited in a fund to be known as the “sewer fund” and, when appropriated by the City Council and County Commissioners, shall be used for the maintenance, operation, extension and improvement of the WWTW, and for interest on and discharging of principal of bonds and other obligations incurred in the acquisition, construction, improvement and extension of the WWTW.

(Code 1965, § 25-50; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-62. Pretreatment of industrial wastes-Purpose and policy.

(a) *Purpose.* Sections 38-62 through 38-70 of this article set forth uniform requirements for users of the WWTW and enables the City to comply with applicable state and federal laws, including the Clean Water Act of 1977, the federal General Pretreatment Regulations, 40 CFR Part 403, and the State Water Quality Control Act, as amended. The objectives of such sections are to:

- (1) Prevent the introduction of pollutants into the WWTW which will interfere with or upset the operation of the WWTP, or contaminate treatment plant sludge with toxic or hazardous materials;
- (2) Minimize the introduction of incompatible pollutants into the WWTW which may Pass Through the system without adequate treatment and into receiving waters or the atmosphere;
- (3) Prevent water quality violations resulting from direct discharges into waters of the State, or violations of the NPDES permit for the WWTW;
- (4) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- (5) Provide for equitable distribution of the costs of the WWTW;
- (6) Establish and maintain a database and inspection program sufficient to determine compliance with pretreatment requirements;
- (7) Enhance the efficiency and cost effective operation of the WWTW; and
- (8) Protect the health and safety of City and County residents and WWTW workers.

(b) *Policy.* Sections 38-62 through 38-70 provide for the regulation of contributors or users of the WWTW through the development of an industrial pretreatment program, including issuance of permits to certain nondomestic users, and through enforcement of general requirements for the other users. Such sections authorize monitoring and enforcement activities, require user

reporting, protect the WWTW and hydraulic capacity, improve the ability to serve existing and new customers within the service area of the WWTW, set fees for the equitable distribution of costs resulting from the program established herein, and establish penalties and remedies for violations of pretreatment requirements.

(c) *Applicability.* Sections 38-62 through 38-70 apply within the City and to persons outside the City who are, by contract or agreement with the City, connector districts, or County, users of the WWTW. Except as otherwise provided herein, the City Manager shall implement, administer, and enforce the provisions of such sections.

(Code 1965, § 25-57; Ord. No. 2701, § 1(25-57), 9-1-93; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-63. Same-Definitions.

The following words, terms and phrases, when used in sections 38-62 through 38-70, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accidental discharge means the unintentional and temporary discharge to the WWTW of the prohibited waters or wastes, including those described in section 38-49 or section 38-65.

Act or the act means the Federal Water Pollution Control Act, PL 92-500, also known as the Clean Water Act, and including amendments thereto by the Clean Water Act of 1977, PL 95-217, 33 U.S.C. section 466 *et seq.*, and as subsequently amended.

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~~*Approval Authority* is the administrator of the Environmental Protection Agency (“EPA”), unless the State's industrial pretreatment program has been approved, in which case the approval authority shall be the City Manager or the State's department of health.~~

~~*Authorized representative of an industrial user* includes:~~

- ~~(1) A principal executive officer of at least the level of vice president having full actual authority to act on behalf of the corporation, if the industrial user is a corporation;~~
- ~~(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or~~

- ~~(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of facilities from which any discharge originates.~~

Categorical industrial user means an industrial user discharging into the City's 201 area wastewater collection, treatment and disposal system, the WWTW, which is classified as a categorical industry and because of the nature of its discharge is governed by the national categorical pretreatment standards as specified in 40 CFR Chapter I, Subchapter N, Section 403.6.

Categorical standards means national categorical pretreatment standards or pretreatment standard.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

City Manager refers to the City Manager or his designee.

Composite Sample refers to a flow proportioned sample taken discretely or continuously. If discrete, at least 12 aliquots should be composited. Discrete samples may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot.

Discharge means the introduction of treated or untreated wastewater into the WWTW.

Domestic waste or sanitary wastes means liquid waste(s):

- (1) From the noncommercial preparation, cooking or handling of food; or
- (2) Containing human excrement or similar matter from the sanitary conveniences of a dwelling, commercial building, industrial facility or institution.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Harmful contribution means an actual or threatened discharge or introduction of industrial waste to the WWTW; which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment; or which inhibits or interferes with the physical or lawful operation of the WWTW; or which causes the City or the WWTW to be in violation of any condition of its NPDES permit.

Holding tank waste means any waste from a holding tank such as vessels, chemical toilets, campers or trailers.

Industrial means of or pertaining to industry, manufacturing, agriculture, commerce, trade or business, as distinguished from domestic or residential.

Industrial discharge permit means a document as set forth in section 38-67, which licenses and conditions the nature and amount of contribution of industrial waste into the WWTW.

Industrial user means any person or source that introduces or discharges wastewater from industrial processes into the WWTW, such as eating establishments, food processors or feed lots, and who may be subject to a user charge for excess strength or toxic waste.

Industrial user charge means an additional charge calculated either by the actual gallons of industrial or commercial wastewater discharged per 1,000 gallons or by calculating the pounds of BOD and TSS being discharged in the process wastewater. This charge is in addition to the charge determined under section 38-55(a)(11).

Industrial waste or wastewater means the liquid or water-carried waste(s) from industrial manufacturing or processing, as distinct from domestic or sanitary wastes.

Interference means the inhibition or disruption of the WWTW processes or operations which causes or materially contributes to a violation of any requirement of the WWTW's NPDES permit, or of the requirements of any agency with jurisdiction over discharges by the WWTW into the receiving waters. The term also includes contamination of WWTW sludge byproducts.

National categorical pretreatment standard(s) means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Clean Water Act (33 U.S.C. section 1317) and as specified in 40 CFR Chapter I, Subchapter N, which applies to a specific category of primary industrial users.

National pollutant discharge elimination system (NPDES) permit means a permit issued pursuant to section 402 of the act (33 U.S.C. 1342), allowing discharge of pollutants into navigable waters of the United States or waters of the State.

National pretreatment standard, pretreatment standard, or standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with 40 CFR Part 307 Section (b) and (c) which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR Part 403.5.

National prohibitive discharge standards or prohibitive discharge standard means any federal regulation developed under the authority of section 307(b) of the Clean Water Act, including the general pretreatment regulations (40 CFR 403.5).

New Source means any building, structure, facility or installation from which there is or may be a discharge of pollutants as defined in 40 CFR, Part 403.3, Section (k)(1) through (k)(3).

Pass Through means a discharge which exits the WWTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Pollutant means any dredged soil, solid waste, incinerator residue, sewage, garbage, septic waste, sewage sludge, munitions, chemical wastes, medical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

Pollution means the alteration of the chemical, physical, biological or radiological integrity of water by human activity.

Potential contributor means an industrial user of the WWTW which:

- (1) Discharges into the system more than 25,000 gallons of material per day on average;
- (2) Discharges into the system materials prohibited by section 38-49 of this article; or
- (3) Is found by the City, the State's department of health or EPA to have an adverse impact, separately or in combination with other industries, on the WWTW or the beneficial reuse of sludge, or to cause a toxic Pass Through, or to interfere with the treatment process, or to have the potential, because of an accumulative effect, to cause a violation of the WWTP's CDPS [NPDES] discharge permit. These may include users such as hospitals, laundries, auto repair shops and service stations.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, the alteration of the rate of their introduction into the WWTW, or the alteration of the nature of pollutant properties in wastewater to a less harmful state, prior to or in lieu of discharging or otherwise introducing such pollutants into the WWTW. The reduction or alteration can be achieved by physical, chemical or biological processes, process changes, or by other means, except as prohibited by 40 CFR Part 403.6(d).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, including national categorical pretreatment standards, imposed on an industrial user.

Signatory Official for required reports is defined as follows:

- (1) A responsible corporate officer, if the industrial user is a corporation, means:

- (a) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy-or decision-making functions for the corporation, or
- (b) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) A general partner or proprietor if the Industrial User submitting the reports is a partnership or a sole proprietorship.

(3) A duly authorized representative of the individual designated in (1) and (2) of this section if:

- (a) the authorization is made in writing by the individual described in (1) or (2) of this section,
- (b) the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
- (c) the written authorization is submitted to Control Authority.

(4) If an authorization under (3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements (3) of this section must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

Significant industrial user means a permitted industrial user discharging into the WWTW and which may be classified as one of the following: categorical user, potential contributor or an industrial user, or any other descriptive term necessary to readily identify any industrial waste discharge or permit classification. These include any industrial discharger subject to categorical pretreatment standards; or:

(1) Any other industrial user that discharges an average of 25,000 gallons per day or more process wastewater to the WWTW, excluding sanitary, noncontact cooling water and boiler blowdown wastewater; or

(2) Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the WWTW, whichever is less; or

(3) Is designated as such by the WWTW on the basis that the industrial user has a reasonable potential for adversely affecting the WWTW operation or for violating any pretreatment standard or requirement.

Significant noncompliance. An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any amount) the maximum limit for the same pollutant parameter; or

(2) Technical review criteria ("TRC") violations, defined here as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the maximum limit or the average limit multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH); or

(3) Any other violation of a pretreatment effluent limit (maximum or longer term mean average) that the WWTW determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of WWTW personnel or the public; or

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWTW's exercise of its emergency authority to halt or prevent such a discharge; or

(5) Failure to meet, within ninety days after the scheduled date, a compliance schedule milestone or a local control mechanism or enforcement order, for starting or completing construction or for attaining compliance; or

(6) Failure to provide, within forty-five days after the date due, a required report such as a baseline monitoring report (BMR), a ninety-day compliance report, a periodic self-monitoring report or a report on compliance with compliance schedules; or

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the Program City Manager, also known as the WWTW industrial pretreatment coordinator, or the City Manager, determines will adversely affect the operation or implementation of the local pretreatment program.

Slug Discharge refers to any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Source means any building, structure, facility or installation from which there may be a discharge of pollutants.

Standard industrial classification ("SIC") means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

Toxic pollutant includes, but is not limited to, any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of section 307(a) of the act or other applicable laws.

User means any person who contributes, causes or permits the contribution or introduction of wastewater into the WWTW.

Wastewater or *sewage* means the spent water of a community that enters the WWTW. The term also refers to a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water or storm water that may be present.

Wastewater treatment plant ("WWTP") is that portion of the WWTW designed to provide treatment to wastewater. The term includes the Persigo wastewater treatment plant which is owned by the County and the City and operated by the City.

Wastewater treatment works ("WWTW") means wastewater treatment works as defined by section 212 of the act (33 U.S.C. section 1292) which are owned by the City and County, or which are managed and operated by the City. This term includes any sewers that convey wastewater to the WWTP from within the Persigo WWTP service area. The term includes "any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature." It further includes, "any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water run off, or industrial waste, including waste in combined storm water and sanitary sewer systems." For the purposes of sections 38-62 through 38-70, "WWTW" shall also include waterworks facilities and any sewers that convey wastewaters to the WWTW from persons or sources outside the City

who are, by contract or agreement with the City or connecting sanitation districts, users of the City's and County's WWTW.

Waters of the State means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(Code 1965, § 25-58; Ord. No. 2701, § 1(25-58), 9-1-93; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 38-64. Same--Abbreviations.

The following abbreviations when used in sections 38-62 through 38-70 shall have the meanings designated in this section:

CFR: Code of Federal Regulations.

EPA: Environmental Protection Agency.

mg/l: Milligrams per liter.

NPDES: National pollutant discharge elimination system.

SIC: Standard industrial classification.

TSS: Total suspended solids.

U.S.C.: United States Code.

WWTP: Wastewater treatment plant.

WWTW: Wastewater treatment works.

(Code 1965, § 25-59; Ord. No. 2701, § 1(25-59), 9-1-93; Ord. No. 2892, 2-21-96)

Sec. 38-65. Same—Regulations.

(a) *General discharge prohibitions.*

- (1) No person or user shall introduce, discharge, or cause to be discharged into the WWTW any pollutant or wastewater which may cause Interference with the operation or performance of the WWTW, or which constitutes a harmful contribution to the WWTW, or which may Pass Through the WWTW so as to cause the WWTW to violate a term of its NPDES permit or other applicable laws and regulations. These general prohibitions apply to all users of the WWTW, whether or not the user is subject to national pretreatment standards or any other national, state or local pretreatment standards or requirements, including specific pollutant limitations developed pursuant to subsection (j) of this section.
- (2) In addition to the prohibited waters or wastes described above or in section 38-49, a user shall not introduce or discharge the following substances into the WWTW:
 - a. Any wastewater containing toxic pollutants in sufficient quantity to exceed the limitation set forth in a national categorical pretreatment standard; or
 - b. Any substance which may cause the WWTW's effluent or any other products such as residues, sludges, or scums to be unsuitable for reclamation or reuse.
- (3) No person or user shall discharge a pollutant into the WWTW which may cause the WWTW or its management agency to be in noncompliance with any sludge use or disposal law or regulations, including section 405 of the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or any State criteria applicable to sludge management.

(b) *Actions of City Manager.* Whenever the City Manager determines through an industrial waste survey or otherwise that a user is contributing to the WWTW any of the substances referred to in section 38-49, or in this section, in such amounts as to interfere with the operation of the WWTW, or to constitute a harmful contribution to the WWTW, the City Manager shall:

- (1) Advise the user of the impact of the contribution on the WWTW; and
- (2) Develop and apply specific effluent limitations and pretreatment requirements for the user to correct the Interference with or harm to the WWTW; and/or
- (3) Perform the actions listed in section 38-50, as deemed necessary.
- (4) Undertake an action, where appropriate, as specified in 38-68.

(c) *Preemption by national categorical pretreatment standards.* Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the national standard, if more stringent than limitations imposed under this article for sources in that

subcategory, shall immediately supersede the limitations imposed under this article. The City Manager shall notify all affected users of the applicable reporting requirements under 40 CFR Section 403.12. Failure to notify shall not relieve a user from any requirements under the law.

(d) *Modification of national categorical pretreatment standards.* When the WWTW has achieved consistent removal of pollutants limited by national pretreatment standards, the City may apply to the approval authority for modification of or exemption from specific limits in the national pretreatment standards.

(e) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(f) *City's right of revision.* Notwithstanding the provisions of subsection (c) of this section the City reserves the right to establish by ordinance, resolution, or permit more stringent specific pollutant limitations or pretreatment requirements pursuant to subsection (j) of this section for discharges to the WWTW, if deemed necessary to comply with the objectives and intent of section 38-62.

(g) *Excessive discharge.* No industrial user shall increase the use of process water or dilute industrial wastewater with tap water, unpolluted water, sanitary sewage, or other liquid dilutants as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or with any other pollutant-specific limitation developed by the City or State.

(h) *Accidental discharges.* Each significant industrial user shall provide adequate protection against accidental discharge of the prohibited waters or wastes described in section 38-49 or in this section, or other substances regulated by sections 38-62 through 38-70. Facilities to prevent accidental discharge of prohibited waters or wastes shall be provided and maintained at the user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection, unless already provided, shall be submitted to the City for review and shall be approved by the City Manager before construction of the accidental discharge prevention facility. All significant industrial users shall submit such a plan within ninety days after being permitted as a significant industrial user. No industrial user who commences contribution to the WWTW after the effective date of the ordinance from which this section derives shall be permitted to introduce pollutants into the system until accidental discharge procedures and facilities have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from any responsibility to pretreat as necessary to meet the industrial pretreatment requirements of sections 38-62 through 38-70.

(i) *Notice of accidental discharge.* In the case of an accidental discharge, it is the responsibility of any industrial user to immediately telephone and notify the City Manager of the

incident. The notification shall include the location of discharge, type of waste or wastes, concentration, volume, duration, time of episode, and corrective actions undertaken.

(1) Within fifteen days following an accidental discharge, the industrial user shall submit to the City Manager a detailed written report describing the cause of the discharge and the measures taken or planned by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WWTW, fish kills, or any other damage to persons or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by sections 38-62 through 38-70 or other applicable law.

(2) A sign shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. The industrial user shall ensure that all employees who may cause such an accidental discharge to occur are advised of the emergency notification procedure.

(j) *Specific pollutant limitations.* No person shall discharge into the WWTW any wastewater containing pollutants generally prohibited by section 38-49 of this Code, pollutants in excess of specific pollutant limitations as established by resolution of the City Council, specific limitations contained in any industrial discharge permit, or limitations imposed by national categorical pretreatment standards.

(k) *Methodology.* All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in sections 38-62 through 38-70 shall be conducted in accordance with 40 CFR Part 136.

(l) *Right of entry.*

(1) The City Manager and/or his authorized representative, ~~upon the presentation of — credentials,~~ may:

a. Enter upon premises where an effluent or potential effluent source is located or in which any records are required to be kept under the terms and conditions of sections 38-62 through 38-70;

b. At reasonable times, have access to and may copy any records required to be kept under the terms and conditions of this Code or a discharge permit and may inspect any monitoring or sampling methods being used;

- c. Enter upon the premises to reasonably investigate any actual, suspected or potential source of uncommon water pollution, or any violation of this article.
- (2) The investigation may include, but is not limited to, the following: sampling of any discharge and/or process waters, the taking of photographs; interviewing of any person having any knowledge related to the discharge or alleged violation; and access to any and all facilities or areas within the premises that may have any effect on the discharge or alleged violation.

(Code 1965, § 25-60; Ord. No. 2701, § 1(25-60), 9-1-93; Ord. No. 2710, § 1, 10-20-93; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-66. Same-Fees.

(a) *Purpose.* The purpose of this section is to provide for the payment to the City sewer fund by industrial users of the WWTW for all costs incurred in the implementation and administration of the industrial pretreatment program. The applicable charges and fees shall be set forth in a schedule developed by the City Manager.

(b) *Charges and fees.* The City Manager may adopt separate charges and fees that relate solely to the matters covered by sections 38-62 through 38-70, including fees for:

- (1) Industrial discharge permit applications;
- (2) Reimbursement of costs of setting up and operating the Industrial Pretreatment Program;
- (3) Measuring, monitoring, inspection and surveillance procedures, sampling, testing, and analyzing user wastewater;
- (4) Reviewing and approving accidental discharge procedures and facilities;
- (5) Fees as the City may deem necessary to carry out the requirements contained herein; and
- (6) Fees to cover the added cost of handling or treating any wastes not covered by existing or regular monthly sewer service charges.

The charges and fees shall be established so that the permit application fee will cover the administrative costs of processing the permit. All other costs will be reviewed annually and established as part of the regular billing for each industrial user.

(Code 1965, § 25-61; Ord. No. 2701, § 1(25-61), 9-1-93; Ord. No. 2892, 2-21-96)

Sec. 38-67. Same--Pretreatment program administration.

(a) *Unlawful discharge.* It shall be unlawful to discharge any industrial wastewater or polluted waters into any natural outlet within the City or within any area under the jurisdiction of the City, except where suitable treatment has been provided, and except as authorized by the City Manager in accordance with the provisions of sections 38-62 through 38-70.

(b) *Industrial discharge permits.*

(1) *Permit required.* No significant industrial user shall discharge wastewater to the WWTW without having a valid industrial discharge permit issued by the City Manager. Any discharge in violation of pretreatment standards or requirements contained therein is prohibited.

(2) *Issuance.* After evaluation of the permit application, the City Manager may issue an industrial discharge permit subject to terms and conditions provided herein. In determining whether a permit shall be issued and/or what conditions shall be applied, the City Manager shall consider all applicable national categorical and local pretreatment standards as well as those factors listed in section 38-49.

(3) *Permit application.* Users required to obtain an industrial discharge permit shall complete and file with the City Manager an application in the form prescribed by the City Manager and accompanied by the permit application fee. The user shall submit, in units and terms suitable for evaluation, all information required by the permit application, and any relevant supplemental information requested by the City Manager. All significant industrial users connected to or discharging to the WWTW and all other persons proposing to connect to the WWTW who are determined to be subject to industrial discharge permit requirements shall apply at least thirty days prior to commencing discharge. When a user becomes subject to a national categorical pretreatment standard and has not previously submitted an application for an industrial discharge permit, the user shall apply for an industrial discharge permit within ninety days after the promulgation of the applicable national categorical pretreatment standard.

(4) *Categorical Pretreatment Standards.* Within six months after the promulgation of a national categorical pretreatment standard, the industrial discharge permit of users subject to such standards shall be revised to require compliance by the prescribed compliance date. In addition, any industrial user with an existing industrial discharge permit shall submit to the City Manager within 180 days after the promulgation of an applicable national categorical pretreatment standard a baseline report and any information required by 40 CFR Section 403.12 and by section (E)(2) of the industrial discharge permit application.

- (5) *Permit conditions.* Industrial discharge permits and significant industrial user permittees shall be subject to all the provisions of this chapter and all other applicable City laws, user charges and fees. Permits shall contain, but shall not be limited to, the following requirements or conditions:
- a. Unit charge or schedule of industrial user charges and fees for the wastewater to be discharged to the WWTW;
 - b. Notice of the general and specific prohibitions required under sections 38-49 and 38-65 (j) of this chapter;
 - c. Prohibitions on discharge of any specific materials;
 - d. Notice of applicable national categorical standards; Pretreatment Standards;
 - e. Limits equal to or more stringent than the specific pollutant limitations as established pursuant to section 38-65(j) concerning average and maximum wastewater constituents, and on characteristics of either the individual industrial process wastes or combined industrial wastewater discharge;
 - f. Limits on average and maximum rate and time of discharge, or requirements for flow regulations and equalization;
 - g. Monitoring facilities as described in subsection (d) of this section;
 - h. Monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedules;
 - i. Installation, maintenance, and cleaning of any pretreatment technology necessary to achieve compliance with the requirements of this article, including filtration, chemical treatment, grease, oil and sand traps, and other necessary equipment;
 - j. Compliance schedules and any periodic progress or compliance reports required by this article or by Federal Pretreatment Regulations, including 40 CFR Section 403.12;
 - k. Submission of technical reports or discharge reports, as provided in subsection I of this section;
 - l. Maintenance and retention of plant records relating to wastewater discharge, as specified by the City Manager;

- m. Notification of the City Manager of any discharge of new wastewater constituents, or of any substantial change in the volume or character of the wastewater constituents being introduced into the WWTW;
- n. Notification of any slug or accidental discharge as per section 38-65 (i)(1);
- o. Agreement to pay additional costs of handling or treating any industrial wastewater discharges not authorized by this article or by any permit issued hereunder. Nothing herein shall be interpreted to allow discharges which include harmful contributions to the WWTW, interfere with the WWTP facilities, equipment, or receiving waters, or which may otherwise create a hazard to life or which may constitute a public nuisance;
- p. Agreement by the industrial user: to allow access to the City Manager to ensure compliance with permit conditions; to agree to perform all permit conditions; to submit to the remedy of specific performance for breach of contract; and to pay liquidated damages for violation of pretreatment standards and/or requirements where damages are not readily ascertainable; and
- q. Notification of any changes affecting potential for a slug discharge. If the City Manager decides a slug control plan is needed, the plan shall contain at a minimum, the following elements:
 - 1. Description of discharge practices, including non-routine batch Discharges;
 - 2. Description of stored chemicals;
 - 3. Procedures for immediately notifying POTW of slug discharges, including any discharge that would violate a prohibition under 40CFR 403.5(b) with procedures for follow-up written notification within in five days;
 - 4. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;
- r. Other appropriate conditions, in the judgment of the City Manager necessary to ensure compliance with this article.

- (6) *Permit duration.* Industrial discharge permits are valid only for a specified time period, not to exceed five years from the date of issuance. Each significant industrial user shall apply for permit renewal at least ninety days prior to the expiration date of the existing permit.
 - (7) *Permit modifications.* The terms and conditions of any permit may be subject to modification by the City Manager during the term of the permit as limitations or requirements as identified in sections 38-65 and this section are modified, or as other just cause exists. The user shall be notified of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
 - (8) *Permit transfer.* Industrial discharge permits are issued to a specific user for a specific operation. An industrial discharge permit is not transferable, and is voidable if reassigned, transferred, or sold to a new owner, new user, different premises, or a new or different operation without written approval by the City Manager.
- (c) *Reporting requirements.*
- (1) *Compliance date report.* Within ninety days following the date for final compliance with applicable pretreatment standards or requirements, or in the case of a new source, following commencement of the introduction of wastewater into WWTW, any industrial user subject to federal, state or city pretreatment standards and requirements shall submit to the City Manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such standards and requirements. The report shall also indicate the average and maximum daily flow or predicted flow for the process units in the user facility subject to the federal, state or city standards and requirements, whether these standards are being met on a consistent basis and, if not, what additional operations, maintenance or pretreatment is or will be necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and shall be certified by a qualified professional engineer or a person with adequate wastewater discharge experience.
 - (2) *Mass limits.* The City Manager may impose mass limitations in addition to concentration limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or upon other users when deemed necessary. In such cases, the reports required by subsections (b)(5)l and (c)(1) of this section shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow, nature, concentration, production, and

mass of pollutants which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the industrial discharge permit.

- (3) SMR Reports. The Permittee shall report the results of all analyses on samples taken during each reporting period on that period's SMR form. The Permittee shall sign the following certification statement on each required report:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted herein and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

- (4) *Reporting violations.* Reporting violations include failure to submit self-monitoring reports, total toxic organics compliance certifications or compliance schedule progress reports within ~~thirty~~ **forty-five** days of deadlines and/or failure to complete milestones within ninety days of deadline.
- (d) *Monitoring facilities.*
- (1) Each significant industrial user shall provide, calibrate, and operate at its expense sufficient monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and internal drainage systems. The monitoring facilities, including control manholes and continuous flow recorders, shall normally be situated on the user's premises. If such a location would be impractical or cause undue hardship on the industrial user, the City Manager may allow the facility to be constructed in a public right-of-way if the facility will not be obstructed by landscaping or parked vehicles.
- (2) A sampling manhole or facility shall have sufficient room for accurate sampling and preparation of samples for analysis. The facility shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user.
- (3) Whether constructed on public or private property, any sampling and monitoring facilities shall be built in accordance with City requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety days following receipt of a written order by the City Manager to install the facility.
- (e) *Inspection and sampling.* The City Manager may inspect the facilities of any user to determine whether the purpose of these industrial pretreatment regulations and all applicable requirements are being complied with. Owners, employees or occupants of premises where

wastewater is discharged shall allow the City Manager and other City representatives or agents ready access ~~at all reasonable times~~ to all parts of the premises where wastewater is created or discharged, including industrial process areas, for the purposes of inspection, sampling, records examination, or performance evaluation. The City Manager may set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. ~~Where a user has security measures in force which require proper identification and clearance before entry into such user's premises, the user shall make necessary arrangements with the security guards so that, upon presentation of suitable identification, personnel authorized by the City or from the State or EPA will be permitted to enter without delay for the purpose of performing their specific responsibilities under this article.~~

(f) *Pretreatment.*

- (1) Industrial users shall provide whatever wastewater pretreatment is required, in the opinion of the City Manager, to comply with this article and shall comply with all national categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations and this article. Any facilities required to pretreat wastewater to a level of quality acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City Manager for review, and must be approved by the City Manager before construction of the facilities. The review or approval of such plans and operating procedures shall in no way relieve a user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this article. Any subsequent change in the pretreatment facilities or method of operation shall be reported to and approved by the City Manager prior to such change.
- (2) The City Manager shall annually publish, in a newspaper of general circulation within the City, a list of any industrial users determined to be in significant noncompliance ("SNC") with this article. The notification shall summarize the types of violations and any enforcement action taken.
- (3) All records relating to compliance with pretreatment standards or requirements shall be made available to officials of the EPA or the State's department of health upon request to the City Manager.
- (4) Duty to Halt or reduce Activity – upon reduction of efficiency of operation, or loss or failure of all or part of the pretreatment equipment, the Permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the pretreatment equipment fails or is reduced. It shall not be a defense for a Permittee in an enforcement action that it would have

been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of its permit.

- (g) *Confidential information.*
- (1) Information and data regarding a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or governmental agencies without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the City Manager that the release of such information would divulge information entitled to protection as a trade secret of the user. In such case, restricted information shall not be made available to the public, but shall nevertheless be made available to other governmental agencies for limited purposes related to water pollution control, including judicial review or enforcement of the provisions of this article.
- (2) Wastewater constituents and characteristics will not be recognized as confidential information.
- (3) Information accepted by the City Manager as confidential shall be handled in compliance with applicable state law.

(Code 1965, § 25-62; Ord. No. 2701, § 1(25-62), 9-1-93; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-68. Same-Enforcement.

The Persigo WWTW shall develop and implement an enforcement response plan. The plan shall be reviewed as required by and for conformance with federal law and shall at a minimum contain detailed procedures indicating how the Persigo WWTW will investigate and respond to instances of industrial noncompliance. The plan shall describe how the WWTW will investigate instances of noncompliance; describe the types of escalating enforcement the WWTW will take in response to all anticipated user violations and the time periods within which such responses will occur. The plan shall identify, by title, the official(s) responsible for various responses and reflect the Persigo WWTW's primary responsibility to enforce all applicable pretreatment requirements and standards as established in this article or by other applicable standards.

- (1) *Harmful contributions or Interference with the WWTW.*
 - a. The City Manager may cancel a user's permission to discharge wastewater into the WWTW, may reject such wastewater, may cease wastewater treatment service, and/or may suspend a user's industrial discharge permit when such suspension is necessary, in the opinion of the City Manager, in

order to stop or preclude a harmful contribution to the WWTW, or a discharge which interferes with or has a deleterious effect upon the WWTW.

- b. Any user notified of a suspension or cancellation of wastewater treatment service and/or the industrial discharge permit shall immediately stop or eliminate the contribution or discharge. In the event of a failure by such person to comply voluntarily with the suspension order, the City Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWTW, danger to individuals, or harm to the receiving waters. The City Manager may reinstate the industrial discharge permit and/or the wastewater treatment service only upon proof of compliance with the order and all federal, state and local Pretreatment Standards and requirements, including payment of any fees or penalties. A detailed written statement submitted by the user describing the causes of the harmful contribution, and the measures actually taken to prevent any future occurrence, shall be submitted to the City within five business days from the date of occurrence.

(2) *Revocation of permit.* Any significant industrial user who violates the following conditions of this section, any provision of this article, or applicable state and federal laws or regulations is subject to permit revocation in accordance with the procedures of this section:

- a. Failure to factually report wastewater constituents and characteristics;
- b. Failure to report significant changes in operations, or wastewater constituents and characteristics;
- c. Refusal or physical obstruction of reasonable access to the user's premises for the purposes of inspection, monitoring, review of records concerning wastewater, or any purpose listed under section 38-67(e); or
- d. Violation of conditions of the industrial discharge permit.

(3) *Notification of violation.* Whenever the City finds that any user has violated or is violating this article, an industrial discharge permit, or any prohibition, limitation, condition or requirements contained therein, the City Manager shall serve upon such person a written notice stating the nature of the violation. Violation of any permit condition shall be considered to be a violation of this article. Unless required earlier by another provision of this article, within thirty days after the date of such notice the user shall submit to the City Manager evidence of the satisfactory correction of the violation, or a plan to correct the violation.

- (4) *Administrative Orders.* Whenever the City Manager finds that any user has violated or is violating this article, or a permit or administrative order issued hereunder, the City Manager may have served upon said user an Administrative Order. Such order may be a Compliance Order, a Show Cause Order, a Cease and Desist Order, or an order assessing an administrative fine. Compliance with an administrative order shall not relieve the user of liability for any violations occurring before or after the issuance of the administrative order or prevent the City Manager from taking any other enforcement action authorized under this article.
- (5) *Administrative Appeal Procedure.* Any permit applicant, permit holder or user affected by and dissatisfied with any decision, action, administrative order, assessment of administrative fine, or determination made and issued by the City Manager in interpreting, enforcing or implementing the provisions of this article, or the provision of any permit or administrative order issued under this article, shall file with the City Manager a written request for reconsideration within ten working days of such decision, action, administrative order or determination, setting forth in detail the facts supporting the request, whereupon the City Manager shall hold a hearing within ten working days of such request. All requests for reconsideration shall be heard by the City Manager within ten working days from the date of the hearing. The decision, action, administrative order or determination shall remain in effect during the reconsideration period.
- (6) *Appeal of order of City Manager.*
- a. Any person entitled to appeal an order of the City Manager pertaining to industrial wastewater discharge may do so by filing an appeal with the City Manager within ten days from the date of the City Manager's determination or order. The appeal shall contain the following items:
1. A heading in the words "Before the Utility Hearing Board of the City of Grand Junction, Colorado" or "Before the Utility Hearing Officer of the City of Grand Junction, Colorado";
 2. A caption reading "Appeal of _____," giving the names of all participating appellants;
 3. A statement of the legal interest of the appellants in the affected facility, together with the name of the authorized representative thereof;
 4. A concise statement of the action protested, together with any material facts;

5. Verified signatures of all appellants, together with official mailing addresses and telephone numbers; and
 6. Verification by declaration under perjury of at least one appellant as to the truth of the matters stated in the appeal.
- b. Upon receipt of a properly filed appeal, the City Manager shall notify the City Council, who shall convene the utility hearing board or appoint a hearing officer. The hearing shall commence no sooner than ten days, but no later than sixty days, after the appeal is filed.

(7) *Show cause hearing.*

- a. The City Manager is authorized to order any industrial user who causes, makes, or allows an unauthorized direct or indirect discharge or a harmful contribution to the WWTW to show cause why appropriate enforcement action should not be taken. In such case, a notice shall be served on the respondent user specifying the time and place of a hearing regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken.
- b. The notice of the hearing shall be served upon the user personally or by certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or authorized representative of a corporation or partnership.

(8) *Procedure for appeal or show cause hearing.*

- a. The City Manager may appoint a hearing officer or may instead convene a utility hearing board to conduct the hearing or appeal. The board shall consist of a City Council member or designee, the City Manager, a County Commissioner or designee, an employee of the department of public works or utilities, and a connector district representative if the appellant or respondent industrial user is located within the jurisdiction of that district.
- b. The hearing officer or utility hearing board shall have the power to:
 1. Issue in the name of the City Council notices of hearings requiring the attendance and testimony of witnesses and the production of evidence.
 2. Hold a quasi-judiciary hearing, and receive relevant evidence relating to compliance with the requirements set forth in this chapter.

Hearings shall be conducted informally. Rules of civil procedure and evidence shall not solely determine the conduct of the hearing or the admissibility of evidence. All testimony shall be given under oath, and a tape recording or other evidence of the verbatim content of the hearing shall be made. The burden of persuasion in either an appeal or show cause hearing shall be upon the appellant or respondent. The standard of proof to be utilized by the officer or board in making its findings or recommendations shall be a preponderance of the evidence.

3. Determine and find whether just cause exists for not taking the proposed enforcement actions, or whether the order or action appealed is unwarranted.
4. Transmit a report of the evidence and hearing, including transcripts, tapes, and copies of other evidence requested by any party, together with findings and recommendations to all parties to the hearing and to the City Council.

(9) *Effect of hearing.*

- a. Findings and recommendations of the hearing board or officer shall be final and binding upon the City Manager and parties to the hearing, provided, however, that if the City Council disapproves the recommendations of the hearing board or officer within thirty days thereof, the Council may conduct its own hearing, make its own findings, and issue its own orders.
- b. An order consistent with findings and recommendations of the hearing board or officer, or the City Council, as the case may be, shall be issued by the City Manager. The order may direct that sewer service to the user responsible for the violation be discontinued unless and until adequate treatment facilities or related devices have been installed and approved within a specified period of time. The order may provide for imposition of appropriate penalty charges, and for administrative fines designed to reimburse the City for the costs of the permit enforcement action. Further orders and directives, as are necessary and appropriate to enforce industrial wastewater permits and provisions of this article may be issued by the City Manager.

(Code 1965, § 25-62; Ord. No. 2701, § 1(25-63), 9-1-93; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-69. Same-Actions for violation.

(a) *Penalties.* The City shall have the authority to seek ~~and injunctive relief for non-compliance by industrial users with pretreatment standards and requirements.~~ The City shall also have the authority to assess civil ~~and/or criminal~~ penalties up to ~~\$10,000~~ \$1,000.00 per day for each violation ~~and criminal penalties up to \$25,000.00 per day for each violation~~ for noncompliance by industrial wastewater dischargers who fail to comply with provisions of an industrial pretreatment permit, program condition or pretreatment standard and/or requirements issued thereunder.

(b) *Remedies.* If any person violates any order of the City Manager, a hearing board or officer or the council, or otherwise fails to comply with any provisions of this article or the orders, rules, regulations and permits issued hereunder, or discharges sewage, industrial wastes, or other wastes into the WWTW or into state waters contrary to the provisions of this article, federal or state pretreatment requirements, or contrary to any order of the City, the City may commence an action in a court of record for appropriate legal and equitable relief. In such action, the City may recover from the defendant reasonable attorney fees, court costs, deposition and discovery costs, expert witness fees, and other expenses of investigation, enforcement action, administrative hearings, and litigation, if the City prevails in the action or settles at the request of the defendant. Any person who violates any of the provisions of this article shall become liable to the City for any expense, loss, or damage to the City or to the WWTW occasioned by such violation. In addition, upon proof of willful or intentional meter bypassing, meter tampering, or unauthorized metering, the City shall be entitled to recover as damages three times the amount of actual damages.

(c) *Misdemeanor.* Any person who violates or fails to comply with any provision of sections 38-62 through 38-70 or with any orders, rules, regulations, permits and permit conditions issued hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed ~~\$10,000.00~~ \$1,000.00 or imprisonment not to exceed one year or both. Each day in which any such violation occurs or persists shall be deemed a separate and distinct offense.

(d) *Penalty for false statement and tampering.* Any person who knowingly makes, authorizes, solicits, aids, or attempts to make any false statement, representation or certification in any hearing, or in any permit application, record, report, plan, or other document filed or required to be maintained pursuant to this article, or who falsifies, tampers with, bypasses, or knowingly renders inaccurate any monitoring device, testing method, or testing samples required under this article, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed ~~\$10,000.00~~ \$1,000.00 or imprisonment not to exceed one year or both.

(e) *Remedies cumulative.* The remedies provided for in this article, including recovery of costs, administrative fines and treble damages, shall be cumulative and in addition to any other penalties, sanctions, fines and remedies that may be imposed. Each day in which any such violation occurs, whether civil and/or criminal, shall be deemed a separate and distinct offense.

(Code 1965, § 25-64; Ord. No. 2701, § 1(25-64), 9-1-93; Ord. No. 2892, 2-21-96)

Sec. 38-70. Same--Pretreatment authority outside of City.

(a) In order to achieve and maintain compliance with the Clean Water Act, federal pretreatment standards and requirements, state regulations, sewage grant conditions, and WWTP discharge permit requirements, the City, as manager/operator of the Persigo WWTP, must possess and demonstrate a clear legal right to require compliance with pretreatment standards and requirements by any industrial user of the WWTW located outside of the City's territorial jurisdiction. To that end all governmental sewage connectors, including sanitation districts and the County, have been requested to adopt, and have adopted, by resolution, a regulatory pretreatment program either parallel to Ordinance No. 2169 or incorporating the provisions of Ordinance No. 2169, and requiring industrial users to comply with the City's pretreatment program.

(b) The connector districts and the County shall also be requested to approve necessary revisions to existing sewer service agreements or joint agreements granting the City the right to administer and physically enforce the connector's pretreatment program on behalf of and as agent for the connector district or County. Such supplemental or indirect regulatory authority accorded to the City shall only be used where direct contractual relationships with industrial users through the industrial discharge permit program prove insufficient to ensure compliance with the pretreatment program.

(Code 1965, § 25-65; Ord. No. 2701, § 1(25-65), 9-1-93; Ord. No. 2892, 2-21-96; Ord. No. 3615, 4-7-04)

Sec. 38-71. Plant investment fees and connection procedures--Purpose of fee.

The intent of the plant investment fee shall be to recover the cost of construction of main interceptor lines and sewage treatment works as determined by the City Manager in accordance with and pursuant to applicable law.

(Code 1965, § 25-70)

Sec. 38-72. Same--Payment of fee.

(a) Prior to connection of any building, premises or lot to any sewer system which utilizes the sewage treatment works or sewage transportation system of the City, the owner of that building, premises or lot shall pay a plant investment fee ("PIF") to the City.

(b) PIFs shall be paid within 150 days prior to actual connection of the building, premises or lot to the sewer system, and no prepayment shall be allowed except with the permission of the City Manager.

(Code 1965, §§ 25-71, 25-72; Ord. No. 3615, 4-7-04)

Sec. 38-73. Same--Amount of fee.

(a) The basic plant investment fee (“BPIF”) shall be as adopted by resolution of the City Council.

(b) The PIF for any building, lot or premises other than a single-family residence shall be computed using the formula set out in this subsection; provided, that the minimum PIF for any building, lot or premises shall not be less than the BPIF.

Formula for PIF:

$$\text{PIF} = (\text{BPIF}) \times (\text{EQU})$$

The EQU is determined by using the following values as applied for the type of use in which the building, premises or lot is to be used:

- (1) Any single-family above 1.00 EQU
- (2) Multiple-family dwellings, $0.72 \times$ number of single-family units. EQU
- (3) Hotels and motels:
 - a. No restaurants or kitchens, $0.36 \times$ number of rooms EQU
 - b. With kitchenettes, $0.43 \times$ number of rooms EQU
 - c. With restaurants: Use above then add restaurants from below.
- (4) Restaurants:
 - a. Twenty-four-hour operation, $0.21 \times$ number of seats EQU
 - b. Twelve-hour or less operation, $0.14 \times$ number of seats . . . EQU
 - c. Bar, no food, $0.04 \times$ number of seats EQU
- (5) Schools:
 - a. No food or showers, $0.04 \times$ number of student capacity. . EQU
 - b. Add to (5)a for cafeterias, $0.02 \times$ number of student capacity EQU
 - c. Add to (5)a for showers, $0.02 \times$ number of student capacity EQU
 - d. Boarding schools, $0.27 \times$ number of student capacity EQU
- (6) Service stations:

	Without wash rack, 1.00	EQU
	With wash rack, 2.3 per rack	EQU
(7)	Shopping centers and stores, 0.35 x number of thousand square feet of store space	EQU
(8)	Travel trailer park (KOA, etc.), 0.25 x number of trailer parking spaces .	EQU
(9)	Churches and assembly halls, theaters and arenas, 0.01 x number of seating capacity	EQU
(10)	Drive-in theaters, 0.02 x number of car spaces	EQU
(11)	Factory, warehouses and offices (not including industrial waste), 0.05 x number of employees	EQU
(12)	Hospital, 0.89 x number of bed spaces	EQU
(13)	Institution--Nursing home, 0.36 x number of residences	EQU
(14)	Laundry, coin-operated, 0.90 x number of washing machines . . .	EQU
(15)	Mobile home parks, 0.67 x number of lots or spaces	EQU
(16)	Car wash, 2.3 x number of bays	EQU
(17)	Fast food takeout (walk up or drive up):	
	Open 12 hours or more each day, 0.10 x number of employees . . .	EQU
	Open less than 12 hours per day, 0.06 x number of employees . . .	EQU

(c) Where recycling of water is used or other conditions prevail which cause the above-listed nonresidential users to produce more or less average daily sewage flow than that computed by the above formula when the EQU is multiplied by 280 gallons per day, the City Manager may establish the EQU using the formula set forth in the following paragraph. Where the City Manager deems necessary, the PIF may be charged according to the above formula. Then, after the first 12 months of full operation have passed, where actual water use is observed, the PIF may be revised up or down based on actual water use.

(d) PIFs shall be computed for nonresidential users that are not listed above by computing the hydraulic flow expected from the establishment. The EQU can be computed by dividing the expected flows by 280 gallons per day or by dividing the expected organic load in

pounds of BOD₅ per day by 0.47 pound of BOD₅. The higher EQU obtained by the two methods shall be used in computing the PIF.

(e) Sewer extension charges are as established by resolution of the City Council.

(Code 1965, § 25-73; Ord. No. 3615, 4-7-04)

The remainder of Article II, Chapter 38, not specifically amended herein, shall remain in full force and effect.

INTRODUCED on this first reading and authorized for publication in pamphlet form this ___ day of _____ 2009.

Passed and adopted on second reading and authorized for publication in pamphlet form this ___ day of _____ 2009.

Gregg Palmer
President of the Council

ATTEST:

Stephanie Tuin
City Clerk

**Renaming 25 ½ Road to Base Rock Street
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
Subject	Renaming 25 ½ Road to Base Rock Street		
File #	MSC-2008-356		
Meeting Day, Date	Monday, February 2, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 21, 2009		
Author Name & Title	Michelle Hoshide, Associate Planner		
Presenter Name & Title	Michelle Hoshide, Associate Planner		

Summary: Request to rename 25 ½ Road to Base Rock Street between Rimrock Avenue and Crosby Avenue.

Budget: N/A

Action Requested/Recommendation: Consideration and approval of a Resolution renaming 25 ½ Road (between Rimrock Avenue and Crosby Avenue) to Base Rock Street.

Attachments:

1. Staff report/Background information
2. Site Location Map/Aerial Photo Map
3. Future Land Use Map/Existing City and County Zoning Map
4. Proposed Resolution

Background Information: See attached Staff Report/Background Information

STAFF REPORT / BACKGROUND INFORMATION				
Location:		25 ½ Road and Crosby Avenue		
Applicants: < Prop owner, developer, representative>		Owners: Harbert Investment Co. Representative: Rolland Engineering		
Existing Land Use:		Commercial		
Proposed Land Use:		Commercial		
Surrounding Land Use:	North	Commercial		
	South	Commercial/Industrial		
	East	Commercial		
	West	Commercial		
Surrounding Zoning:	North	C-1(Light Commercial)		
	South	I-1(Light Industrial)		
	East	C-1(Light Commercial)		
	West	C-1(Light Commercial)		
Growth Plan Designation:		Commercial/Industrial		
Zoning within density range?		X	Yes	No

STAFF ANALYSIS:

The request originated from the Harbert Investment Co. and surrounding businesses located on 25 ½ Road between Rimrock Avenue and Crosby Avenue to change the name of 25 ½ Road to Base Rock Street between Rimrock Avenue to Crosby Avenue to make the area easier to find. The name change would make the area easier for emergency vehicles, postal services and customers to locate the area.

Section 6.2.B.3.b of the Zoning and Development Code states a street naming system shall be maintained to facilitate the provisions of necessary public services and provide more efficient movement of traffic. For consistency, this system shall be adhered to on all newly platted, dedicated, or named streets and roads. Existing streets and roads not conforming or inconsistent to the addressing system shall be made conforming as the opportunity occurs.

FINDINGS OF FACT/ CONCLUSION:

After reviewing the proposed name change of 25 ½ Road between Rimrock Avenue and Crosby Avenue, MSC-2008-356, I can make the following findings of fact, conclusions:

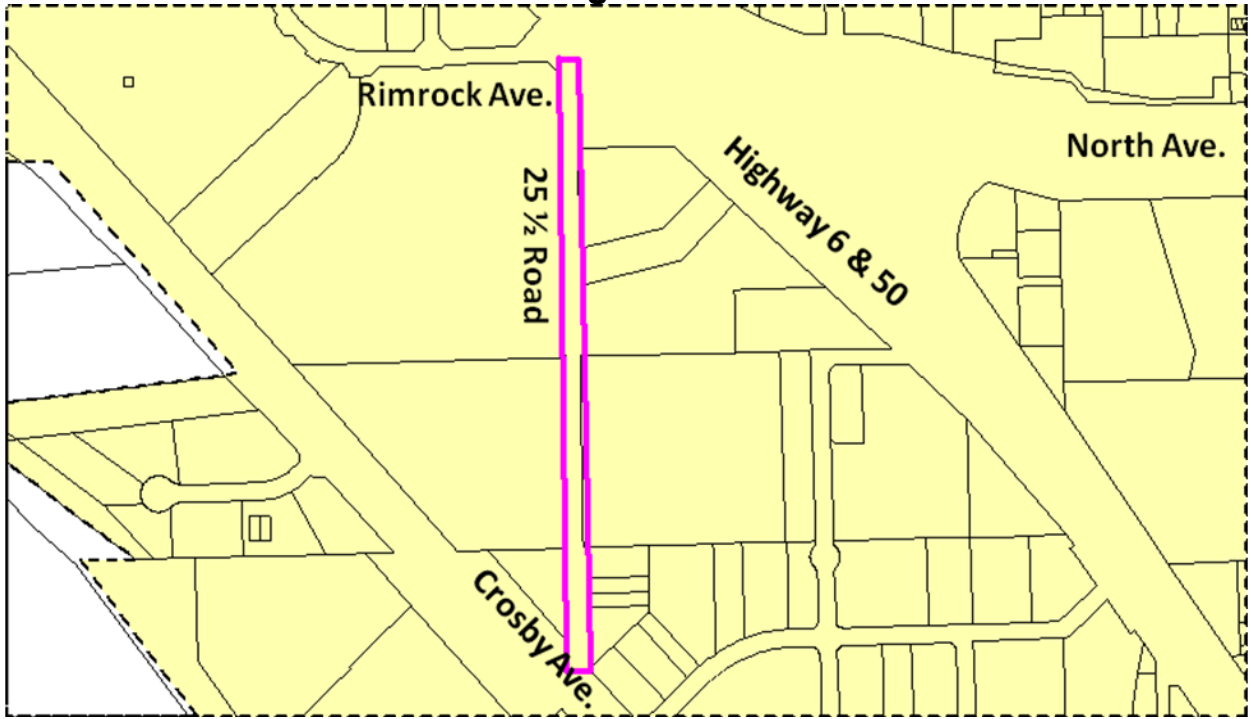
1. The proposed name change will not impact adjacent land uses or neighborhood stability or character.
2. The proposal is in conformance with the goals and policies of the Growth Plan and requirements of the Zoning and Development Code.

STAFF RECOMMENDATION:

Staff recommends that the City Council approve the Resolution renaming 25 ½ Road to Base Rock Street between Rimrock Avenue and Crosby Avenue.

Site Location Map

Figure 1



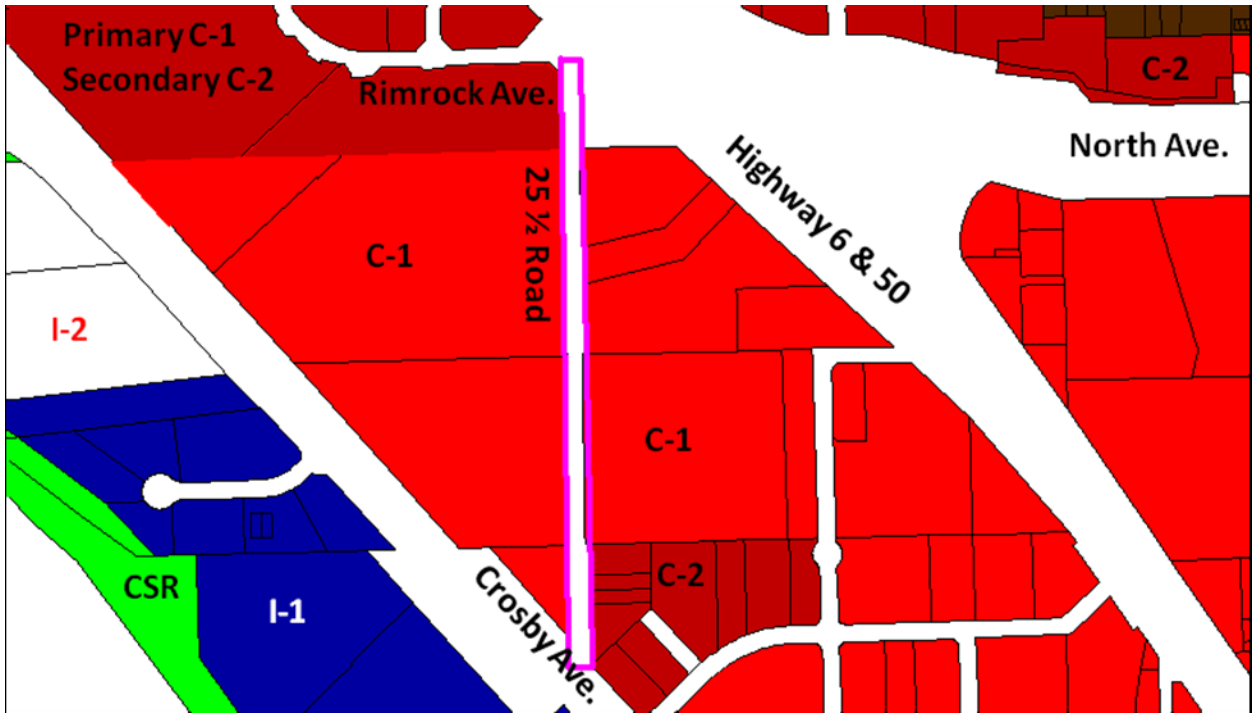
Aerial Photo Map

Figure 2



Future Land Use Map

Figure 3



Existing City and County Zoning

Figure 4



CITY OF GRAND JUNCTION

RESOLUTION NO.

A RESOLUTION RENAMING 25 ½ ROAD TO BASE ROCK STREET BETWEEN RIMROCK AVENUE AND CROSBY AVENUE

Recitals.

A request originated from the Harbert Investment Co. and surrounding businesses located on 25 ½ Road between Rimrock Avenue and Crosby Avenue to change the name of 25 ½ Road to Base Rock Street between Rimrock Avenue to Crosby Avenue to make the area easier to find. The name change would make the area easier for emergency vehicles, postal services and customers to locate the area.

Section 6.2.B.3.6 of the Zoning and Development Code states a street naming system shall be maintained to facilitate the provisions of necessary public services and provide more efficient movement of traffic. For consistency, this system shall be adhered to on all newly platted, dedicated, or named streets and roads. Existing streets and roads not conforming or inconsistent to the addressing system shall be made conforming as the opportunity occurs.

The proposed name changes will not impact adjacent land uses or neighborhood stability or character.

The proposal is in conformance with the goals and policies of the Growth Plan and requirements of the Zoning and Development Code.

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

That 25 ½ Road from Rimrock Avenue to Crosby Avenue as described in this resolution is hereby changed to Base Rock Street.

ADOPTED AND APPROVED THIS ____ day of _____. 2009.

ATTEST:

Stephanie Tuin
City Clerk

Gregg Palmer
President of City Council

**Automated Side Loader Refuse Truck
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
Subject	Purchase an Automated Side Loader Refuse Truck		
File #			
Meeting Day, Date	Monday, February 2, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 16, 2009		
Author Name & Title	Shirley Nilsen, Senior Buyer		
Presenter Name & Title	Jay Valentine, Assistant Financial Operations Manager Greg Trainor, Utilities and Streets Systems Director		

Summary: This purchase is for the replacement of a Side Loader Automated Refuse Truck for the Solid Waste/Sanitation Division, as identified by the annual review of the Fleet Replacement Committee.

Budget: The funding for this replacement has been approved in the 2009 fiscal year budget. The purchase price for the replacement refuse truck is \$252,277.00 less \$47,900.00 trade for a net cost of \$204,377.00.

Action Requested/Recommendation: Authorize the City Purchasing Division to purchase one 2009 Labrie Automizer with right hand side loader mounted on a 2010 Mack Chassis from Faris Machinery, Grand Junction, CO. in the amount of \$204,377.00.

Background Information: The solicitation was advertised in the Daily Sentinel and was sent to twenty potential bidders. Fifteen proposals were opened and evaluated by a team of representatives from Streets and Utilities, Fleet Services, and Purchasing. Faris Machinery, Transwest Truck, Grand Junction Peterbilt, Western Colorado Truck submitted several proposals with various chassis and body capacity styles.

The team used the following evaluation criteria in determining their recommendation:

- Visibility of the loading apparatus through the rear window from the left hand driver's side:

- Customer List
- Maintenance cost analysis
- Location and availability of replacement part
- Loading arm: Cycle time, lift capacity and maximum reach
- Body Capacity, Available body capacities, ejection or dump style
- Compatibility with Existing Equipment
- Compaction Ratio and weight distribution
- Compressed Natural Gas
- Dimensions
- Cost of Unit

After completing the evaluation process, The evaluation team is recommending the 2009 Labrie Automizer with 2010 Mack LEU613 Chassis.

Company	Body/Chassis	Cost
Faris Machinery Company Grand Junction, CO	2009 Labrie Automizer/ 2009 Peterbilt 320	\$197,255.00
Faris Machinery Company Grand Junction, CO	2009 Labrie Automizer/ 2009 Mack MRU613	\$202,577.00
Faris Machinery Grand Junction, CO	2009 Labrie Automizer 2010 Mack LEU613	\$204,377.00
Grand Junction Peterbilt Grand Junction, CO	2010 Peterbilt320/ 26 yd Heil DP7000	\$205,150.00
Grand Junction Peterbilt Grand Junction, CO	2010 Peterbilt320/ 30 yd Heil DP7000	\$207,256.00
Grand Junction Peterbilt Grand Junction, CO	2010 Peterbilt 320/32 YD Heil DP700	\$208,450.00
McNeilus Truck & Manf. Dodge Center, MN	2008 28 yd McNeilus Outreach/ 2008 Mack MRW	\$213,458.00
Transwest Trucks Commerce City, CO	2009 AutoCar/2009/ACX 26 Yard Heil Rapid Rail	\$208,873.00
Transwest Trucks Commerce City, CO	2009 AutoCar/2009/ACX 30 Yard Heil Rapid Rail	\$210,637.00
Transwest Trucks Commerce City, CO	2009 AutoCar/2009/ACX 32 Yard Heil Rapid Rail	\$212,578.00
Transwest Trucks Commerce City, CO	2009 AutoCar/2009/ACX 26 Yard Heil DP7000	\$250,143.00
Western Colorado Truck Grand Junction, CO	Mack/2010/MRV613/ Bridgeport Ranger A52	\$166,225.00
Western Colorado Truck Grand Junction, CO	Mack/2010/LEU613/ Heil DP7000	\$212,271.00

Western Colorado Truck Grand Junction, CO	Mack/2010/MRV613/ Heil 26 yard Rapid Rail	\$204,201.00
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**Food Distributor for Concession at City Facilities
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
Subject	Food Distributor for Concessions at City Facilities		
File #			
Meeting Day, Date	Monday, February 2, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	January 25, 2009		
Author Name & Title	Shirley Nilsen, Senior Buyer		
Presenter Name & Title	Tim Seeberg, Convention Center Manager		

Summary: Award Sysco Intermountain Food Service the food distributor contract for Concessions at Lincoln Park Stadium and Pools, Orchard Mesa Pools and Canyon View Park.

Budget: Funding will be provided from the approved 2009 FY TRCC Food Budget and Parks and Recreation Concession Budget. The estimated annual expenditure is \$100,000.00.

Action Requested/Recommendation: Authorize the Purchasing Division to purchase food/concession products delivered from SYSCO Intermountain Food Services, Inc.

Attachments: N/A

Background Information: This is a cost-plus contract which includes the supplier's cost of the product and delivery to TRCC. The cost-plus percentages are unique to a specific food category and are firm for the duration of the initial contract. At the City's discretion the solicitation and subsequent contract provides for three (3) additional annual renewals.

The food distributor was selected through a competitive Request for Proposal process using the following evaluation criteria:

- Cost
- Service/On-line Ordering Capabilities
- Responsiveness of the RFP
- Experience
- Demonstrated business integrity

- On-line Inventory System and hand held device capabilities

Four proposals were received and evaluated by a team of representatives from TRCC, Parks and Recreation and Purchasing. Each supplier gave a presentation to the evaluation team to address specific questions, minimum order dollar limitations, on-line ordering capabilities, product line, and account billing which assisted in the selection process.

The evaluation team would like to recommend Sysco Intermountain Food Service because of the following:

- Cost – Concessions will be combined with the current Sysco TRCC contract resulting in a larger volume of food products purchased and a greater savings incurred
- Technology - Sysco software named RIO “Receive, Inventory, Order” contains features that will improve security and allow TRCC’s Concessions Crew Leader to conduct inventory more efficiently by utilizing a Pocket PC
- Delivery Sysco delivers six days a week which is critical for Juco and weekends
- TRCC has experienced excellent from Sysco in the past nine months

A formal Request for Proposal was issued and advertised in the Daily Sentinel and invitations were sent to thirty-one potential providers. The following companies submitted proposals:

Company	Location
SYSCO Intermountain Food Service	Salt Lake City, UT
U.S. Foodservice	Centennial, CO
Shamrock Foods	Commerce City, CO
Vistar	Denver, CO

**Colorado Army National Guard Campus Annexation and Zoning
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
Subject	Colorado Army National Guard Campus Annexation and Zoning - Located at 2800 Riverside Parkway Road		
File #	ANX-2008-344		
Meeting Day, Date	Monday, February 2, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	January 21, 2009		
Author Name & Title	Michelle Hoshide – Associate Planner		
Presenter Name & Title	Michelle Hoshide – Associate Planner		

Summary: Request to annex and zone 57.95 acres, located at 2800 Riverside Parkway to CSR (Community Services and Recreation). Colorado Army National Guard Campus Annexation consists of three parcels.

Budget: N/A

Action Requested/Recommendation: Adopt Resolution accepting the petition for the Colorado Army National Guard Campus Annexation and hold a public hearing and consider final passage of the Annexation Ordinance and Zoning Ordinance.

Attachments:

1. Staff report/Background information
2. Annexation – Site Location Map / Aerial Photo Map
3. Future Land Use Map / Existing County and City Zoning Map
4. Acceptance Resolution
5. Annexation Ordinance
6. Zoning Ordinance

Background Information: See attached Staff Report/Background Information

STAFF REPORT / BACKGROUND INFORMATION			
Location:		2800 Riverside Parkway	
Applicants:		Owners: State of Colorado, Department of Human Services and Department of Military and Veterans Affairs Representative: Domenick Scarimbolo	
Existing Land Use:		National Guard Armory and Military Cemetery	
Proposed Land Use:		National Guard Armory and Military Cemetery	
Surrounding Land Use:	North	Industrial	
	South	Residential Single Family Rural	
	East	Agriculture, Vacant, CSU Facility	
	West	Industrial	
Existing Zoning:		PUD (Planned Unit Development)	
Proposed Zoning:		CSR (Community Services and Recreation)	
Surrounding Zoning:	North	I-1(Light Industrial)	
	South	County RSF-R (Single Family Residential Rural), County RSF-2 (Single Family Residential 2 du/ac), R-8 (Residential 8 du/ac)	
	East	PD (Planned Development)	
	West	(Light Industrial), County PUD (Planned Unit Development)	
Growth Plan Designation:		Public	
Zoning within density range?	X	Yes	No

Staff Analysis:

ANNEXATION:

This annexation area consists of 57.95 acres of land and is comprised of 3 parcels. The property owners have requested annexation into the City to allow for development of the property. Under the 1998 Persigo Agreement all proposed development within the Persigo Wastewater Treatment boundary requires annexation and processing in the City.

It is staff's opinion, based on review of the petition and knowledge of applicable state law, including the Municipal Annexation Act Pursuant to C.R.S. 31-12-104, that the Colorado Army National Guard Campus Annexation is eligible to be annexed because of compliance with the following:

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;
- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;

- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;
- d) The area is or will be urbanized in the near future;
- e) The area is capable of being integrated with the City;
- f) No land held in identical ownership is being divided by the proposed annexation;
- g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owners consent.

<u><i>ANNEXATION SCHEDULE</i></u>	
December 15, 2008	Referral of Petition (30 Day Notice), Introduction of a proposed Ordinance, Exercising Land Use
January 13, 2009	Planning Commission considers Zone of Annexation
January 21, 2009	Introduction of a proposed Ordinance on Zoning by City Council
February 2, 2009	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
March 3, 2009	Effective date of Annexation and Zoning

COLORADO ARMY NATIONAL GUARD CAMPUS ANNEXATION	
File Number:	ANX-2008-344
Location:	2800 Riverside Parkway
Tax ID Number:	2943-183-00-929, 2943-183-00-923, 2943-183-00-922
Parcels:	3
Estimated Population:	0
# of Parcels (owner occupied):	0
# of Dwelling Units:	0
Acres land annexed:	57.95 acres
Developable Acres Remaining:	57.95 acres
Right-of-way in Annexation:	0.0 square feet
Previous County Zoning:	PUD (Planned Unit Development)
Proposed City Zoning:	CSR (Community Services and Recreation)
Current Land Use:	National Guard Armory and Military Cemetery
Future Land Use:	National Guard Armory and Military Cemetery
Values:	Assessed: = \$ 69,758
	Actual: = \$ 240,525
Address Ranges:	2800, 2810, 2830 Riverside Parkway
Special Districts:	Water: Ute Water
	Sewer: Central Grand Valley
	Fire: Grand Junction Fire Rural
	Irrigation/ Drainage: Grand Valley Irrigation/ Grand Valley Drainage
	School: District 51
Pest: Grand Valley Pest Control District and Grand Valley Mosquito District	

Staff Analysis:

Zone of Annexation:

The requested zone of annexation to the CSR (Community Services and Recreation) district is consistent with the Growth Plan zoning of Public. The existing County zoning is PUD (Planned Unit Development). Section 2.14 of the Zoning and Development

Code states that the zoning of an annexation area shall be consistent with either the Growth Plan or the existing County zoning.

In order for the zoning to occur, the following questions must be answered and a finding of consistency with the Zoning and Development Code must be made per Section 2.6.A.3 and 4 as follows:

- The proposed zone is compatible with the neighborhood, conforms to and furthers the goals and policies of the Growth Plan and other adopted plans and policies, the requirements of this Code, and other City regulations.

Response: The proposed CSR (Community Services and Recreation) zoning district is consistent with the Growth Plan. The Future Growth plan designation is Public for this property.

- Adequate public facilities and services are available or will be made available concurrent with the projected impacts of development allowed by the proposed zoning;

Response: Adequate public facilities and services are available to accommodate the CSR (Community Services and Recreation) zone district. An 8" Ute water line and a 15" Central Grand Valley Sanitary sewer line are located within the Riverside Parkway.

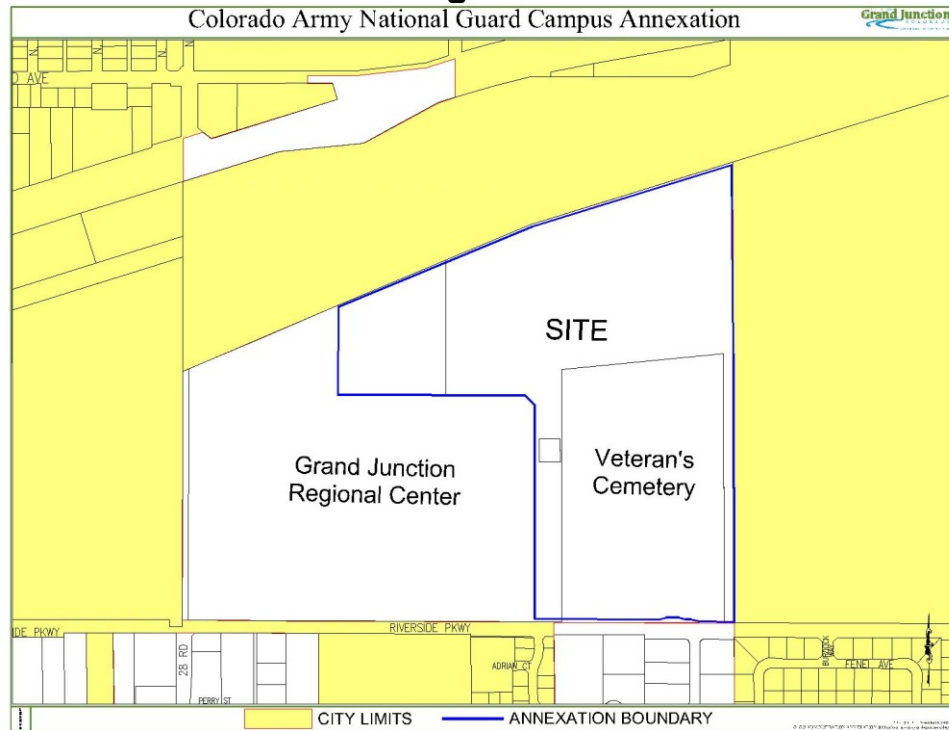
Alternatives: In addition to the zoning that the petitioner has requested, the following zone districts would also be consistent with the Growth Plan designation for the subject property.

- a. none

PLANNING COMMISSION RECOMMENDATION: The Planning Commission recommended approval of the requested zone of annexation to the City Council on January 13, 2009, finding the zoning to the CSR (Community Services and Recreation) district to be consistent with the Growth Plan and Sections 2.6 and 2.14 of the Zoning and Development Code.

Annexation/ Site Location Map

Figure 1



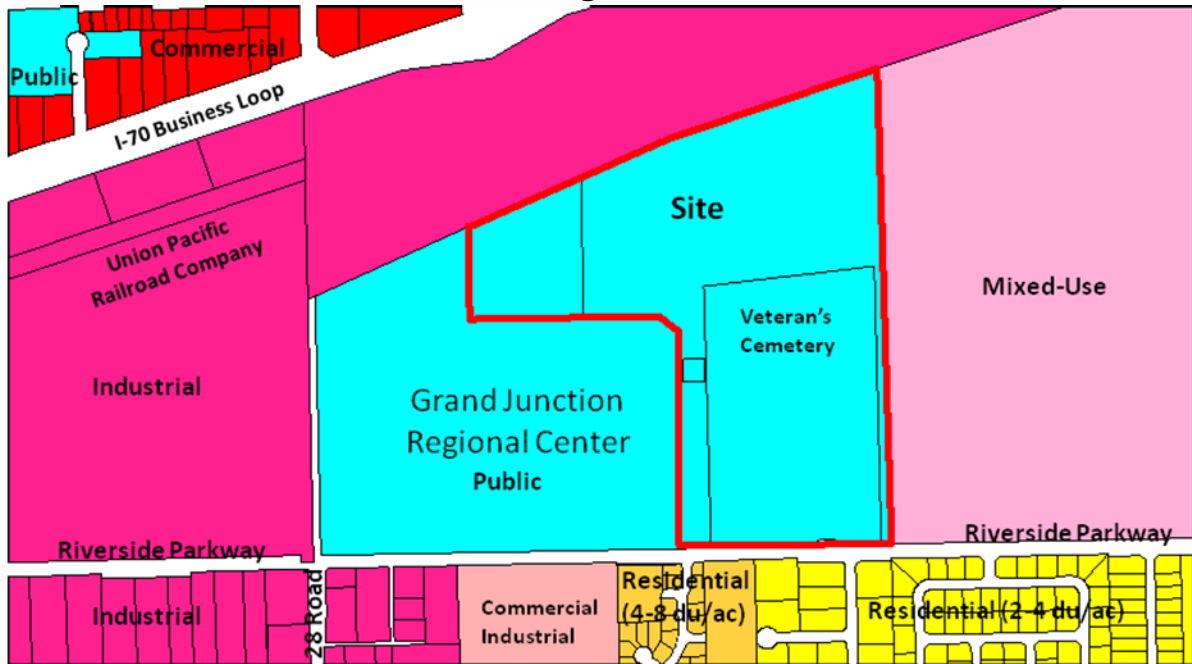
Aerial Photo Map

Figure 2



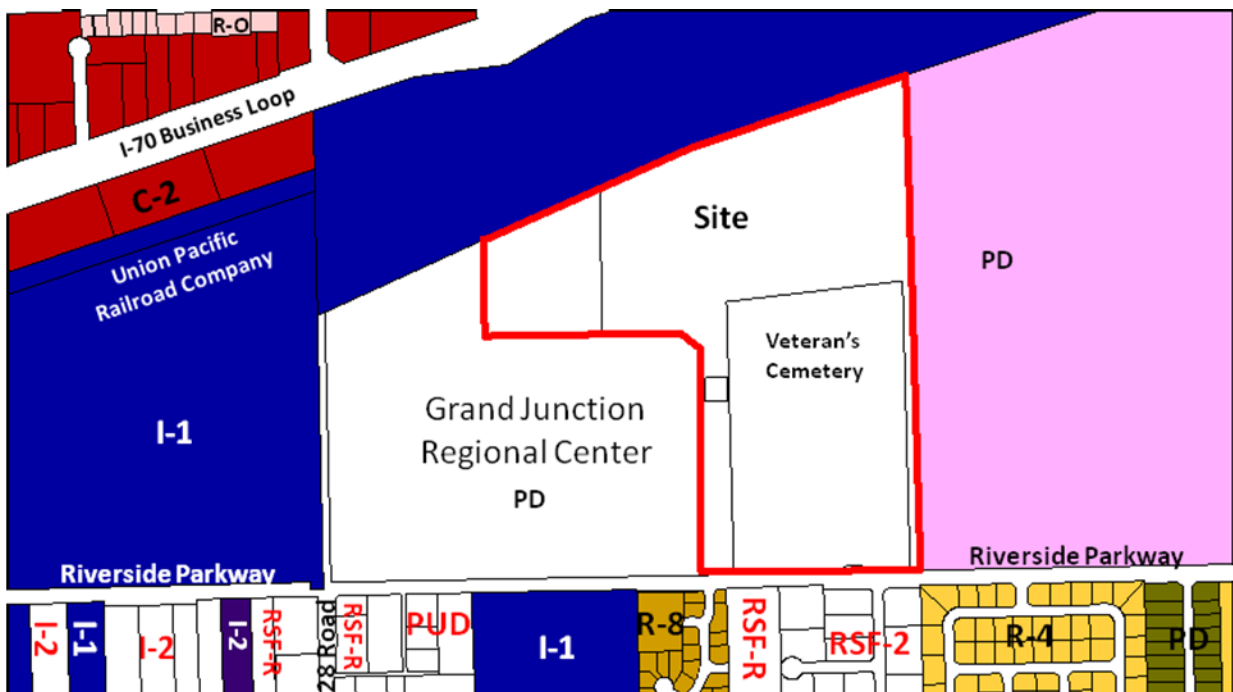
Future Land Use Map

Figure 3



Existing City and County Zoning

Figure 4



CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. ____

**A RESOLUTION ACCEPTING A
PETITION FOR ANNEXATION, MAKING CERTAIN
FINDINGS, DETERMINING THAT PROPERTY KNOWN AS THE**

COLORADO ARMY NATIONAL GUARD CAMPUS

LOCATED AT 2800 RIVERSIDE PARKWAY

IS ELIGIBLE FOR ANNEXATION

WHEREAS, on the 15th day of December, 2008, a petition was referred to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

COLORADO ARMY NATIONAL GUARD CAMPUS

A certain parcel of land located in the Southwest Quarter (SW 1/4) of Section 18, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Commencing at the Southeast corner of the SE 1/4 SW 1/4 of said Section 18 and assuming the East line of the SE 1/4 SW 1/4 of said Section 18 to bear S00°06'42"E with all bearings contained herein relative thereto; thence N00°06'42"W a distance of 35.00 feet along the East line of the SE 1/4 SW 1/4 of said Section 18 to the Northeast corner of Riverside Parkway Annexation No. 5, said point also being the Point of Beginning; thence along the Northerly line of said Riverside Parkway Annexation No. 5 the following seven (7) courses: (1) N89°39'17"W a distance of 166.49 feet; (2) N78°20'43"W a distance of 40.79 feet; (3) N89°39'17"W a distance of 27.38 feet; (4) N70°21'54"W a distance of 31.78 feet; (5) N89°39'17"W a distance of 63.23 feet; (6) S71°00'15"E a distance of 31.70 feet; (7) N89°39'17"W a distance of 602.50 feet; thence N00°03'11"E a distance of 1026.59 feet; thence N44°39'53"W a distance of 62.57 feet; thence N89°39'53"W a distance of 898.98 feet; thence N00°20'07"E a distance of 420.99 feet to a point on the Southerly line of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction; thence N67°38'39"E a distance of 1010.16 feet along the Southerly line of said Southern Pacific Railroad Annexation No. 1; thence N73°01'18"E a distance of 999.11 feet along the Southerly line of said Southern Pacific Railroad Annexation No. 1 to a point on the West line of

Mesa State Annexation, Ordinance No. 4081, City of Grand Junction, said point also being on the East line of the NE 1/4 SW 1/4 of said Section 18; thence S00°25 '24"E a distance of 903.46 feet along the West line of said Mesa State Annexation, said line also being the East line of the NE 1/4 SW 1/4 of said Section 18 to the Northeast corner of the SE 1/4 SW 1/4 of said Section 18; thence S00°06'42"E a distance of 1283.65 feet along the West line of said Mesa State Annexation, said line also being the East line of the SE 1/4 SW 1/4 of said Section 18 to the Point of Beginning.

Said parcel contains 57.95 acres (2,524,320.23 sq. ft.), more or less, as described.

WHEREAS, a hearing on the petition was duly held after proper notice on the 2nd of February, 2009; and

WHEREAS, the Council has found and determined and does hereby find and determine that said petition is in substantial compliance with statutory requirements therefore, that one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City; that a community of interest exists between the territory and the City; that the territory proposed to be annexed is urban or will be urbanized in the near future; that the said territory is integrated or is capable of being integrated with said City; that no land held in identical ownership has been divided without the consent of the landowner; that no land held in identical ownership comprising more than twenty acres which, together with the buildings and improvements thereon, has an assessed valuation in excess of two hundred thousand dollars is included without the landowner's consent; and that no election is required under the Municipal Annexation Act of 1965.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT;

The said territory is eligible for annexation to the City of Grand Junction, Colorado, and should be so annexed by Ordinance.

ADOPTED this ____ day of _____, 2009.

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ANNEXING TERRITORY TO THE
CITY OF GRAND JUNCTION, COLORADO**

COLORADO ARMY NATIONAL GUARD CAMPUS ANNEXATION

APPROXIMATELY 57.95 ACRES

LOCATED AT 2800 RIVERSIDE PARKWAY

WHEREAS, on the 15th day of December, 2008, the City Council of the City of Grand Junction considered a petition for the annexation of the following described territory to the City of Grand Junction; and

WHEREAS, a hearing on the petition was duly held after proper notice on the 2nd day of February, 2009; and

WHEREAS, the City Council determined that said territory was eligible for annexation and that no election was necessary to determine whether such territory should be annexed;

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

That the property situate in Mesa County, Colorado, and described to wit:

COLORADO ARMY NATIONAL GUARD CAMPUS ANNEXATION

A certain parcel of land located in the Southwest Quarter (SW 1/4) of Section 18, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Commencing at the Southeast corner of the SE 1/4 SW 1/4 of said Section 18 and assuming the East line of the SE 1/4 SW 1/4 of said Section 18 to bear S00°06'42"E with all bearings contained herein relative thereto; thence N00°06'42"W a distance of 35.00 feet along the East line of the SE 1/4 SW 1/4 of said Section 18 to the Northeast corner of Riverside Parkway Annexation No. 5, said point also being the Point of Beginning; thence along the Northerly line of said Riverside Parkway Annexation No. 5 the following seven (7) courses: (1) N89°39'17"W a distance of 166.49 feet; (2)

N78°20'43"W a distance of 40.79 feet; (3) N89°39'17"W a distance of 27.38 feet; (4) N70°21'54"W a distance of 31.78 feet; (5) N89°39'17"W a distance of 63.23 feet; (6) S71°00'15"E a distance of 31.70 feet; (7) N89°39'17 "W a distance of 602.50 feet; thence N00°03'11"E a distance of 1026.59 feet; thence N44°39'53"W a distance of 62.57 feet; thence N89°39'53"W a distance of 898.98 feet; thence N00°20'07"E a distance of 420.99 feet to a point on the Southerly line of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction; thence N67°38'39"E a distance of 1010.16 feet along the Southerly line of said Southern Pacific Railroad Annexation No. 1; thence N73°01'18"E a distance of 999.11 feet along the Southerly line of said Southern Pacific Railroad Annexation No. 1 to a point on the West line of Mesa State Annexation, Ordinance No. 4081, City of Grand Junction, said point also being on the East line of the NE 1/4 SW 1/4 of said Section 18; thence S00°25 '24"E a distance of 903.46 feet along the West line of said Mesa State Annexation, said line also being the East line of the NE 1/4 SW 1/4 of said Section 18 to the Northeast corner of the SE 1/4 SW 1/4 of said Section 18; thence S00°06'42"E a distance of 1283.65 feet along the West line of said Mesa State Annexation, said line also being the East line of the SE 1/4 SW 1/4 of said Section 18 to the Point of Beginning.

Said parcel contains 57.95 acres (2,524,320.23 sq. ft.), more or less, as described.

Be and is hereby annexed to the City of Grand Junction, Colorado.

INTRODUCED on first reading on the 21st day of January, 2009 and ordered published.

ADOPTED on second reading the _____ day of _____, 2008.

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ZONING THE COLORADO ARMY NATIONAL GUARD CAMPUS
ANNEXATION TO
CSR (COMMUNITY SERVICES AND RECREATION)**

LOCATED AT 2800 RIVERSIDE PARKWAY

Recitals.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of zoning the Colorado Army National Guard Campus Annexation to the CSR (Community Services and Recreation) zone district finding that it conforms with the recommended land use category as shown on the future land use map of the Growth Plan and the Growth Plan's goals and policies. The zone district meets the criteria found in Section 2.6 of the Zoning and Development Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the CSR (Community Services and Recreation) zone district is in conformance with the stated criteria of Section 2.6 of the Grand Junction Zoning and Development Code.

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

The following property be zoned CSR (Community Services and Recreation)

COLORADO ARMY NATIONAL GUARD CAMPUS ANNEXATION

A certain parcel of land located in the Southwest Quarter (SW 1/4) of Section 18, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particular described as follows:

Commencing at the Southeast corner of the SE 1/4 SW 1/4 of said Section 18 and assuming the East line of the SE 1/4 SW 1/4 of said Section 18 to bear S00°06'42"E with all bearings contained herein relative thereto; thence N00°06'42"W a distance of

35.00 feet along the East line of the SE 1/4 SW 1/4 of said Section 18 to the Northeast corner of Riverside Parkway Annexation No. 5, said point also being the Point of Beginning; thence along the Northerly line of said Riverside Parkway Annexation No. 5 the following seven (7) courses: (1) N89°39'17"W a distance of 166.49 feet; (2) N78°20'43"W a distance of 40.79 feet; (3) N89°39'17"W a distance of 27.38 feet; (4) N70°21'54"W a distance of 31.78 feet; (5) N89°39'17"W a distance of 63.23 feet; (6) S71°00'15"E a distance of 31.70 feet; (7) N89°39'17 "W a distance of 602.50 feet; thence N00°03'11"E a distance of 1026.59 feet; thence N44°39'53"W a distance of 62.57 feet; thence N89°39'53"W a distance of 898.98 feet; thence N00°20'07"E a distance of 420.99 feet to a point on the Southerly line of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction; thence N67°38'39"E a distance of 1010.16 feet along the Southerly line of said Southern Pacific Railroad Annexation No. 1; thence N73°01'18"E a distance of 999.11 feet along the Southerly line of said Southern Pacific Railroad Annexation No. 1 to a point on the West line of Mesa State Annexation, Ordinance No. 4081, City of Grand Junction, said point also being on the East line of the NE 1/4 SW 1/4 of said Section 18; thence S00°25 '24"E a distance of 903.46 feet along the West line of said Mesa State Annexation, said line also being the East line of the NE 1/4 SW 1/4 of said Section 18 to the Northeast corner of the SE 1/4 SW 1/4 of said Section 18; thence S00°06'42"E a distance of 1283.65 feet along the West line of said Mesa State Annexation, said line also being the East line of the SE 1/4 SW 1/4 of said Section 18 to the Point of Beginning.

Said parcel contains 57.95 acres (2,524,320.23 sq. ft.), more or less, as described.

INTRODUCED on first reading the 15th day of December, 2009 and ordered published.

ADOPTED on second reading the ____ day of _____, 2009.

ATTEST:

President of the Council

City Clerk

**Strategic Downtown Master Plan
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
Subject	Strategic Downtown Master Plan		
File #			
Meeting Day, Date	Monday, February 2, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	January 29, 2009		
Author Name & Title	Kathy Portner, Neighborhood Services Manager Heidi Hoffman Ham, DDA Executive Director		
Presenter Name & Title	Heidi Hoffman Ham, DDA Executive Director		

Summary:

The Strategic Downtown Master Plan was developed through a public process involving a steering committee of interested downtown merchants, property owners, and policy makers during 2007-2008. Recognizing that a strong downtown core supports the economic and community development of an entire region, the goal of the plan was to quantify current conditions, identify opportunities, and recommend specific actions for the decision makers of the Downtown Partnership and the City of Grand Junction.

Budget: The Strategic Downtown Master Plan was budgeted and paid for in the 2007 and 2008 budgets of DDA and the City.

Action Requested/Recommendation:

Approve a Resolution adopting the Strategic Downtown Master Plan as a part of the Grand Junction Growth Plan.

Attachments:

Grand Junction Strategic Downtown Master Plan Executive Summary

Background Information:

Since the establishment of the "Original Square Mile" in 1881, the heart of the Grand Junction community has been Downtown. Operation Foresight in the early 1960's put the downtown shopping park on the map for its innovative serpentine street layout and inviting atmosphere. The 2008 Strategic Downtown Master Plan process builds on this long history of vision and progress by charting a course for future development of retail, residential, institutional, lodging, meeting, and community spaces in this jewel of the Grand Valley. The goals and actions of this Plan are complementary and consistent with the aims of the Comprehensive Plan and previous planning efforts and support the vibrant historic setting as well as the economic, cultural, and social vitality of the Downtown. It was accepted and approved by the DDA Board in December 2008.

**CITY OF GRAND JUNCTION, COLORADO
RESOLUTION NO. __-09**

**A RESOLUTION ADOPTING THE STRATEGIC DOWNTOWN MASTER PLAN AS A
PART OF THE GRAND JUNCTION GROWTH PLAN**

Recitals:

The Strategic Downtown Master Plan was developed through a public process involving a steering committee of interested downtown merchants, property owners, and policy makers during 2007-2008. Recognizing that a strong downtown core supports the economic and community development of an entire region, the goal of the plan was to quantify current conditions, identify opportunities, and recommend specific actions for the decision makers of the Downtown Partnership and the City of Grand Junction.

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**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
GRAND JUNCTION THAT:**

The, Strategic Downtown Master Plan included as attached Exhibit A, is hereby adopted and made a part of the Grand Junction Growth Plan.

PASSED on this ____ day of _____, 2009.

ATTEST:

City Clerk
Council

President of City
Council

Exhibit A

Vision for Downtown

Grand Junction

“Downtown Grand Junction will be the principal center for economic, entertainment and meeting activity in the community and region. Together with other locations in the region, the Downtown will be a receiving ground for the region’s growth. Uses will include a mix of commercial, residential, institutional, lodging, meeting and public spaces. Historic elements and the Downtown’s unique character will be evident in private investment and the public realm. The Downtown transportation network will connect to the region and support internal neighborhoods, shopping and activity districts. Infrastructure will be financed through shared funding mechanisms, proactively phased and strategically located to leverage private investment. Green treatments will enhance employment and commercial concentrations, neighborhoods and streets. Design standards will be more progressive than other areas of the community, and will be guided by distinct guidelines and standards. Community marketing and promotion efforts will be aggressive and proactive, targeting users which advance sustainability and Smart Growth principles.”

Overview

The Study Area, known as “The Original Square Mile,” is bound by 1st and 12th Streets, North Avenue and South Avenue, located in the south central portion of the City. The Area benefits from a number of characteristics that make it appropriate for development of retail, office, residential, institutional and community uses, including:

- On average, urban residents spend a greater percentage of their household income on retail expenditures, particularly on items such as apparel and food away from home. This indicates an opportunity for additional specialty retail and entertainment space in the Study Area.
- Downtown housing has been and is expected to continue to increase in density with smaller households comprised of young and old, and moderate and lower-income residents. However, with a growing concentration of middle-aged, moderate- to high-income households in the City as a whole, there is an opportunity for Downtown to attract a more diverse, higher-income resident base. The entirety of Grand Junction (urban and fringe) faces a growing shortage of quality affordable housing for its very low- and moderate-income residents, as well as working-wage families. At the onset of the planning process, participants emphasized the need for a set of strategies tailored specifically to the housing challenges present within the Original Square Mile.
- Downtown commercial vacancy and rental rates are approaching levels required to support new development and/or redevelopment. However, “seed” money will likely be necessary to leverage private investment in projects that will catalyze reinvestment activity throughout the Study Area.
- Among the higher growth employment sectors in the county are service industries often consisting of small

businesses. This represents an opportunity for Downtown to develop not only additional live/work units, but also to promote the adaptive re-use of historically-significant buildings and less traditional spaces including former church facilities.

- Forecasts indicate that more than 1.0 million square feet of employment space (office), more than 1.6 million square feet of retail space and nearly 1,100 residential units could be absorbed in the market over the next ten years, from which the Study Area could benefit. The degree to which Downtown is able to capture new demand within the Trade Area (and beyond) will be a function of the redevelopment process itself. Redeveloping key catalyst areas as residential, retail, employment and community destinations will necessarily increase its ability to capture not only a greater share of Trade Area demand, but also to reach beyond those boundaries.

Principles

A critical component of the implementation of the Downtown Strategy was identification of specific actions and clarification of roles and responsibilities. The range of actions presented and identified to move the Plan forward were selected based on a foundation of guiding principles which; while general in nature, were considered responsive to prevailing conditions, market opportunities, catalyst concepts, framework elements, and stakeholder input. The principles are listed and described in greater detail below.

1) Downtown is One Sub-Market that Competes with the Fringe

Downtown is one sub-market, with several districts, that competes with other sub-markets in Grand Junction. The downtown environment, while presenting tremendous opportunity for investment in a setting uniquely positioned to offer both heart and history, carries with it certain limitations, particularly for land-intensive non-destination-oriented land uses. Development costs are generally higher while project revenues are generally lower. Several market sectors, however, not only survive, but also thrive in a downtown setting. Recognize the obstacles associated with downtown development and encourage regulatory and financial solutions including public subsidies and creative financing mechanisms.

2) Downtown Must be Market-Responsive

As noted, Downtown is a competitive sub-market within the Grand Junction market. As such, the Downtown environment must be responsive to changing conditions, with implementation tools and mechanisms in place to both offset competitive disadvantages and capitalize on competitive assets. Implementation of this Plan should include continually monitoring market conditions and distributing this information to a broad audience including developers, business and property owners, lenders, city staff, elected and appointed officials and other members of the delivery system.

3) Downtown Infrastructure Must be Protected and Retained

“Infrastructure” as it is referred to here includes physical features (parks and open space, public improvements), service organizations (churches, schools, government offices), a mix of employers (retail, service, government – large and small users), historic residential neighborhoods and community attitudes toward Downtown. Unlike many communities across the country, Downtown Grand Junction’s existing infrastructure is more than sufficient to promote itself as a downtown

neighborhood. These assets, which provide the impetus for investment, need to be protected and promoted. All too often, communities focus efforts on the attraction of new businesses and developments rather than on preserving and expanding its existing inventory.

4) Downtown Must be Greater than the Sum of its Parts

The synergy created by the mix and density of land uses in a downtown environment is unique. Within this environment, businesses, residents and visitors are attracted to the high concentration of activity occurring throughout the day and evening. To foster this level of activity and synergy, niche strategies must be formulated to strengthen and link the various individual land uses and infrastructure elements currently existing. As new projects are introduced, careful consideration should be given to their ability to further strengthen these linkages.

5) Downtown's "Tool Bag" Must Have Many Tools

As Downtown competes in the local and regional marketplaces, its "tool bag" must contain a variety of strategies and mechanisms to attract investment. These tools can be financial (grants, loan programs, etc.), physical (infrastructure investment), market (planning/feasibility assistance), or organizational (Partnership, BID) in nature. They can be used independently or in various combinations. Given the obstacles associated with downtown development, it is imperative that whatever mix of tools is put in place it be comprehensive, flexible and creative.

6) Public Investment Must Leverage Private Investment

Historically, the planning, financing and implementation of projects in the downtown market were the primary

responsibility of public sector entities. The City and the DDA were understood to have the largest and longest term interest and responsibility for downtown, which led to one or the other taking the obvious lead in any revitalization or investment effort. It was also understood to be the logical conduit for local, regional, state and federal funding sources. However, while the public sector continues to play a significant role in most downtown efforts, a critical component to the success of any revitalization strategy today is participation by both the public and private sectors. Leveraging of resources is key, as no one entity, either public or private, has sufficient resources alone to sustain a long-term downtown improvement effort.

7) Public Policy Must Support Downtown Development

Experience has proven that main street or downtown development will best succeed if regional growth management programs reward efficient development patterns. If growth is allowed to occur in a land extensive, inefficient way that effectively subsidizes lower densities, main street development will operate at a competitive disadvantage. Given the City's existing land use patterns, Downtown Grand Junction is susceptible to continued dilution of its role as the community's central business and shopping district.

8) Solutions Must Be Holistic

No single project will recreate a downtown. Rather, it is a series of projects occurring simultaneously over time which create excitement and capture the interest of potential investment partners. Just as the barriers to investment are multi-faceted, so too must the solutions be. Some communities consider adoption of governing regulations as the sole strategy to encourage reinvestment (tools such as comprehensive plans, zoning ordinances, planned unit development ordinances, design review/overlay regulations, and the like). While these regulations are

necessary, they are only the beginning of the implementation process. Solutions need to be more comprehensive in scope and include considerably more than just design for a regulatory framework.

9) Public-Private Partnerships are Essential

Under any investment strategy, local government needs to have strong involvement, a visible presence, perhaps be the entity that provides continuing leadership, and always provide regulatory incentives and seed capital for early projects. Not only does government have the legal responsibility to address many of the implementation components, but it is also the logical conduit to local, regional, state and federal funding sources.

Strategies

The national trend of stagnating and declining downtowns is evident not just in Colorado, but throughout the United States. Facing increasing competition from development on the “fringe,” Downtown Grand Junction could experience a decline in commercial property values and market share unless specific actions are taken. Together, the public and private sectors face the challenge of maintaining Downtown and the Study Area. The leadership of the Downtown Partnership and the City recognize that infill, particularly Downtown, are at a distinct economic, social and market disadvantage compared to vacant greenfield sites. To that end, it is their responsibility to level the investment and regulatory playing fields. Private investment alone will not fill the financial gap; development will simply move

elsewhere.

Goals and Actions

Goal: Maintain and enhance the economic, cultural and social vitality of the Downtown Original Square Mile.

Actions:

- Maintain and expand public amenities and services in Downtown
- Implement infill and redevelopment policies that support downtown
- Encourage a wide mix of uses, offering retail and commercial services along street level and business/office/residential on upper floors
- Monitor market conditions and actively promote vitality of Downtown locations
- Continue to support and expand Art-on-the-Corner
- Continue to support and expand the cultural offerings downtown, including theaters, museums and festivals
- Enhance and preserve Whitman and Emerson Parks to encourage use by the community

Goal: Promote downtown living by providing a wide range of housing opportunities in the Study Area.

Actions:

- Support a regional housing strategy with an emphasis on infill, downtown housing
- Educate developers about resources available for delivery of affordable units
- Amend zoning and building codes to accommodate vertical mixed-use development
- Educate local appraisers and real estate and financial institutions on valuing/under-writing mixed-use projects

Goal: Enhance the transportation system to accommodate automobiles, bikes and pedestrians, and provide adequate, convenient parking.

Actions:

- Partner in investments for public right-of-way improvements
- Encourage pedestrian movement through good design, safe crossings, and identifiable connections
- Reconfigure public thoroughfares to provide safe multi-modal transportation
- Advance and fund the Ute/Pitkin realignment to the south
- Manage vehicular traffic in high pedestrian areas
- Incorporate bike routes on all residential streets that connect to the commercial core

- Prepare a long-term parking plan to maximize shared parking facilities
- Modify the codes to limit the establishment of private parking lots and find ways to fund public parking in the downtown area

Goal: Stabilize and enhance the historic residential neighborhoods.

Actions:

- Discourage further encroachment of non-residential uses into the established residential neighborhoods
- Establish design standards for the transitional areas to include larger setbacks, detached sidewalks, appropriate building heights, and pedestrian-friendly features along the street
- Work with local lenders to offer low-interest rehabilitation loans for upgrades
- Establish a disbursement policy for service organizations
- Establish a replacement housing policy for loss of affordable units due to redevelopment initiatives
- Explore the options of a city-wide housing policy to address a variety of enforcement issues
- Promote the establishment of neighborhood watch and neighborhood organizations
- Explore adoption of a model blocks program

Goal: Establish and promote a unique identity for the Downtown Area

Actions:

- Advance a façade improvement program to preserve historic character and structures
- Develop a set of guidelines to address streetscape, landscape, building and façade design, as well as signage and parking standards specific to downtown
- Enhance the aesthetic appeal of the area through gateway improvements
- Identify and promote designation of historic structures
- Develop a public signage palette with varying sizes, poles and ornamentation, colors, fonts and logos

Goal: Jump-start the revitalization and reinvestment in the downtown area with strategic catalyst projects (see Appendix A)

Actions:

- Plan and budget for strategic property acquisition for future development
- Identify locations for and promote the concepts of catalyst projects, including Public Building/Housing/Mixed-Use, Live/Work Units, Mixed-Use Retail/Residential, and Mixed-Use Retail/Office

Conclusions

Successful implementation of the Strategic Downtown Master Plan will depend on committed leadership from the public and private sectors. So that it won't be vulnerable to the failure of one project, many projects should always be underway at any given time, and a wide variety of stakeholders involved. Success will also be dependent on removing barriers to investment; therefore, regulations will need to allow and encourage what the City and Downtown advocates want and prohibit what they don't want. Victories, even minor ones, should be broadcast through a comprehensive communications strategy, and all policy and regulatory documents should be aligned towards the common goals expressed herein.

While the Downtown is the heart of the community, it is but one subset of a larger market and as such has strengths which can be capitalized on and limitations which should be overcome. Downtown has a tremendous influence on the economic well-being of the entire region. Therefore, it is widely accepted that early projects in any revitalization effort should be publicly assisted until market conditions reach levels where new construction can support itself.

The proposed approach to renaissance of the Original Square Mile is based on an approach which encourages strategic investment in a compact environment containing an appropriate mix of land uses, with a greater emphasis to multiple forms of access, resulting in a unique sense of place. The Plan is intended to assist the City of Grand Junction and the

Downtown Partnership (DDA and DTA), business and property owners, and other advocacy partners with a technical framework for discussions regarding market opportunities, programming alternatives, and partnership strategies. The vision and directives referenced here were developed with input from the Steering Committee, Downtown stakeholders, and guidance from the Consultant Team.

The Strategic Downtown Master Plan is the roadmap to move the community's vision towards reality and to ensure that the renaissance of Downtown is accomplished in a way that balances private investment objectives with community sustainability. Ultimately, the staff and citizenry of Grand Junction will select a final course of action for change. The information presented here is designed to provide for consideration and sound decision-making. It is the recommendation of the authors of this report that the information contained herein be reviewed and updated every three to five years as conditions change.

9 Principles of Downtown Revitalization

- 1 Make a Great Plan
- 2 Many, Many Projects
- 3 Many, Many Stakeholders
- 4 Committed, Ongoing Leadership
- 5 An Effective Organization
- 6 Development Standards
- 7 Communication and Marketing Programs
- 8 Supportive Government

Appendix A:

Catalyst Concepts

The strategy for renaissance of the Study Area was based on development and targeted investment in key nodes, or catalyst areas, which hold investment potential despite select economic and other development challenges. These concepts are defined as urbanized places with concentrations of jobs, housing units, commercial uses, public spaces, and / or pedestrian activity, which in combination create a sense of place. Predominant land uses can be residential and non-residential, institutional or public. Within these relatively compact geographic areas, different land uses are found side by side or within the same structure. The mix of uses are frequently located in taller structures with minimal setbacks and reduced parking requirements, all in an effort to achieve rents and sale prices necessary to support higher construction costs. These nodes of development serve as catalysts for public and private investment and economic activity, effectively building off the strengths of the surrounding area and connecting to adjacent neighborhoods.

Note: The catalyst concepts are not site-specific. Rather, several concepts may have application in many locations within the Study Area.

In order to evaluate a proposed project's potential as a catalyst investment it must first be evaluated based on accepted criteria. The premise behind a catalyst investment area assumes concentrating resources in select locations that will have a positive economic ripple effect in surrounding areas and neighborhoods. In this way, public partners (e.g., Downtown

Partnership, City of Grand Junction, Mesa County, Library District, Housing Authority, etc.) can effectively leverage investment efforts to overcome barriers and achieve desired outcomes.

Implementation and management of catalyst areas is generally the responsibility of a combination of entities including business organizations, special districts, neighborhood and other interest groups, and individual property owners.

Potential criteria for catalyst projects in downtowns and/or urban redevelopment areas are outlined below:

1. Consistent with goals of plans and policy documents
2. Reflects findings of recent community surveying
3. Connects to larger community
4. Links sub-areas
5. Responds to market opportunities
6. Improves jobs-to-housing balance
7. Strengthens public realm
8. Reinforces key entryways or gateways
9. Communicates community identity
10. Encourages fiscal prudence
11. Leverages public investment
12. Addresses demonstrated community needs
13. Builds upon prevailing strengths of downtown and community
14. Recognizes / respects historic character

For the purposes of the Strategic Plan, four different types of potential catalyst projects were identified for Downtown Grand Junction. Among the most significant challenges facing potential catalyst project are the level of market education required to achieve project rents at the high end of the market, higher development costs associated with creating a “place” unique enough to attract tenants willing to pay a premium to live/work there; and the ability to overcome

investor perceptions of the projects' location as a transitional area. In the context of addressing these challenges and understanding the feasibility of these project concepts, the Consultant Team prepared a series of economic analyses designed to quantify the order of magnitude of any financial "gap" that might result from the development and / or redevelopment of the key catalyst concepts listed above. A summary of the economic analyses for each concept is presented at the end of this report.

Catalyst Project #1: Public Building / Housing / Mixed-Use

The first catalyst concept is based on a public-private partnership to include a large public building, commercial retail space, 75 units of senior housing, 9 units of market-rate ownership housing above the retail space, and an urban housing project consisting of 18 row houses.

Catalyst Project #2: Live/Work Units

This concept assumes development of "live/work" units, which would include work space (gallery, office, studio, etc.) on the ground floor and living space on the upper floors (1-2 levels).

Catalyst Project #3: Mixed-Use Retail / Residential

This concept assumes a mixed-use development of retail space on the ground floor and a combination of rental and ownership housing on the upper floors. This concept envisions a mid-rise building up to 8 stories in height.

Catalyst Project #4: Mixed-Use Retail/Office

This concept assumes a mixed-use development of retail space on the ground floor and office space on the upper floors.

This concept envisions a 3-story building.

Filling the Funding Gap

It is not unusual for downtown and urban redevelopment projects to generate economic gaps between 25% and 40%. The preliminary analysis summarized herein reflected gaps between 32% and 60%, yet most still within the reasonable range for strategic public investment. A successful public-private partnership may require the public sector to be a financial partner to this level. A 20% investment in one of these catalyst projects would leverage approximately \$4 in private investment for every \$1 spent by the public sector. This is the type of ratio the public sector should expect in a redevelopment partnership.

“Closing the gap” for these catalyst projects will not be accomplished through the use of one strategy or tool. Rather, many tools, used in combination with one another, will be necessary to encourage or leverage private sector investment to the level shown in the analyses presented here. As shown, potential “gap filling” tools and mechanisms could include the following:

- Contributions to Land and Site Improvements (Parking)
- Tax Increment Financing
- Special Improvement Districts
- Streamlined Development Approvals
- Low Income Housing Tax Credits (LIHTC)
- Historic Rehabilitation Tax Credits

- Market Rent/Sale Write-down
- Others, as appropriate

Conceptual Catalyst Scenarios

Project Indicator	Catalyst Project Concepts			
	Public Building/ Housing/ Mixed Use	Live/Work With Retail	Mixed-Use Retail/Housing	Mixed-Use Retail/Office
Private Sector Investment				
Development Sq Ft:				
Project Land Area (Acres)	3.1	1.6	1.3	1.0
Retail/Restaurant	14,400	0	7,500	10,000
Office	19,500	0	0	20,000
Residential (Rental)	60,000	0	45,000	0
Residential (For-Sale)	59,360	52,500	60,000	0
Total Private Development	153,260	52,500	112,500	30,000
Floor Area Ratio	113%	75%	199%	67%
Total Project Value (@ Build-Out)	\$15,150,825	\$8,137,500	\$16,092,188	\$4,886,250
Total Project Costs (@ Build-Out)	\$37,892,901	\$13,178,578	\$23,677,101	\$9,075,000
Project Margin/(Gap)	(\$22,742,076)	(\$5,041,078)	(\$7,584,914)	(\$4,188,750)
Project Margin/(Gap) %	-60%	-38%	-32%	-46%
Potential Contributions to Gap				
Land Writedown	\$6,076,620	\$1,393,920	\$1,132,560	\$900,000
Site Improvements Contribution	\$704,222	\$218,392	\$833,081	\$915,000
Supportable TIF (25 Years)	\$2,100,000	\$800,000	\$2,400,000	\$1,800,000
Sales Tax Sharing (10 Years)	\$500,000	\$0	\$300,000	\$300,000
Special Improvement District (20 Years)	\$900,000	\$300,000	\$600,000	\$600,000
Low Income Housing Tax Credit Equity	\$4,752,000	--	--	--
Total Contributions to Gap	\$15,032,842	\$2,712,312	\$5,265,641	\$4,515,000

Source: Leland Consulting Group.