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**CITY COUNCIL AGENDA
CITY HALL AUDITORIUM, 250 NORTH 5TH STREET
MONDAY, APRIL 13, 2009, 7:00 P.M.**

Call to Order

Pledge of Allegiance

Invocation – Tom Hunn, Representing the Baha'i Faith

Proclamations/Recognitions

Proclaiming April 20 – 26, 2009 as “Administrative Professionals Week” in the City of Grand Junction

Proclaiming April 23, 2009 as “Arbor Day” in the City of Grand Junction

Proclaiming May 1, 2009 as “Silver Star Banner Day” in the City of Grand Junction

Proclaiming June 17, 18, and 19, 2009 as “Western Slope Rural Philanthropy Days” in the City of Grand Junction

Appointments

Horizon Drive Association Business Improvement District

Citizen Comments

*** Indicates New Item

® Requires Roll Call Vote

REVISED

Council Comments

City Manager's Report

***** CONSENT CALENDAR ***®**

1. **Minutes of Previous Meetings** [Attach 1](#)

Action: Approve the Minutes of the March 30, 2009 and the April 1, 2009 Regular Meetings, and the April 8, 2009 Special Meeting

2. **Establishing Liquor License Fees for Bed and Breakfast Permits** [Attach 2](#)

The City has been contacted by a private citizen who is interested in opening a Bed and Breakfast in City limits. Currently our fees for liquor licensing do not cover Bed and Breakfast establishments. This is not a liquor license but a permit for operating a bed and breakfast with not more than twenty sleeping rooms that offers complimentary malt, vinous, and spirituous liquors for consumption only on the premises and only by overnight guest(s).

Resolution No. 40-09—A Resolution Amending Resolution No. 61-08 to Amend the Liquor License Fees in the City of Grand Junction, Colorado

®Action: Adopt Resolution No. 40-09

Staff presentation: Stephanie Tuin, City Clerk

3. **Contract for Construction and Installation of a Septage Receiving Station at Persigo Wastewater Treatment Plant** [Attach 3](#)

Request is being made to award a contract for construction and installation of a Septage Receiving Station at Persigo Wastewater Treatment Plant.

Action: Authorize the Purchasing Division to Enter into a Contract with Mays Concrete to Install a Septage Receiving Station at Persigo Wastewater Treatment Plant in the Amount of \$122,957

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

4. **Setting a Hearing for the Tall Grass Rezone, Located at 2293 and 2295 Tall Grass Drive** [File #RZ-2009-014] [Attach 4](#)

Request to rezone the 3.709 acres, located at 2293 and 2295 Tall Grass Drive from C-2 (General Commercial) to I-1 (Light Industrial).

Proposed Ordinance Rezoning Two Parcels of Land from C-2 (General Commercial) to I-1 (Light Industrial) Known as the Tall Grass Rezone, Located at 2293 and 2295 Tall Grass Drive

Action: Introduction of Proposed Ordinance and Setting a Hearing for May 4, 2009

Staff presentation: Michelle Hoshide, Associate Planner

*** END OF CONSENT CALENDAR ***

*** ITEMS NEEDING INDIVIDUAL CONSIDERATION ***

5. **Application for Justice Assistance Grant (Recovery/Reinvestment Act Funding Request) for the County-wide Computer Aided Dispatch and Records Management System** [Attach 5](#)

The Grand Junction Police Department has been solicited by the Bureau of Justice Assistance program of the US Department of Justice, to apply for an annual formula grant in the amount of \$254,568. These funds are allocated evenly between Grand Junction Police Department and Mesa County Sheriff's Office and will be used in combination with other funding sources to purchase a new county-wide Computer Aided Dispatch and Records Management Systems (CAD/RMS). These systems will provide the ability to have fully shared, integrated criminal justice records across all law enforcement agencies in Mesa County. They will also greatly improve communications and eliminate operational inefficiencies that currently exist.

Action: Authorize the City Manager to Apply for these Funds, and if Awarded, to Manage/Disperse \$254,568 in Grant Funds

Staff presentation: Troy Smith, Deputy Chief of Police

6. **Public Hearing—Amending the Municipal Code Regarding Wastewater and Industrial Pretreatment Regulations** [Attach 6](#)

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.

Ordinance No. 4344—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

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication in Pamphlet Form of Ordinance No. 4344

Staff presentation: John Shaver, City Attorney

7. **Public Hearing—Amending the Requirements for Tasting Alcoholic Beverages at Licensed Establishments** [Attach 7](#)

City Council adopted Ordinance No. 3716 regarding tasting of alcoholic beverages on February 2, 2005. Recently a licensee asked to reevaluate the containers permitted for tastings at the licensed establishments. Because of the size of the container it is reportedly difficult to efficiently administer samples in the cups authorized by the current ordinance. There are also concerns that the opaque cups hinder the presentation of the products. Legal staff proposes an amendment to Section 4-58 of Article IV, Chapter 4 of the Code of Ordinances to promote better efficiency and aesthetics of the presentation for the benefit of the proprietors. Amending the Code to allow portion control cups as well as pour control caps will give proprietors a variety of ways to present their products in a manner that best fits the goals of each establishment.

Ordinance No. 4345—An Ordinance Amending Chapter 4, Article IV, Section 4-58 of the Grand Junction Code of Ordinances Pertaining to the Tasting of Alcoholic Beverages

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance No. 4345

Staff presentation: John Shaver, City Attorney

8. **Public Hearing—Parkway Complex Annexation and Zoning, Located at 2789 Riverside Parkway** [File #ANX-2009-018] [Attach 8](#)

A request to annex and zone 1.26 acres, located at 2789 Riverside Parkway to an I-1(Light Industrial) zone district. The Parkway Complex Annexation consists of two (2) parcels.

a. Accepting Petition

Resolution No. 41-09—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that the Property Known as the Parkway Complex Annexation, Located at 2789 Riverside Parkway is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4346—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Parkway Complex Annexation, Approximately 1.264 Acres, Located at 2789 Riverside Parkway

c. Zoning Ordinance

Ordinance No. 4347—An Ordinance Zoning the Parkway Complex Annexation to I-1 (Light Industrial), Located at 2789 Riverside Parkway

®Action: Adopt Resolution No. 41-09 and Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance Nos. 4346 and 4347

Staff presentation: Michelle Hoshide, Associate Planner

9. **Public Hearing—Ajarian Annexation and Zoning, Located at 2954 D ½ Road** [File #ANX-2009-021] [Attach 9](#)

Request to annex and zone 17.78 acres, located at 2954 D ½ Road to an R-8 (Residential 8 du/ac) zone district. The Ajarian Annexation consists of 2 parcels and includes a portion of the D ½ Road right-of-way.

a. Accepting Petition

Resolution No. 42-09—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Ajarian Annexation, Located at 2954 D ½ Road and Including a Portion of the D ½ Road Right-of-Way, is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4348—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Ajarian Annexation, Approximately 17.78 Acres, Located at 2954 D ½ Road and Including a Portion of the D ½ Road Right-of-Way

c. Zoning Ordinance

Ordinance No. 4349—An Ordinance Zoning the Ajarian Annexation to R-8 (Residential 8 du/acre), Located at 2954 D ½ Road

®Action: Adopt Resolution No. 42-09 and Hold a Public Hearing and Consider Final Passage and Final Publication of Ordinance Nos. 4348 and 4349

Staff presentation: Michelle Hoshide, Associate Planner

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

11. **Other Business**

12. **Adjournment**

Attach 1

Minutes from Previous meetings

GRAND JUNCTION CITY COUNCIL MINUTES OF THE REGULAR MEETING

March 30, 2009

The City Council of the City of Grand Junction convened into regular session on the 30th day of March 2009 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Linda Romer Todd, Doug Thomason, and Council President Gregg Palmer. 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 Dennis West, Life Tabernacle Church.

Proclamations

Proclaiming April 2009 as "Child Abuse Prevention Month" in the City of Grand Junction

Proclaiming April 2009 as "Month of the Young Child" in the City of Grand Junction

Certificates of Appointments

P.J. McGovern was present to receive his Certificate of Appointment to the Downtown Development Authority/Downtown Grand Junction Business Improvement District.

Jon Schler was present to receive his Certificate of Appointment to the Historic Preservation Board.

Rob Burnett and Richard Schoenradt were present to receive their Certificates of Appointment to the Planning Commission/Zoning Board of Appeals.

Council President Palmer appreciated the quality of candidates and lauded the number of qualified candidates that step forward to serve the community.

Citizen Comments

There were none.

Council Comments

Council President Palmer announced that only 20% of the qualified electors have returned their ballots. He encouraged registered electors to get their ballots returned.

City Manager's Report

City Manager Laurie Kadrich addressed the City Council first on the status of the American Recovery and Reinvestment Act (ARRA) and how it might benefit the City and the surrounding community. She wanted to assure citizens that the City has put forward a number of projects for funds but they may not appear on the website. Some funds will be funneled through the State through the Transportation System or the Department of Local Affairs. The City will receive some additional funds for the Community Development Block Grant (CDBG) program. Another way the City might receive funding is through a competitive grant program. Ms. Kadrich then described the process the City is undertaking to apply for the grants. Eligible projects must be shovel-ready. The transportation funds can be for capital projects. The public safety funds are not eligible for capital projects. The Fire Assistance Grants are an opportunity for capital projects but the grant criteria has not been released yet. The City is eligible for a direct allocation for energy efficiency and conservation. The City's recently approved project in that area may be eligible for the funding. Lastly, the clean diesel campaign is a competitive grant process that may apply to the City's recent conversion of vehicles to compressed natural gas but the grant criteria has not yet been released.

Councilmember Coons asked if the additional CDBG funds are eligible for any of the CDBG projects. Ms. Kadrich said it is. Neighborhood Services Manager Kathy Portner confirmed that to be the case.

Councilmember Doody asked if the Justice Assistance Grant could be applied to the courts. City Attorney Shaver said they looked at that and the courts that were applicable had to be very specific courts and thus the City is not eligible.

City Manager Kadrich added the City is also reaching out to other western slope communities offering assistance in applying for some of the ARRA funding.

City Manager Kadrich then updated the City Council on the weed program which is also under the auspices of the Neighborhood Services Division. She acknowledged that the time lag for the process tends to generate complaints as to the City's response. Ms. Kadrich said a solution to cut the response time in half is in the works with the use of new technology. The technology includes a hand held device that the weed inspector would enter all information regarding a property in violation, including pictures. Upon return in one week if the weeds are not cut, a citation would be issued for \$150. If the weeds are cut within 7 days, the fine is reduced to \$50. If not, then the abatement crew cuts the weeds and the property owner is billed.

Council President Palmer agreed that the Council does receive many complaints on this subject. He asked if the fine goes to the renter or property owner. Ms. Kadrich replied the property owner.

Councilmember Beckstein advised that many of the complaints are about the City not taking care of their own weeds. She asked if measures are being taken to remedy that. City Manager Kadrich said that situation is being addressed for improvement by sending one crew to take care of an area instead of multiple crews.

Councilmember Beckstein asked about absentee landowner if the property would be liened. Ms. Kadrich said yes and added the division handles over 2,000 weed complaints per year.

City Manager Kadrich advised that the new technology can also be used for removal of graffiti. The data will be collected and sent to Mesa County Sheriff's Department who has offered to take care of that program with the City providing supplies for removal.

That concluded City Manager Laurie Kadrich's report.

CONSENT CALENDAR

Councilmember Beckstein read the Consent Calendar and then moved to approve consent items #1 through #8. Councilmember Hill seconded the motion. Motion carried by roll call vote.

1. **Minutes of Previous Meeting**

Action: Approve the Minutes of the March 18, 2009 Regular Meeting

2. **Establishing Massage Parlor License Fee and Other Associated Fees**

City Council adopted Ordinance No. 4324 on February 4, 2009, which established regulations and licensing requirements for massage parlor establishments. As part of the license application process, applicants are required to pay nonrefundable application and license fees. In accordance with the City of Grand Junction's Code of Ordinances, fees are set by resolution of the City Council.

Resolution No. 34-09—A Resolution Establishing Massage Parlor License Fees in the City of Grand Junction, Colorado

Action: Adopt Resolution No. 34-09

3. **Setting a Hearing on Amending the Requirements for Tasting Alcoholic Beverages at Licensed Establishments**

City Council adopted Ordinance No. 3716 regarding tasting of alcoholic beverages on February 2, 2005. Recently a licensee asked to reevaluate the containers permitted for tastings at the licensed establishments. Because of the size of the container it is reportedly difficult to efficiently administer samples in the cups authorized by the current ordinance. There are also concerns that the opaque cups hinder the presentation of the products. Legal staff proposes an amendment to Section 4-58 of Article IV, Chapter 4 of the Code of Ordinances to promote better efficiency and aesthetics of the presentation for the benefit of the proprietors. Amending the Code to allow portion control cups as well as pour control caps will give proprietors a variety of ways to present their products in a manner that best fits the goals of each establishment.

Proposed Ordinance Amending Chapter 4, Article IV, Section 4-58 of the Grand Junction Code of Ordinances Pertaining to the Tasting of Alcoholic Beverages

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

4. **Setting a Hearing for the North Avenue Rights-of-Way Annexation** [File #ANX-2009-042]

Request to annex approximately 5.32 acres, located at six locations on North Avenue between 29 Road and westerly to I-70 Business Loop. The North Avenue Annexation consists only of right-of-way.

a. **Referral of Petition, Setting a Hearing and Exercising Land Use Jurisdiction**

Resolution No. 35-09—A Resolution Referring a Petition to the City Council for the Annexation of Lands to the City of Grand Junction, Colorado, Setting a Hearing on Such Annexation, and Exercising Land Use Control, North Avenue Rights-of-Way Annexation, and Exercising Land Use Control, North Avenue Rights-of-Way Annexation, Located at Six Locations on North Avenue Right-of-Way, from 29 Road Westerly to I-70 Business Loop

Action: Adopt Resolution No. 35-09

b. Setting a Hearing on Proposed Ordinance

Proposed Ordinance Annexing Territory to the City of Grand Junction, Colorado, North Avenue Rights-of-Way Annexation, Approximately 5.32 Acres, Located at Six Separate Sections of North Avenue Right-of-Way from 29 Road Westerly to I-70 Business Loop

Action: Introduction of Proposed Ordinance and Setting a Hearing for May 4, 2009

5. **Setting a Hearing Zoning the Ajarian Annexation, Located at 2954 D ½ Road**
[File #ANX-2009-021]

A request to zone 17.78 acres, Ajarian Annexation, consisting of two parcels located at 2954 D ½ Road to an R-8 (Residential 8 du/acre) zone district.

Proposed Ordinance Zoning the Ajarian Annexation to R-8 (Residential 8 du/acre), Located at 2954 D ½ Road

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

6. **Setting a Hearing Zoning the Parkway Complex Annexation, Located at 2789 Riverside Parkway** [File #ANX-2009-018]

A request to zone 1.12 acres Parkway Complex Annexation, located at 2789 Riverside Parkway to an I-1 (Light Industrial) zone district.

Proposed Ordinance Zoning the Parkway Complex Annexation to I-1 (Light Industrial), Located at 2789 Riverside Parkway

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

7. **New Energy Communities Initiative Grant**

A request to accept a New Energy Communities Grant in the amount of \$700,000 as partial funding for energy efficiency upgrades, renewable energy application, sustainability management program, and downtown catalyst project planning.

Action: Accept the Grant and Authorize the City Manager to Sign the Grant Contract

8. **Hot Mix Asphalt for Streets Division**

This approval request is for the purchase of approximately 2,000 tons of hot mix asphalt for the Streets Division to be used for road work and repairs for 2009.

Action: Authorize the Purchasing Division to Purchase Approximately 2,000 Tons of Hot Mix Asphalt, on Behalf of the Streets Division from United Companies of Mesa County for an Estimated Amount of \$131,000

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Executive Session

Councilmember Thomason moved to go into executive session for discussion of personnel matters under Section 402 (4)(f)(I) of the Open Meetings Law relative to City Council employees specifically the Municipal Judge and Council will not be returning to open session. Councilmember Hill seconded the motion. The motion carried.

Adjournment

The meeting was adjourned into Executive Session at 7:41 p.m.

Stephanie Tuin, MMC
City Clerk

**GRAND JUNCTION CITY COUNCIL
MINUTES OF THE REGULAR MEETING**

April 1, 2009

The City Council of the City of Grand Junction convened into regular session on the 1st day of April 2009 at 7:05 p.m. in the City Auditorium. Those present were Councilmembers Bonnie Beckstein, Teresa Coons, Jim Doody, Bruce Hill, Linda Romer Todd, Doug Thomason, and Council President Gregg Palmer. 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 Hill led in the Pledge of Allegiance.

Recognitions

Industry Awards for Visitor and Convention Bureau

Debbie Kovalik, Director of the Economic, Convention, and Visitor Services Department, lauded the awards received by the VCB. She introduced Barbara Bowman, Division Manager for the VCB, who described the four awards received and displayed each which included web marketing and other international recognitions.

President of the Council Gregg Palmer thanked them for all their hard work and appreciated all their efforts.

Citizen Comments

Gaspar Perricone, 400 Rood Avenue, introduced himself as the Western Slope representative for Senator Udall. He invited the Council to stop by and visit him at his office.

CONSENT CALENDAR

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

1. **Setting a Hearing on an Amendment to Clarify the Functions and Duties of a Police Dog**

Chapter 6, Section 6-5 of Article I of the City Code of Ordinances regarding injuring or meddling with police dogs is unclear in its description of the particular law enforcement functions or duties that a law enforcement dog performs. Legal staff seeks clarification of the current ordinance to better interpret and apply the

law in the City of Grand Junction and to promote efficient monitoring and investigation of cases involving meddling with police dogs.

Proposed Ordinance Amending Chapter 6, Section 6-5 of Article I of the Grand Junction Code of Ordinances Relating to Injuring or Meddling with Police Dogs

Action: Introduction of Proposed Ordinance and Set a Hearing for April 15, 2009

2. **Setting a Hearing on Clarification of Speed Limit Zone Violations**

The City Attorney recommends that an ordinance be adopted to clarify the specific violations that are covered in Section 1102 of the 2003 Model Traffic Code for Colorado, as adopted by the City of Grand Junction, regarding designated speed limits. Section 1102 grants authority to municipalities to reduce speed limits when reasonable under the traffic and road conditions without referencing the specific violations that may occur if the reduced limits are disregarded. This ordinance will connect Section 1102 to the relevant Model Traffic Code provisions where the specific violations are stated.

Proposed Ordinance Clarifying Speed Limit Zone Violations

Action: Introduction of Proposed Ordinance and Set a Hearing for April 15, 2009

3. **Setting a Hearing on Vacating the 27 Road Public Right-of-Way, Located South of Caribbean Drive and North of H Road** [File #VR-2009-043]

Applicant is requesting to vacate 0.62 acres of undeveloped right-of-way located south of Caribbean Drive and north of H Road, which is unnecessary for future roadway circulation and will allow the adjacent property owners to use and maintain the property.

Proposed Ordinance Vacating a Portion of 27 Road Right-of-Way Located South of Caribbean Drive and North of H Road

Action: Introduction of a Proposed Ordinance and Set a Hearing for April 15, 2009

4. **Vacation of a Portion of a Multi-Purpose, Trail and Drainage Easement (Lot 1, Canyon View Marketplace REI), Located at 649 Market Street** [File #SPR-2008-214]

A request to vacate a portion of a Multi-Purpose, Trail and Drainage Easement for the benefit of the proposed next phase of development for Canyon View Marketplace – REI – that is to be located at 649 Market Street.

Resolution No. 36-09—A Resolution Vacating a Portion of a Multi-Purpose Trail and Drainage Easement, (Canyon View Marketplace - REI) Located at 649 Market Street

Action: Adopt Resolution No. 36-09

5. **Setting a Hearing on Vacating the North/South Alley Right-of-Way Located East of South 7th Street, North of Winters Avenue** [File #VR-2008-089]

Applicant is requesting to vacate the North/South alley right-of-way located east of South 7th Street, north of Winters Avenue. The alley is primarily used for circulation for the adjoining properties and the owners plan on using the additional land for additional parking for the business.

Proposed Ordinance Vacating the North South Alley Right-of-Way Located East of South 7th Street, North of Winters Avenue

Action: Introduction of a Proposed Ordinance and Set a Hearing for April 15, 2009

6. **Revocable Permit for an Existing Building, Located at 946 South 7th Street** [File #VR-2008-089]

Request for a revocable permit for a portion of the existing building which is within the Winters Avenue right-of-way.

Resolution No. 37-09—A Resolution Concerning the Issuance of a Revocable Permit to WYNSHP Enterprises LLC, Located at 946 South 7th Street

Action: Adopt Resolution No. 37-09

7. **Lease Agreement with New Cingular Wireless**

The City owns real property located at 2057 South Broadway, Grand Junction which currently houses a radio antenna used to support Public Safety radio transmission. New Cingular Wireless PCS wishes to enter into a lease agreement for the purpose of building a radio tower capable of housing cellular communication equipment and antennas and the City's current and planned Public Safety antennas.

Resolution No. 38-09—A Resolution Authorizing and Ratifying a New Option and Lease Agreement between the City of Grand Junction and New Cingular Wireless PCS, LLC

Action: Adopt Resolution No. 38-09 which Authorizes the City Manager to Sign a Lease Agreement with New Cingular Wireless PCS for a Portion of Property Located at 2057 South Broadway

8. **Setting a Hearing on Appeal of a Planning Commission Decision on the Preliminary Development Plan, Phase II, Corner Square, Located at 1st and Patterson Road** [File #PP-2008-172]

An appeal has been filed by Frances and Jim Baughman regarding the Planning Commission's decision to recommend approval of the Corner Square Phase II Apartments preliminary subdivision plan. The project is adjacent to property which the Baughman's own and reside.

Action: Set a Hearing Date for April 15, 2009

9. **Construction Contract for the 2009 Sanitary Sewer Replacement Project**

The project consists of conventional replacement of 4800 lineal feet of 8" sanitary sewer and 2220 lineal feet of 6" sanitary sewer, as well as trenchless rehabilitation of 3876 lineal feet of 6" and 8" sanitary sewer. Also included are replacement of 220 sewer taps, related surface restoration work, and construction of minor stormwater sewer inlets and laterals.

Action: Authorize the City Manager to Sign a Construction Contract for the 2009 Sanitary Sewer Replacement Project with Sorter Construction, Inc., in the Amount of \$1,299,027.00

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Public Hearing – Reimer Annexation and Zoning, Located at 2751 Riverside Parkway [File #ANX-2009-006]

Request to annex and zone .64 acres, located at 2751 Riverside Parkway to I-1 (Light Industrial). The Reimer Annexation consists of one parcel and includes a portion of 27 ½ Road right-of-way.

The public hearing was opened at 7:16 p.m.

Michelle Hoshide, Associate Planner, presented this item. She described the request, the site and the location. She asked that the Staff Report and attachments be entered into the record. She advised the request does meet the Zoning and Development Code criteria and the Planning Commission recommended approval. The applicant is present but does not wish to make a presentation.

There were no public comments.

The public hearing was closed at 7:17 p.m.

a. Accepting Petition

Resolution No. 39-09—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Reimer Annexation Located at 2751 Riverside Parkway and Including a Portion of 27 ½ Road Right-of-Way is Eligible for Annexation

b. Annexation Ordinance

Ordinance No. 4341—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Reimer Annexation, Approximately .64 Acres, Located at 2751 Riverside Parkway and Including a Portion of 27 ½ Road Right-of-Way

c. Zoning Ordinance

Ordinance No. 4342—An Ordinance Zoning the Reimer Annexation to I-1 (Light Industrial), Located at 2751 Riverside Parkway

Councilmember Doody moved to adopt Resolution No. 39-09 and Ordinance Nos. 4341 and 4342 and ordered them published. Councilmember Coons seconded the motion. Motion carried by roll call vote.

Public Hearing – Accepting Improvements and Assessments Connected with Alley Improvement District No. ST-08

Improvements to the following alleys have been completed as petitioned by a majority of the property owners to be assessed:

- East/West Alley from 3rd to 4th, between Gunnison Avenue and Hill Avenue
- East/West Alley from 9th to 10th, between Teller Avenue and Belford Avenue
- North/South Alley from 14th to 15th, between Hall Avenue and Orchard Avenue

The public hearing was opened at 7:19 p.m.

Tim Moore, Public Works and Planning Director, presented this item. He advised this is the final step as the improvements have been completed and this ordinance will allow assessment for the improvements. This set of alleys is the last under the old assessment method. From this point forward, assessments will be based on a percentage of the total cost.

There were no public comments.

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

Ordinance No. 4343—An Ordinance Approving the Assessable Cost of the Improvements Made in and for Alley Improvement District No. ST-08 in the City of Grand Junction, Colorado, Pursuant to Ordinance No. 178, Adopted and Approved the 11th Day of June,

1910, as Amended; Approving the Apportionment of Said Cost to Each Lot or Tract of Land or Other Real Estate in Said Districts; Assessing the Share of Said Cost Against Each Lot or Tract of Land or Other Real Estate in Said Districts; Approving the Apportionment of Said Cost and Prescribing the Manner for the Collection and Payment of Said Assessment

Councilmember Todd moved to adopt Ordinance No. 4343 and ordered it published. Councilmember Thomason seconded the motion. Motion carried by roll call vote.

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

The appellant will be out of town on April 1, 2009 and would like City Council to continue the appeal hearing to April 15, 2009. An appeal has been filed regarding the Planning Commission's decision to approve 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.

Council President Palmer stated that this is a review of the record and is not a public hearing. The Council acts like an appellant court. They will review the record and determine if the Planning Commission acted arbitrarily or capriciously, if they considered all the evidence, if they acted erroneously or in a manner inconsistent with the Code.

City Attorney Shaver then reviewed the criteria in the Code for considering an appeal of the Planning Commission decision. It is as follows: In order to reverse or remand the application, the City Council should find one the following:

- (1) The decision-maker may have acted in a manner inconsistent with the provisions of this Code or other applicable local, State or Federal law; or
- (2) The decision-maker may have made erroneous findings of fact based on the evidence and testimony on the record; or
- (3) The decision-maker may have failed to fully consider mitigating measures or revisions offered by the applicant that would have brought the proposed project into compliance; or
- (4) The decision-maker may have acted arbitrarily, acted capriciously, and/or abused its discretion; and

(5) In addition to one (1) or more of the above findings, the appellate body shall find the appellant was present at the hearing during which the original decision was made or was otherwise on the official record concerning the development application.

City Attorney Shaver stated that finding #5 is conceded as the appellant was present at the hearing.

Councilmember Todd stated that she was not present at either one of the previous hearings but after reviewing the complete record she is in agreement with the Planning Commission's decision.

Councilmember Hill noted that the appellant requested that the item before them be continued. He recognized the request but pointed out that it is not necessary for the appellant to be present because it is a review of the record and not an opportunity to present any additional evidence. After his review of the record, he felt that the Planning Commission acted appropriately and supported upholding their decision.

Councilmember Coons also reviewed the record and did not see anything in the record that would be deemed capricious. There is nothing in the hearing record that was out of line. She supported the decision.

Councilmember Doody agreed; he felt the Planning Commission acted in a consistent and dedicated matter in order to come to a decision. He does not see any reason to reverse it.

Councilmember Thomason stated in reading through the transcript there was no evidence of impropriety. In the appeal, there was a statement of Planning Commissioners reading from prepared statements. That does not mean it was inappropriate; he does something similar, that is, make notes to gather his thoughts. He will support the decision.

Councilmember Beckstein said the Planning Commission did an insightful job of giving it due consideration and whether one is comfortable with the decision or not, she feels they did come to the decision properly so she will support their decision.

Council President Palmer reiterated the Council's duty is to sit as an appellate body. He read through the record and also watched the discussion by the Commissioners on video. Some of the Commissioners have heard this three times. The City Council remanded this back to the Planning Commission twice. He supports the decision.

Councilmember Hill moved to support the Planning Commission decision based on the specifics in the record and making the findings and conclusions that support the decision. Councilmember Todd seconded the motion. Motion carried by roll call vote.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting was adjourned at 7:37 p.m.

Stephanie Tuin, MMC
City Clerk

**GRAND JUNCTION CITY COUNCIL
MINUTES OF THE SPECIAL MEETING**

April 8, 2009

The City Council of the City of Grand Junction convened into special session on the 8th day of April 2009 at 7:02 p.m. in the City Auditorium. Those present were Councilmembers Jim Doody, Bruce Hill, Linda Romer Todd, Doug Thomason, and Council President Gregg Palmer. Absent were Councilmembers Bonnie Beckstein and Teresa Coons. Also present were City Attorney John Shaver and City Clerk Stephanie Tuin. Deputy City Clerks Juanita Peterson and Debbie Kemp sat in for Councilmembers Beckstein and Coons on the canvassing board.

Canvass of April 7, 2009 Election

City Clerk Stephanie Tuin reviewed the election returns.

She advised that 8,579 ballots were cast, for a 30% turnout.

After review of the election returns, the canvassing board executed the Certificates of Election (Attached).

City Clerk Stephanie Tuin presented newly elected Councilmembers Thomas Kenyon and Bill Pitts with a Certificate of Election.

Adjournment

The meeting was adjourned at 7:10 p.m.

Stephanie Tuin, CMC
City Clerk

CITY OF GRAND JUNCTION, COLORADO

CERTIFICATE OF ELECTION

APRIL 7, 2009

I, Stephanie Tuin, City Clerk of the City of Grand Junction, Colorado, do hereby certify that the results of the Regular Municipal Election held in the City on Tuesday, April 7, 2009, were as follows:

Total Ballots Cast in District A	1873
Total Ballots Cast in District B	2332
Total Ballots Cast in District C	946
Total Ballots Cast in District D	2464
Total Ballots Cast in District E	964
TOTAL BALLOTS CAST	8579

FOR COUNCILPERSON - DISTRICT "A" - FOUR-YEAR TERM

Candidate	Dist A	Dist B	Dist C	Dist D	Dist E	TOTAL
Thomas Kenyon	1020	1274	495	1325	499	4613
Ken Sublett	639	734	324	790	345	2832

FOR COUNCILPERSON - DISTRICT "D" - FOUR-YEAR TERM

Candidates	Dist A	Dist B	Dist C	Dist D	Dist E	TOTAL
Bonnie Beckstein	957	1185	499	1321	473	4435
Reford C. Theobald	775	1021	421	1052	443	3712

FOR COUNCILPERSON - DISTRICT "E" - FOUR-YEAR TERM

Candidates	Dist A	Dist B	Dist C	Dist D	Dist E	TOTAL
Teresa Coons	1357	1774	726	1897	740	6494

FOR COUNCILPERSON – "CITY AT LARGE" – FOUR-YEAR TERM

Candidates	Dist A	Dist B	Dist C	Dist D	Dist E	TOTAL
Roland E. Cole	515	628	215	711	255	2324
Bill Pitts	492	808	422	780	315	2817
Sam Susuras	686	728	242	814	316	2786

We, the undersigned Canvassing Board, have reviewed the results of the Regular Municipal Election held April 7, 2009, and do hereby conclude:

That Thomas Kenyon has been duly elected as Councilperson for District "A" by the greater number of votes.

That Bonnie Beckstein has been duly elected as Councilperson for District "D" by the greater number of votes.

That Teresa Coons has been duly elected as Councilperson for District "E" by the greater number of votes.

That Bill Pitts has been duly elected as Councilperson for "City at Large" by the greater number of votes.

Certified this 8th day of April, 2009.

/s/ Stephanie Tuin
Stephanie Tuin, MMC
City Clerk

Dated this 8th day of April, 2009.

/s/ Jim Doody
Jim Doody
Councilmember, District A

/s/ Linda Romer Todd
Linda Romer Todd
Councilmember, District B

/s/ Gregg Palmer
Gregg Palmer
Councilmember, District C

/s/ Juanita Peterson
Juanita Peterson
Notary Public

/s/ Debra M. Kemp
Debra M. Kemp
Notary Public

/s/ Bruce Hill
Bruce Hill
Councilmember, At-Large

N/A
Doug Thomason
Councilmember, At-Large

Attach 2
Establishing Liquor License Fees for Bed and Breakfast Permits
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Establishing Liquor License Fees for Bed and Breakfast Permits		
File #			
Meeting Day, Date	Monday, April 13, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	April 1, 2009		
Author Name & Title	Juanita Peterson, Deputy City Clerk		
Presenter Name & Title	Stephanie Tuin, City Clerk		

Summary: The City has been contacted by a private citizen who is interested in opening a Bed and Breakfast in City limits. Currently our fees for liquor licensing do not cover Bed and Breakfast establishments. This is not a liquor license but a permit for operating a bed and breakfast with not more than twenty sleeping rooms that offers complimentary malt, vinous, and spirituous liquors for consumption only on the premises and only by overnight guest(s) .

Budget: There will be no effect on the budget. The collection of permit fees will be very minimal.

Action Requested/Recommendation: Adopt proposed Resolution

Attachments: Proposed Resolution

Background Information:

After researching other entities, Mesa County only has one Bed and Breakfast establishment. The fee that can currently be charged by the State of Colorado is \$50.00 and that then allows the municipality to charge \$25.00. It is our desire to do a background check with C.B.I./F.B.I. on the ownership as we do any other liquor licenses which the cost will be upon the applicant.

RESOLUTION NO. __-09

**A RESOLUTION AMENDING RESOLUTION NO. 61-08 TO AMEND THE LIQUOR
LICENSE FEES IN THE CITY OF
GRAND JUNCTION, COLORADO**

Recitals.

Resolution No. 61-08 which was adopted by City Council on the 7th day of May, 2008 established fees to be charged under the Colorado Liquor Code. Such fees include application fees and permit fees. License fees are set by State statute.

At that time the City did not establish a fee for a Bed and Breakfast Permit.

In accordance with the City of Grand Junction's Code of Ordinances, fees are set by resolution of the City Council.

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

1. The application fees shall be set to offset as allowed by Law the cost incurred by the City for reviewing and processing the applications, including the costs of publication, hearing, administration, inspection and enforcement of licensed liquor establishments.
2. The fee for a Bed and Breakfast Permit shall be \$25. The fee schedule is hereby amended to include said fee.

PASSED AND ADOPTED this _____ day of _____, 2009.

Gregg Palmer
President of the Council

ATTEST:

Stephanie Tuin
City Clerk

Attach 3

**Contract for a Septage Receiving Station at Persigo Wastewater Treatment Plant
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
Subject	Septage Receiving Station Contract		
File #			
Meeting Day, Date	Monday, April 13, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	April 1, 2009		
Author Name & Title	Susan Hyatt, Senior Buyer		
Presenter Name & Title	Greg Trainor, Utilities and Street Systems Director Jay Valentine, Assistant Financial Operations Manager		

Summary: Request is being made to award a contract for construction and installation of a Septage Receiving Station at Persigo Wastewater Treatment Plant.

Budget: The Persigo Wastewater Treatment Plant (WWTP) has budgeted \$140,000 in the Sewer Treatment Capital Improvement Project account for this purchase.

Action Requested/Recommendation: Authorize the Purchasing Division to enter into a contract with Mays Concrete to install a Septage Receiving Station at Persigo Wastewater Treatment Plant in the amount of \$122,957.

Attachments: N/A

Background Information: The Septage Receiving Station is a sewage dump station that allows metering and testing. Persigo WWTP will be able to monitor which tank is dumping, how much is being dumped and they can even sample the material for hazardous waste and other contaminants. This construction project will include a concrete pad with trench drain, fencing modifications, power and communication lines, and water service in addition to the actual Receiving Station. The system will provide more accurate billing and a more technical and convenient way for different contractors throughout the valley to dispose of sewage pumped from septic tanks.

A formal solicitation was issued, advertised in The Daily Sentinel, and sent to a source list of contractors including the Western Colorado Contractors Association (WCCA). One company submitted a responsive and responsible bid:

- Mays Concrete, Grand Junction \$122,957

Attach 4
Setting a Hearing for the Tall Grass Rezone
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Tall Grass Rezone - Located at 2293 and 2295 Tall Grass Drive		
File #	RZ-2009-014		
Meeting Day, Date	Monday, April 13, 2009		
Placement on the Agenda	Consent	X	Individual
Date Prepared	April 1, 2009		
Author Name & Title	Michelle Hoshide, Associate Planner		
Presenter Name & Title	Michelle Hoshide, Associate Planner		

Summary: Request to rezone the 3.709 acres, located at 2293 and 2295 Tall Grass Drive from C-2 (General Commercial) to I-1 (Light Industrial).

Budget: N/A

Action Requested/Recommendation: Introduce a proposed Ordinance and set a public hearing for Monday, May 4, 2009.

Attachments:

1. Site Location Map / Aerial Photo
2. Future Land Use Map / Existing City and County Zoning Map
3. Ordinance

Background Information: See attached staff report and background information.

BACKGROUND INFORMATION				
Location:		2293 and 2295 Tall Grass Drive		
Applicants:		Owner: Club Deal 113/114 Park Plaza c/o Taurus of Texas Representative: Austin Civil Group		
Existing Land Use:		Vacant		
Proposed Land Use:		Industrial		
Surrounding Land Use:	North	Vacant		
	South	Vacant		
	East	Vacant		
	West	Vacant		
Existing Zoning:		C-2 (General Commercial)		
Proposed Zoning:		I-1 (Light Industrial)		
Surrounding Zoning:	North	I-1 (Light Industrial)		
	South	C-2 (General Commercial) and I-2 (General Industrial)		
	East	C-2 (General Commercial)		
	West	C-2 (General Commercial)		
Growth Plan Designation:		Commercial Industrial		
Zoning within density range?		X	Yes	No

Staff Analysis:

1. Background:

The subject properties were platted as part of the Grand West Business Park in 2007. Approximately 58% of the three largest properties within the subdivision are zoned I-1. The rest of the lots are zoned C-2.

Over the last decade the properties surrounding the Grand West Business Park have been steadily developed as industrial. The applicant would like to rezone these properties to allow uses that are more in character with the surrounding area.

2. Consistency with the Growth Plan:

The Growth Plan's Future Land Use designation is Commercial Industrial. Therefore, the proposed I-1 zone district is consistent with the Growth Plan.

3. Rezone Criteria of the Zoning and Development Code (Section 2.6.A):

In order to maintain internal consistency between the Code and the Zoning Maps, map amendments and rezones must demonstrate conformance with all of the following criteria for approval:

1. *The existing zoning was in error at the time of adoption*

The existing zoning was not in error at the time of adoption.

2. *There has been a change of character in the neighborhood due to installation of public facilities, other zone changes, new growth trends, deterioration, development transition, etc*

Growth trends in the Grand Valley have stimulated the development of industrial uses within the area surrounding 23 Road and G Road. The character of the neighborhood is more industrial than commercial and I-1 zoning would be more in character with the current uses.

3. *The proposed rezone is compatible with the neighborhood and furthers the goals and policies of the Growth Plan, other adopted plans, and the requirements of this Code and other City regulations and guidelines*

The proposed rezone is compatible with the other industrial uses and zoning in the area and the Future Land Use designation of Commercial/Industrial.

4. *Adequate public facilities and services are available or will be made available concurrent with the projected impacts of the proposed development*

There is an existing 8 inch Ute water line that runs along Tall Grass Drive and an existing 12 inch sewer line that runs along 23 Road. These services are adequate and available for development of the property.

5. *There is not an adequate supply of land available in the neighborhood and surrounding area to accommodate the zoning and community needs.*

There is an inadequate supply of industrial zoned land available in the city. Approval of this request meets that community need.

6. *The community or neighborhood will benefit from the proposed zone*

The community and surrounding area will benefit from the proposed rezone in the respect that it will provide additional industrial zoned land that can be developed.

FINDINGS OF FACT/CONCLUSIONS:

After reviewing the Tall Grass Rezone, RZ-2009-014, a request to rezone property from C-2 (General Commercial) to I-1 (Light Industrial), the following findings of fact and conclusions have been determined:

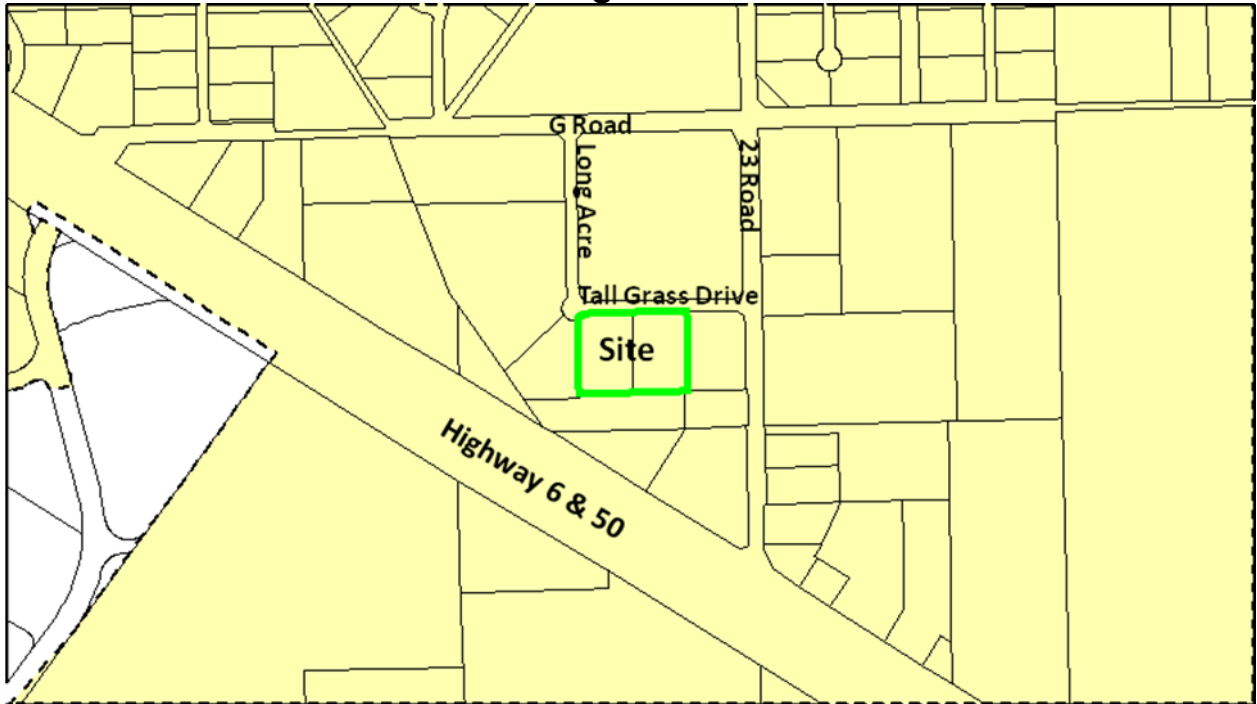
1. The requested rezone is consistent with the Growth Plan.
2. The review criteria in Section 2.6.A of the Zoning and Development Code have all been met.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission Recommended approval of the required rezone to the City Council, finding the requested rezone from C-2 (General Commercial) to I-1 (Light Industrial) for the Tall Grass Rezone, RZ-2009-014, with the findings and conclusions listed above.

Site Location Map

Figure 1



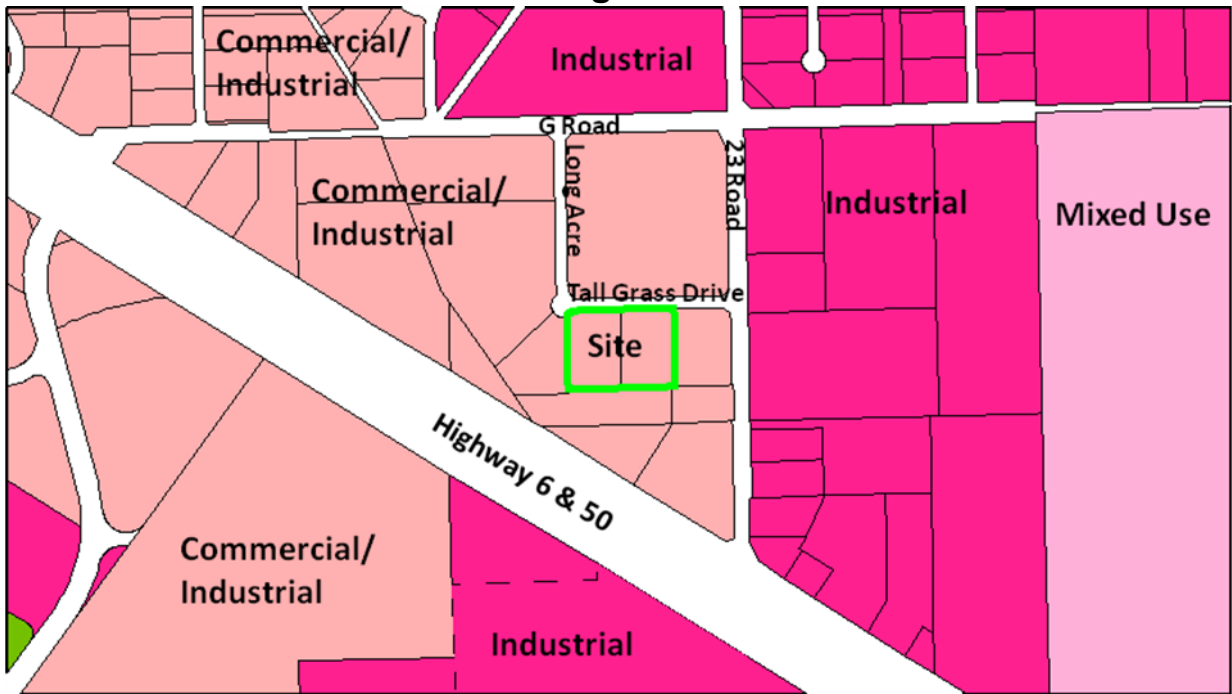
Aerial Photo Map

Figure 2



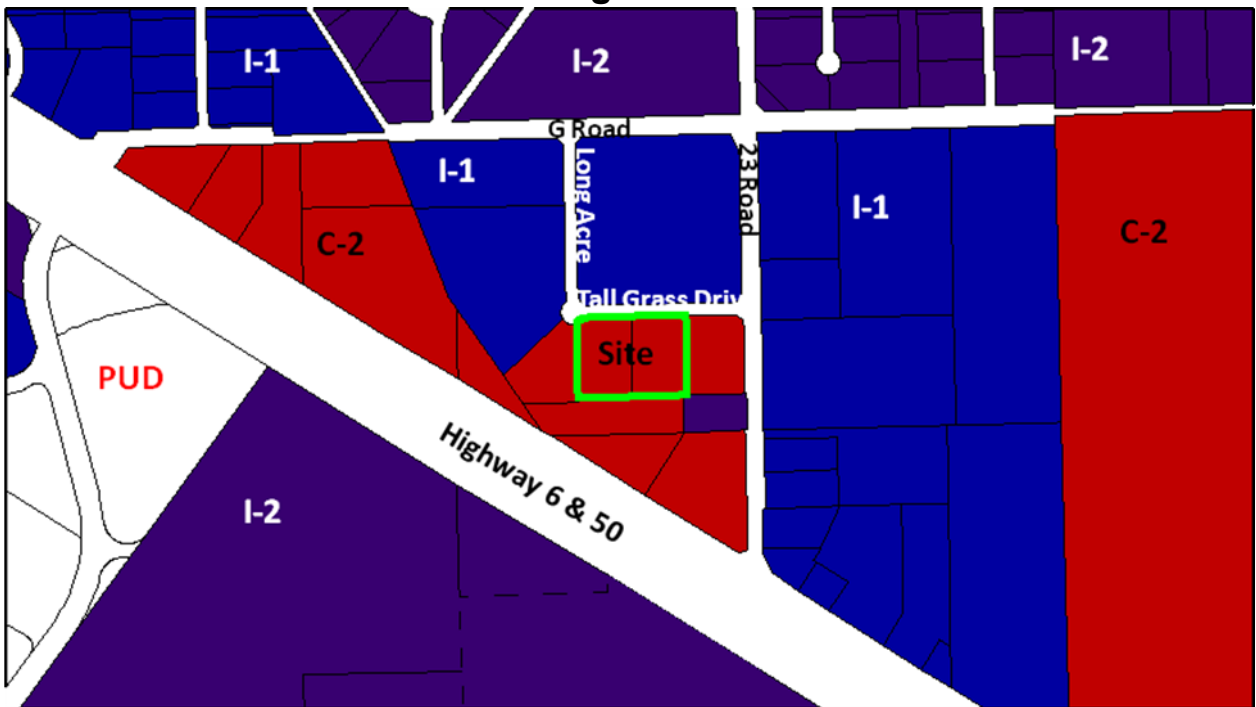
Future Land Use Map

Figure 3



Existing City and County Zoning

Figure 4



CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE REZONING TWO PARCELS OF LAND FROM
C-2 (GENERAL COMMERCIAL) TO I-1 (LIGHT INDUSTRIAL)**

KNOWN AS THE TALL GRASS REZONE

LOCATED AT 2293 AND 2295 TALL GRASS DRIVE

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 the rezone request from C-2 (General Commercial) zone district to the I-1 (Light Industrial) zone district.

After public notice and public hearing before the Grand Junction City Council, City Council finds the rezone request meets the goals and policies and future land use as set forth by the Growth Plan designation of Commercial/ Industrial. City Council also finds that the requirements for a rezone as set forth in Section 2.6 of the Zoning and Development Code have been satisfied.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT THE PARCELS DESCRIBED BELOW ARE HEREBY ZONED TO THE I-1 (LIGHT INDUSTRIAL) ZONE DISTRICT:

Lots 2 and 3 in Grand West Business Park, located in NE ¼, Section 6, T1S, R1W, Ute Meridian, Mesa County, Colorado

Introduced on first reading on the ____ day of _____, 2009

PASSES and ADOPTED on second reading this _____ day of _____, 2009.

Attest:

City Clerk

President of the Council

Attach 5
Application for Justice Assistance Grant
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Application for US Department of Justice annual Justice Assistance Grant (Recovery/Reinvestment Act funding request)		
File #			
Meeting Day, Date	Monday, April 13, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	March 31, 2009		
Author Name & Title	Troy Smith, Deputy Chief of Police		
Presenter Name & Title	Troy Smith, Deputy Chief of Police		

Summary: The Grand Junction Police Department has been solicited by the Bureau of Justice Assistance program of the US Department of Justice, to apply for an annual formula grant in the amount of \$254,568. These funds are allocated evenly between Grand Junction Police Department and Mesa County Sheriff's Office and will be used in combination with other funding sources to purchase a new county-wide Computer Aided Dispatch and Records Management Systems (CAD/RMS). These systems will provide the ability to have fully shared, integrated criminal justice records across all law enforcement agencies in Mesa County. They will also greatly improve communications and eliminate operational inefficiencies that currently exist.

The Bureau of Justice Assistance **requires City Council review and to provide an opportunity for public comment**, as part of the application process.

Budget: \$254,568 in grant funds, if awarded, will be applied toward the approximate \$3.7 million CAD/RMS replacement project.

Action Requested/Recommendation: Authorize the City Manager to apply for these funds, and if awarded to manage/disperse \$254,568 in grant funds.

Attachments: N/A

Background Information: The Grand Junction Police Department and the Mesa County Sheriff's Office have been recipients of funding from this annual grant for many years and both have benefitted from the funding for various projects. The funding level changes each year as the Bureau of Justice Assistance calculates, for each State and Territory, an allocation based upon the statutory JAG formula (U.S.C. 3755(d)(2)(B)). A

Memorandum of Understanding has been signed, as required, by the Police Chief and the Sheriff stipulating these funds for the CAD/RMS project. The City of Grand Junction, through the Grand Junction Police, will again serve as the fiscal agent for these funds. Funds received in prior years ranged from \$14,000 to \$56,000. As a result of the ARRA stimulus package, the allocation for 2009 has increased dramatically.

Attach 6

Public Hearing—Amending the Municipal Code Regarding Wastewater and 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, April 13, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	February 9, 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: Hold a Public Hearing and consider final passage and publication in pamphlet form of the Ordinance. First reading occurred on January 5, 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	11.30 <u>12.30</u>
Cadmium	5.61 <u>3.057</u>
Chromium (T)	165.07 <u>67.685</u>
Chromium (VI)	21.76 <u>2.96</u>
Copper	110.48 <u>41.35</u>
Lead	40.13 <u>14.095</u>
Molybdenum	13.89 <u>7.652</u>
Mercury	0.09 <u>80.026</u>
Nickel	30.29 <u>23.937</u>

Selenium	22.820.278
Silver	37.043.015
Zinc	213.7104.246

*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.

mg/l	a. Cyanide	1.2
	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-judicatory 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 WWTP 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:

$$PIF = (BPIF) \times (EQU)$$

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 x number of single-family units. EQU
- (3) Hotels and motels:
 - a. No restaurants or kitchens, 0.36 x number of rooms EQU
 - b. With kitchenettes, 0.43 x number of rooms EQU
 - c. With restaurants: Use above then add restaurants from below.
- (4) Restaurants:
 - a. Twenty-four-hour operation, 0.21 x number of seats EQU
 - b. Twelve-hour or less operation, 0.14 x number of seats . . . EQU
 - c. Bar, no food, 0.04 x 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, $0.35 \times$ number of thousand square feet of store space EQU
- (8) Travel trailer park (KOA, etc.), $0.25 \times$ number of trailer parking spaces . .EQU
- (9) Churches and assembly halls, theaters and arenas, $0.01 \times$ number of seating capacity EQU
- (10) Drive-in theaters, $0.02 \times$ number of car spaces EQU
- (11) Factory, warehouses and offices (not including industrial waste), $0.05 \times$ number of employees EQU
- (12) Hospital, $0.89 \times$ number of bed spaces EQU
- (13) Institution--Nursing home, $0.36 \times$ number of residences EQU
- (14) Laundry, coin-operated, $0.90 \times$ number of washing machines EQU
- (15) Mobile home parks, $0.67 \times$ number of lots or spaces EQU
- (16) Car wash, $2.3 \times$ number of bays EQU
- (17) Fast food takeout (walk up or drive up):
- Open 12 hours or more each day, $0.10 \times$ number of employees . . . EQU
 - Open less than 12 hours per day, $0.06 \times$ 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 2nd day of February 2009.

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

President of the Council

ATTEST:

City Clerk

Attach 7

Public Hearing—Amending the Requirements for Tasting Alcoholic Beverages at Licensed Establishments

CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Amending the Requirements for Tasting Alcoholic Beverages at Licensed Establishments		
File #	N/A		
Meeting Day, Date	Monday, April 13, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	April 8, 2009		
Author Name & Title	DeLayne Merritt, Legal Staff		
Presenter Name & Title	John Shaver, City Attorney		

Summary: City Council adopted Ordinance No. 3716 regarding tasting of alcoholic beverages on February 2, 2005. Recently a licensee asked to reevaluate the containers permitted for tastings at the licensed establishments. Because of the size of the container it is reportedly difficult to efficiently administer samples in the cups authorized by the current ordinance. There are also concerns that the opaque cups hinder the presentation of the products. Legal staff proposes an amendment to Section 4-58 of Article IV, Chapter 4 of the Code of Ordinances to promote better efficiency and aesthetics of the presentation for the benefit of the proprietors. Amending the Code to allow portion control cups as well as pour control caps will give proprietors a variety of ways to present their products in a manner that best fits the goals of each establishment.

Budget: There will be no direct budget line impact.

Action Requested/Recommendation: Hold a Public Hearing and consider final passage and publication of the Ordinance. First reading occurred on March 30, 2009.

Attachments: Proposed Ordinance with changes

Background Information: See Summary.

ORDINANCE NO. ____

**AN ORDINANCE AMENDING CHAPTER 4, ARTICLE IV, SECTION 4-58
OF THE GRAND JUNCTION CODE OF ORDINANCES
PERTAINING TO THE TASTING OF ALCOHOLIC BEVERAGES**

RECITALS:

The City Code of Ordinances pertaining to the tasting of alcoholic beverages currently limits beverage samples to disposable cups or containers that allow a one ounce serving. Amendment of the Code will allow for portion control cups or pour control caps to enhance efficiency in furnishing samples of alcohol products by licensed establishments.

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

Chapter 4, Section 4-58 of Article IV of the City of Grand Junction, Colorado, Code of Ordinances is hereby amended to read as follows. (Additions are shown in underline; deletions are shown by strikethrough.)

Sec. 4-58. Permit required.

(a) The City hereby authorizes Tastings to be conducted by retail liquor store or liquor-licensed drugstore licensees in accordance with this section and pursuant to Section 12-47-301, C.R.S, as the term "Tastings" is defined in said Section 12-47-301, C.R.S.

(b) It is unlawful for any person or licensee to conduct Tastings within the City unless a Tastings Permit has been obtained in accordance with the article. The local licensing authority for the City is authorized to issue Tasting Permits in accordance with the requirements of this article.

(c) A retail liquor store or a liquor-licensed drugstore licensee that wishes to conduct Tastings shall submit an application for a Tastings Permit to the local licensing authority. The application shall be accompanied by an application fee of \$100.

(d) The local licensing authority may deny the application if the applicant fails to establish that the licensee is able to conduct tastings without violating the provisions of this article or creating a public safety risk.

(e) The local licensing authority shall establish the application procedure. Application forms will be proscribed by the local licensing authority and will include a schedule of the planned tastings, a list of the names of the persons conducting the

tastings and documentation that the person conducting the tasting has completed the required training, a written control plan and other such information as the local licensing authority may require. Any change to the information submitted must be submitted to the local licensing authority one week prior to the change being made. Failure to do so constitutes a violation.

(f) Renewal of the Tastings Permit shall be concurrent with renewal of the retail liquor store or liquor-licensed drugstore license. The initial Tastings Permit shall expire on the date of the retail liquor store or liquor-licensed drugstore license and the initial fee will not be prorated.

(g) Tastings shall be subject to the limitations set forth in 12-47-301(10)(c), C.R.S., as amended from time to time. Compliance with the limitations and requirements set forth in Section 12-47-301(10)(c), C.R.S. shall be a term and condition of any Tasting Permit, whether expressly set forth in the Tasting Permit or not. Additionally, the following conditions shall apply to all tasting permits issued within the corporate limits of the City of Grand Junction:

1. No more than four individual samples of up to one ounce each of beer or wine may be provided to a customer. The samples must be provided free of charge.
2. Tastings may occur on no more than three of the six days (Monday through Saturday) that the licensee may be open for business and shall not exceed 104 days per year.
3. Tastings shall not exceed 5 consecutive hours per day.
4. Tastings shall be conducted during the licensee's operating hours and in any event no earlier than 1 p.m. or later than 7 p.m.
5. ~~Samples to be tasted shall be served only in single use, disposable cups, or containers of a size that contains a~~ Portion size of each sample shall be controlled by use of either a container that contains a one ounce serving or portion control pour cap(s) that dispense one ounce servings.

(h) Tastings authorized pursuant to this section shall be allowed only for a retail liquor store or liquor licensed drug store operating within the City whose license is valid, in good standing and in full force and effect.

ALL OTHER PROVISIONS OF CHAPTER 4 SHALL REMAIN IN FULL FORCE AND EFFECT. THIS ORDINANCE SHALL AMEND ORDINANCE 3716 AND AS NECESSARY REPEAL ANY PART INCONSISTENT HEREWITH.

PASSED for first reading and ordered published by the City Council of the City of Grand Junction, Colorado the 30th day of March, 2009.

PASSED AND ADOPTED on second reading by the City Council of the City of Grand Junction, Colorado this _____ day of _____, 2009.

Gregg Palmer
President of the Council

Attest:

Stephanie Tuin
City Clerk

**Attach 8
Public Hearing—Parkway Complex Annexation and Zoning
CITY OF GRAND JUNCTION**

CITY COUNCIL AGENDA			
Subject	Parkway Complex Annexation and Zoning - Located at 2789 Riverside Parkway		
File #	ANX-2009-018		
Meeting Day, Date	Monday, April 13, 2009		
Placement on the Agenda	Consent		Individual X
Date Prepared	April 1, 2009		
Author Name & Title	Michelle Hoshide – Associate Planner		
Presenter Name & Title	Michelle Hoshide – Associate Planner		

Summary: A request to annex and zone 1.26 acres, located at 2789 Riverside Parkway to an I-1(Light Industrial) zone district. The Parkway Complex Annexation consists of two (2) parcels.

Budget: N/A

Action Requested/Recommendation: Adopt Resolution accepting the petition for 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:		2789 Riverside Parkway	
Applicants:		Owners: TDH Investments LLC.	
Existing Land Use:		Residential Single Family	
Proposed Land Use:		Light Industrial	
Surrounding Land Use:	North	Industrial	
	South	Single Family Residential and Industrial	
	East	Industrial	
	West	Industrial	
Existing Zoning:		I-2 (County General Industrial)	
Proposed Zoning:		I-1 (Light Industrial)	
Surrounding Zoning:	North	I-1(Light Industrial)	
	South	RSF-R (County Single Family Rural) and I-2 (County General Industrial)	
	East	I-2 (County General Industrial)	
	West	I-2 (County General Industrial)	
Growth Plan Designation:		Industrial	
Zoning within density range?		X	Yes
			No

Staff Analysis:

ANNEXATION:

This annexation area consists of 1.264 acres of land and is comprised of 2 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 Parkway Complex 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.

The following annexation and zoning schedule is being proposed.

<u>ANNEXATION SCHEDULE</u>	
March 2, 2009	Referral of Petition (30 Day Notice), Introduction of a proposed Ordinance, Exercising Land Use
March 10, 2009	Planning Commission considers Zone of Annexation
March 30, 2009	Introduction of a proposed Ordinance on Zoning by City Council
April 13, 2009	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
May 15, 2009	Effective date of Annexation and Zoning

PARKWAY COMPLEX ANNEXATION SUMMARY	
File Number:	ANX-2009-018
Location:	2789 Riverside Parkway
Tax ID Number:	2945-241-00-008
Parcels:	2
Estimated Population:	0
# of Parcels (owner occupied):	0
# of Dwelling Units:	1
Acres land annexed:	1.264 acres
Developable Acres Remaining:	1.264 acres
Right-of-way in Annexation:	none
Previous County Zoning:	I-2 (General Industrial)
Proposed City Zoning:	I-1 (Light Industrial)
Current Land Use:	Residential Single Family
Future Land Use:	Industrial
Values:	Assessed: =\$10,070
	Actual: =\$126,490
Address Ranges:	2789 Riverside Parkway
Special Districts:	Water: Ute Water
	Sewer: Central Grand Valley Sanitary District
	Fire: Grand Junction Fire Rural
	Irrigation: 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 I-1 (Light Industrial) zone district is consistent with the Growth Plan. The existing County zoning is I-2 (General Industrial). 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 I-1 (Light Industrial) zoning district conforms to and furthers the goals and policies of the Growth Plan as the Future Land Use designation is Industrial for this property. The proposed zone is also compatible with the adjacent and surrounding land uses.

- 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 I-1 (Light Industrial) zone district. A 12" Ute water line and an 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.

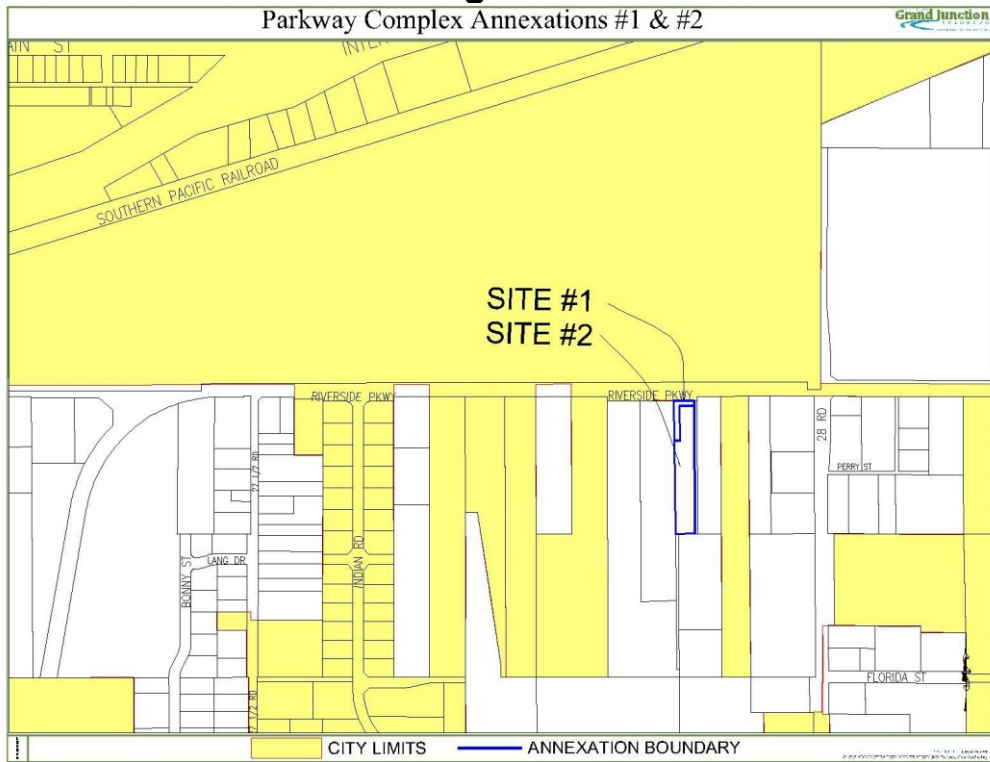
- a. I-O (Industrial/ Office Park)
- b. I-2 (General Industrial)

If the City Council chooses to recommend one of the alternative zone designations, specific alternative findings must be made.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission recommended approval of the requested zone of annexation to the City Council on March 10, 2009, finding the zoning to the I-1 (Light Industrial) 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



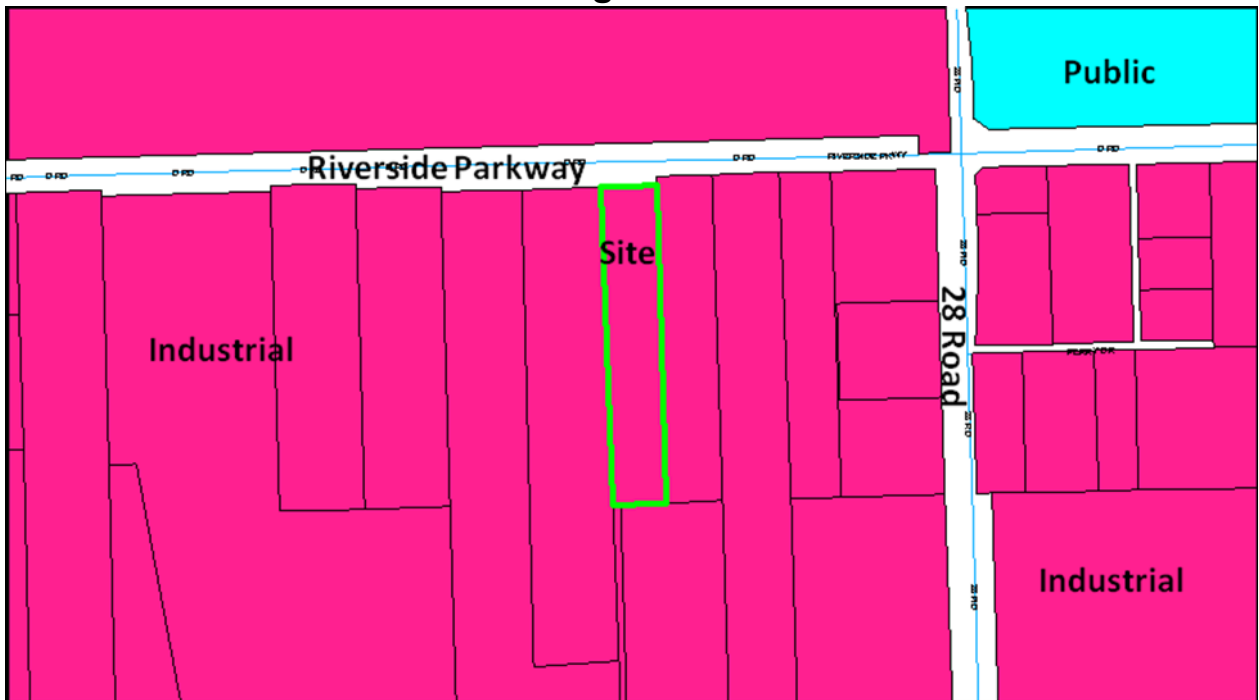
Aerial Photo Map

Figure 2



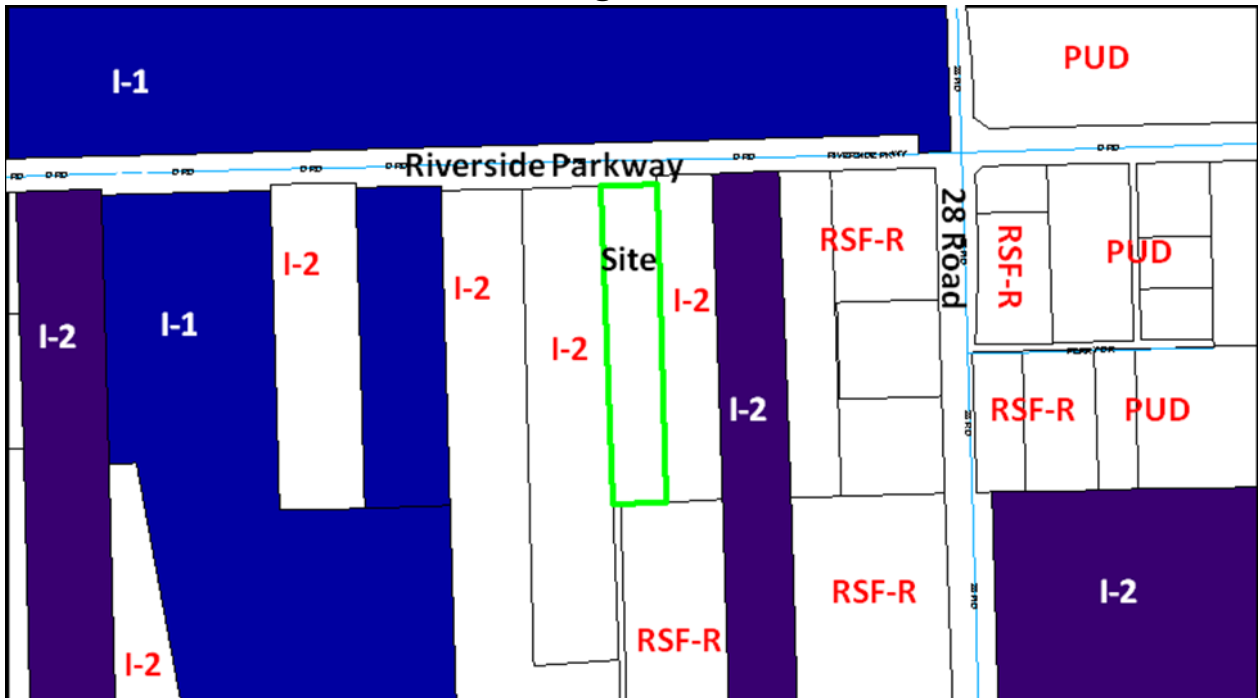
Future Land Use Map

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**

PARKWAY COMPLEX ANNEXATION

LOCATED AT 2789 RIVERSIDE PARKWAY

IS ELIGIBLE FOR ANNEXATION

WHEREAS, on the 2nd day of March, 2009, 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:

PARKWAY COMPLEX ANNEXATION

Parkway Complex Annexation No. 1 and Parkway Complex Annexation No. 2

Parkway Complex Annexation No. 1

A certain parcel of land located in the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northeast corner of the NE 1/4 NE 1/4 of said Section 24 and assuming the North line of the NE 1/4 NE 1/4 of said Section 24 to bear N89°59'19"W with all bearings contained herein relative thereto; thence N89°59'19"W a distance of 582.39 feet along the North line of the NE 1/4 NE 1/4 of said Section 24; thence S00°08'19"E a distance of 50.00 feet to a point on the Southerly line of Carter-Page Annexation, Ordinance No. 4215, City of Grand Junction, said point also being the Point of Beginning; thence S00°08'19"E a distance of 25.00 feet; thence N89°59'19"W a distance of 67.06 feet; thence S00°33'39"E a distance of 159.49 feet; thence N90°00'00"W a distance of 25.00 feet; thence N00°33'39"W a distance of 184.50 feet to a point on the Southerly line of said Carter-Page Annexation; thence S89°59'19"E a distance of 92.25 feet along a line being 50.00 feet South of and parallel with the North line of the NE 1/4 NE 1/4 of said Section 24, said line also being the Southerly line of said Carter-Page Annexation to the Point of Beginning.

Said parcel contains 0.14 acres (6,291.32 sq. ft.), more or less, as described.

Parkway Complex Annexation No. 2

A certain parcel of land located in the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northeast corner of the NE 1/4 NE 1/4 of said Section 24 and assuming the North line of the NE 1/4 NE 1/4 of said Section 24 to bear N89°59'19"W with all bearings contained herein relative thereto; thence N89°59'19"W a distance of 582.39 feet along the North line of the NE 1/4 NE 1/4 of said Section 24; thence S00°08'19"E a distance of 75.00 feet the Point of Beginning; thence S00°08'19"E a distance of 586.80 feet; thence N89°59'19"W a distance of 87.74 feet; thence N00°33'39"W a distance of 427.33 feet to the Southwest corner of Parkway Complex Annexation No. 1, City of Grand Junction; thence S90°00'00"E a distance of 25.00 feet along said Parkway Complex Annexation No. 1; thence N00°33'39"W a distance of 159.49 feet along the Southerly line of said Parkway Complex Annexation No. 1; thence S89°59'19"E a distance of 67.06 feet along the Southerly line of said Parkway Complex Annexation No. 1 to the Point of Beginning.

Said parcel contains 1.12 acres (48,766.93 sq. ft.), more or less, as described.

WHEREAS, a hearing on the petition was duly held after proper notice on the 13th of April, 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**

PARKWAY COMPLEX ANNEXATION

APPROXIMATELY 1.264 ACRES

LOCATED AT 2789 RIVERSIDE PARKWAY

WHEREAS, on the 2nd day of March, 2009, 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 13th day of April, 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:

Parkway Complex Annexation No. 1 and Parkway Complex Annexation No. 2

Parkway Complex Annexation No. 1

A certain parcel of land located in the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northeast corner of the NE 1/4 NE 1/4 of said Section 24 and assuming the North line of the NE 1/4 NE 1/4 of said Section 24 to bear N89°59'19"W with all bearings contained herein relative thereto; thence N89°59'19"W a distance of 582.39 feet along the North line of the NE 1/4 NE 1/4 of said Section 24; thence S00°08'19"E a distance of 50.00 feet to a point on the Southerly line of Carter-Page Annexation, Ordinance No. 4215, City of Grand Junction, said point also being the Point of Beginning; thence S00°08'19"E a distance of 25.00 feet; thence N89°59'19"W a distance of 67.06 feet; thence S00°33'39"E a distance of 159.49 feet; thence N90°00'00"W a distance of 25.00 feet; thence N00°33'39"W a distance of 184.50 feet to a point on the Southerly line of said Carter-Page Annexation; thence S89°59'19"E a distance of 92.25 feet along a line being 50.00 feet South of and parallel with the North

line of the NE 1/4 NE 1/4 of said Section 24, said line also being the Southerly line of said Carter-Page Annexation to the Point of Beginning.

Said parcel contains 0.14 acres (6,291.32 sq. ft.), more or less, as described.

Parkway Complex Annexation No. 2

A certain parcel of land located in the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northeast corner of the NE 1/4 NE 1/4 of said Section 24 and assuming the North line of the NE 1/4 NE 1/4 of said Section 24 to bear N89°59'19"W with all bearings contained herein relative thereto; thence N89°59'19"W a distance of 582.39 feet along the North line of the NE 1/4 NE 1/4 of said Section 24; thence S00°08'19"E a distance of 75.00 feet the Point of Beginning; thence S00°08'19"E a distance of 586.80 feet; thence N89°59'19"W a distance of 87.74 feet; thence N00°33'39"W a distance of 427.33 feet to the Southwest corner of Parkway Complex Annexation No. 1, City of Grand Junction; thence S90°00'00"E a distance of 25.00 feet along said Parkway Complex Annexation No. 1; thence N00°33'39"W a distance of 159.49 feet along the Southerly line of said Parkway Complex Annexation No. 1; thence S89°59'19"E a distance of 67.06 feet along the Southerly line of said Parkway Complex Annexation No. 1 to the Point of Beginning.

Said parcel contains 1.12 acres (48,766.93 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 2nd day of March, 2009 and ordered published.

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

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ZONING THE PARKWAY COMPLEX ANNEXATION
TO I-1 (LIGHT INDUSTRIAL)**

LOCATED AT

2789 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 Parkway Complex Annexation to the I-1 (Light Industrial) 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 and is generally compatible with land uses located in the surrounding area. 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 I-1 (Light Industrial) 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 I-1 (Light Industrial)

PARKWAY COMPLEX ANNEXATION

Parkway Complex Annexation No. 1 and Parkway Complex Annexation No. 2

Parkway Complex Annexation No. 1

A certain parcel of land located in the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northeast corner of the NE 1/4 NE 1/4 of said Section 24 and assuming the North line of the NE 1/4 NE 1/4 of said Section 24 to bear N89°59'19"W with all bearings contained herein relative thereto; thence N89°59'19"W a distance of 582.39 feet along the North line of the NE 1/4 NE 1/4 of said Section 24; thence S00°08'19"E a distance of 50.00 feet to a point on the Southerly line of Carter-Page Annexation, Ordinance No. 4215, City of Grand Junction, said point also being the Point of Beginning; thence S00°08'19"E a distance of 25.00 feet; thence N89°59'19"W a distance of 67.06 feet; thence S00°33'39"E a distance of 159.49 feet; thence N90°00'00"W a distance of 25.00 feet; thence N00°33'39"W a distance of 184.50 feet to a point on the Southerly line of said Carter-Page Annexation; thence S89°59'19"E a distance of 92.25 feet along a line being 50.00 feet South of and parallel with the North

line of the NE 1/4 NE 1/4 of said Section 24, said line also being the Southerly line of said Carter-Page Annexation to the Point of Beginning.

Said parcel contains 0.14 acres (6,291.32 sq. ft.), more or less, as described.

Parkway Complex Annexation No. 2

A certain parcel of land located in the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section 24, Township One South, Range One West of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Commencing at the Northeast corner of the NE 1/4 NE 1/4 of said Section 24 and assuming the North line of the NE 1/4 NE 1/4 of said Section 24 to bear N89°59'19"W with all bearings contained herein relative thereto; thence N89°59'19"W a distance of 582.39 feet along the North line of the NE 1/4 NE 1/4 of said Section 24; thence S00°08'19"E a distance of 75.00 feet the Point of Beginning; thence S00°08'19"E a distance of 586.80 feet; thence N89°59'19"W a distance of 87.74 feet; thence N00°33'39"W a distance of 427.33 feet to the Southwest corner of Parkway Complex Annexation No. 1, City of Grand Junction; thence S90°00'00"E a distance of 25.00 feet along said Parkway Complex Annexation No. 1; thence N00°33'39"W a distance of 159.49 feet along the Southerly line of said Parkway Complex Annexation No. 1; thence S89°59'19"E a distance of 67.06 feet along the Southerly line of said Parkway Complex Annexation No. 1 to the Point of Beginning.

Said parcel contains 1.12 acres (48,766.93 sq. ft.), more or less, as described.

INTRODUCED on first reading the 30th day of March, 2009 and ordered published.

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

ATTEST:

President of the Council

City Clerk

Attach 9
Public Hearing—Ajarian Annexation and Zoning
CITY OF GRAND JUNCTION

CITY COUNCIL AGENDA			
Subject	Ajarian Annexation and Zoning - Located at 2954 D ½ Road		
File #	ANX-2009-021		
Meeting Day, Date	Monday, April 13, 2009		
Placement on the Agenda	Consent	<input type="checkbox"/>	Individual <input checked="" type="checkbox"/>
Date Prepared	April 1, 2009		
Author Name & Title	Michelle Hoshide – Associate Planner		
Presenter Name & Title	Michelle Hoshide – Associate Planner		

Summary: Request to annex and zone 17.78 acres, located at 2954 D ½ Road to an R-8 (Residential 8 du/ac) zone district. The Ajarian Annexation consists of 2 parcels and includes a portion of the D ½ Road right-of-way.

Budget: N/A

Action Requested/Recommendation: Adopt Resolution accepting the petition for 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:		2954 D ½ Road	
Applicants:		Owners: Menas and Avedis Ajarian Representative: Rob Bernett	
Existing Land Use:		County Residential Single Family	
Proposed Land Use:		Residential 8 du/acre	
Surrounding Land Use:	North	Union Pacific Railroad Company	
	South	County Single Family Residential and Residential 8 du/acre	
	East	County Industrial and County Residential Single Family Rural	
	West	County Residential Single Family Rural	
Existing Zoning:		I-2 (County General Industrial) and RSF-R (County Residential Single Family Rural)	
Proposed Zoning:		R-8 (Residential 8 du/acre)	
Surrounding Zoning:	North	I-1(Light Industrial)	
	South	RSF-R (County Residential Single Family Rural) and R-8 (Residential 8 du/acre)	
	East	I-2 (County General Industrial) and RSF-R (County Residential Single Family Rural)	
	West	I-2 (County General Industrial) and RSF-R (County Residential Single Family Rural)	
Growth Plan Designation:		Residential Medium	
Zoning within density range?	X	Yes	No

Staff Analysis:

ANNEXATION:

This annexation area consists of 17.78 acres of land and is comprised of 2 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 Parkway Complex 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.

The following annexation and zoning schedule is being proposed.

<i>ANNEXATION SCHEDULE</i>	
March 2, 2009	Referral of Petition (30 Day Notice), Introduction of a proposed Ordinance, Exercising Land Use
March 10, 2009	Planning Commission considers Zone of Annexation
March 30, 2009	Introduction of a proposed Ordinance on Zoning by City Council
April 13, 2009	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
May 15, 2009	Effective date of Annexation and Zoning

AJARIAN ANNEXATION SUMMARY	
File Number:	ANX-2009-021
Location:	2954 D ½ Road
Tax ID Number:	2943-171-00-150 and 2943-172-00-061
Parcels:	2
Estimated Population:	0
# of Parcels (owner occupied):	0
# of Dwelling Units:	1
Acres land annexed:	17.78 acres
Developable Acres Remaining:	17.32 acres
Right-of-way in Annexation:	.46 acres
Previous County Zoning:	I-2 (County General Industrial) and RSF-R (County Residential Single Family Rural)
Proposed City Zoning:	R-8 (Residential 8du/acre)
Current Land Use:	County Residential Single Family Rural
Future Land Use:	Residential Medium
Values:	Assessed: =\$54,610
	Actual: =\$274,570
Address Ranges:	2954 D ½ Road
Special Districts:	Water: Ute Water
	Sewer: Central Grand Valley Sanitary District
	Fire: Grand Junction Fire Rural
	Irrigation: 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 R-8 (Residential 8 du/acre) district is consistent with the Growth Plan zoning of Residential Medium. The existing County zoning is I-2 (General Industrial) and RSF-R (Residential Single Family Rural). 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 R-8 (Residential 8 du/acre) zoning district conforms with the Growth Plan as the Future Land Use designation is Residential Medium 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 R-8 (Residential 8 du/acre) zone district. An 8" Ute water line and a 12" 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.

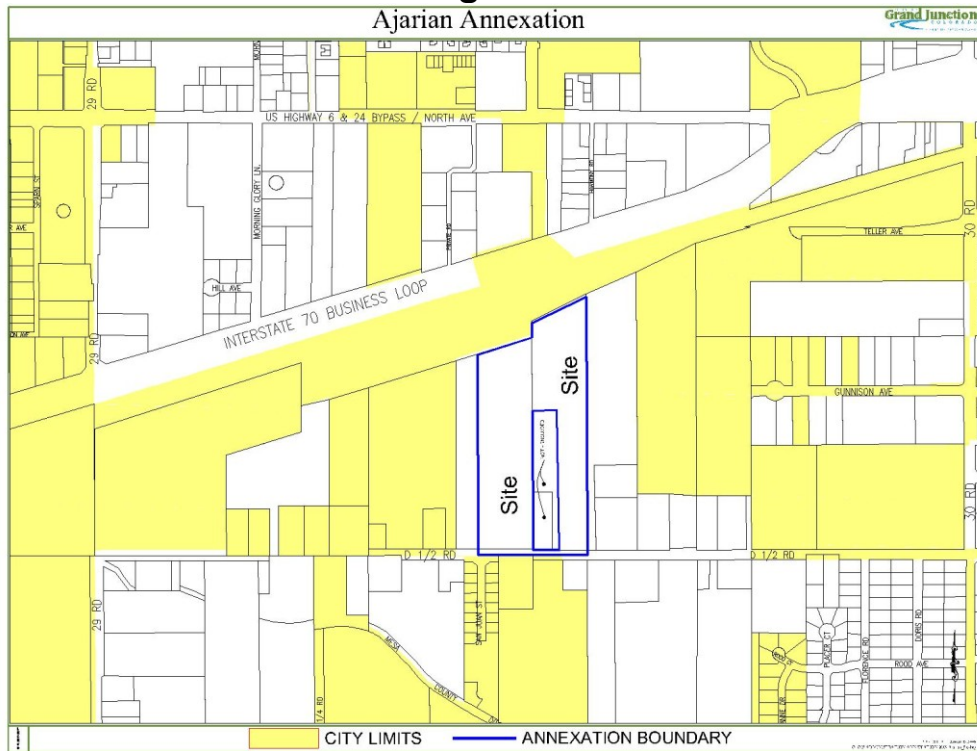
- a. R-4 (Residential 4 du/acre)
- b. R-5 (Residential 5 du/acre)

If the City Council chooses to recommend one of the alternative zone designations, specific alternative findings must be made.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission recommended approval of the requested zone of annexation to the City Council on March 10, 2009, finding the zoning to the R-8 (Residential 8 du/acre) 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



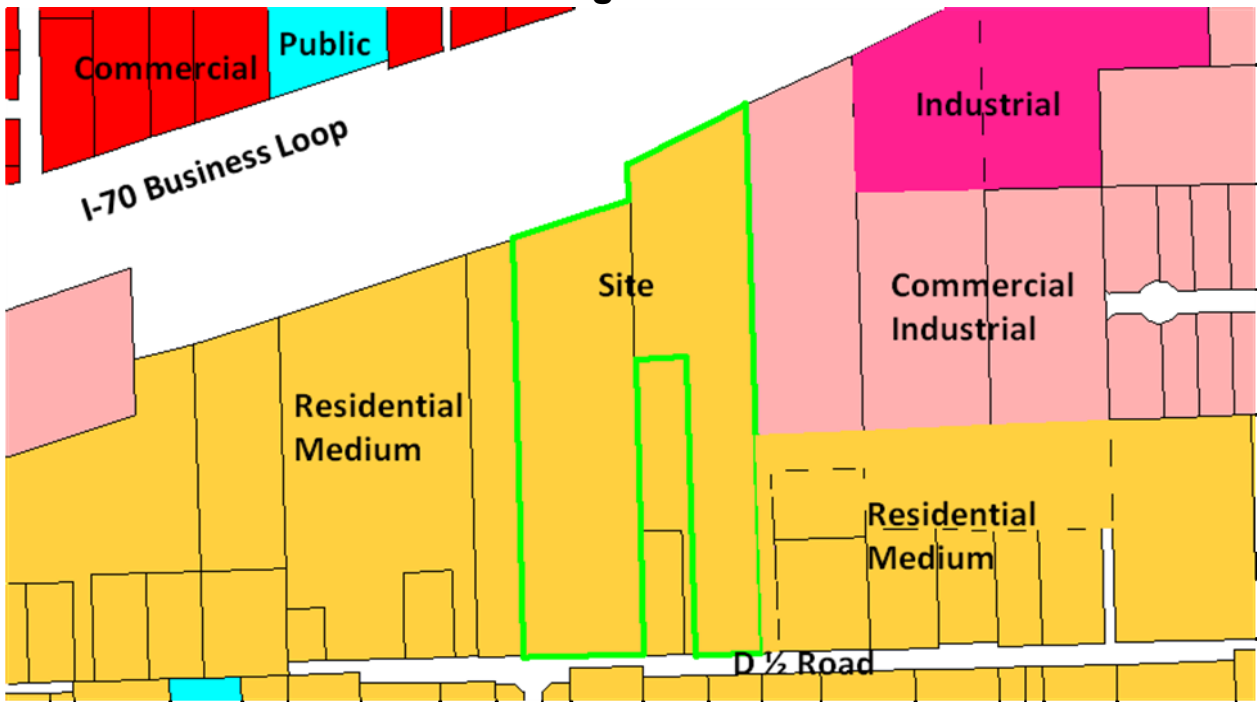
Aerial Photo Map

Figure 2



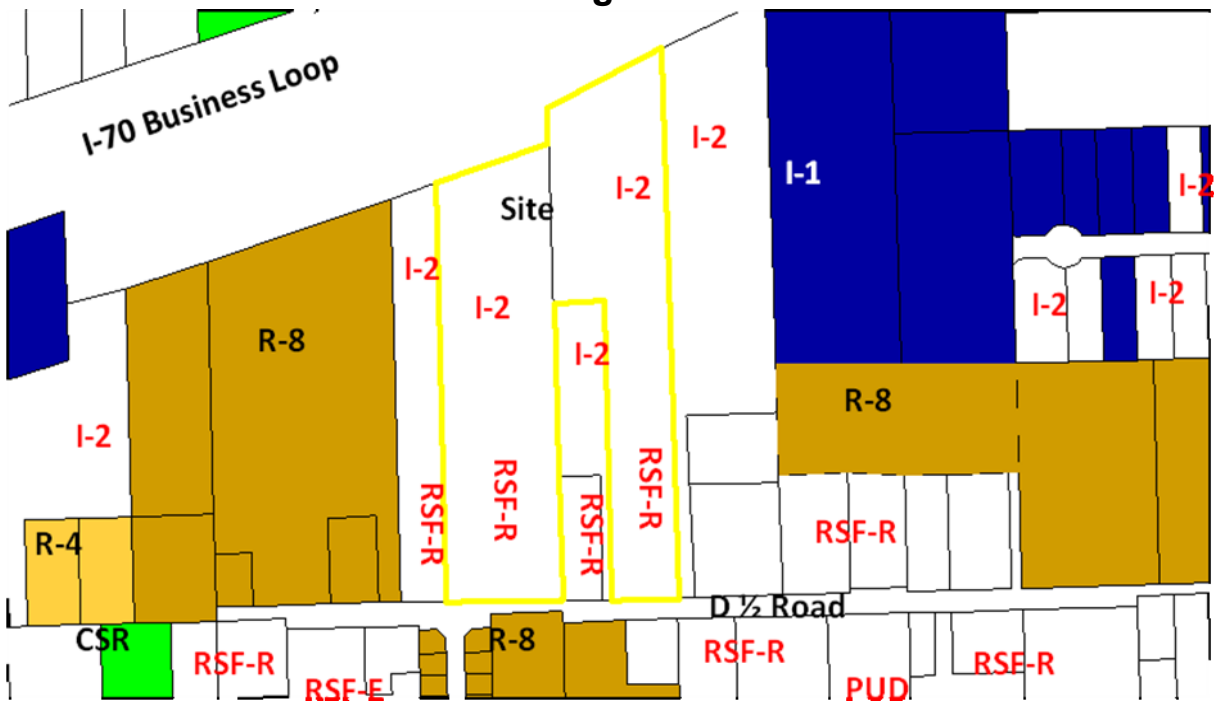
Future Land Use Map

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**

AJARIAN ANNEXATION

**LOCATED AT 2954 D ½ ROAD AND INCLUDING A PORTION OF THE D ½ ROAD
RIGHT-OF-WAY**

IS ELIGIBLE FOR ANNEXATION

WHEREAS, on the 2nd day of March, 2009, 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:

AJARIAN ANNEXATION

A certain parcel of land located in the Northwest Quarter (NW 1/4) and the Northeast Quarter (NE 1/4) of Section 17, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Beginning at the Northwest corner of the NW 1/4 SE 1/4 of said Section 17 and assuming the North line of the NE 1/4 SW 1/4 of said Section 17 to bear S89°59'37"W with all bearings contained herein relative thereto; thence S89°59'37"W a distance of 330.34 feet along the North line of the NE 1/4 SW 1/4 of said Section 17, said line also being the North line of Wexford Annexation, Ordinance No. 4042, City of Grand Junction; thence N00°11'14"W a distance of 1206.34 feet to a point on the Southerly line of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction; thence along the Southerly line of said Southern Pacific Railroad Annexation No. 1 the following four (4) courses: (1) N71°54'35"E a distance of 347.15 feet to a point on the West line of the SW 1/4 NE 1/4 of said Section 17; (2) N00°11'14"W a distance of 4.23 feet along the West line of the SW 1/4 NE 1/4 of said Section 17 to the Northwest corner of the SW 1/4 NE 1/4 of said Section 17; (3) N00°09'11"W a distance of 81.61 feet; (4) N64°33'03"E a distance of 365.02 feet; thence S00°10'35"E a distance of 1556.90 feet to a point on the North line of the NW 1/4 SE 1/4 of said Section 17; thence N89°58'50"W a distance of 329.87 feet along the North line of the

NW 1/4 SE 1/4 of said Section 17 to the Point of Beginning, LESS HOWEVER the following described parcel of land; Commencing at the Northwest corner of the NW 1/4 SE 1/4 of said Section 17; thence N00°11'14"W a distance of 30.00 feet along the West line of the SW 1/4 NE 1/4 of said Section 17 to the Point of Beginning; thence N00°11'14"W a distance of 840.43 feet along the West line of the SW 1/4 NE 1/4 of said Section 17; thence N88°44'25"E a distance of 149.41 feet; thence S00°49'03"E a distance of 843.85 feet; thence N89°58'50"W a distance of 158.67 feet along a line being 30.00 feet North of and parallel with the North line of the NW 1/4 SE 1/4 of said Section 17 to the Point of Beginning.

Said parcel contains 17.78 acres (774,470.45 sq. ft.), more or less, as described.

WHEREAS, a hearing on the petition was duly held after proper notice on the 13th of April, 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**

AJARIAN ANNEXATION

APPROXIMATELY 17.78 ACRES

**LOCATED AT 2954 D ½ ROAD AND INCLUDING A PORTION OF THE D ½ ROAD
RIGHT-OF-WAY**

WHEREAS, on the 2nd day of March, 2009, 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 13th day of April, 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:

AJARIAN ANNEXATION

A certain parcel of land located in the Northwest Quarter (NW 1/4) and the Northeast Quarter (NE 1/4) of Section 17, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Beginning at the Northwest corner of the NW 1/4 SE 1/4 of said Section 17 and assuming the North line of the NE 1/4 SW 1/4 of said Section 17 to bear S89°59'37"W with all bearings contained herein relative thereto; thence S89°59'37"W a distance of 330.34 feet along the North line of the NE 1/4 SW 1/4 of said Section 17, said line also being the North line of Wexford Annexation, Ordinance No. 4042, City of Grand Junction; thence N00°11'14"W a distance of 1206.34 feet to a point on the Southerly

line of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction; thence along the Southerly line of said Southern Pacific Railroad Annexation No. 1 the following four (4) courses: (1) N71°54'35"E a distance of 347.15 feet to a point on the West line of the SW 1/4 NE 1/4 of said Section 17; (2) N00°11'14"W a distance of 4.23 feet along the West line of the SW 1/4 NE 1/4 of said Section 17 to the Northwest corner of the SW 1/4 NE 1/4 of said Section 17; (3) N00°09'11"W a distance of 81.61 feet; (4) N64°33'03"E a distance of 365.02 feet; thence S00°10'35"E a distance of 1556.90 feet to a point on the North line of the NW 1/4 SE 1/4 of said Section 17; thence N89°58'50"W a distance of 329.87 feet along the North line of the NW 1/4 SE 1/4 of said Section 17 to the Point of Beginning, LESS HOWEVER the following described parcel of land; Commencing at the Northwest corner of the NW 1/4 SE 1/4 of said Section 17; thence N00°11'14"W a distance of 30.00 feet along the West line of the SW 1/4 NE 1/4 of said Section 17 to the Point of Beginning; thence N00°11'14"W a distance of 840.43 feet along the West line of the SW 1/4 NE 1/4 of said Section 17; thence N88°44'25"E a distance of 149.41 feet; thence S00°49'03"E a distance of 843.85 feet; thence N89°58'50"W a distance of 158.67 feet along a line being 30.00 feet North of and parallel with the North line of the NW 1/4 SE 1/4 of said Section 17 to the Point of Beginning.

Said parcel contains 17.78 acres (774,470.45 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 2nd day of March, 2009 and ordered published.

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

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ZONING THE AJARIAN ANNEXATION TO
R-8 (RESIDENTIAL 8 DU/ACRE)**

LOCATED AT

2954 D ½ ROAD

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 Ajarian Annexation to the R-8 (Residential 8 du/acre) 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 and is generally compatible with land uses located in the surrounding area. 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 R-8 (Residential 8 du/acre) 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 R-8 (Residential 8 du/acre)

AJARIAN ANNEXATION

A certain parcel of land located in the Northwest Quarter (NW 1/4) and the Northeast Quarter (NE 1/4) of Section 17, Township One South, Range One East of the Ute Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

Beginning at the Northwest corner of the NW 1/4 SE 1/4 of said Section 17 and assuming the North line of the NE 1/4 SW 1/4 of said Section 17 to bear S89°59'37"W with all bearings contained herein relative thereto; thence S89°59'37"W a distance of 330.34 feet along the North line of the NE 1/4 SW 1/4 of said Section 17, said line also

being the North line of Wexford Annexation, Ordinance No. 4042, City of Grand Junction; thence N00°11'14"W a distance of 1206.34 feet to a point on the Southerly line of Southern Pacific Railroad Annexation No. 1, Ordinance No. 3158, City of Grand Junction; thence along the Southerly line of said Southern Pacific Railroad Annexation No. 1 the following four (4) courses: (1) N71°54'35"E a distance of 347.15 feet to a point on the West line of the SW 1/4 NE 1/4 of said Section 17; (2) N00°11'14"W a distance of 4.23 feet along the West line of the SW 1/4 NE 1/4 of said Section 17 to the Northwest corner of the SW 1/4 NE 1/4 of said Section 17; (3) N00°09'11"W a distance of 81.61 feet; (4) N64°33'03"E a distance of 365.02 feet; thence S00°10'35"E a distance of 1556.90 feet to a point on the North line of the NW 1/4 SE 1/4 of said Section 17; thence N89°58'50"W a distance of 329.87 feet along the North line of the NW 1/4 SE 1/4 of said Section 17 to the Point of Beginning, LESS HOWEVER the following described parcel of land; Commencing at the Northwest corner of the NW 1/4 SE 1/4 of said Section 17; thence N00°11'14"W a distance of 30.00 feet along the West line of the SW 1/4 NE 1/4 of said Section 17 to the Point of Beginning; thence N00°11'14"W a distance of 840.43 feet along the West line of the SW 1/4 NE 1/4 of said Section 17; thence N88°44'25"E a distance of 149.41 feet; thence S00°49'03"E a distance of 843.85 feet; thence N89°58'50"W a distance of 158.67 feet along a line being 30.00 feet North of and parallel with the North line of the NW 1/4 SE 1/4 of said Section 17 to the Point of Beginning.

Said parcel contains 17.78 acres (774,470.45 sq. ft.), more or less, as described.

INTRODUCED on first reading the 30th day of March, 2009 and ordered published.

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

ATTEST:

President of the Council

City Clerk