CITY OF GRAND JUNCTION

MUNICIPAL

CODE

A Codification of the General Ordinances

of the City of Grand Junction, Colorado

Reformatted, Indexed, and Published by

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PREFACE

Citation to the Grand Junction Municipal Code: This code should be cited as GJMC; i.e., "see GJMC 3.05.010." A GJMC title should be cited GJMC Title 3. A GJMC chapter should be cited Chapter 3.05 GJMC. A GJMC section should be cited GJMC 3.05.010. Through references should be made as GJMC 3.05.010 through 3.05.040. Series of sections should be cited as GJMC 3.05.010, 3.05.020, and 3.05.030.

Numbering system: The number of each section of this code consists of three parts, in sequence as follows: Number of title; number of chapter within the title; number of section within the chapter. Thus GJMC 3.05.020 is Title 3, Chapter 5, Section 20. The section part of the number (.020) initially consists of three digits. This provides a facility for numbering new sections to be inserted between existing sections already consecutively numbered. In most chapters of the GJMC, sections have been numbered by tens (.010, .020, .030, .040, etc.), leaving nine vacant numbers between original sections so that for a time new sections may be inserted without extension of the section number beyond three digits.

Legislation: The legislative source of most sections is enclosed in parentheses at the end of the section. References to ordinances are abbreviated; thus "(Ord. 2221 § 1, 5-20-95; Ord. 2024 § 2, 4-17-91)" refers to Section 1 of Ordinance No. 2221 and Section 2 of Ordinance No. 2024. "Formerly" followed by a GJMC citation preserves the record of original codification. A semicolon between ordinance citations indicates an amendment of the earlier section.

Codification tables: To convert an ordinance citation to its GJMC number consult the codification tables. The parenthetical information at the end of each ordinance entry indicates where the ordinance has been codified. Ordinances designated as "Special," "Repealed," or "Not Codified" do not appear in the code.

Index: A complete subject matter index is included for GJMC Titles 1 through 45. The index includes complete cross-referencing and is keyed to the section numbers described above.

Errors or omissions: Although considerable care has been used in the production of this code, it is inevitable in so large a work that there will be errors. As users of this code detect such errors, it is requested that a note citing the section involved and the nature of the error be e-mailed to: CPC@codepublishing.com, so that correction may be made in a subsequent update.

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How to Amend the Code

Code Structure and Organization

The code is organized using a 3-factor decimal numbering system which allows for additions between sections, chapters, and titles, without disturbing existing numbers.



Typically, there are 9 vacant positions between sections; 4 positions between chapters, and several title numbers are "Reserved" to allow for codification of new material whose subject matter may be related to an existing title.

Ordinances of a general or public nature, or one imposing a fine, penalty or forfeiture, are codifiable. Prior to enacting a codifiable ordinance, ascertain whether the code already contains provisions on the topic.

Additions

If the proposed ordinance will add material not contained in the code, the ordinance will specify an "addition"; that is, a new title, chapter, section, or subsection, will be added. For example:

Section 1. Chapter 5.20, Taxicab Licenses, is added to read as follows:

-or-

Section 1. A new title, Title 18, Zoning, is added to read as follows:

A specific subsection can also be added when appropriate:

Section 2. Subsection D is added to Section 5.05.070, to read as follows:

Amendments

If the ordinance amends existing code provisions, specify the affected section or chapter numbers in the ordinance. This kind of amendment typically adds a section to an existing chapter, or amends an existing section. Set out the entire section or subsection, not just the text (e.g., sentence) that was changed. For example:

Section 1. Section 5.05.030 is amended to read as follows:

-or-

Section 1. Section 5.05.035, Additional fees, is added to Chapter 5.05 to read as follows:

An ordinance can also amend a specific subsection of a code section:

Section 3. Subsection B of Section 5.05.070 is amended to read:

Repeals

Ordinances which repeal codified material should specify the code chapter, section, or subsection number. The chapter, section, or subsection numbers will be retained in the code, along with their title, as a record of ordinance activity (and as an explanation for gaps in the numbering sequence). The number of the repealed section or chapter number can be reused at a later time when desired. For example:

Section 2. Section 5.05.020, License, is repealed.

Renumbering

If the ordinance renumbers existing code provisions (either sections or subsections), identify how remaining sections or subsections should be renumbered (or relettered).

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OFFICIALS

of the

CITY OF

GRAND JUNCTION, COLORADO

AT THE TIME OF THIS CODIFICATION

_____

Bruce Hill

President of the Council

_____

Bonnie Beckstein

Tom Kenyon

Bill Pitts

Teresa Coons

Gregg Palmer

Linda Romer Todd

City Council

_____

Laurie Kadrich

City Manager

_____

John P. Shaver

City Attorney

_____

Jamie Kreiling

Assistant City Attorney

_____

Stephanie Tuin

City Clerk

THE CHARTER

OF THE

CITY OF GRAND JUNCTION,

COLORADO

Framed by the Charter Convention, August 6, 1909

By Authority of

ARTICLE XX OF THE CONSTITUTION

Adopted September 14, 1909

Revised, Compiled and Indexed

And Containing All Subsequent Amendments to Date

Official Copy, Printed and Published by Authority of
The City Council of the City of Grand Junction, Colorado

AS AMENDED TO APRIL 3, 2007

District Boundaries Re-established by
Resolution No. 114-06 Dated September 6, 2006

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CITY ORGANIZATION

THE CHARTER

OF THE

CITY OF GRAND JUNCTION

P R E A M B L E

We, the people of the City of Grand Junction, under the authority of the Constitution of the State of Colorado, do ordain and establish this Charter for the City of Grand Junction, Colorado.

ARTICLE I

NAME, BOUNDARIES, POWERS, RIGHTS AND LIABILITIES

1. **Name--Boundaries.**--The municipal corporation now existing and known as the "City of Grand Junction" shall remain and continue to be a body politic and corporate under the same name and with the same boundaries, with power and authority to change its boundaries in manner authorized by law.

2. **Powers--Rights--Liabilities.**--By the name of the "City of Grand Junction," the city--

(a) Shall have perpetual succession, and shall own, possess and hold all property, real and personal, theretofore owned, possessed or held by the said City of Grand Junction, and shall assume, manage and dispose of all trusts in any way connected therewith;

(b) Shall succeed to all the rights and liabilities and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said City of Grand Junction; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of, real and personal property;

(c) May receive bequests, gifts and donations of all kinds of property in fee simple, or trust for public, charitable, or other purposes; and to all things and acts necessary to carry out the purpose of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or donation;

(d) Shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct and operate waterworks, light plants, telephone systems, power plants, transportation systems, heating plants, and any other public utilities or works or ways, or any contracts in relation or connection therewith, that may exist and which said city may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said city, which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes;

(e) The legislative, executive and judicial powers of the city shall extend to all matters of local and municipal government, it being the intent hereof that the specifications of particular powers by any other provision of this Charter shall never be construed as impairing the effect of the general grant of powers of local government hereby bestowed;

(f) The city shall also have all powers, privileges and functions which, by or pursuant to the Constitution of this State, have been, or could be granted to or exercised by any city of the first or second class;

(g) All powers of the city shall, except as otherwise provided in this Charter, be vested in its elective officers, subject to distribution and delegation of such powers as provided in this Charter or by ordinance.

ARTICLE II

ELECTIONS

3. **General and Special Municipal Elections.**--A municipal election shall be held in the city on the first Tuesday after the first Monday in April, 1925, and on the first Tuesday after the first Monday in April of every second year thereafter, and shall be known as the General Municipal Election. All other municipal elections that may be held shall be known as Special Municipal Elections.

4. **Registration.**--No person shall be permitted to vote at any municipal election without having been registered. The registration shall be the same as is now or may hereafter be provided by the general laws of the state, except as the council may otherwise by ordinance provide.

5. **Judges and Clerks.**--The judges and clerks of any election shall be selected from a list of persons, one each of whom may be proposed for each election precinct by each candidate. In case there are five candidates or more who present lists at any election, not more than one judge or clerk of election shall be chosen for each precinct from the names proposed by any one candidate. All such lists shall be proposed in writing at least thirty days before election. In case an insufficient number of names are so proposed, the city council may select such number as may be necessary in order to provide three judges and two clerks for each election precinct.

6. **Nominations.**--All nominations for elective offices shall be made by petition signed by not less than fifty registered electors of the city, and, except as herein provided, the manner of nominations and acceptances shall be governed by the state laws applicable thereto, unless otherwise provided by ordinance. No petition of nomination, however, shall contain the name of a political party or organization or other like designation.

Sections 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, repealed.

17. **Election Notices.**--The City Clerk shall, on the tenth day before every city election, certify a list of the candidates so nominated for office at such election, whose names are entitled to appear on the ballot, as being the list of candidates nominated as required by this Charter, together with the offices to be filled at such election, designating whether such election is for a full or unexpired term; and he shall file in his office said certified list of names and offices so to be filled, and he shall cause to be published in a notice calling such election, for any three successive days during the ten-day period prior to such election, in at least one daily newspaper of general circulation published in the City of Grand Junction, an election notice, which said notice shall contain a list of said names of candidates, the offices to be filled and the time when and the places of holding such election.

18. **Form of Ballot.**--The city clerk shall cause ballots for every general and special election to be printed, bound, numbered, endorsed, and authenticated, as provided by the laws of the State of Colorado except as otherwise provided by this Charter. Every ballot intended for the use of voters shall contain the full list and correct name of all the respective offices to be filled and the names of all candidates nominated therefor, whose nominations have been duly made as provided by this Charter and ordinances pursuant thereto, and who have not died or withdrawn, and shall contain no other names of persons. The ballots shall be so printed as to give each voter a clear opportunity to designate by cross mark (x) in a

sufficient margin at the right of the name of each candidate, and of each question submitted, his choice of candidates, and his answer to the question submitted; and on the ballot may be printed such words or instructions as will aid the voter to do so.

19. **Blank Spaces for Additional Candidates.**--One space shall be left below the printed names of the candidates for each office to be voted for, wherein the voter may write the name of any person for whom he may wish to vote.

20. **Requirements of Ballots.**--All ballots printed shall be identical, so that without the numerical number thereon it would be impossible to distinguish one ballot from another. Space shall be provided on the ballot for charter amendments or other questions to be voted on at the municipal elections, as provided by this Charter. The names of candidates for each office shall be arranged in alphabetical order of the surnames. Nothing on the ballot shall be indicative of the source of the candidacy, or of the support of any candidate. No ballot shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such party or political designation or mark, or anything indicating his views or opinions.

21. **Sample Ballots.**--The city clerk shall, at least five days before the election, cause to be printed not less than five hundred sample ballots, upon paper of different color, but otherwise identical with the ballot, to be used at the election, and shall distribute the same, upon application of the candidates, to the registered voters at his office.

22. **Canvass and Election.**--As soon as the polls are closed, the election judges shall immediately open the ballot boxes, take therefrom and count the ballots, and enter the total number thereof on the tally sheet provided therefor. They shall then carefully enter the number of votes for each candidate on said tally sheet and make return to the city clerk as provided by law. No vote shall be counted for any candidate more than once on any ballot. The person receiving the highest number of votes cast at such election for any office shall be elected to that office. A tie between two or more candidates shall be decided by lot, under direction of the canvassing board.

23. **Informalities in Election.**--No informalities in conducting municipal elections shall invalidate the same, if they have been conducted fairly and in substantial conformity with the requirement of this Charter.

Section 24 repealed.

25. **General Election Regulations.**--The provisions of any state law, now or hereafter in force, except as the council may otherwise by ordinance provide, relating to the qualifications and registration of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of elections, except as otherwise provided in this article, so far as they may be applicable, shall govern all municipal elections; provided, also, that the council shall meet as a canvassing board and duly canvass the election returns within two days after any municipal election. Whenever any member of the council is a candidate for re-election, the council shall appoint some justice of the peace or notary public of said city to take the place of said candidate upon said canvassing board as a member thereof.

Section 26 repealed.

ARTICLE III

RECALL OF ELECTIVE OFFICERS

27. **Applies to All Elective Officers.**--Any holder of an elective office may be recalled and removed therefrom by the registered electors of the city as provided in this article.

28. **Petition for Recall.**--Any registered elector of the city may make and file with the city clerk an affidavit containing the name of the officer sought to be removed, and a specific statement of the grounds of removal. The clerk shall thereupon deliver to the elector making such affidavit, a sufficient number of copies of petitions for such recall and removal, printed forms of which he shall keep on hand. Such petitions shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council, shall contain the name of the person to whom issued, the number of forms so issued, the name of the person sought to be removed, the office from which said removal is sought, the grounds of such removal as stated in said affidavit, and shall demand the election of the successor to such office, a copy of which petition shall be entered in a record book to be kept in the office of said clerk. Any defect in said form or record shall not invalidate the same. Said recall petition must be returned and filed with said clerk within thirty days of its issuance. Said petitions before being returned and filed, shall be signed by registered electors equal in number to at least twenty-five per centum of the last preceding vote cast for all the candidates for Governor of the State of Colorado by the electors of the city, and to each such signature shall be attached his place of residence, giving the street and number. Such signatures need not all be on one paper. One of the signers of each such paper shall make an affidavit thereto that the statements therein contained are true, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such papers for the recall of any one officer shall be fastened together and filed as one instrument, with the endorsements thereon of the names and addresses of three persons designated as filing the same.

29. **Petition May Be Amended or New Petition Made.**--Within ten days from the filing of said petition, the clerk shall ascertain by examination thereof and of the registration books and election returns, whether the petition is signed by the requisite number of registered electors, and shall attach thereto his certificate showing the result of such examination. He shall, if necessary, be allowed extra help by the council.

If his certificate shows the petition to be insufficient, he shall within said ten days so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within ten days from the filing of the certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If still insufficient, or if no amendment is made, he shall return the petition to one of the persons designated thereon as filing it, without prejudice, however, to the filing of a new petition for the same purpose.

30. **Election Under Recall Petition, Unless Officer Resigns.**--If the petition or amended petition shall be found and certified by the clerk to be sufficient, he shall submit the same with his certificate to the council without delay, and the council shall, if the officer sought to be removed does not resign within five days thereafter, thereupon order an election to be held on a Tuesday fixed by it, not less than thirty nor more than forty days from the date of the clerk's certificate that a sufficient petition is filed; provided, however, that if any other municipal election is to occur within sixty days from the date of the clerk's certificate, the council may, in its discretion, postpone the holding of the removal election to the date of such other municipal election. If a vacancy occurs in said office, after a removal election has been so ordered, the election shall nevertheless proceed as in this article provided.

31. **Candidates--Election.**--Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of notice of such removal election, and the conduct of the same, shall all be in accord with the provisions of Article II hereof, relating to elections.

32. **Incumbent Removed.**--The incumbent shall continue to perform the duties of his office until the removal election. If then elected, he shall continue in office for the balance of his term. If not then elected, he shall be deemed removed upon the qualification of his successor, who shall hold office

during the unexpired term. If the successor fails to qualify within ten days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

33. **No Recall Petition for First Three Months.**--No recall petition shall be filed against any officer until he has actually held his office for at least three months.

34. **Incapacity of Recalled Officer.**--No person who has been removed from office by recall, or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any office within one year after such removal by recall or resignation.

ARTICLE IV

ELECTIVE OFFICERS

35. **Officers--Terms.**--That the elective officers under the Charter of Grand Junction shall be members of the council as hereinafter provided, all of whom shall be nominated and elected by the registered electors of the city as herein provided. The terms of all elective officers shall commence at ten o'clock a.m. on the first Monday in May following the election and shall be for a term of four years each and until ten o'clock a.m. on the first Monday following the election and qualification of their successors; provided, however, that the office of one of the councilmen elected from the city at large and two councilmen elected from districts at the general municipal election in April, 1925, shall be for two years only, so that their successors shall be elected at the general municipal election in April, 1927, and every four years thereafter. The term of the remaining four members of the city council elected at the general municipal election held in April, 1925 shall be four years. The determination of which terms of the City Council shall be for four years and which terms shall be for two years shall be fixed by lot under the direction of the county judge of Mesa County, Colorado, within sixty days after the April, 1925 election.

36. **Membership and District Boundaries.**--The council shall consist of seven members to be designated as councilmembers, one of which shall be elected by the registered electors of the entire city from each of the districts as determined from time to time by resolution of the city council, and two members to be elected from the city large. The council shall be the judge of the election and qualification of its own members; shall determine its own rules; shall punish its own members for disorderly conduct, and may compel the attendance of its members. The council may from time to time, by resolution, by two-thirds vote of all its members, change the boundaries of the districts.

Annexations lying within the boundaries as extended will be considered as being included within a particular district.

37. **Vacancies.**--A vacancy in the council, from whatever cause arising, shall be filled by the council from among the electors of the district in which the vacancy occurs if a district councilmember, or at large if a councilmember at large, until the next general municipal election, when a successor shall be chosen for the unexpired term. A vacancy shall be taken to exist when a member of the council fails to qualify for thirty days after the commencement of his term, dies, resigns, removes from the city or from the district which he was elected to represent, absents himself from five consecutive meetings of the council unless excused by resolution thereof, is convicted of violating any provision of this Charter, or of a felony, or is judicially declared a lunatic as defined by statute.

38. **Salaries, Meetings.**--At least two meetings of the city council shall be held monthly at such times as may be fixed by the council, such two meetings to be known as the regular meetings. All other meetings of the City council shall be known as special meetings or adjournments. The President of the Council shall be paid a salary of $750.00 per month and all other councilmembers shall each be paid a salary of $500.00 per month. (Approved by the voters at a regular election held 4-6-99.)

ARTICLE V

PRESIDENT OF THE COUNCIL

39. **Term--Duties.**--Each council, at its first regular meeting and thereafter when a vacancy occurs, shall elect from its membership a president of the council. He shall serve for a term of ONE YEAR and until his successor is elected and qualified. During such term he shall be a member of the council with the same right to speak and vote therein as any other member, but without the right of veto. He shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for military purposes. In case of his absence or disability, his duties shall be performed by a president pro tempore, chosen by the council from among its own members.

Sections 40 and 41 repealed.

ARTICLE VI

THE COUNCIL

42. **Legislative Powers.**--The city council shall consist of all the elective officers of the city, and shall, except as otherwise provided by this Charter, be vested with all the legislative powers of the city.

Sections 43 and 44 repealed.

45. **Meetings, Duties of the City Clerk.**--The council shall prescribe the time and place of its meetings and the manner in which special meetings thereof may be called. The city clerk shall be the clerk of the council, and shall, with the president of the council, sign and attest all ordinances and resolutions. A majority of all the members shall constitute a quorum to do business, but a less number may adjourn. The council shall sit with open doors at all legislative sessions and shall keep a journal of its proceedings which shall be a public record.

46. **Restrictions Upon Members.**--No members of the council shall be elected or appointed to any office, position, or employment, the compensation of which was increased or fixed by the council while he was a member thereof until after the expiration of one year from the date he ceased to be such a member.

Section 47 repealed.

48. **Sale of Real Estate.**--The council shall have the following power: (a) to sell and dispose of water works, ditches, gas works, electric light works, or other public utilities, public buildings, real property used or held for park purposes or any other real estate used or held for any governmental purposes, providing, however, that before any sale thereof shall be made the question of such sale and the terms and consideration thereof shall be submitted to and ratified by a majority vote of the qualified electors voting, and the vote thereon shall be by ballot at a regular municipal election or at a special election called and held in the manner provided for by law; and (b) by ordinance or resolution to sell and dispose of and to lease any other real estate owned by the municipality, upon such terms and conditions as such city council may determine at a regular or special meeting; and deeds of conveyance duly executed and acknowledged by the proper officers of the city and purporting to have been made in pursuance of these provisions shall be deemed prima facie evidence of due compliance with all the requirements hereof.

49. **Intoxicating Liquors.**--Section 49 was made obsolete by Article XXII of the Colorado Constitution.

50. **Ordinances and Resolutions.**--(a) In legislative sessions, the council shall act by ordinance, resolution or motion.

(b) The ayes and nays shall be taken upon the passage of all ordinances and resolutions, and entered upon the journal of its proceedings. Upon the request of any member, the ayes and nays shall be taken and recorded upon any motion. Every member when present must vote, and every ordinance passed by the city council shall require on final passage the affirmative vote of a majority of all members of the council.

(c) No ordinance shall be passed finally on the date it is introduced, except in cases of special emergency, for the preservation of the public peace, health or safety, and then only by the unanimous vote of all members of the council. No ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency measure.

(d) The enacting clause of all ordinances passed by the council shall be in these words: "Be It Ordained by the City Council of the City of Grand Junction."

51. **Publication of Ordinances.**--Every proposed ordinance shall be published once in full in a daily newspaper of the city, at least ten days before its final passage; and, after such final passage, it again shall be published once in a daily newspaper as amended and completed, except that an emergency ordinance passed as heretofore provided shall take effect upon passage and be so published within three days; provided that, in lieu of publication of an ordinance in a newspaper both prior to and after passage thereof, by authority of the Council it may be published in book or pamphlet form available for public inspection. There shall be no final passage of an ordinance so placed in book or pamphlet form until hearing thereon by the Council with notice of such hearing published once in a daily newspaper at least ten days prior thereto. Such notice shall state the time and place of such hearing, a description which the Council deems sufficient to apprise interested persons of the purpose of the ordinance, and the place at which the ordinance is available for inspection. Such an ordinance shall be subject to protest under Section 136 of Article XVI of this Charter and "final passage and final publication" thereof shall be deemed to be the time of passage of the ordinance following such hearing.

52. **Amendment or Repeal.**--No ordinance or section thereof shall be amended or repealed except by an ordinance regularly adopted.

53. **Ordinances Granting Franchises.**--No proposed ordinance granting any franchise shall be put upon its final passage within sixty days after its introduction, nor until it has been published not less than once a week for six consecutive weeks in two daily newspapers of the city in general circulation.

54. **Record of Ordinances.**--The city clerk shall permanently retain on file a true and accurate copy of all ordinances, resolutions and evidence of proper publication. Ordinances adopted by a vote of the electors shall be permanently retained separately. The term "on file" includes permanent electronic, tape or other methods.

55. **Proof of Charter and Ordinances.**--This Charter or any ordinance may be proved by a copy thereof, certified to by the city clerk under seal of the city; or when printed in book or pamphlet form, and purporting to be printed by authority of the city, the same shall be received in evidence in all court without further proof.

ARTICLE VII

EXECUTIVE AND ADMINISTRATIVE OFFICERS

56. **Appointive Offices--Power of Council.**--The said Council shall appoint a City Manager by a majority vote, who shall be the Chief Executive officer to the City, and who need not, at the time of his

appointment, be a resident of Grand Junction or of the State of Colorado; a City Attorney; and a Judge of the Municipal Court. The City Manager prior to his appointment shall either have had a successful experience in city management of a city operating under the council-manager form of city government, or had comparable experience. The Council shall have power, except as otherwise provided in this Charter, to fix the salaries and official bonds, establish the qualifications, and prescribe the powers and duties of all officers and employees of the City. The Council shall further have power to create offices and to alter the powers and duties relating thereto. Provided, that nothing in this section shall be taken to give the Council power to diminish the power of City Manager or to alter the relation established by this Charter between the City Manager and the other officers and employees of the City.

57. **City Manager--Salary--Discharge.**--The city manager shall be the administrative head of the city and shall be responsible for the conduct of all its departments. He shall receive a salary to be fixed by the council by ordinance. The city manager may be discharged or removed by a vote of a majority of the members of the council.

58. **Powers of Appointment and Dismissal.**--The city manager shall appoint, subject to the provisions of this Charter, all the officers and employees of the city except where this amendment expressly provides otherwise. The city manager may remove, suspend, demote or discipline any officer or employee of the city except such as are appointed by the council.

59. **Duties.**--The city manager shall see to the faithful execution of the laws and ordinances of the state and city; control and direct the several officers and departments of the city government; investigate at any time the affairs of any department; attend all meetings of the council and take part in its discussions, but not vote; keep the council advised of all the needs of the municipality; recommend measures for its adoption; prepare the annual budget, and perform such other duties as may be imposed on him by this Charter or any ordinance.

60. **Limitations of Council.**--Neither the council nor any member thereof shall dictate the appointment of any person by the city manager, or in any manner interfere with him or prevent him from exercising his own judgment in the appointment of officers and employees. Except for the purpose of inquiry, the council and its members shall deal with that part of the administrative service of the city for which the city manager is responsible solely through such manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager either publicly or privately.

61. **City Clerk--Duties.**--The City Clerk shall be the Clerk of the Council and record and keep all the proceedings thereof. It shall be the duty of the City Clerk to affix the seal of the City to contracts and all other documents whenever the same shall be necessary. The City Clerk shall safely keep all books, records and other documents required to be filed in his office. The City Clerk shall perform all duties characteristic of his office as City Clerk, and the Council may prescribe other powers and duties to be performed by him by ordinance of the City.

62. **City Attorney--Duties.**--There shall be a city attorney who shall have had at the time of his appointment at least five years experience in the active practice of the law in the State of Colorado. He shall draw all ordinances, contracts and other instruments when requested to do so by the council or the manager. He shall be the legal adviser of the manager and the council, and shall represent the city in all cases in which the city shall be a party. He shall attend all meetings of the council and shall have such other powers and duties as may be prescribed by ordinance. By and with the consent of the council, he may appoint one or more deputies.

Sections 63, 64, 65 and 66 repealed.

67. **Newspaper and Publication Fees.**--All election notices, or lists of candidates for office, department reports, ordinances, charters, or charter amendments, advertising publicity affairs, or other publications required or authorized by this Charter, by general law, or by any ordinance of the city to be

made in any newspaper and all such publications for which the City of Grand Junction may be liable, shall be paid for by the city at such rates as shall not, in any event, exceed the ordinary and regular advertising rates charged other advertisers; and all printing of books, pamphlets, bills, letterheads, or other documents or printed matter required by the city shall be paid for at a price not exceeding the usual business rates therefor. No bill shall be rendered to or paid by the city for such advertising or printing in excess of the said usual business rates, even though higher rates may be fixed by the general law for other cities of the state.

ARTICLE VIII

MUNICIPAL COURT

Sections 68 and 69 repealed.

70. **Judge and Jurisdiction.**--The judge of the municipal court of the city shall have all the jurisdiction, powers, duties and limitations as provided for a municipal court by state law or by ordinance, except as otherwise provided by this Charter, and shall have exclusive original jurisdiction to hear, try and determine all charges of misdemeanor as declared by this Charter, and all causes arising under this Charter or any of the ordinances, regulations or other rules of the city for a violation thereof. There shall be no change of venue from said court.

ARTICLE IX

FINANCE

71. **Fiscal Year Same as Calendar Year.**--The fiscal year of the city shall commence on the first day of January and end on the last day of December of each year.

72. **Public Money.**--Investment policies and policies for accounts and deposits shall be established by resolution of the city council. No demand for money shall be approved, allowed, audited or paid unless it shall be in writing, dated and sufficiently itemized to identify the demand against the City.

Section 73 repealed.

74. **No Poll Tax.**--No poll tax shall ever be levied or collected by the city for any purpose whatsoever.

75. **Adoption of Existing Law.**--Until the council shall otherwise by ordinance provide, the statutes of the State of Colorado now or hereafter in force, shall govern the making of assessments by the assessor of the county in which the city is situated, the making of equalization of the board of county commissioners of said county, and the collection of taxes by the treasurer of said county for and on behalf of the city, and also the certification and collection of all delinquent charges, assessment or taxes.

Sections 76, 77, 78 and 79 repealed.

80. **Annual Appropriations.**--Upon said budget as adopted and filed, the council shall pass an ordinance, not later than the thirty-first day of December, in each year, which shall be entitled "The Annual Appropriation Ordinance," in which it shall appropriate such sums of money as it may deem necessary to defray all expenses and liabilities of the city, and in such ordinance shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object and purpose therein named for the ensuing fiscal year.

81. **Levy.**--Such ordinance shall include the proper levy in mills upon each dollar of the assessed valuation of all taxable property within the city, such levy representing the amount of taxes for city pur-

poses necessary to provide for payment during the ensuing fiscal year of all properly authorized demands upon the treasurer, and the council shall thereupon cause the total levy to be certified by the city clerk to the county assessor who shall extend the same upon the tax list of the current year in a separate column entitled, "The City of Grand Junction Taxes," and shall include said city taxes in his general warrant to the county treasurer for collection, as provided by law.

If the council fails in any year to make said levy as above provided, then the rate last fixed shall be the rate fixed for the ensuing fiscal year.

The amount required to make payment of any interest, or principal of bonded indebtedness, shall always be included in and met by tax levy except as otherwise provided in this Charter.

82. **No Liability Without Appropriation.**--Except as herein otherwise specifically provided, the city expenditures in any one year shall not be increased over and above the amount provided in the annual appropriation ordinance for that year, and no contract involving the expenditure, and no expenditure for any improvement to be paid out of the general or special funds of the city or for defraying the expenses and liabilities of the city shall exceed, in any one year, the amount provided in the annual appropriation ordinance to be paid out of the said general and special funds so appropriated and set apart, but the said several funds shall be maintained for, used and devoted to the particular purposes specified in the annual appropriation ordinance.

It shall not be lawful for any department or officer of the city to incur or contract any expense or liability for or on behalf of the city unless such an appropriation shall have been made concerning such expense. Such contract shall be *ab initio* null and void as to the city for any other or further liability; provided first, that nothing herein contained shall prevent the council from providing by ordinance for payment of any expense, the necessity of which is caused by any casualty, accident or unforeseen contingency arising after the passage of the annual appropriation ordinance; and, second, that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor for moneys to be collected by special assessments for local improvements.

Section 83 repealed.

84. **Collection of Taxes.**--Until the council shall otherwise by ordinance provide, the county treasurer shall collect city taxes in the same manner and at the same time as state taxes are collected, and all laws of this state for the assessment of property and the levy and collection of general taxes, including laws for the sale of property for taxes, and the redemption of the same, shall apply and have as full effect in respect of taxes for the city as of such general taxes, except as modified by this Charter.

On or before the fifth day of every month, the county treasurer shall report and pay to the city treasurer the amount of tax collections of the city for the preceding month.

Sections 85 and 86 repealed.

ARTICLE X

RESIDENT LABOR GIVEN PREFERENCE

Section 87 repealed.

ARTICLE XI

PENSIONS

88. **Pensions.**--The city council by ordinance may continue, alter, establish and provide for pensions for any class of employees of the City, by continuation or amendment of the present pension plan of the City or otherwise, and may provide for the manner, method and funds under and with which any pension plan may operate; once established by the Council by ordinance, the city manager, acting with the written consent of the respective board, may alter or amend, but not end or terminate, such pensions or other retirement plans. Any such pension plan may require contributions from employees, may provide for benefits arising out of employment prior to the adoption or amendment thereof, may be made of a permanent character as to any class of employees, and may be in conjunction with any pension or security arrangement of the United States of America, the State of Colorado or any agency of either of them.

Sections 89, 90, 91, and 92 repealed.

ARTICLE XII

DEPARTMENT OF WATER AND SEWERS

93. **Department of Water and Sewers, Rates--Regulations.**--(a) The city manager shall administer water, waterworks and sewers, as separate entities.

(b) The city council shall by ordinance or resolution fix rates, establish regulations for the use of the water and sewer systems, and impose fines and penalties for the violation thereof. All prior resolutions dealing with water and sewer are hereby ratified.

(c) The city council, pursuant to ordinance and without an election, may borrow money or issue interim warrants or revenue bonds for the purpose of acquiring, constructing, improving or extending the water system or the sewer system; provided that such borrowing shall be repaid, and such warrants and bonds shall be made payable solely out of the net revenue derived from the operation of the water system or sewer system, or either or both of such systems.

(d) The revenues derived from the operation of the water or sewer systems shall be used for the maintenance, operation, extension and improvement of either or both of such systems and for interest on and discharging of principal of bonds and other obligations incurred in the acquisition, construction, improvement and extension of either or both of such systems. Whenever such revenues produce a surplus over and above such costs, such surplus may be used to create reasonable capital improvement or reserve funds, and to the extent the surplus is not so used it shall be the duty of the Council to reduce the rates to consumers so that, as far as practicable, the people may receive the benefits of the department at not more than actual cost.

(e) All consumers of water for domestic use outside of the city limits shall pay not more than double the rates so established and fixed for users within the city limits.

(f) Nothing herein contained shall be construed to prevent the Council from issuing bonds or other obligations payable solely out of the net revenue derived from the operation of any other utilities or income producing projects in the manner provided by law.

Sections 94, 95 and 96 repealed.

ARTICLE XIII

OFFICERS AND EMPLOYEES

Sections 97 and 98 repealed.

99. **Oath of Office.**--Every officer or salaried employee shall, before he enters upon the duties of his office, take, subscribe, and file with the clerk an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Colorado, and the Charter and ordinances of the City of Grand Junction, and faithfully to perform the duties of the position upon which he is about to enter.

100. **Bonds.**--Any officer or employee required to give bond shall not be qualified for his office or employment until such bond has been duly approved by the council, and filed with the clerk, who shall have custody thereof.

101. **No Extra Compensation.**--No officer or employee shall solicit or receive any pay, commission, money, pass, free ticket, free service or thing of value, upon terms more favorable than those granted to the public generally or derive any benefit, profit or advantage, directly or indirectly from or by reason of any dealings with or service for the city, by himself or by others, from or by reason of any improvements, alterations, or repairs required by authority of the city, except his lawful compensation or salary as such officer or employee. Any violation of this section shall be a misdemeanor.

102. **Opinions Not Affect Appointments.**--No appointment to any position under the city government shall be made or withheld by reason of any religious or political opinions, or affiliations, or political service; and no appointment or election to, or removal from, any office or employment, and no transfer, promotion, reduction, reward or punishment shall be in any manner affected or made by reason of such opinions, affiliations, or service.

103. **Official Books and Documents.**--(a) All books, records, and papers of each office, department, board or commissioner, are city property and must be kept as such by the proper official or employee during his continuance in office, and delivered to his successor. The failure to so deliver such books, records, and papers shall be a misdemeanor.

(b) All equipment, collections, models, materials, construction tools and implements, which are collected, maintained, used, or kept by the city, or by any department, board or commission, shall be city property, and be turned over by the custodian thereof to his successor, or duly accounted for.

Section 104 repealed.

ARTICLE XIV

FRANCHISES AND PUBLIC UTILITIES

105. **Franchise Granted Upon Vote.**--No franchise relating to any street, alley or public place of the said city shall be granted except upon the vote of the registered electors, and the question of its being granted shall be submitted to such vote upon deposit with the city manager of the expense (to be determined by said city manager) of such submission by the applicant for said franchise, and no such franchise shall be granted unless a majority of such electors voting thereon vote in favor thereof.

106. **Contracts for Service.**--All contracts for service between the city and the owner or manager of any such franchise shall be made by ordinance, the terms of which shall be agreed to in writing by said owner or manager prior to the passage of such ordinance. No contract for service shall be made by the city for a longer period than two years unless such contract be submitted to a vote of the registered electors of the city, and approved by a majority of those voting on said question.

107. **Franchise Specify Streets.**--All franchises or privileges hereafter granted for the use of streets, alleys, avenues, or other public property or right-of-way, shall state the bounds of the district or districts in which it shall be exercised; and no franchise or privilege shall hereafter be granted by the city in general terms or to apply to the city generally.

108. **Power to Regulate Rates and Charges.**--All power to regulate the rates, rentals and charges for service by public utility corporations or any other franchisee or user of any public property, streets, alleys and rights-of-way is hereby reserved to the people to be exercised by them by ordinance of the council, or in the manner herein provided for initiating or referring an ordinance. Any right of regulation shall further include the right to require uniform, convenient, and adequate service to the public and reasonable extensions of such service, works and facilities. The granting of a franchise or other permission to use public property shall not be deemed to confer any right to include in the charge for service any return upon the value of the franchise or grant of permission.

109. **Ordinance in Plain Terms.**--No franchise, right, privilege, or license shall be considered as granted by any ordinance except when granted therein in plain and unambiguous terms, and any and every ambiguity therein shall be construed in favor of the city and against the claimant under said ordinance.

110. **Issuance of Stock.**--Every ordinance granting any franchise shall prohibit the issuing of any stock on account thereof by any corporation holding or doing business thereunder.

111. **License Tax.**--The city shall have the right to license or tax street cars, telephones, gas meters, electric meters, water meters, or any other similar device for measuring service; also telephone, telegraph, electric light, and power poles, subways and wires. The said license or tax shall be exclusive of and in addition to all other lawful taxes upon the property of the holder thereof.

Section 112 repealed.

113. **Railroad Elevate or Lower Tracks.**--The council shall, by ordinance, require under proper penalties, any railroad company, whether steam or electric, to elevate or lower any of its tracks running over, along, or across any of the streets or alleys of the city, whenever in the opinion of the council the public safety or convenience requires.

Section 114 repealed.

115. **Franchise Provide for Safety, Etc.**--The grant of every franchise or privilege shall be subject to the right of the city, whether in terms reserved or not, to make any regulations for the safety, welfare, and accommodation of the public, including among other things, the right to require proper and adequate extensions of the service of such grant, the right to require any or all wires, cables, conduits, and other like appliances, to be placed under ground, and the right to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise.

116. **Oversight of Water Reserved to City.**--Every franchise, right or privilege which has been, or which may hereafter be granted, conveying any right, permission or privilege to the use of the water belonging to the city, or to its water system, shall always be subject to the most comprehensive oversight, management, and control in every particular by the city; and such control is retained by the city in order that nothing shall ever be done by any grantee or assignee of any such franchise, right or privilege which shall in any way interfere with the successful operation of the waterworks of the city, or which shall divert, impair, or render the same inadequate for the complete performance of the trust for the people under which such waterworks are held by the city, or which shall tend so to do.

117. **No Exclusive Franchise--Renewal.**--No exclusive franchise shall ever be granted, and no franchise shall be renewed before one year prior to its expiration.

118. **No Franchise Leased Except.**--No franchise granted by the city shall ever be leased, assigned, or otherwise alienated without the express consent of the city, and no dealing with the lessee or assignee on the part of the city to require the performance of any act or payment of any compensation by the lessee or assignee, shall be deemed to operate as such consent. Any assignment or sale of such franchise to any foreign corporation shall operate as a forfeiture to the city of such franchise.

119. **Amendment, Renewal, Extension or Enlargement of Franchise.**--No amendment, renewal, extension or enlargement of any franchise, or grant of rights or powers previously or heretofore granted to any corporation, persons, or association of persons, shall be made except in the manner and subject to all conditions provided in this article for the making of original grants and franchises. The city shall require as a condition of any amendment, alteration, or enlargement of a franchise or grant, unless otherwise expressly determined by a majority vote of the registered electors of the city, that the person, association, or corporation owning the original franchise or grant, shall, as a prior condition to, and in consideration for such amendment, alteration, or enlargement, covenant and agree, as a part thereof, that such original franchise shall be brought within all the conditions provided in this article for the exercise and enjoyment of franchises hereafter granted, including the right of the city to purchase the plant and physical property, whether within or without the city limits, or both, at a fair valuation, which valuation shall not include any franchise value, or any earning power of such property.

120. **Provision for Common Use of Tracks, Poles, Etc.**--The city may, by ordinance, require any person or corporation holding a franchise from the city for any public utility, to allow the use of any of its poles, tracks, wires, conduits or electric current by any other person or corporation to which the city shall grant a franchise, upon the payment of a reasonable rental therefor; and any franchise or right which may hereafter be granted to any person or corporation to operate a street railway, or other public service, within the city or its suburbs, shall be subject to the condition that the city shall have the right to grant to any other person or corporation desiring to build or operate a street railway, interurban railway, or other public service, within or into the city, the right to operate its cars over the tracks of said street railway, or to utilize its poles, wires, conduits, or electric current, insofar as may be necessary to enter the city and to reach any section thereof; provided, that the person or corporation desiring to operate its cars over the lines of said street railway, or to use such other public service, shall first agree in writing with the owner thereof to pay it a reasonable compensation for such operation or use. And if the person or corporation desiring to use the same cannot agree with said owner as to said compensation, within sixty days from offering in writing to do so, and as to terms and conditions for such use, then the council shall, by resolution, after a fair hearing to the parties concerned, fix the terms and conditions of such use and compensation to be paid therefor, which award of the council when so made, shall be final and binding on the parties concerned.

121. **City Maintain General Supervision--Reports--Inspection.**--The city shall maintain general supervision and police control over all public utility companies insofar as they are subject to municipal control. It shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law.

It shall require every person or corporation operating under a franchise or grant from the city, to submit to the council within sixty days after the first day of January of each year, an annual report verified by the oath of the president, the treasurer, or the general manager thereof.

Such reports shall be in the form, contain such detailed information, and cover the period prescribed by the council, or by ordinance; and the council shall have the power, either through its members or by experts or employees duly authorized by it, to examine the books and affairs of any such person, persons or corporation, and to compel the production before them of books and papers pertaining to such report or other matters. Any such person, persons, or corporations which shall fail to make any such report, shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each and every day thereafter, during which he shall fail to file such report, to be sued for and recovered in any court of record having jurisdiction.

Section 122 repealed.

123. **Books of Account--Examination.**--The city, when owning any public utility, shall keep the books of accounts for such public utility, and in such a manner as to show the true and complete financial result of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to the city of the public utility owned; all cost of maintenance, extension and improvement, all operating expenses of every description, in case of such city operation; if water or other service shall be furnished for the use of any department of the city without charge, the accounts shall show, as nearly as possible, the value of such service, such accounts shall also show reasonable allowance for interest, depreciation, and insurance, and also estimates of the amount of taxes that would be chargeable against such property if owned by a private corporation.

124. **Term Not Longer Than Twenty-Five Years--Compensation.**--No franchise, lease or right to use the streets or the public places, or property of the city, shall be granted by the city, except as in this Charter provided, for a longer period than twenty-five years. Every grant of a franchise shall fix the amount and manner of the payment of the compensation to be paid by the grantee, for the use of the same, and no other compensation of any kind shall be exacted for such use during the life of the franchise, but this provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any licenses, charges, or impositions not levied on account of such use.

125. **City May Purchase, Operate or Sell--Procedure.**--(a) Every grant, extension, or renewal of a franchise or right shall provide that the city may upon the payment therefor of its fair valuation, purchase, and take over the property and plant of the grantee in whole or in part; such valuation shall be made as provided in the grant, but shall not include any value of the franchise or right of way through the streets, or any earning power of such property. The valuation may include, as part of the cost of the plant, interest on actual investment during the period of construction, and prior to operation. Such grant may provide that if the purchase is made within five years of the time when the franchise is granted, the city shall pay an additional sum or bonus of not to exceed ten per centum (10%) on the actual value of the tangible property, exclusive of the franchise value, which additional sum or bonus shall be reduced proportionately from such five-year period to the end of the franchise period when no bonus shall be given.

The procedure to effect such purchase shall be as follows:

When the council shall, by resolution, direct that the mayor shall ascertain whether any such property or part thereof, should be acquired by the city, or in the absence of such action of the council, when a petition subscribed by registered electors of the city, equal in number to at least ten per centum (10%) of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado requesting that the mayor shall ascertain whether any such property or part thereof, should be acquired by the city, shall be filed with the clerk, the mayor shall forthwith carefully investigate said property and report to the council--

(1) At what probable cost said property may be acquired;

(2) What, if any, probable additional outlays would be necessary to operate the same;

(3) Whether, if acquired, it could be operated by city at a profit or advantage in quality or cost of service, stating wherein such profit or advantage consists;

(4) Whether, if granted, it could be paid out of its net earnings, and, if so, within what time; and

(5) Such other information touching the same as he shall have acquired.

Such report shall be made in writing, shall include a statement of facts in relation thereto with such particularity as will enable the council to judge the correctness of his findings and immediately after submission to the council, shall be filed with the city clerk, recorded in the public utility record, and published once in each of two daily newspapers of general circulation published in the city, or printed and distributed in pamphlet form, as the council may determine.

If a petition subscribed by registered electors of the city, equal in number to at least ten per centum (10%) of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, requesting that the question whether or not the city shall acquire said property, shall be submitted to a vote of the people, shall within sixty days after the filing of said report be filed with the clerk, the council shall provide by ordinance for the submission of the question to a vote of the registered electors.

(b) Every grant reserving to the city the right to acquire the plant as well as the property, if any, of the grantee situated in, on, above, or under the public places of the city, or elsewhere, used in connection therewith, shall in terms specify the method of arriving at the valuation therein provided for, and shall further provide that upon the payment by the city of such valuation, the plant and property so valued, purchased and paid for, shall become the property of the city by virtue of the grant and payment thereunder, and without the execution of any instrument of conveyance and every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, for the effectual securing of efficient service and for the continued maintenance of the property in good order and repair and its continuous use throughout the entire term of the grant. The grant may also provide that in case such reserved right to operate or to take over such plant or property is not exercised by the city, and it shall, prior to payment for the same secure a bid for the property, and grant a new franchise for the same service or utility, as provided in Paragraph c of this section, or grant the right to another person or corporation to operate said utility, so occupied and used by its grantor, under the former grant, that the title to and possession of the plant and property so taken away be transferred directly to the new grantee upon the terms upon which the city may have purchased it.

(c) Whenever any plant or property shall become the property of the City of Grand Junction, the city shall have the option at any time, then or thereafter, either to operate the same on its own account, or by ordinance to lease the same or any part thereof, together with the franchise or right to use the streets or other public property in connection therewith, for periods not exceeding twenty-five years, under such rules and regulations as it may prescribe, or by ordinance to sell the same; provided, however, that no such ordinance shall be adopted except by a majority vote of the registered electors of the city.

126. **Charter Provisions Not to Impair Right to Insert Other Matters in Franchise.**--The enumeration and specification of particular matters in this charter which must be included in every franchise or grant, shall never be construed as impairing the right of the city to insert in such franchise or grant, such other and further conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rentals, charges, control, forfeiture, or any other provisions whatever, as the city shall deem proper to protect the interests of the people.

127. **Revocable Permits.**--The Council may grant a permit at any time, in or upon any street, alley, or public place, provided such permit may be revocable by the Council at its pleasure at any time, whether such right to revoke be expressly reserved in such permit or not; provided, however, that no such permit shall be granted for the use of any such street, alley or other public place for the installation or maintenance of a cable system TV, otherwise known as C.A.T.V. system, until the granting of such permit shall be approved by a majority vote of the registered electors of the City.

ARTICLE XV

COMMISSIONS AND BOARDS

PARKS

Section 128 repealed.

PUBLIC LIBRARY

Sections 129, 130, 131 and 132 repealed.

ARTICLE XVI

DIRECT LEGISLATION BY THE PEOPLE

133. **Direct Legislation.**--Any proposed ordinance may be submitted to the council by petition signed by registered electors of the city, equal in number to the percentage hereinafter required. The procedure in respect to such petition shall be the same as provided in Sections 28 and 29, Article III, of this Charter, with such modifications as the nature of the case requires, except that no blank forms shall be furnished or preliminary affidavit made.

134. **Ten Per Centum Petition.**--If the petition accompanying the proposed ordinance be signed by registered electors equal in number to at least ten per centum of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, and contains a request that said proposed ordinance be submitted to a vote of the people, if not passed by the council, the clerk shall thereupon ascertain and certify its number of qualified signers; whereupon, if such certificate shows the required number of qualified signers, the council shall within twenty days thereafter, either--

(a) Pass said ordinance without alteration (subject to the referendum vote provided in this article); or

(b) Call a special election, unless a general or special municipal election is to be held within ninety days thereafter; and at such general or municipal election said proposed ordinance shall be submitted without alteration to the vote of the registered electors of the city.

135. **Five Per Centum Petition.**--If the petition be signed by registered electors equal in number to at least five per centum but less than ten per centum of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, as shown in the manner hereinbefore provided, and said proposed ordinance be not passed without alteration by the council within forty days, as provided in the preceding section, then such proposed ordinance, without alteration, shall be submitted by the council to electoral vote at the next general municipal election, if any, occurring within sixty days thereafter. If filed before sixty days, or within forty days of such election, said petition shall be invalid.

136. **Mode of Protesting Against Ordinances.**--No ordinance passed by the council shall take effect before thirty days after its final passage and final publication, except an emergency ordinance, as provided in Article VI of this Charter. If, within said thirty days, a petition signed by registered electors of the city equal in number to at least ten per centum of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, be presented to the council, protesting against such ordinance taking effect, the same shall thereupon and thereby be suspended from taking effect, the council shall immediately reconsider such ordinance, and if the same be not entirely repealed, the council shall submit it, by the method provided in this article, to a vote of the registered electors of the city, either at the next general municipal election, or at a special election, which may, in their discretion, be called by

them for that purpose, and such ordinance shall not take effect unless a majority of the registered electors voting on the same at such election, shall vote in favor thereof.

The procedure in respect of such referendum petition shall be the same as provided in Sections 28 and 29 of Article III of the Charter, with such modifications as the nature of the case requires, except that no blank forms shall be furnished or preliminary affidavit made.

137. **Reference by the Council.**--The council may, of its own motion, submit to electoral vote for adoption or rejection at a general or special municipal election, any proposed ordinance or measure, or a proposition for the repeal or amendment of any ordinance, in the same manner and with the same force and effect as provided in this article for submission on petition. If the provisions of two or more proposed ordinances or measures, adopted or approved at the same election, are inconsistent, then the ordinance or measure receiving the highest affirmative vote shall prevail.

138. **Publication of Electoral Ordinance.**--Whenever any proposed ordinance is required by this Charter to be submitted to the voters of the city at any election, the council shall cause it to be published as required of other proposed ordinances.

139. **Election.**--The ballots used when voting upon such proposed ordinance shall state the nature of the ordinance in terms sufficient to identify it, and, on separate lines, the words, "For the Ordinance," and "Against the Ordinance." If a majority of the registered electors voting on said proposed ordinance shall vote in favor thereof, the same shall thereupon become an ordinance of the city.

Section 140 repealed.

141. **Limit to Special Elections.**--There shall not be held under this article more than one special election in any period of six months.

142. **Repeal or Amendment.**--An ordinance adopted by electoral vote cannot be repealed or amended except by electoral vote.

ARTICLE XVII

OTHER REGULATIONS

143. **Other Regulations.**--The council may authorize the city manager to make such regulations, not in conflict herewith, as it may deem necessary to carry out the provisions of this charter, any ordinance, resolution or the policies of the Council.

Sections 144, 145 and 146 referred to previous government, and are now of no effect.

147. **Present Ordinances Continue in Force.**--All laws, ordinances, resolutions, by-laws, orders, rules or regulations in force in the City of Grand Junction, at the time this Charter takes effect, not inconsistent with its provisions, whether enacted by the authority of the city or any other authority, shall continue in full force and effect until otherwise provided by ordinance.

148. **Penalty for Violation.**--Any person 18 years of age or older who shall violate any of the provisions of this Charter for the violation of which no punishment has been provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one thousand ($1,000.00) dollars, or by imprisonment in jail not exceeding one year, or by both such fine and imprisonment. Any person under 18 years of age who violates any of the provisions of this Charter for the violation of which no punishment has been provided herein, shall be punished by a fine not exceeding one thousand ($1,000.00) dollars, and/or be required to perform useful public service not to exceed 48 hours or any combination thereof.

149. **Definition of Misdemeanor.**--The term "misdemeanor," as used in this Charter, shall mean a violation thereof, or of any ordinance, resolution or regulation of which the municipal court thereof shall have jurisdiction.

Section 150 repealed.

151. **Submission of Charter Amendments.**--The Charter may be amended at any time in the manner provided by Article XX of the Constitution of the State of Colorado. Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment or measure at any one election.

152. **Reservation of Power.**--The power to supersede any law of the state, now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the city.

153. **Budget Plan--Warrants.**--The city council by ordinance shall adopt a budget plan for the city and shall establish the procedure for paying the City's debts and expenses.

Sections 154, 155 and 156 repealed.

157. **Liberal Construction.**--This measure or Charter amendment shall be construed as a whole and receive a liberal construction to carry out the intent and purpose herein set forth, and any and all parts of the Charter in conflict herewith are hereby repealed, and the remaining sections or portions of sections of said Charter shall be so construed as to harmonize with the provisions of this measure or amendment.

OFFICIAL DATA

Grand Junction was selected, located, staked and founded as a townsite under and by virtue of the laws of the United States, September 26, 1881, by and in the names of George A. Crawford, Richard D. Mobley, M. Rush Warner, James W. Bucklin and their associates, Allison White and H.E. Rood, who, pursuant thereto, on October 10, 1881, incorporated "The Grand Junction Town Company."

June 22, 1882, a vote was taken to incorporate the municipality by the name of the "Town of Grand Junction," which incorporation was completed July 19, 1882.

February 14, 1882, the town was made the county seat of the new county of Mesa.

April 20, 1891, the town was graded into a city of the second class.

April 6, 1909, Grand Junction became a Charter city by vote, pursuant to the State Constitution, and on June 8, 1909, the 21 Charter delegates were elected who completed and filed the Charter on August 7, 1909.

September 14, 1909, the election to adopt or reject the Charter took place, and it was adopted, the first election thereunder occurring November 2, 1909. On November 8, 1921, the Charter was amended, adopting the city manager form of government.

The population of Grand Junction as shown by official census was, in round numbers, in 1885, 500; in 1890, 2,030; in 1900, 3,503; in 1910, 7,754; in 1920, 8,665; in 1930, 10,147; in 1940, 12,479; in 1950, 14,454; in 1960, 18,559; in 1970, 20,170; in 1977, 25,385; in 1980, 28,000; in 1990, 29,034; in 2000, 42,666.

The elevation as fixed by the U.S. government is 4,592.497 feet above sea level, as measured at the NAVD benchmark (1988 North American Vertical Datum), at 402 Rood Avenue.

CITY ORGANIZATION

April 3, 2007

Councilmembers	Jim Doody, President Bonnie Beckstein, Pro Tem Teresa Coons Bruce Hill Gregg Palmer Jim Spehar Doug Thomason

City Manager . . . David Varley

City Clerk . . . Stephanie Tuin

City Attorney . . . John Shaver

Municipal Judge. . . Care' McInnis-Raaum

Title 1

GENERAL PROVISIONS

Chapters:

1.04 General Provisions
1.08 City Datum
1.12 Administrative Enforcement

Chapter 1.04

GENERAL PROVISIONS

Sections:

Article I. General Provisions

1.04.010 Designation and citation of code.
1.04.020 Definitions and rules of construction.
1.04.030 Catchlines of sections.
1.04.040 References to chapters or sections.
1.04.050 History notes.
1.04.060 References and editor's notes.
1.04.070 Provisions considered as continuation of existing ordinances.
1.04.080 Code does not affect prior offenses, penalties or rights.
1.04.090 General penalty – Continuing violations.
1.04.100 Supplementation of code.
1.04.110 Certain ordinances not affected by code.
1.04.120 Effect of repeal of ordinances.
1.04.130 Numbering of ordinances.
1.04.140 Amendments to code – Effect of new ordinances – Amendatory language.
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Article II. Code Numbering System

1.04.170 Acceptance of code.
1.04.180 Repeal of ordinances.
1.04.190 Repeal shall not revive.
1.04.200 Reservation of prosecutions.
1.04.210 Copy on file.
1.04.220 Additions or amendments to code.
1.04.230 Amendments to code.

Article I. General Provisions

1.04.010 Designation and citation of code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Grand Junction Municipal Code, City of Grand Junction, Colorado" (GJMC), and may be so cited.

(Amended during 2009 recodification; Code 1994 § 1-1; Code 1965 § 1-1)

State law reference(s) – Adoption of code by reference, § 31-16-202, C.R.S.; copies in City Clerk's office, § 31-16-206, C.R.S.

1.04.020 Definitions and rules of construction.

In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council:

Charter. The word "Charter" shall mean the Charter of the City of Grand Junction, Colorado.

City. The word "City" shall be construed as if the words "of Grand Junction, Colorado" followed it and shall extend to and include its several officers, agents and employees.

City Council, Council. The terms "City Council" and "Council" shall mean the City Council of the City of Grand Junction, Colorado.

City officials or officers. Whenever reference is made to officers, officials, employees, boards, commissions, departments, etc., by title only, they shall be deemed to refer to those of the City of Grand Junction, Colorado.

Code. The word "code" shall mean the Code of Ordinances, City of Grand Junction, Colorado.

Computation of time. In computing any period of time prescribed or allowed by this code, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday. When a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

State law reference(s) – Similar provisions, § 2-4-108, C.R.S.

County. The word "County" shall mean the County of Mesa, State of Colorado.

C.R.S. The abbreviation "C.R.S." shall mean the latest edition or supplement of the Colorado Revised Statutes.

State law reference(s) – Cite for State statutes, § 2-4-402, C.R.S.

Delegation of authority. Whenever a provision appears authorizing or requiring the City Manager or any other City official or officer or head of a department of the City to do some act or make certain inspections, it is to be construed to authorize that person to designate, delegate and authorize subordinates to perform the authorized or required act or make the authorized or required inspection unless the terms of the provision or section designates otherwise. Except as otherwise required in the Charter or State law, the City Manager has the power to delegate authority and duties designated for the City Manager in this code.

State law reference(s) – Similar provisions, § 2-4-110, C.R.S.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

State law reference(s) – Similar provisions, § 2-4-103, C.R.S.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

State law reference(s) – Similar provisions, § 2-4-110, C.R.S.

Month. The word "month" shall mean a calendar month.

State law reference(s) – Similar provisions, § 2-4-106, C.R.S.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have

acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

State law reference(s) – Similar provisions, § 2-4-101, C.R.S.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

State law reference(s) – Similar provisions, § 2-4-102, C.R.S.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

State law reference(s) – Similar provisions, § 2-4-401(7), C.R.S.

Or, and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

Person. The word "person" shall include and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

State law reference(s) – Similar provisions, § 2-4-401(8), C.R.S.

Signature, subscription. The words "signature" or "subscription" shall include a mark when a person cannot write.

State. The word "State" shall be construed to mean the State of Colorado.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the City and shall embrace all parts thereof within the designated right-of-way.

Tense. Words used in the present or past tense include the future as well as the present and past.

State law reference(s) – Similar provisions, § 2-4-104, C.R.S.

Week. The word "week" shall be construed to mean seven days.

Written, in writing. The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

State law reference(s) – Similar provisions, § 2-4-401(17), C.R.S.

Year. The word "year" shall mean a calendar year.

(Code 1994 § 1-2; Code 1965 § 1-2)

State law reference(s) – Construction of State statutes, § 2-4-101, C.R.S. et seq.

1.04.030 Catchlines of sections.

The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1994 § 1-3; Code 1965 § 1-3)

1.04.040 References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this code unless otherwise specified.

(Code 1994 § 1-4)

1.04.050 History notes.

The history notes appearing in parentheses after certain sections of this code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

(Code 1994 § 1-5)

1.04.060 References and editor's notes.

References and editor's notes following certain sections of this code are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

(Code 1994 § 1-6)

1.04.070 Provisions considered as continuation of existing ordinances.

The provisions appearing in this code, so far as they are the same as those of the Code of Ordinances, City of Grand Junction, Colorado, 1994, and of ordinances existing at the time of adoption of this code, shall be considered as a continuation thereof and not as new enactments.

(Code 1994 § 1-7)

1.04.080 Code does not affect prior offenses, penalties or rights.

Nothing in this code or the ordinance adopting this code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this code.

(Code 1994 § 1-8)

1.04.090 General penalty – Continuing violations.

(a) It shall be unlawful for any person to violate, disobey, omit, neglect, refuse or fail to comply with or resist the enforcement of any ordinance adopted by the City Council or any provision of this code, or commit any act or omission declared to be unlawful or an offense or a misdemeanor, and where no specific penalty is provided therefor, the violation of any provisions of this code shall be punished as provided in subsection (b) of this section. Unless otherwise indicated, each day or portion thereof any violation of any provision of this code shall continue shall constitute a separate offense.

(b) Any person 18 years of age or older who violates any provision of this code or the regulations promulgated hereunder shall be subject to a fine of up to $1,000 and/or up to one year in jail or any combination thereof unless a specific fine. Any person under 18 years of age who violates any provision of this code or the regulations promulgated hereunder shall be subject to a fine up to $1,000 and/or be required to perform useful public service not to exceed 48 hours or any combination thereof.

(c) Notwithstanding subsections (a) and (b) of this section, unless otherwise provided, violation of any requirement of an industrial wastewater pretreatment program implemented pursuant to the federal act, as defined in § 25-8-103(8), C.R.S., is punishable as required by such federal act and its implementing regulations for such programs.

(Code 1994 § 1-9; Code 1965 § 1-8)

State law reference(s) – Penalty for violation of ordinances, §§ 31-16-101, 31-16-204, C.R.S.

1.04.100 Supplementation of code.

(a) By contract or by City personnel, supplements to this code shall be prepared and printed whenever authorized or directed by motion of the City Council. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the City Council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code during the period. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier, meaning the person authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement, and make changes in catchlines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____." The inserted section numbers will indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code.

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

(Code 1994 § 1-10)

1.04.110 Certain ordinances not affected by code.

Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this code:

(a) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this code.

(b) Any ordinance or resolution promising or guaranteeing the payment of money for the City, or authorizing the issue of any bonds of the City, or any evidence of the City's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the City.

(c) Any administrative ordinances or resolutions of the City not in conflict or inconsistent with the provisions of this code.

(d) Any right or franchise granted by any ordinance.

(e) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the City.

(f) Any appropriation ordinance or any ordinance adopting the budget.

(g) Any ordinance levying or imposing taxes.

(h) Any ordinances prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load of vehicles, or loading zones.

(i) Any land use, zoning or rezoning ordinance or amendment to the zoning map.

(j) Any ordinance establishing and prescribing the street grades of any street in the City.

(k) Any ordinance providing for local improvements and assessing taxes therefor.

(l) Any ordinance dedicating or accepting any plat or subdivision in the City.

(m) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the City.

(n) Any ordinance establishing positions, classifying positions, setting salaries of City officers and employees or establishing retirement systems or other employee benefits and any personnel regulations.

(o) Any temporary or special ordinances.

(p) Any ordinance calling elections or prescribing the manner of conducting the election in accordance with State law.

(q) Any ordinance prescribing any rates, charges, deposits, fees or other payment of money to the City.

(r) Any people's ordinance or any ordinance adopted by referendum pursuant to the Charter.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this code and are on file in the City Clerk's office.

(Code 1994 § 1-11)

1.04.120 Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

(Code 1994 § 1-12; Code 1965 § 1-5)

1.04.130 Numbering of ordinances.

All ordinances of a general nature passed by the City Council shall be numbered consecutively, beginning with the number following the last numbered ordinance in the book of ordinances.

(Code 1994 § 1-13; Code 1965 § 1-9)

Editor's note – Ordinances adopted by referendum of the people are listed in Table C, People's Ordinances Table, at the end of this code.

Charter reference(s) – Ordinances, §§ 50 – 55.

1.04.140 Amendments to code – Effect of new ordinances – Amendatory language.

(a) All ordinances passed subsequent to the adoption of this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion in this code. In the case of repealed chapters, sections and subsections or any part

thereof by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are readopted as a new code by the City Council.

(b) Amendments to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this code in the following language: "That section _____ of the Code of Ordinances, City of Grand Junction, Colorado, is hereby amended to read as follows: _____." The new provisions shall then be set out in full as desired.

(c) If a new section not then existing in the code is to be added, the following language may be used: "That the Code of Ordinances, City of Grand Junction, Colorado, is hereby amended by adding a section (or article or chapter) to be numbered _____, which section reads as follows: _____." The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

(Code 1994 § 1-14; Code 1965 § 1-6)

Charter reference(s) – Ordinances, § 50 et seq.

1.04.150 Altering code.

It shall be unlawful for any person in the City to change or amend, by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City to be misrepresented thereby. Any person violating this section shall be punished as provided in GJMC 1.04.090.

(Code 1994 § 1-15; Code 1965 § 1-7)

1.04.160 Severability.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

(Code 1994 § 1-16; Code 1965 § 1-4)

State law reference(s) – Similar provisions, § 2-4-204, C.R.S.

Article II. Code Numbering System

1.04.170 Acceptance of code.

Pursuant to the authority conferred by the Charter of the City and the Colorado Revised Statutes, Title 31, Article 16, Part 2, there is hereby accepted that certain code, entitled the "Code of Ordinances, City of Grand Junction, Colorado," together with all ancillary codes and manuals duly described in the Code of Ordinances and incorporated therein by reference, hereinafter the "code" as renumbered and reformatted.

(Ord. 4379 § 1, 8-17-2009)

1.04.180 Repeal of ordinances.

All ordinances of a general and permanent nature enacted on or before the effective date of the ordinance codified in this article, and not included in the code or recognized and continued in force by reference therein are hereby repealed unless otherwise provided.

(Ord. 4379 § 2, 8-17-2009)

1.04.190 Repeal shall not revive.

GJMC 1.04.180 shall not be construed to revive any ordinance or any part thereof that had been previously repealed by any ordinance being repealed by this article.

(Ord. 4379 § 3, 8-17-2009)

1.04.200 Reservation of prosecutions.

Nothing in this article shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or occurring before the effective date hereof. References to the 1994 Code sections will by this provision be construed to refer to the corresponding section in the code. City employees shall have jurisdiction and authority to cite and enforce any ordinance violation by or according to the code section. No person may claim or assert a defense to enforcement of the code because of renumbering and/or change or indexing as provided in this article.

(Ord. 4379 § 4, 8-17-2009)

1.04.210 Copy on file.

One copy of the code is on file in the City Clerk's office and is available for public inspection. The complete text of the code is available to the public via the Internet.

(Ord. 4379 § 5, 8-17-2009)

1.04.220 Additions or amendments to code.

Additions or amendments to the code, when passed in the form as to indicate the intention of the City Council to make the same a part of the code, shall be deemed to be incorporated in the code, so that reference to the code includes the additions and amendments. The City Clerk shall develop and implement a numbering and indexing system as provided in the ordinance in her discretion.

(Ord. 4379 § 6, 8-17-2009)

1.04.230 Amendments to code.

Ordinances adopted after the effective date of the ordinance codified in this article, that amend or refer to ordinances that have been codified in the code, shall be construed as if they amend or refer to those provisions of the code and will be incorporated into said code.

(Ord. 4379 § 7, 8-17-2009)

Chapter 1.08

CITY DATUM

Sections:
1.08.010 City datum established.

1.08.010 City datum established.

A horizontal plane of reference is hereby established in the City to which all grades established or fixed for public improvement or otherwise shall refer. Such plane shall be known as the City datum and shall be established at an elevation of 4,592.497 feet above sea level, and according to the government bench-mark situate upon the north side of Rood Avenue between Fourth and Fifth at the old post office building within the City (402 Rood).

(Amended during 2009 recodification; Code 1994 § 2-1; Code 1965 § 1-10)

Charter reference(s) – City boundaries, § 1.

Cross reference(s) – Streets, sidewalks and other public places, Chapter 12.16 through 12.24 GJMC.

Chapter 1.12

ADMINISTRATIVE ENFORCEMENT

Sections:

1.12.010 Purpose – Scope.
1.12.020 Definitions.
1.12.030 Authority.
1.12.040 Notice of violation.
1.12.050 Administrative citation.
1.12.060 Contents of administrative citation.
1.12.070 Appeal of administrative citation.
1.12.080 Administrative Hearing Officers.
1.12.090 Administrative appeals.
1.12.100 Failure to obey subpoena.
1.12.110 Failure to attend administrative appeal.
1.12.120 Failure to comply with administrative enforcement order.
1.12.130 Penalties assessed.
1.12.140 Failure to pay fines.

1.12.010 Purpose – Scope.

The purpose of this chapter is to encourage prompt compliance with this code and payment of penalties for violations thereof. This chapter provides for administrative penalties that may be imposed for violation of the following portions of this code: GJMC Title 6, Animals; Chapters 8.04, 8.08, 8.12, 8.16, 8.20 and 13.28 GJMC, environment; Chapter 9.04 GJMC, Offenses; Chapter 8.28 GJMC, Solid Waste; Chapters 12.16, 12.20 and 12.24 GJMC, streets, sidewalks and other public places; GJMC 3.12.070 regarding yard sales; Chapters 2.36 and 8.32 GJMC, vegetation; GJMC Title 21, Zoning and Development; GJMC Title 24, Transportation Engineering Design Standards (TEDS); and GJMC Title 26, Stormwater Management Manual.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-80)

1.12.020 Definitions.

For the purposes of this chapter, the following terms shall have the meanings stated below:

Administrative Hearing Officer or *AO* means the person with exclusive authority to hear appeals from administrative citations issued under this chapter. The AO may be a Municipal Court Judge.

Applicable sections means those sections in the municipal code contained within the chapters stated in GJMC 1.12.010.

City Manager shall mean the City Manager or the City Manager's designee.

Code Enforcement Officer or *CEO* shall mean the City Manager or the City Manager's designee, property inspector or any other City official or employee charged with enforcing the provisions of this chapter.

Municipal Court means the Municipal Court for the City of Grand Junction, Colorado.

Notice of violation means a formal written notice delivered, either by hand delivery, certified mail or posted on the subject property, to a person or entity who has violated any code section(s) referenced in GJMC 1.12.010. The notice shall contain either the parcel number or address, name or entity to whom the notice is being delivered, section(s) of the code allegedly being violated, a time frame in which to correct the violation and information regarding remedies the City may take to achieve compliance.

Responsible party shall mean a person or entity who has violated this code or, in the case of property subject to an administrative citation under this chapter, who has possession or control of any real property

or premises, whether as owner, occupant or tenant, or in the case of a motor vehicle, as owner or operator of the same.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-81)

1.12.030 Authority.

(a) Any responsible party violating applicable sections of this code may be issued an administrative citation by a CEO as provided in this chapter.

(b) Notwithstanding any other provision of this code, responsible parties cited under the provisions of this chapter shall have only the appeal rights granted herein.

(c) Administrative citations shall be issued only after the responsible party has received a notice of violation and has been given time to comply as stated in the notice of violation.

(d) Each day a violation exists or continues shall constitute a separate and distinct offense for which a separate administrative citation may be issued; however, once an administrative citation has been issued for a violation or violations, no additional administrative citation shall be issued for the same violation(s) for 10 days or, if the responsible party appeals, until after the appeal has been heard and the responsible party has not complied with an order of the AO within 10 days of its issuance or such other time as the AO has specified.

(e) A fine assessed by means of an administrative citation issued by the CEO shall be payable directly to the City, and if not timely paid, shall be collected in accordance with the procedures specified in this chapter.

(f) Enforcement actions for violations of applicable code sections are intended to be alternative in nature. The City may pursue a civil, criminal or administrative action, as deemed necessary by the City, against a responsible party, but once an action is commenced all remedies must be pursued in that venue, unless the City chooses to pursue an alternative action upon staying the original action. Nothing in this chapter shall preclude a CEO, in his/her sole discretion, from immediately issuing a summons to court and/or a cease and desist order, for any alleged violation.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-82)

1.12.040 Notice of violation.

(a) Upon becoming aware of a violation of the code, a CEO may issue a notice of violation to the responsible party. The notice shall state the date and location of the violation, the approximate time the violation was observed and identifying, when applicable, the property in violation by address, legal description or parcel number. The notice shall refer to the applicable code section violated, describe the violation and describe the action required to correct the violation. The notice shall require the responsible party to correct the violation within 10 days, and shall explain the consequences of failure to correct said violation(s), including the issuance of an administrative citation. The terms of any cease and desist order shall separately state the terms of that order.

(b) Service of a notice of a violation on the responsible party shall be by any of the following means:

(1) To the responsible party at the site of the violation(s) or at any other location by personally delivering a copy of the notice of violation to the responsible party; or

(2) A copy of the notice may be mailed by first class mail to the last known address of the responsible party as the same is reflected in the City or county records; or

(3) A copy of the notice of violation may be posted in a conspicuous place on premises. The CEO shall photograph the posting with a camera showing the date and time of the posting. The photograph showing the posting shall be maintained by the CEO during the proceeding.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-83)

1.12.050 Administrative citation.

(a) If the responsible party has failed to correct the violation(s) noted in the notice of violation within the time provided on such notice, a CEO may issue an administrative citation to the responsible party on a form approved by the City Attorney.

(b) The CEO may require that the responsible party provide evidence of the responsible party's identity and residential and/or working address.

(c) The CEO shall reasonably attempt to issue the administrative citation to the responsible party at the site of any violation(s). The CEO may issue the administrative citation to the responsible party by the methods described in GJMC 1.12.040(b).

(d) The CEO shall attempt to obtain the signature of the person receiving the administrative citation on the citation. If that person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.

(e) Notice shall be deemed served on the earliest of:

(1) The date of receipt by the responsible party, if personally served;

(2) The second day after the mailing of the administrative citation; or

(3) The date the administrative citation was posted.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-84)

1.12.060 Contents of administrative citation.

(a) The administrative citation shall state the location of the violation(s) and the date and approximate time the violation(s) was observed. Where applicable, the administrative citation shall identify the property in violation by address or legal description.

(b) The administrative citation shall refer to the applicable code section(s) violated and describe the violation(s).

(c) The administrative citation shall describe the action required to correct the violation(s).

(d) The administrative citation shall:

(1) Require the responsible party to correct the violation(s) immediately;

(2) Provide a date for reinspection by the CEO; and

(3) Explain the consequences of failure to correct said violation(s), to include immediate abatement if necessary to protect the public's health and/or safety.

(e) The administrative citation shall state the amount of fine imposed for the violation(s).

(f) The administrative citation shall explain how the fine shall be paid, the time period by which it shall be paid and the consequences of failure to pay the fine.

(g) The administrative citation shall briefly state the process for appealing the administrative citation.

(h) The administrative citation shall contain the signature of the CEO and the signature of the responsible party if it can be obtained.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-85)

1.12.070 Appeal of administrative citation.

(a) A person served with an administrative citation may file a notice of appeal within five calendar days after the service of the administrative citation. Strict compliance with the five-day notice shall be a jurisdictional prerequisite to any appeal brought under this chapter, and failure to comply shall bar any appeal.

(b) The notice of appeal shall be made in writing and shall be filed with the Municipal Court in person, by facsimile transmission or by mail. Regardless of the manner of filing such appeal, the notice of appeal must be filed with the Municipal Court within five calendar days from the date the administrative citation was served.

(c) As soon as practicable after receiving the written notice of appeal, the Municipal Court shall assign an AO who shall schedule a date, time and location for the hearing.

(d) Written notice of the date, time and location of the hearing shall be personally served upon or sent by first class mail to the responsible party at least 10 calendar days prior to the date of the hearing. The hearing shall be held no more than 21 days after the date upon which the administrative citation was issued.

(e) In computing the day a notice of appeal must be filed or the day by which a hearing must be held, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to the first day thereafter which is not a Saturday, Sunday or legal holiday.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-86)

1.12.080 Administrative Hearing Officers.

(a) The Administrative Hearing Officer must be an attorney licensed to practice law in the State of Colorado with a minimum of three years of experience.

(b) Any person designated to serve as an AO is subject to disqualification for bias, prejudice, interest or for any other reason for which a judge may be disqualified in a court of law.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-87)

1.12.090 Administrative appeals.

(a) Administrative appeals are intended to be less formal; specifically, formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures provided in this section.

(b) The parties to an administrative appeal shall be the responsible party and the City, by and through the CEO and City Attorney. Parties may be represented by legal counsel. Each party may call and question witnesses, cross-examine witnesses and present evidence.

(c) The AO, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The form of, and the process for issuing, subpoenas shall be the same as in the Municipal Court.

(d) The AO, an attorney for the responsible party, and/or the City Attorney shall have the power to call and question witnesses; the AO shall review and rule on the relevancy of documentary or other tangible evidence and rule on evidentiary questions.

(e) The only issue to be decided by the AO is whether the CEO exceeded his/her authority in issuing the administrative citation. The City bears the burden of proof to establish the existence of a violation of the code. In the case of a nuisance abatement hearing, the City bears the burden of proof to establish the existence of a nuisance. The City's meeting of this burden of proof shall constitute prima facie evidence that the CEO did not exceed his/her authority. The appellant shall have the burden of rebutting such evidence.

(f) The standard of proof required in an administrative appeal is a preponderance of the evidence.

(g) Copies, photographs and photocopies, if determined to be reasonably reliable, may be admitted into evidence or substituted in evidence in place of original documents.

(h) Hearings shall be recorded by electronic means and transcripts of such recordings shall be made at the expense of the party requesting the transcript.

(i) Whenever it appears that a petition is not filed within the time permitted by the particular law or ordinance involved, or that the AO for some other reason lacks jurisdiction, the case may be dismissed on the motion of any party or on the AO's own motion.

(j) The decision of the AO shall be known as an administrative enforcement order.

(k) The AO may uphold the administrative citation and all penalties or dismiss the administrative citation and all penalties or may waive or conditionally reduce the penalties assessed by the administrative citation. The AO may also impose conditions and deadlines to correct the violations or require payment of any outstanding penalties.

(l) In the event that the AO does not dismiss the administrative citation, the AO shall assess reasonable administrative costs of not less than $100.00, but not to exceed $250.00.

(m) The administrative enforcement order shall become final on the date of mailing the order to the responsible party. A copy of the order shall be provided to the City.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-88)

1.12.100 Failure to obey subpoena.

It is unlawful for any person to refuse to obey a subpoena issued by an AO. Failure to obey a subpoena constitutes contempt and may be criminally prosecuted and have penalties imposed in the same manner as violation of a Municipal Court subpoena.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-89)

1.12.110 Failure to attend administrative appeal.

Any responsible party who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing; provided, that proper notice of the hearing has been provided.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-90)

1.12.120 Failure to comply with administrative enforcement order.

It is unlawful for a responsible party who has been served with a copy of the final administrative enforcement order to fail to comply with the order. Failure to comply with a final administrative enforcement order may be criminally prosecuted and have penalties imposed.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-91)

1.12.130 Penalties assessed.

(a) The City Manager shall develop a fine schedule based upon the City Manager's assessment of the cost to the City for enforcing the provisions of this chapter. Such schedule shall be approved by the City Council. The schedule of fines shall be graduated in amount, with the smallest fine being assessed for the first administrative citation and increasingly larger fines for second, third and subsequent administrative citations. No single fine assessed for an administrative citation shall exceed $1,000. The schedule of fines shall be amended no more than once per year.

(b) Payment of the fine shall not excuse the failure to correct the violation(s) nor shall it bar further enforcement action by the City.

(c) All fines assessed shall be payable to the City of Grand Junction.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-92)

1.12.140 Failure to pay fines.

(a) The failure of any responsible party to pay the fines assessed by an administrative citation within the time specified on the citation or administrative enforcement order, if an administrative hearing is held, may result in the imposition of a late fee of $50.00, a 20 percent charge to defray the cost of collection, and interest at a rate of eight percent per annum on all unpaid amounts.

(b) In the event of failure to pay all fines assessed, the City Manager may refer the matter to the City Attorney for collection.

(c) In the case of delinquent charges, assessments or taxes, including fines and the costs of nuisance abatement, the City Manager shall, pursuant to § 31-20-105, C.R.S., certify the same to the Treasurer of Mesa County to be collected and paid over by the Treasurer of the County in the same manner as taxes are collected.

(d) An action or other process provided by law may be maintained by the City Attorney to recover or collect any amounts, including late fees, interests, and administrative costs, owing under this chapter.

(Ord. 4233 § 1, 5-7-08; Code 1994 § 2-93)

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

2.04	**City Council**
2.08	**Officers and Employees**
2.12	**Administrative Regulations**
2.16	**Tort Liability**
2.20	**Elections**
2.24	**Fire Department**
2.28	**Municipal Court**
2.32	**Parks and Recreation Board**
2.36	**Forestry Board**
2.40	**Cemeteries**
2.44	**Lost, Stolen, Confiscated or Abandoned Property**
2.48	**Art in Public Places Program**
2.52	**City Boards and Commissions**
2.56	**National Incident Management System (NIMS)**

Cross reference(s) – Administration of building regulations, Chapter 15.08 GJMC.

Chapter 2.04

CITY COUNCIL

Sections:

2.04.010 Meetings.
2.04.020 Disconnection of territory.
2.04.030 Proceedings published – Failure – Penalty.

Charter reference(s) – Elections, Article II; recall of elective officers, Article III; elective officers, Article IV; president of the Council, Article V; the Council, Article VI.

Cross reference(s) – Elections, Chapter 2.20 GJMC.

2.04.010 Meetings.

The meeting schedule for the City Council and the procedure for calling special meetings shall be established annually by resolution of the City Council.

(Code 1994 § 2-26; Code 1965 §§ 2-2, 2-3)

Charter reference(s) – Council to prescribe time, place of meetings, §§ 38, 45.

2.04.020 Disconnection of territory.

When the City Council desires to, or determines that it is necessary to, disconnect and/or de-annex a tract, lot or other area from the City, the Council shall direct the City Attorney to prepare an ordinance to disconnect such tract, lot, or area. Said ordinance may provide for exemption, imposition or relief from taxation as determined by the City Council to be in the best interest of the City. The Council may direct that the City Manager take such steps as are necessary to simplify the process of disconnection and/or de-annexation for affected persons. The City Council may provide in any disconnection and/or de-annexation ordinance that a tract, lot or area shall be required to pay taxes lawfully assessed or the City Council may provide that such tract, lot or area be exempt from the payment of ad valorem taxes, except that no property shall be exempted from the payment of such taxes, if during the time the property was annexed to the City, any indebtedness was lawfully subject to the taxes required to pay such indebtedness.

(Ord. 2910 § 1, 4-17-96. Code 1994 § 2-27)

2.04.030 Proceedings published – Failure – Penalty.

(a) It shall be the duty of the City Council to publish in the official legal newspaper for the City of Grand Junction a report of each claim and expenditure by them allowed and paid, and taxes rebated, disclosing the name of and amount paid to each individual or firm, a description of the services or material furnished to the City and, as to other items the nature of claim, and disclosing the fund charged with each expenditure of money not paid immediately made by the City Council, disclosing the nature and purpose of the contract, the parties thereto and the amounts involved therein. Such reports shall be published at least every three months within 30 days following the end of the period for which it is made. The City Clerk shall furnish a copy of such proceedings for such publication.

(b) It shall be the duty of the City Council to publish in the official legal newspaper for the City of Grand Junction a semiannual financial statement furnished to the Council by the City Treasurer which shall include in separate columns the balance at the beginning of the period in each fund kept by the treasurer, the collections to each fund from current taxes, delinquent taxes, miscellaneous collection and transfers, withdrawals from each fund showing cash disbursements, transfers and treasurer's fees and the balance at the end of the period in each fund. The statement shall be published within 30 days following June 30th and December 31st of each year. The City Clerk shall furnish a copy of such proceedings for such publication.

(c) Any willful violation of any provision of this section by any City Councilman or by any person acting as Clerk-Treasurer, or otherwise for City Councilman in connection with such published reports and the statements contained therein is a misdemeanor, and any person convicted of any violation shall be punished by a fine not exceeding $100.00.

(People's Ord. 31, 4-9-59)

Chapter 2.08

OFFICERS AND EMPLOYEES

Sections:
2.08.010 Bond required.

Charter reference(s) – Executive and administrative departments, Article VII; department of public affairs, Article VIII; department of finance and supplies, Article IX; pensions, Article XI; department of water and sewers, Article XII; officers and employees, Article XIII.

Cross reference(s) – Fire Department, Chapter 2.24 GJMC; Municipal Court, Chapter 2.28 GJMC; Parks and Recreation Board, Chapter 2.32 GJMC; Forestry Board, Chapter 2.36 GJMC; law enforcement, Chapter 2.44 GJMC; Alcoholic Beverage Hearing Officer, GJMC 5.12.110 et seq.; Board of Appeals and appeals procedure regarding the building regulations, GJMC 15.08.010; Building Official, GJMC 15.08.020; Division of Fire Prevention, GJMC 15.44.020.

2.08.010 Bond required.

Certain employees of the City shall be bonded specifically or through a blanket bond in an amount not less than $10,000, conditioned upon the true, honest and faithful performance of their respective duties. The City shall pay the premiums for the bonds required by this section.

(Code 1994 § 2-51; Code 1965 §§ 2-11, 2-12)

Charter reference(s) – Bonds of officers and employees, § 100; bond of City Manager, § 57.

State law reference(s) – Bonds, § 31-4-401, C.R.S. et seq.

Chapter 2.12

ADMINISTRATIVE REGULATIONS

Sections:
2.12.010 Administrative regulations.

2.12.010 Administrative regulations.

The Department Directors of the various departments of the City may promulgate, after public notice, administrative regulations for the purposes of interpreting, clarifying and effectuating the purposes of this code. A violation of an administrative regulation shall constitute a violation of this code.

(Code 1994 § 2-61)

Chapter 2.16

TORT LIABILITY

Sections:
2.16.010 Code provisions.
2.16.020 Drivers of City-owned vehicles or emergency vehicles.

Cross reference(s) – Nonassumption of tort liability, GJMC 15.08.040.

2.16.010 Code provisions.

The City or its officers, employees or agents shall not be liable, nor is liability created, assumed or implied, by the adoption and/or enforcement of this code, nor by the act or failure to act, pursuant to the provisions of this code.

(Code 1994 § 2-71)

2.16.020 Drivers of City-owned vehicles or emergency vehicles.

Provisions of this code applicable to the drivers of vehicles upon the streets and highways shall apply to the drivers of all vehicles owned or operated by the City, subject to such specific exceptions as may apply to authorized emergency vehicles. No liability of the City or its officers, employees or agents shall be created or implied by the operation of authorized emergency vehicles unless the emergency vehicle is operated in such a manner as to indicate a willful and wanton disregard for the safety of other persons or property.

(Code 1994 § 2-72)

Cross reference(s) – Law enforcement, Chapter 2.44 GJMC; traffic and vehicles, GJMC Title 10.

Chapter 2.20

ELECTIONS

Sections:
2.20.010 Colorado Municipal Election Code of 1965 adopted.
2.20.020 Amendments to the Colorado Municipal Election Code of 1965.

Charter reference(s) – Elections, Article II.

Cross reference(s) – City Council, Chapter 2.04 GJMC.

State law reference(s) – Municipal election code, § 31-10-101, C.R.S. et seq.

2.20.010 Colorado Municipal Election Code of 1965 adopted.

The Colorado Municipal Election Code of 1965, as enacted by the State Legislature, is hereby adopted by reference.

(Code 1994 § 14-1; Code 1965 § 10-1)

2.20.020 Amendments to the Colorado Municipal Election Code of 1965.

As made applicative to elections in the City of Grand Junction:

(a) Section 31-10-302(2).

> **31-10-302** (2) Nomination petitions may be circulated and signed beginning on the NINETY-FIRST day and ending of the SEVENTY-FIRST day prior to the day of the election. AS PROVIDED IN THE CITY CHARTER, EACH PETITION SHALL BE SIGNED BY NOT LESS THAN FIFTY REGISTERED ELECTORS OF THE CITY.

(b) Section 31-10-302(4). The last sentence of Section 31-10-302(4) shall be amended to read:

> Any petition may be amended to correct or replace those signatures which the clerk finds are not in apparent conformity with the requirement of this section at any time prior to SIXTY-SEVEN days before the day of the election.

(Ord. 3869, 3-1-06. Code 1994 § 14-2)

Chapter 2.24

FIRE DEPARTMENT

Sections:
2.24.010 Fire Department transportation charges.

Charter reference(s) – Fire Chief, head of Fire Department, § 63.

Cross reference(s) – Officers and employees, Chapter 2.08 GJMC.

2.24.010 Fire Department transportation charges.

The Fire Department shall follow established federal and/or State guidelines or profiles for emergency transportation fees, rates and charges. Fees, rates and charges for any emergency transportation performed by the Fire Department may be adjusted from time to time by the Fire Chief or his designee, in accordance with established federal and/or State guidelines.

(Code 1994 § 18-32; Code 1965 § 12-11)

Chapter 2.28

MUNICIPAL COURT

Sections:
2.28.010 Created.
2.28.020 Jurisdiction, powers and procedures.
2.28.030 Issuance of warrants.
2.28.040 Rules of conduct.

Charter reference(s) – Municipal judge, §§ 56, 70.

Cross reference(s) – Officers and employees, Chapter 2.08 GJMC; enforcement of the animal control regulations in Municipal Court, GJMC 6.12.100.

State law reference(s) – Municipal court, § 13-10-101, C.R.S. et seq.

2.28.010 Created.

A Municipal Court in and for the City is hereby created and established, pursuant to and governed by the provisions of § 13-10-101, C.R.S. et seq.

(Code 1994 § 22-1; Code 1965 § 18.5-1)

2.28.020 Jurisdiction, powers and procedures.

(a) The Municipal Court shall have original jurisdiction of all cases arising under the Charter, the code of ordinances, resolutions, rules and regulations of the City, with full power to assess and collect penalties, punish violators, abate nuisances, enforce orders of the Court by remedial or punitive contempt, and to otherwise effect the responsibilities prescribed by ordinance, Charter, resolution, regulation or Court rule.

(b) The Municipal Court has jurisdiction and powers of an administrative hearing officer where so provided by the ordinances or resolutions of the City.

(c) For purposes of hearing cases arising out of or under the Charter, the code or any other ordinance, regulation or resolution of the City, other than those arising under GJMC Title 10, the Municipal Court is a qualified court of record and shall comply with requirements of State law for courts of record. The Municipal Court shall furnish the record of proceedings to any party wishing to appeal from a judgment of the Court, acting as a court of record, for transcription at such party's sole expense.

(Amended during 2009 recodification; Code 1994 § 22-2; Code 1965 § 18.5-2)

2.28.030 Issuance of warrants.

The Municipal Judge and any associate judges are authorized to issue search warrants or inspection warrants for premises or property by municipal officials or inspectors in accordance with State Municipal Court rules. The Judge may also issue warrants for the inspection and examination of any structure or property if it satisfactorily appears that the applicant for the warrant is required or authorized to make the inspection by any provision of this code or other ordinance, resolution or regulation of the City or routine policy of inspection and enforcement and that, for the purpose of making a complete inspection, the applicant is required to go onto private property or enter into private premises. Nothing in this section shall be deemed to require the issuance of a warrant for emergency inspections or any other case where warrants are not required by law.

(Code 1994 § 22-3; Code 1965 § 18.5-4)

2.28.040 Rules of conduct.

Except as provided in this code, the Municipal Court shall be conducted under the procedures prescribed by the State Municipal Court rules, applicable provisions of the Colorado Revised Statutes, and local rules as amended.

(Amended during 2009 recodification; Code 1994 § 22-4)

Chapter 2.32

PARKS AND RECREATION BOARD

Sections:

2.32.010 Appointment of members – Purpose and duties.
2.32.020 Terms of members – Ex officio members.
2.32.030 Filling of vacancies.
2.32.040 Compensation – Removal of members.

Cross reference(s) – Administration, GJMC Title 2; officers and employees, Chapter 2.08 GJMC.

2.32.010 Appointment of members – Purpose and duties.

The President of the City Council, with the concurrence of the Council, shall appoint a Parks and Recreation Board, which shall act in an advisory capacity to the City Council and the Director of the Department, including assisting in planning of recreation activities and in helping to promote a long-range program for the development of the City's parks system.

(Code 1994 § 26-26; Code 1965 § 20-1)

2.32.020 Terms of members – Ex officio members.

The President of the Council shall select with concurrence of the Council seven persons to the Parks and Recreation Board who are citizens of the City. The members shall serve three-year staggered terms. Two new members shall be appointed annually for three-year terms. The City Manager, or his designee, and the Parks and Recreation Director shall be ex officio, nonvoting members of the Board.

(Code 1994 § 26-27; Code 1965 § 20-1(a))

2.32.030 Filling of vacancies.

Appointments to fill vacancies on the Parks and Recreation Board shall be for the unexpired term and shall be made in the same manner as original appointments.

(Code 1994 § 26-28; Code 1965 § 20-1(c))

2.32.040 Compensation – Removal of members.

(a) No member of the Parks and Recreation Board shall receive any compensation for such membership.

(b) Members of the Parks and Recreation Board may be removed by action of the City Council for malfeasance or nonfeasance or for unexcused failure to attend three consecutive meetings of the Board. The Board may recommend such action to the Council.

(Code 1994 § 26-29; Code 1965 § 20-1(d), (e))

Chapter 2.36

FORESTRY BOARD

Sections:

2.36.010 Created – Composition – Terms – Officers.
2.36.020 Meetings – Records – Rules of procedure.
2.36.030 Powers and duties.
2.36.040 Appeals.

Cross reference(s) – Officers and employees, Chapter 2.08 GJMC.

2.36.010 Created – Composition – Terms – Officers.

(a) There is hereby created a board to be known as the Forestry Board. The Board shall be composed of five members and one alternate member who shall be appointed by the City Council. The Board shall include three persons selected from the following categories: a professional arborist, a nursery person, a landscape designer, a pesticide applicator and a representative of the State Forest Service. The other two members of the board may be lay persons. The alternate member shall otherwise have the qualifications of other members of the Board. Each alternate member shall attend all meetings and shall serve during the temporary unavailability, including recusal, of any regular Board member as may be necessary or required. The alternate member, in addition to other duties prescribed by this code, shall be allowed to vote in the absence of a regular member. Terms of service shall be three years. When a regular member resigns, is removed or is no longer eligible to hold a seat on the Board, the alternate may fill the vacancy if the alternate meets the same qualifications as the member to be replaced. The City Council shall then name a replacement alternate. A chairperson and a vice-chairperson shall be elected each year and vacancies owing to death or resignation shall be filled by appointment for the unexpired term.

(b) The City Manager or his designated representative shall be the Secretary of the Forestry Board.

(Ord. 4164, 1-16-08. Code 1994 § 40-26; Code 1965 § 20-68)

2.36.020 Meetings – Records – Rules of procedure.

The members of the Forestry Board shall meet as required, the time and place thereof to be determined by such Board. Minutes shall be maintained of all meetings, and the Board shall adopt rules for its own organization and procedures.

(Code 1994 § 40-27; Code 1965 § 20-69)

2.36.030 Powers and duties.

The Forestry Board shall act as a reviewing body for the purpose of determining professional qualifications and competence to engage in the business of cutting, trimming, pruning, spraying or removing trees by giving written, oral and practical license examinations. The Board shall recommend to the City Council adoption of rules and regulations pertaining to the tree service business in the City, and it may hear complaints from any citizen of the City, including any of its own members, relating to a tree service business. Upon receipt of a complaint and after informing the licensee of the complaint and giving the licensee a chance to be heard, the Board may suspend a tree service license for up to 60 days or may revoke such license.

(Code 1994 § 40-28; Code 1965 § 20-70)

Cross reference – License for cutting, pruning, removing, trimming or spraying of trees, GJMC 8.32.110.

2.36.040 Appeals.

(a) Any person aggrieved by any decision or order of the City Manager may appeal such decision or order to the Forestry Board. Such appeal must be perfected within 10 days from the date of the order. It shall be lodged in writing with the secretary of such Board, and shall state the grounds for the appeal. Such appeal shall operate as a stay of the order unless the City Manager certifies that a stay would cause imminent hazard to trees and/or other landscape plantings within the City.

(b) Any person aggrieved by any decision or order of the Forestry Board may appeal such decision or order to the City Council. Such appeal shall be lodged with the City Clerk within 10 days from the date of the order or decision and shall be in writing stating grounds of appeal. The City Council shall hear such appeal at any subsequent meeting and may modify, reverse or affirm such decision or order of the Forestry Board.

(Amended during 2009 recodification; Code 1994 § 40-29; Code 1965 § 20-71)

Chapter 2.40

CEMETERIES

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State law reference(s) – Municipal cemeteries, § 31-25-701, C.R.S. et seq.

Article I. Generally

2.40.010 Management – Funding.

The City Manager shall be responsible for the management of the City cemeteries, and may delegate the duties involved in improvement, maintenance and operation thereof. The City Manager shall report to the City Council the financial and physical status of the cemeteries and perpetual care funds, and shall incorporate in a proposed annual budget such allocations of funds as may be necessary for their proper management. The City Council shall levy and appropriate for the cemeteries the necessary funds in a manner consistent with all budgeting requirements.

(Code 1994 § 12-1; Code 1965 § 8-3)

2.40.020 Rules and regulations.

The City Manager is hereby authorized and empowered to make, enforce, and modify or repeal, from time to time, such rules and regulations as may be advisable for the management, use, improvement and maintenance of the cemeteries and for the administration of endowment funds, not inconsistent with the provisions of this chapter.

(Code 1994 § 12-2; Code 1965 § 8-13)

2.40.030 Perpetual care funds.

All payments made and received for perpetual care of grave spaces in City cemeteries shall be recorded and maintained in a separate fund from all other funds of the City, and shall constitute permanent trust funds, for the purposes provided in this chapter, to be known as the cemetery perpetual care fund, and such funds shall be invested in accordance with the investment policy of the City. The principal of such funds shall be preserved as an endowment for the perpetual care and maintenance of grave spaces in the cemeteries, and the income from such fund shall be used solely for such purpose. The aforesaid funds shall be entirely independent of, and in addition to, payments made for the purchase of lots or burial spaces for which perpetual care is purchased.

(Code 1994 § 12-3; Code 1965 § 8-11)

Article II. Rules and Regulations

2.40.110 Sale of lots – Certificates of ownership.

(a) The City Manager shall keep accurate record of all burial spaces in the City cemeteries. The City shall sell burial spaces at such price or prices as may be directed by the City Council and contained in the rules and regulations for the City cemeteries. The City Manager shall issue a certificate of ownership to the purchaser of each burial space, which certificate shall contain a description of the burial space, purchase price, the name and address of the space owner and will include statement of perpetual care. The certificate shall state that it represents only a right to be buried and in no way conveys a title to the real estate and shall also state:

(1) The ownership of that right is not transferable without the approval of the City Manager or his designee and the reissuance of a new certificate to the new owner of the burial right, except that transfer of ownership may be effected by last will and testament or intestacy as provided for in GJMC 2.40.180. All transfers must be recorded by the City and a fee for such transfer as established by resolution of City Council will be charged.

(2) Any transfer of ownership interest by last will and testament or applicable laws of intestacy shall be reported immediately to the City Manager or his designee by the person receiving the ownership interest.

(3) All changes in address of the owner shall be reported immediately to the City Manager or his designee.

(4) A portion of the purchase price, such portion to be specified, shall be deposited into a trust fund and held as a permanent fund with the income of the fund to be devoted to the perpetual care and keeping of the burial space so endowed, except for spaces in areas designated for the burial of indigent persons. Indigence shall be demonstrated by affidavit or other documentary proof satisfactory to the City Clerk.

(5) Prior to the resale of any vacant burial space by the owner to any other individual or to the City, all monuments or markers must be removed at the owner's expense.

(b) The certificate of transfer shall be signed with a facsimile of the City Manager's signature and attested by the signature of the City Clerk under the seal of the City.

(Amended during 2009 recodification; Adm. Reg. 1-99 § 1, 6-30-99)

2.40.120 Records.

Records of the City Clerk, other than the certificate as provided for in GJMC 2.40.110, shall show the date of purchase, the name of the purchaser, the description designating the burial right(s) space purchased and the purchase price. Indexing maintained by the City shall permit determination of location of the burial space by location as well as by owner's name.

(a) Certificates of ownership are evidence of ownership of a right to be buried in spaces listed on the certificate.

(b) The owner of a certificate of ownership seeking to reconvey one or more spaces to another shall apply for and obtain a certificate of transfer from the City Clerk in the name of the other person. Upon submission of an application to convey the burial space rights, the original certificate of ownership shall be returned, canceled and reissued to the new owner by the City Clerk. If any spaces enumerated on the original certificate of ownership are to be retained by the owner, then certificates of ownership shall be reissued by the City Clerk for each space in the name of each owner.

(1) Upon application for reconveyance, the applicant shall provide the following information:

(i) The grave space right(s) owned;

(ii) The spaces then used, if any;

(iii) Which owners have been issued a certificate of transfer, if any, for the particular space;

(iv) A statement that the owner truthfully believes that the owner holds and fully controls burial rights to the spaces for which the owner is applying for certificates of transfer and that the owner does indemnify the City as to all costs should any person(s) other than the transferee named subsequently present a certificate of transfer for the same space or spaces.

(2) Upon submission of a complete application, the City Manager shall investigate and determine:

(i) If any spaces for which certificates of transfer are sought are filled.

(ii) If any spaces are held by persons or firms other than the current certificate of ownership holder.

(3) The City Clerk shall then issue the certificate(s) of ownership to the person(s) indicated by the then owner; however, any title impairment affecting the ownership of the burial right(s) shall be noted upon the respective certificate of ownership by the City Clerk. If any space is unendowed (except in areas platted for burial of indigent persons), then the endowment then payable shall be paid prior to the reissuance of the new certificate of ownership. A record containing the application, the investigation results and a copy of the certificate(s) of transfer along with the chain of title notations, if any, shall be retained by the City Clerk.

(c) The City may purchase back any unused certificate of ownership or any unused portion thereof under the terms and conditions listed below. The City Clerk shall purchase only those spaces for which ownership is clear. The City Clerk shall require an application for all purchase back requests. Upon submission of a completed application to the City Clerk and upon completion of the City Clerk's investigation, the City Clerk may purchase the certificate of ownership for any number of spaces identified on the certificate, except that the City Clerk shall not purchase spaces already filled, nor spaces where an apparently valid certificate of ownership remains outstanding. The purchase back price shall be the original purchase price including development fee, if paid, not to exceed the current prices and exclusive of the endowment fee less the following:

(1) Twenty-five percent of the total current purchase price, excluding the endowment fee, or $50.00, whichever is greater, shall be retained as administrative cost.

(2) In no case will the City buy back any space for more than the price of the lot and development fee at the time of purchase. The endowment fee will not be refunded.

(3) If a current installment contract for payment exists, the City shall retain 25 percent of the amount paid excluding the pro rata share of the endowment fee, or $50.00, whichever is greater.

(d) Certificate of ownership holders may consent to the burial of any deceased person. Such consent shall be in the form of an affidavit signed and notarized and shall bear the signature of at least one owner as shown on the certificate of ownership.

(e) Lost Certificate of Ownership. The owner may apply for a lost title upon payment of a fee established by resolution of the City Council.

(Adm. Reg. 1-99 § 2, 6-30-99)

2.40.130 Funds – Disposition.

All moneys, except moneys received for perpetual care endowments in accordance with GJMC 2.40.150, received from the sale of spaces in said cemeteries shall be held by the City and expended as shall be directed by the City Council for the maintenance, improvement, beautification and enlargement of said cemeteries as provided by GJMC 2.40.010.

(Adm. Reg. 1-99 § 3, 6-30-99)

2.40.140 Installment purchases.

The purchase price and the endowment(s) for the lot(s) or space(s) purchased may be paid in installments; provided, that the purchaser shall enter into a written contract wherein it is agreed that the number of installments shall not exceed 18 nor extend over a period of more than two years, that no interest shall be added by the City to the purchase price during that two years; that at least 10 percent of the installment purchase price shall be paid at the time of the execution of said contract; failure to pay any installment for a period of 60 days shall terminate the contract, together with any legal interest of the purchaser therein, and shall vest all payments previously made thereunder absolutely in the City. Notice of termination for failure of payment shall be given by the City to the purchaser's last known address by certified

mail, return receipt. Until payment is completed in full, no certificate of transfer shall be issued for the lot(s) or space(s) described in said contract, nor shall any burial be allowed on such lot(s) or space(s), nor shall any monument or marker be allowed.

(Adm. Reg. 1-99 § 4, 6-30-99)

2.40.150 Perpetual care.

(a) Charge for Perpetual Endowment. All grave spaces in the City cemeteries, except in areas platted for burial of indigent persons, shall be perpetually cared for by the City in accordance with GJMC 2.40.030.

(1) Perpetual care funds shall be due at the time of purchase of any lot(s) or space(s).

(2) Except for areas platted for the burial of indigent persons, owners holding certificates of ownership shall purchase such perpetual care. The price of such endowment shall be established by resolution of the City Council.

(b) Perpetual Care Funds. The City shall place the money derived from perpetual care endowments in distinct irrevocable endowment trust funds as required by GJMC 2.40.030.

(Adm. Reg. 1-99 § 5, 6-30-99)

2.40.160 Development fee.

The development fee was established in 1986 to fund cemetery improvement projects. These projects are beyond the routine operations and maintenance costs that are funded by the perpetual care endowment interest earnings. As of January 1, 1998, the development fee was incorporated into the purchase fee.

(a) No certificate of ownership shall be issued for any lot(s) or space(s) without the development fee first being paid.

(b) No burial shall be allowed on any lot for which such development fee has not been paid. For burial of cremated remains, an infant or a child, such development fee shall be prorated in accordance with the graduated fee schedule for interment.

(c) The development fee is established by resolution of the City Council.

(d) Any transfer of ownership performed under GJMC 2.40.180 requires that any outstanding development fee be paid. No certificate of ownership will be issued by the City Clerk until such fee is paid in full.

(Adm. Reg. 1-99 § 6, 6-30-99)

2.40.170 Rights of burial space owners.

(a) Interment Rights. All lots, grave spaces and burial spaces conveyed shall be considered as a grant of a right by the City to the grantee for the purpose of burial, shall be presumed to be the sole and separate burial right of the person named as grantee; however, a grantee may inter the grantee's deceased immediate family member in the space, in accordance with the rules and regulations and fee schedule at the time of interment of spouse, child, mother, father or sibling. The burial of animals shall not be allowed.

(b) Consent to Burial. Upon the death of any other relative than listed above or nonrelative, the owner of a certificate of ownership may convey the right to burial in the space enumerated on the owner's certificate. The consent shall be evidenced by an approved certificate of transfer, which certificate shall be available only from the City Clerk. A certified death certificate shall be presented at the time of issuance of a certificate of transfer to a decedent by the City Clerk. Once burial occurs, the body may be disinterred only with an authorization pursuant to GJMC 2.40.310. Upon disinterment, burial rights for the space shall remain in the name of the certificate of transfer holder. The City Clerk shall maintain records of all burials.

(c) Right of Descent. Upon the death of the owner, any unused burial spaces shall pass as provided in the owner's last will and testament to the owner's beneficiaries. Any unused burial spaces not effectively disposed of by the owner's last will and testament or otherwise shall pass to the owner's heirs as prescribed by the Colorado Probate Code.

(d) Official Records. The official records of burial space owners shall be maintained by the City Clerk, and each burial space owner shall be registered by name and address. Such registration shall be the final governing record in determination of burial rights ownership.

(e) No Transfer Without Consent. No burial spaces shall be transferable except with compliance with the procedures of the City Manager or as provided by law.

(f) Change of Address. It shall be the duty of each and every burial rights owner to keep the City Clerk fully informed as to the owner's mailing address and to notify said City Clerk as to any changes thereof. Notice sent to any burial space owner at the last registered address on file with the City Clerk shall be considered sufficient and proper legal notice.

(g) Right to Ingress and Egress Reserved. The City reserves to itself, and to those lawfully within the cemetery, a perpetual right to enter and to leave and conduct any lawful activity on or over any burial space and/or for passage to and from other spaces.

(h) No Right Granted in Alleyways. No easement or right of interment is granted to any burial space rights owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery grounds or buildings as long as the cemetery uses the accessways for that purpose.

(Adm. Reg. 1-99 § 7, 6-30-99)

2.40.180 Transfer of ownership.

(a) Method of Transfer. The transfer of right or any interest in any burial space shall be made only on forms provided by the City Clerk.

(b) Consent and Approval. No transfer of any burial space shall be valid without the consent, in writing, of the City Clerk and endorsed upon such a transfer and thereafter recorded on the books of the City Clerk.

(c) Time of Recognition. A certificate of transfer, in order to be valid, must be proper on its face and it must also be delivered to the grantee or some third person during the lifetime of the grantor, with the full intent to divest the grantor of grantor's interest. The transfer must also be presented to, approved by and transferred upon the record of the City Clerk during the lifetime of the grantor; provided, however, that a transfer may also be made by the grantor in a last will and testament, or by the applicable laws of intestacy. An affidavit stating the applicant for the transfer is the heir must be submitted along with a copy of the will and application for transfer.

(d) Indebtedness. The City Clerk may refuse to consent to a transfer of any burial space so long as there is any indebtedness due thereon by the registered owner thereof.

(e) Care and Maintenance Must Be Provided. Except for areas designated for the burial of indigent persons, no transfer of any burial space or interment right therein shall be approved and registered upon the books of the City Clerk nor shall interments therein be permitted until provision shall have been made for care and maintenance of such space by payment of the endowment amount specified in the rules and regulations for City cemeteries. This provision shall not apply to burial spaces conveyed by the City for which perpetual care endowment has been already provided.

(f) Transfer Charges. All conveyances or transfers of rights in any burial space shall be subject to a charge fixed, from time to time, by resolution of the City Council, which charge must be paid when the transfer request is received for filing by the City Clerk.

(Adm. Reg. 1-99 § 8, 6-30-99)

2.40.190 Abandoned burial spaces.

(a) Reversion. The ownership or right in or to any unoccupied cemetery burial space shall upon disinterment and subsequent abandonment revert to the City.

(b) Presumption. Failure to inter in any burial space(s) after 21 years plus a life (defined as 100 years) from purchase, transfer or interment in adjacent spaces commonly owned, whichever is later in time, shall create and establish a presumption that the same has been abandoned; except that this presumption shall not apply when a letter of intent is annually filed by the owner or heir in title with the City Clerk stating the intention to keep specified spaces vacant.

(c) Notice Required. Abandonment or reversion by disinterment shall not be deemed complete unless the registered owner(s) or their heirs or assigns shall be notified in writing, mailed to the last known or registered address, by the City Clerk. In the event that the address of the owner or owner's heirs cannot be ascertained, then notice of such abandonment shall be published in a newspaper of general circulation in Mesa County at least once a week for four weeks.

The City may thereafter sell, transfer and convey the rights to use the space. The funds derived from any sale of an abandoned space shall be considered as a new grave space.

(Adm. Reg. 1-99 § 9, 6-30-99)

Article III. Interments

2.40.210 Compliance with applicable laws.

Besides being subject to these rules and regulations for the City cemeteries, all interments, disinterments and removals are subject to the orders, rules, regulations and laws of the properly constituted authorities of the City and State.

(a) Authorization for Interment. The City reserves the right to refuse burial in any burial space if complete, correct and proper procedures are not followed or the death is suspicious and under criminal investigation.

(b) Facsimile and Telephone Authorization. The City may but shall not be obligated to complete certificates of transfer, endowment contracts or any or all other applications, contracts or paperwork via facsimile or telephone. The City shall not be held responsible for any order given by telephone, facsimile or for any mistake occurring from the want of precise and proper telephonic and/or facsimile transmissions. Any changes, adjustments or corrections necessitated by such mistakes shall be at the expense of the burial space owner or the owner's agent.

(c) Burial Permits Issued. The Mesa County Bureau of Vital Statistics or other appropriate agencies shall issue a burial permit addressed to the City Clerk. No burial shall take place without a burial permit from the appropriate agency. In the case of cremated remains, such burial permit will accompany the body to the crematorium.

(Adm. Reg. 1-99 § 10, 6-30-99)

2.40.220 Time and notice of interments.

The right is reserved by the City to insist upon notice at least 24 hours prior to any cremation or interment, and at least 10 days' notice prior to any disinterment or removal. Any exceptions must be approved by the Cemetery Supervisor.

All interments, disinterments and removals must be arranged for in advance, but no interments, disinterments, removals, cremation or interment service shall be permitted on the Saturday or Sunday before or on Memorial Day. Exceptions may be granted for extenuating circumstances by the City Clerk; however, the additional grave opening fee for Sundays and holidays will be charged.

(Adm. Reg. 1-99 § 11, 6-30-99)

2.40.230 Conditions for interment.

(a) No Interment Unless Paid in Full. No interment shall be permitted or memorial placed in or on any space not fully paid for. A promissory note or installment contract for purchase shall not be considered as payment and no rights shall be acquired by the burial space purchaser of said interment or interments until such is fully paid for in good funds. The City Clerk may accept from the legal representative of a deceased a bond or other surety or guaranty of payment.

(b) More Than One Body. Not more than one body, or the remains of more than one body, shall be interred in one grave, vault, crypt or niche; however, with the written consent of the City Clerk, with the consent attached to the certificate of ownership, the remains of an infant may be buried in the grave space with the parent or cremated remains may be placed in the same grave, crypt or niche with one adult or infant burial or other cremated remains; provided, proper identification is made of such interment or interments on one crypt, niche, memorial or marker; and provided, the appropriate fees have been paid. In no event shall more than five remains be allowed in one full size space (four feet by 10 feet approximately).

(Amended during 2009 recodification; Adm. Reg. 1-99 § 12, 6-30-99)

2.40.240 Liability of City.

(a) Delay From Protest. The City shall be in no way liable for any delay in the interment of a body where a protest to the interment has been made or where the rules, regulations and ordinances of the City or other applicable law have not been complied with. The City shall be under no duty to recognize any protests of interments unless they are in writing and filed with the City Clerk, or are by order of a court of competent jurisdiction.

(b) Not Responsible for Identity. The City shall not be liable for information contained in the certificate of ownership or for any or all documents and records nor for the identity of the person sought to be interred, cremated or disinterred.

(c) Errors May Be Corrected. The City shall not be liable and reserves and shall have the right to correct any errors that may be made by it, either in making interments, disinterments or removals, or in the description, transfer or conveyance of any space, by correcting as required any errors in form or substance made to any documents. In any event the liability of the City shall be no greater than the cost of the space(s) at the time of purchase.

(Adm. Reg. 1-99 § 13, 6-30-99)

2.40.250 Equipment used.

Only the City shall open and close graves. The placement of urns by a monument company is allowed when the company is placing a marker or monument at the same time. Proper notice shall be given to the cemetery office.

(Amended during 2009 recodification; Adm. Reg. 1-99 § 14, 6-30-99)

2.40.260 Funeral processions.

Funeral processions, on reaching a cemetery, shall be under the guidance and control of the cemetery staff. Automobile and motorcycle engines must not be kept running in close proximity to any funeral during the services. Funeral services shall be scheduled at such a time where the service will be complete prior to 4:00 p.m. unless a surcharge has been paid to the City in advance.

(Adm. Reg. 1-99 § 15, 6-30-99)

2.40.270 Charges for graves.

Fees shall be charged for all grave spaces, digging and filling of graves, disinterments, reinterments and the overtime services of the City employees. All fees so charged are to be paid to the City Clerk.

(a) A graduated fee shall be charged for the opening and closing of graves in the burial of infants, children, adults and cremated remains; the schedule of graduated fees shall be established by resolution of the City Council.

(b) For disinterments and reinterments, a fee shall be charged for infant, child and adult graves, which fee schedule shall be established by resolution of the City Council.

(Adm. Reg. 1-99 § 16, 6-30-99)

2.40.280 Caskets and urns not to be opened.

Once a casket containing a body or an urn containing the remains of a body is within the confines of the cemetery, no funeral director, embalmer, assistant, employee or agent, nor any cemetery employee shall be permitted to open the casket or to touch the body or the remains of the body without the consent of a member of the immediate family, the legal representative of the deceased or without a court order or written consent filed with the City Clerk.

(Adm. Reg. 1-99 § 17, 6-30-99)

2.40.290 Removal of bodies prior to interment.

Once a casket containing a body is within the confines of the cemetery and has been accepted for interment by the City Cemetery Supervisor, no funeral director, embalmer, assistant, employee or agent, nor any cemetery employee shall remove or permit the removal of the casket or body contained therein without the written consent of a member of the immediate family, nearest of kin, legal representative of the deceased or without a court order. A casket containing a body cannot be accepted for interment by the City Cemetery Supervisor until the supervisor receives a signed, properly completed burial order form and burial permit for the deceased.

(Adm. Reg. 1-99 § 18, 6-30-99)

Article IV. Disinterments and Removals

2.40.310 Notice – Authorization.

The City reserves the right to require at least 10 working days' notice prior to disinterment. Remains may be removed from a burial place only upon written notarized authorization or by court order. Before removal, each of the following shall also be provided to the City Clerk:

(a) Submittal of a death certificate by the nearest of kin or legal representative of the deceased.

(b) Submittal of the name of the funeral home and director who conducted the initial burial.

(c) If the remains are to be moved out of the cemetery to another location, submittal of an authorization permit from the State or the funeral home.

The City reserves the right to verify all documents submitted for disinterment.

(Adm. Reg. 1-99 § 19, 6-30-99)

2.40.320 Care in removal.

The City shall exercise the utmost care in making a removal, but it shall assume no liability for damage incurred to any casket or burial case or urn or the contents thereof in making the removal.

(Adm. Reg. 1-99 § 20, 6-30-99)

2.40.330 Removal for autopsy.

A body may be removed from its burial place for autopsy purposes only upon or by order from a court of competent jurisdiction.

(Adm. Reg. 1-99 § 21, 6-30-99)

2.40.340 Removal of remains for resale prohibited.

Removal of a body or cremated remains so that the burial space may be resold and/or removal contrary to the expressed or implied wish of the original burial space owner is repugnant to the ordinary sense of decency and is absolutely forbidden.

(Adm. Reg. 1-99 § 22, 6-30-99)

2.40.350 Disinterment responsibilities.

(a) The City shall be responsible for uncovering the casket, burial case or urn, raising the casket, burial case or urn to ground level if the casket, burial case or urn is intact, and covering the ground space.

(b) The nearest of kin, legal representative of the deceased or other person ordered by a court of competent jurisdiction shall be responsible for the following:

(1) Obtaining the necessary authorizations and information for disinterment as required in these regulations;

(2) Arranging with a funeral home to have a funeral director or his designee present for all disinterments, and for the transfer of remains;

(3) Arranging to have the remains removed from the cemetery immediately after disinterment; and

(4) Purchasing a new casket, burial case or urn for remains when the disinterment produces a casket, burial case or urn which no longer exists or is no longer intact.

(Adm. Reg. 1-99 § 23, 6-30-99)

2.40.360 Refusal to conduct disinterments.

The City reserves the right to refuse to conduct a disinterment if the required forms and information are not submitted or the disinterment responsibilities are not met. The City reserves the right to refuse to allow its staff to conduct a disinterment if the removal could present a health hazard to City staff or the public.

(Adm. Reg. 1-99 § 24, 6-30-99)

Article V. Monuments, Markers and Mausoleums

2.40.410 Permits and types of memorials authorized.

(a) Monument sales companies, agents or employees shall comply with any and all rules and regulations for placing monuments, markers and other memorials. A design or sketch with the dimensions for the foundation and placement of the marker or monument or other such memorial may be required with the application. No memorial will be allowed on any grave or plot until the plot is fully paid for and the proper fees have been paid. The City reserves the right to reject and remove any memorial which, after being erected, does not comply with the established standards.

(b) No monument or grave marker will hereafter be placed in the City cemeteries when made of materials other than granite, marble or bronze unless otherwise approved by the City Manager.

(c) No foot markers shall be erected above ground level. Only flat, flush foot markers shall be allowed.

(d) No corner markers shall be erected to extend above the ground.

(e) No coping or other lot or grave enclosures shall be erected.

(f) Freestanding crosses with a minimum of a four-inch square granite base, statues on a four-inch square granite base, as well as monoliths, shafts and columns, are permitted, unless specifically prohibited in designated blocks or portions thereof by the rules and regulations for the City cemeteries.

(g) Mausoleums are prohibited unless specifically permitted in designated blocks or portions thereof by the rules and regulations for the City cemeteries. The edge of a mausoleum must be at least 18 inches from the property line of another owner and no other burial shall be permitted upon the area of ground required by the mausoleum. Exact placement of a mausoleum must be approved in advance by the City Manager.

(h) Sarcophagi and ledger stones are prohibited.

(Adm. Reg. 1-99 § 25, 6-30-99)

2.40.420 Placement and size limitations.

(a) A memorial (customarily a family monument or marker) to be placed on a lot consisting of two or more burials shall be located in the center of the lot.

(1) When the memorial is located in the center of the lot, and if upright individual grave markers on the east side of the center memorial would abut the foundation of the center memorial, then the grave markers shall be flush markers.

(2) Unless otherwise provided by specific provisions for specific blocks, monuments or markers to be placed on individual grave spaces shall be located on the west end of the grave space.

(3) No head markers or monuments shall act as foot markers.

(b) Unless otherwise limited or allowed by specific provisions for designated blocks, monuments and markers and other memorials shall not exceed three-fourths of the width of the space or lot.

(c) Monuments, markers and other memorials may be of any height but may be limited by the specific provisions of designated blocks or portions thereof, except that such restrictions shall not apply to markers erected by the federal government for service personnel.

(d) The placing of temporary memorials, except those placed by a funeral home, is prohibited. Temporary memorials may be removed by cemetery personnel for maintenance.

(e) Flush, flat grass markers of granite or standard bronze set flush with the established grade of the plot may be placed on any plots in the cemetery. Upright markers are permitted in the following cemeteries only:

Calvary/St. Anthony;

Cremation Garden, designated plots only;

Crown Point;

Masonic;

Municipal, Block 6 and 10, Block 5 – designated plots only;

Oddfellows (IOOF);

Orchard Mesa Cemetery, Blocks A, B, C, F and G;

Veterans.

In Block 6 of Municipal Cemetery, one monument for each two grave sections will be permitted. In Veterans Cemetery, the only permitted markers are regulation veterans' headstones. An upright stone is allowed for a full size space with a veteran's flat marker designating the burial of cremains.

(Adm. Reg. 1-99 § 26, 6-30-99)

2.40.430 Responsibility for monument/memorial placement, foundation and bases.

(a) Foundations for memorials must be built of concrete, solid masonry or granite to the satisfaction of the Cemetery Supervisor. Foundations for above-grade memorials shall be the length and at least the width of the memorial to be placed. The foundation shall be at least four inches deep. The top of the foundation shall be flush with the ground and have a six-inch square apron around the memorial.

(b) Monument/memorial placement is the sole and absolute responsibility and liability of the company, person, employee or agent selling and placing the monument. Such liability and responsibility shall include safety of the public and cemetery personnel as well as liability for damage to other monuments, memorials, plantings, trees and cemetery equipment while in, on or installing a monument or memorial.

(c) Monument companies' installer(s) shall fully cover foundation holes, if left unattended, with a material strong enough to withstand 300 pounds of weight and must place orange safety cones around the hole.

(d) Where an existing foundation must be removed in order to add a new burial, the cost of replacing the foundation and memorial shall be the owner's responsibility.

(e) Bases for monuments, markers or other memorials must be squared. No wedging will be permitted. The base must be rock pitch (rough cut) at least four inches above the ground. If smooth cut, the corners must be rounded. The City accepts no responsibility for any damage incurred to such bases.

(f) Vases or urns made of metal or other nonbreakable material may be attached to the granite or marble base, or may be placed into the foundation.

(Adm. Reg. 1-99 § 27, 6-30-99)

2.40.440 Installation.

(a) Persons engaged in erecting monuments shall not attach ropes to other monuments or trees. They shall not scatter any material, to include soil or waste material, over adjacent lots or to leave the same on the ground longer than is absolutely necessary. They are required to set work as soon as possible after entering the cemetery. They shall be financially responsible for any damage done by them to other monuments, the grass, trees, or any other object whatsoever in the cemetery. Monument companies shall annually file with the City Clerk a certificate of liability insurance in an amount determined by the City Council, which in no event shall be less than $500,000.

(b) Monument installers within the immediate vicinity of a funeral shall suspend their labors until the conclusion of the funeral service.

(c) Monument companies and others, including but not limited to stone masons, monument purveyors and employees or agents thereof, are prohibited from placing their names on any work, monument or memorial.

(d) No memorial work shall be done in the cemetery on Sundays or holidays. Advance approval shall be required from the Cemetery Supervisor for memorial work to take place on the Saturday before Memorial Day. The placement of floral pieces, flowers, flags or other nonpermanent commemoration is permissible without advance authorization.

(Amended during 2009 recodification; Adm. Reg. 1-99 § 28, 6-30-99)

2.40.450 City liability.

The City shall not be liable for damage(s) or injury to any monument, memorial or marker from mowing and trimming activities occurring within the cemetery.

(Adm. Reg. 1-99 § 29, 6-30-99)

Article VI. Grave Care

2.40.510 Grave care.

(a) Perpetual Care. Perpetual care as supported by the endowment fund shall be held to mean:

(1) Cutting of the grass at reasonable intervals;

(2) Raking, cleaning and watering at reasonable intervals;

(3) Reseeding or resodding, if necessary;

(4) Machine trimming as closely as possible around markers, monuments and memorials at reasonable intervals; and

(5) Removal of seedlings, saplings and weeds from, on and around monuments and markers;

(6) It shall also be held to mean the general preservation of the cemetery roads, walks, fences, plantings and the pruning of shrubs and trees to the end that the cemetery shall remain and be reasonably cared for as a cemetery;

(7) Perpetual care shall not be construed as meaning the maintenance, repair or resetting of any grave marker or memorial placed upon any lot or grave space. Neither does the term "perpetual care" mean doing of any special or unusual work on any lot nor the reconstruction of any marble, granite, bronze, concrete or stone work or rebuilding or repair of any monument, memorial or marker damaged by the elements, an act of God, common enemy, thieves, vandals, strikes, malicious mischief, unavoidable accidents, invasions, insurrections or riot whether the damage be direct or collateral, other than as herein provided.

(b) Planting. The Cemetery Supervisor shall have charge of the planting of trees and shrubs in accordance with appropriate ornamentation of the grounds. No trees, spreading plants or shrubbery shall be planted or grown on the lots or spaces. Roses and certain evergreens, as determined by supervisor, may be planted in blocks specifically authorizing them but only by cemetery personnel.

(c) Grading of Lots.

(1) In order to produce a pleasing effect and to ensure proper drainage, the grade of all lots and graves will be determined by the Cemetery Supervisor and, if need be, may be changed as required.

(2) Grading and digging on the lots by persons other than City employees may be done only under the direction of the Cemetery Supervisor.

(3) All graves will be sodded level. No mounding will be allowed on any grave.

(d) Unauthorized Work by Cemetery Employees. The employees of the cemetery are not permitted to perform any extra work for lot owners except at the direction of the Cemetery Supervisor.

(e) Ornamental Appurtenances. No trellises, baskets, boxes, shells, toys, crockery, glassware or other objects are permitted on any lot or grave space, unless specifically authorized by the Cemetery Supervisor. The City is not responsible for any such items and they may be removed by cemetery personnel for maintenance.

(f) American Flags Allowed. American flags of small or memorial size may be displayed in any part of the entire cemetery when flags are customarily displayed. The American flag is defined for this purpose as the flag of the United States of America.

(g) Expense of Maintenance.

(1) No expense for cleaning a monument necessitated by any cause whatsoever will be assumed by the cemeteries nor paid by the City.

(2) The City shall not be responsible for scratching or chipping of any type of monument or marker resulting from routine maintenance of the cemetery.

(h) Fences, Enclosures. No fences, railings, copings or other enclosures shall be permitted around graves.

(i) Artificial Flowers.

(1) No plastic flowers, arrangements or wreaths shall be placed in the City cemeteries between April 15th and November 1st each year with the exception of 10 days before and after Memorial Day. On April 15th of each year and 10 days after Memorial Day, City crews will remove all plastic flowers, arrangements and wreaths from grave sites in the City cemeteries.

(2) When placement is allowed, artificial flowers will be permitted in the City cemeteries only when placed in urns or other containers made of some durable material, excluding glass, pottery or other such material which are permanently attached to the foundation base or marker. Urns or containers shall be placed and located so that they will not interfere with or hinder the mowing operations or other care required.

(3) Artificial flowers, when placed in permanent containers and maintained as herein provided, will be allowed in the cemeteries at all times except during those periods as prescribed in this regulation.

(j) Placement and Removal of Natural Flowers and Wreaths. Natural flowers and floral arrangements may be placed or used throughout the year. These objects may be removed by the cemetery staff if the objects become injurious to the grass on the grave spaces, unsightly, dilapidated or if they hinder mowing operations or other care of the cemeteries.

(k) Removal of Articles Considered Objectionable. The Cemetery Supervisor may prohibit or remove from lots any article that the Cemetery Supervisor may consider objectionable.

(Amended during 2009 recodification; Adm. Reg. 1-99 § 30, 6-30-99)

2.40.520 Visitor regulations.

(a) Entrance into the cemeteries shall be through the designated entrance(s) only.

(b) All persons are welcome to visit the cemeteries during the posted visiting hours while gates are open. Visitors shall at all times be orderly and shall not walk on flower beds or borders. Children shall not run at will in the cemeteries.

(c) All persons are forbidden to pick or remove the flowers or plants without the Cemetery Supervisor's permission, or to injure trees or shrubs on any lot or grave, or to injure or deface any monument, vault, structure or other property.

(d) Litter is prohibited; litter, including but not limited to cigarette butts, must be disposed of in trash cans.

(e) No persons with firearms shall enter the cemeteries except for military funerals or similar occasions, and any peace officer, sheriff or other law enforcement officer.

(f) Pets are strictly prohibited, except for seeing eye or other physical assistance dogs on the cemetery grounds; pets shall minimally be confined to vehicles but are generally discouraged from being taken to the cemeteries.

(g) No driving or riding of any vehicle, bicycle or other conveyance shall be allowed on lots or upon the lawns or walks. Physical assistance conveyances are exempt from this provision. All persons

driving in the cemeteries shall be responsible for any damage done by them. The speed limit in cemeteries is 10 miles per hour.

(h) The cemeteries are devoted to the interment and repose of the dead. All persons shall show due respect and observe the ordinances, rules and regulations of the City for the use of the cemeteries.

(i) The City cemeteries are not public forums; demonstrations, protests, parades, speeches or other forms of public activities are expressly forbidden in the City cemeteries. Educational activities may be allowed by the Cemetery Supervisor or the City Manager. Nothing shall be construed as prohibiting any funeral service or the uniformed services of the United States, the military forces of the State, or any Colorado law enforcement or fire organization, when the service is approved by the City and held for the purpose of interring remains or honoring the dead.

(Amended during 2009 recodification; Adm. Reg. 1-99 § 31, 6-30-99)

Chapter 2.44

LOST, STOLEN, CONFISCATED OR ABANDONED PROPERTY

Sections:

2.44.010 Rights of finder.
2.44.020 Custodian.
2.44.030 Records required.
2.44.040 Disposition of certain property exclusive of article provisions.
2.44.050 Reclaiming property.
2.44.060 Failure to claim property.
2.44.070 Disposition generally.
2.44.080 Sale of unclaimed property.

Cross reference(s) – Nuisances, Chapter 8.08 GJMC.

State law reference(s) – General limitations of actions, § 13-80-101, C.R.S.

2.44.010 Rights of finder.

Notwithstanding any other provision of this chapter, whenever any item of lost or abandoned property has been found and delivered to the Chief of Police or one of his subordinates for care, control and custody, such item shall be released to the original finder whenever a claim has been made by the finder and the following conditions have been met:

(a) The claimant is the person who originally found the lost or abandoned property and he is not a police officer.

(b) The claimant, after surrendering the property, has filed a written notice with the Chief of Police of his intentions to make a claim on the property within 60 days of the surrender of the item.

(c) The lost or abandoned property has remained unclaimed by the owner or person having a right to such property for 60 days after the surrender of the property to the Chief of Police.

(d) The lost or abandoned property is not stolen or confiscated property, nor is it property held under the exceptions outlined in GJMC 2.44.040, property held as evidence pursuant to GJMC 2.44.070(b), or other law.

(e) The claimant must appear at the Police Department no less than 60 days after surrendering any lost or abandoned property and prior to the expiration of 90 days to request the release of such property. Failure to appear within the above time frame shall forever bar any finder's claim to such property.

(f) The lost or abandoned property is not personal effects such as keys, checkbooks, wallets, credit cards or other such items as determined by the custodian.

(g) The lost or abandoned property is not a firearm.

(Amended during 2009 recodification; Code 1994 § 20-26; Code 1965 § 22-6(f))

2.44.020 Custodian.

The Chief of Police is designated as the official custodian of each and every lost, stolen, confiscated or abandoned article or object of personal property not in the lawful custody of the court or any other person, which has been acquired or delivered to the Police Department, or any of its members, for care, control and custody.

(Code 1994 § 20-27; Code 1965 § 22-6(a))

2.44.030 Records required.

It shall be the duty of the Chief of Police or his designee to keep a record of all such property coming into the care, control and custody of the Police Department, showing:

(a) The date and description of the property received;

(b) Which property has been reclaimed by its owner, including the date and to whom delivered;

(c) The date and name of any person who has made a finder's claim and date of release to such person; and

(d) The date and description of how any remaining property was disposed of.

(Code 1994 § 20-28; Code 1965 § 22-6(b))

2.44.040 Disposition of certain property exclusive of article provisions.

Notwithstanding any other provisions of this chapter, certain objects and articles of property as described in this chapter may be kept, held or disposed of as follows:

(a) Nothing in this chapter shall be construed as amending any existing ordinances concerning the impoundment and disposition of livestock, dogs, poultry or other animals.

(b) Unless ordered to the contrary by a court or otherwise required by State or national law, firearms or other weapons which may not lawfully be kept, possessed or retained by the owner or person otherwise entitled to the possession thereof or which may not otherwise lawfully be released to the owner thereof or which are unclaimed after notice to the owner or the owner of which is not known, may be kept and used by the Police Department in its training program or otherwise, or may be donated to museums or historical societies as the Chief of Police may order for purposes of historical preservation. If the firearms or weapons are declared surplus by the Chief of Police, disposition of such firearms or weapons may be made as otherwise provided in this section.

(c) If the property consists of any of the following: burglar tools of any description; firearms, cartridges, explosives, armored or bulletproof clothing, or other dangerous weapons; gambling apparatus or instruments; beer, wine, spirituous liquor or fermented malt beverages; soiled, bloody or unsanitary clothing; solids or liquids of unknown or uncertain composition; drugs, narcotics, hallucinogenic substances, hypodermic syringes and needles, or other drug paraphernalia; any poisonous, noxious or deleterious solids or liquids; counterfeit bills, coins or other fraudulent negotiable instruments; or any other property which reasonably might result in injury to the health and safety of the public or be subject to unlawful use, the Chief of Police or his designee may destroy any such article. Any such article may be converted to Police Department use for training or other legitimate police or governmental purposes.

(Ord. 3837, 11-2-05. Code 1994 § 20-29; Code 1965 § 22-6(e))

2.44.050 Reclaiming property.

Unless otherwise provided in this chapter, any lost, stolen, confiscated or abandoned property may be reclaimed by the lawful owner upon proof of ownership and identity satisfactory to the Chief of Police, or his designee, and he is hereby authorized to release the property to such owner when the owner gives a proper receipt therefor, if claimed before such property is disposed of as provided in GJMC 2.44.040 or 2.44.070.

(Code 1994 § 20-30; Code 1965 § 22-6(c))

2.44.060 Failure to claim property.

Failure to make a claim of ownership within the time limits prescribed in GJMC 2.44.010 and before the sale or other disposition provided in GJMC 2.44.040 or 2.44.070 of any article shall forever bar the owner

or any person claiming ownership by, through or under the owner from making any subsequent claims of ownership.

(Code 1994 § 20-31; Code 1965 § 22-6(d))

2.44.070 Disposition generally.

All lost, stolen, confiscated or abandoned property, with exceptions as provided in GJMC 2.44.040, which has not been claimed by the rightful owner thereof within 60 days after such property is no longer required to be held as evidence or within 60 days after such property came into the custody of the Chief of Police or within 30 days after the mailing of a letter of notice, whichever is the longer time, shall be disposed of by releasing such property to the original finder if a claim has been filed; retaining and using such property in the City's training programs; destroying such property; or as ordered to the contrary by any court under the provisions of a more appropriate ordinance or State statute; or, at such time as the City Manager or his designee shall determine, selling such property at public auction; provided, however, that:

(a) The Chief of Police, or his designee, shall examine all property in his custody, and if the identity of the owner appears from such examination or if the identity of the owner is readily available from public records available to him or otherwise known to him, the Chief of Police shall notify the apparent owner by letter, mailed by first class United States mail, postage prepaid, to the last known address of such apparent owner, describing the property and stating that such property is held by the Chief of Police and may be sold or otherwise disposed of unless claimed within 30 days of mailing such notice.

(b) The Chief of Police, or his designee, shall keep in his control all articles of personal property seized or held as evidence, which has been delivered to the Chief of Police or one of his subordinates for use in any pending or prospective trial; unless otherwise ordered by the court having jurisdiction or upon proper authorization of the prosecuting attorney, until final disposition of any pending charges, including appeals or the lapse of time for filing an appeal.

(c) Before any such property may be sold at public auction, the Chief of Police, or his designee, shall cause to be published in a newspaper of general circulation in the City, not less than 10 days before such sale, a notice setting forth a description of each article to be sold, the time and date and place of sale, and a statement that any person who claims to be the owner of or claims any interest in any article so described may appear at the Police Department before the time and date set for sale to reclaim such article upon presentation of satisfactory proof of identity and ownership of such article.

(d) Whenever any property is retained by the City as provided for in this chapter, it shall be added to the City's capital assets inventory, which shall also indicate the location of the assigned property and the designated use thereof.

(Code 1994 § 20-32; Code 1965 § 22-6(g))

2.44.080 Sale of unclaimed property.

At the time and place mentioned in the notice for the sale of unclaimed property, the City Manager or his designee shall sell all such property at public auction for the highest and best price such property will bring in cash. The proceeds of such sale, after deduction of the expenses of the sale, shall be paid to the City Manager, who shall deposit such proceeds in the general fund of the City.

(Code 1994 § 20-33; Code 1965 § 22-6(h), (i))

Chapter 2.48

ART IN PUBLIC PLACES PROGRAM

Sections:

2.48.010 Purpose.
2.48.020 Definitions.
2.48.030 Funding.
2.48.040 Uses of funds.
2.48.050 Responsibilities.
2.48.060 Public art fund.
2.48.070 Other works of art.

2.48.010 Purpose.

The purpose of this chapter is to amend the City's Art in Public Places program, which provides for acquisition by the City of works of art in conjunction with certain City capital improvement projects. The program requires that all applicable City projects include funding for a work or works of art to be placed at that site or at an alternate and more appropriate, publicly visible and accessible location.

(Res. 125-08 § 1, 9-15-08)

2.48.020 Definitions.

Capital improvement project means any capital improvement project included in the City of Grand Junction Capital Improvement Plan with a total budgeted allocation of $100,000 or higher, paid for or completed wholly or in part by the City, regardless of the source of funding, for construction, renovation, or remodeling of any public building, structure, or park.

Projects not subject to the Art in Public Places program are water, sewer and sanitation enterprise fund projects; land acquisition; projects consisting solely of purchase or installation of equipment, including but not limited to lighting, traffic signals, signage, underground utilities, electronics, playground equipment, or HVAC; and projects to resurface, repaint, reroof, or overlay existing streets, sidewalks, trails, cart paths, parking lots, buildings, or structures.

Commission on Arts and Culture means the board established and appointed by the City Council pursuant to Resolution No. 44-89.

Public art fund means a separate account established by the City to receive monies appropriated to the Art in Public Places program.

Structure means and includes construction of an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. For purposes of this chapter a traffic circle or vehicular roundabout shall be considered a structure. Works of art shall be installed in a traffic circle or vehicular roundabout if inclusion of artwork would not interfere with sight distance or other safe vehicular and/or pedestrian movement at such a location.

Work(s) of art means all forms of original creations of visual art, including but not limited to sculpture, painting, fountains, mosaics, graphic arts, printmaking, drawing, photography, ceramics, stained glass, fiber art, woodworking, metal work, mixed media and decorative or ornamental architectural embellishments not part of the basic design of a structure or building. Works of art may also include unique and/or artistic landscaping features, installations or environmental designs when located within a park, traffic circle or vehicular roundabout.

(Res. 125-08 § 2, 9-15-08)

2.48.030 Funding.

All appropriations for City capital improvement projects shall include an amount equal to one percent of the lesser of the City's Engineer's estimate (or other City staff estimate if an engineer's estimate is not established) or the amount of the bid awarded; i.e., multiply by 0.01 the lesser of any available engineer's estimate or the original bid award for the capital construction project but exclude costs of real property acquisition and exclude the amounts of any subsequent change orders, additions or deletions.

(Res. 125-08 § 3, 9-15-08)

2.48.040 Uses of funds.

Funds appropriated for works of art shall be transferred to a public art fund established for the purposes stated in this chapter. Money collected in the fund shall be used solely for selection, acquisition, purchase, commissioning, placement, installation, exhibition, and display of works of art. Artwork may be temporary or permanent, may be integral to the architecture and/or may be incorporated into the site of the construction project for which the appropriation is allocated or may be placed at a more appropriate site selected by the Grand Junction Commission on Arts and Culture and accessible to the general public.

Any costs and responsibilities associated with administration of the program shall be reflected in the budget of the Grand Junction Commission on Arts and Culture or other appropriate department of the City, and any costs and responsibilities associated with maintenance or repair of the artwork shall be reflected within the budget of the department having possession of the work.

Any excess or unexpended funds in the public art fund shall carry forward in this account at the end of each fiscal year and may be allocated in conjunction with future capital improvement projects.

(Res. 125-08 § 4, 9-15-08)

2.48.050 Responsibilities.

Responsibility for administration of the Art in Public Places program shall rest with the Grand Junction Commission on Arts and Culture. The Commission shall establish and amend, with City Council approval, criteria and guidelines governing the selection, acquisition, purchase, commissioning, placement, installation, and maintenance of works of art. Selection and placement of works of art shall be in conjunction with representatives of the City Council and the City department responsible for the specific capital improvement project or, if an alternative site is selected, the City department in which the artwork will be located.

Following placement or installation, maintenance and repair of the artwork shall be the responsibility of the department having possession of the work, with the advice and guidance of the Commission on Arts and Culture. Any proposed works of art requiring extraordinary operation or maintenance expenses shall receive prior approval of the department head responsible for such operation or maintenance.

(Res. 125-08 § 5, 9-15-08)

2.48.060 Public art fund.

There is hereby established a public art fund into which shall be deposited funds appropriated pursuant to GJMC 2.48.030, together with any other funding appropriated by City Council for the purchase of works of art, and any grants or donations received from other sources for this purpose. Funds shall be approved for expenditure in accordance with City financial policies, department regulations, and criteria established pursuant to GJMC 2.48.050.

(Res. 125-08 § 6, 9-15-08)

2.48.070 Other works of art.

Nothing in this chapter shall be construed to preclude the selection, acquisition, purchase, commissioning, placement, or installation of works of art in public places other than those placed pursuant to this chapter.

(Res. 125-08 § 7, 9-15-08)

Chapter 2.52

CITY BOARDS AND COMMISSIONS

Sections:
2.52.010 Ethical standards.
2.52.020 Oath or affirmation.

2.52.010 Ethical standards.

(a) Definitions. The following definitions apply to this section:

Advisory as used herein shall mean a body with advisory powers and duties only.

The following entities are examples of primarily "advisory":

(1) Commission on Arts and Culture;

(2) Parks and Recreation Advisory Board;

(3) Urban Trails Committee;

(4) Riverfront Commission;

(5) Historic Preservation Board;

(6) Growth Plan Commission;

(7) Study groups;

(8) Transit Committees/groups;

(9) Visitor and Convention Bureau Board of Directors;

(10) Other ad hoc committees.

Advisory groups shall also include those entities that normally act through a City employee or other City group(s).

Authoritative as used herein shall refer to boards, commissions, committees, groups and similar entities which have one or more of the following powers, duties or opportunities:

(1) Spend money;

(2) Adopt a budget;

(3) Buy or sell property;

(4) Act for or bind the City;

(5) Sue and be sued;

(6) Hire/fire and supervise employee(s);

(7) Make land use decisions, including zoning and/or variances;

(8) Issue and regulate City licenses, including the power to suspend or revoke a right or privilege to do business within the City;

(9) Make or recommend decisions affecting criminal defendants in Municipal Court.

The following entities are by virtue of their powers and functions authoritative entities:

(1) Grand Junction Downtown Development Authority;

(2) Walker Field Public Airport Authority (for the three City appointees);

(3) Grand Junction Housing Authority;

(4) Grand Junction Planning Commission;

(5) Grand Junction Planning Commission Board of Appeals;

(6) Contractor's Licensing Board;

(7) Parks Improvement Advisory Board (for the City's appointee);

(8) Public Finance Corporation;

(9) Riverview Technology Corporation;

(10) Grand Junction Forestry Board;

(11) Ridges Architectural Control Committee.

Business associate(s) as used herein shall mean a person who is (1) an owner of 10 percent or more of a firm, corporation, limited liability company, partnership or other legal entity; and/or (2) an officer or director of a corporation; a manager or general manager of a member of a limited liability company; a partner of a partnership or a similar position of authority in another entity.

Disclosure or *disclose* shall mean to provide all pertinent information in writing to each member of the respective board or groups, and to send a copy to the Mayor and to the City Attorney.

Family member means husband, wife, son, daughter, mother, father, stepson, stepdaughter, stepmother, stepfather, grandmother, grandfather, grandchildren, brother, sister, and domestic partner, and shall include any minor children for whom the person or his or her domestic partner provides day-to-day care and financial support. A *domestic partner* is an unmarried adult, unrelated by blood, with whom an unmarried member has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses.

Member(s) as used herein shall mean any person(s) appointed to a board, commission, committee or similar group or entity by the City Council or by one or more City officials.

(b) The rules established by this section supplement state and other applicable law, including but not limited to pertinent provisions of Article 18 of Title 24 of the Colorado Revised Statutes and Section 101 of the City Charter.

(c) Members are encouraged to seek advisory opinions from the City Attorney regarding ethics questions. The City Attorney will respond to requests for ethics opinions within a time and in a form which is reasonable under the circumstances. The City Attorney will deliver a copy of all disclosures and/or inquiries along with any advisory opinion that is made available to the public to the City Clerk who will keep a public record of all such disclosures. Board members are encouraged to use these advisory opinions as information resources.

(d) Authoritative entities are subject to higher scrutiny than advisory entities because of their decision-making functions. Members of authoritative entities should strive to avoid not only actual impropriety, but situations which create the appearance of impropriety. Members of authoritative entities shall observe the following rules:

(1) With regard to the board or group on which the member serves, it is not allowed for the member or family member or business associate of the member to contract with or have a business relationship with such member's board or group.

(2) It is not allowed for a member to act or be involved in a decision or situation in which it could be reasonably perceived that the member's personal or financial interests could influence the decision-making.

(3) Regarding the board or group on which a member serves, a member shall not act, influence or be involved in a decision or situation in which a family member or business associate is involved.

(4) Regarding the board or group on which the member serves, it is not allowed for a family member or business associate to do business with the board or group.

(5) Each member must disclose any conflict or situation which creates an appearance of impropriety (including the potential of either) as soon as possible.

(6) If a conflict exists, the member must remove him or herself from further involvement in the decision or the process.

(7) If the situation creates an appearance of impropriety, the member may remove him/herself or may seek the guidance of the other members of the board or group.

(8) If either a conflict or the appearance thereof reasonably exists, the member may not attempt to influence any decision-maker.

(e) Advisory boards and members are not subject to the rules that apply to authoritative boards or groups, except that a member of an advisory board or group must as soon as possible disclose any conflict or situation which creates the appearance of impropriety (including the potential of either), and such member must abstain from participation in and/or from exercising influence regarding the matter.

(f) No conflict or impropriety exists for any member if the matter does not involve the board or group on which the member serves.

(Res. 79-06 §§ 1 – 6, 7-5-06)

2.52.020 Oath or affirmation.

The following oath or affirmation shall be completed by each new City-appointed member of the City boards, committees and commissions.

Board or Commission Volunteer Oath or Affirmation

I, _____ , solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of Colorado, the Charter and Ordinances of the City of Grand Junction and will faithfully perform, according to law the duties of _____ (board or commission) for the City of Grand Junction, for which I have volunteered and been appointed.

I will fully, faithfully and lawfully perform those duties and do swear or affirm that I will strive to serve the public and to protect the health, safety and welfare of the people of the City of Grand Junction.

I acknowledge that my work for the City of Grand Junction is purely voluntary. Notwithstanding that I may be compensated by the Board, my duty shall be first and foremost to protect and advance the best interests of the City.

I acknowledge that any violation of this oath may result in my being removed from the _____ (board or commission).

I do hereby waive, relinquish, release, discharge and hold harmless the City of Grand Junction and its officer and employees from any and all liability for any physical or mental injury or aggravation of any pre-existing illness or handicap or any other harm or loss of any nature whatsoever which may be sustained by me due to my volunteer work with the City of Grand Junction.

(Res. 117-07, 8-1-07)

Chapter 2.56

NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

Sections:
2.56.010 Adopted.

2.56.010 Adopted.

The National Incident Management System (NIMS) is adopted as the basis for all incident management in the City of Grand Junction, Colorado.

(Res. 136-05, 8-3-05)

Title 3

REVENUE AND FINANCE

Chapters:

3.04 Liquor Occupational Tax
3.08 Lodging Tax
3.12 Sales and Use Tax

State law reference(s) – Authority to tax, Colorado Constitution Arts. X, XX, § 6(g).

Chapter 3.04

LIQUOR OCCUPATIONAL TAX

Sections:

3.04.010 Definitions.
3.04.020 Businesses classified.
3.04.030 Declaration of policy and purpose.
3.04.040 Tax levied.
3.04.050 When tax due, delinquent – Prepayment.
3.04.060 Issuance, contents of revenue receipt.
3.04.070 Revenue receipt to be posted.
3.04.080 Prorating taxes.
3.04.090 Interest on delinquent taxes.
3.04.100 Effect of delinquency.
3.04.110 Recovery of taxes by suit.
3.04.120 Use of proceeds.

Case law reference(s) – The ordinance from which this chapter is derived is purely a revenue measure, not regulatory, and therefore does not contravene Colorado Constitution Article XXII, giving legislature exclusive jurisdiction to make regulations regarding manufacture, sale, distribution of liquor. 186 Fed. Supp. 70 (1949).

Cross reference(s) – Alcoholic beverages, Chapter 5.12 GJMC.

3.04.010 Definitions.

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

Malt liquors shall include beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar products, or any combination thereof, in water, containing more than 3.2 percent of alcohol by weight.

Medicinal liquors mean any liquor sold by a duly licensed pharmacist or drugstore solely on bona fide doctor's prescription.

Operator means a person licensed by law to sell malt, vinous and spirituous liquors, other than medicinal liquors, for beverage purposes at retail and who is engaged at any time during the calendar year in such operation within the City.

Spirituous liquors means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except as provided in this section shall not be construed to be malt or vinous liquors, but shall be construed to be spirituous liquor.

3.2 beer or *fermented malt beverage* means malt liquor as defined in this section containing not more than 3.2 percent of alcohol by weight.

Vinous liquors means and includes wine and fortified wines not exceeding 21 percent of alcohol by volume and shall be construed to mean alcoholic beverages obtained by the fermentation of the natural sugar contents of fruits or other agricultural produce containing sugar.

(Code 1994 § 34-26; Code 1965 § 4-12)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

State law reference(s) – Similar provisions, §§ 12-46-103, 12-47-103, C.R.S.

3.04.020 Businesses classified.

The business of selling at retail any malt, vinous or spirituous liquor, other than medicinal liquors, for beverage purposes is hereby defined and separately classified as such occupation for the purposes of this chapter as follows:

(a) Class A Operators. All operators who are licensed to sell beer, wine and spirituous liquors for consumption on the premises either as hotels or restaurants or under a beer and wine license shall be class A operators.

(b) Class B Operators. All operators licensed to sell malt or vinous liquors only by the drink for consumption on the premises as taverns shall be class B operators.

(c) Class C Operators. All operators licensed as retail liquor stores to sell malt, vinous or spirituous liquors in original containers for consumption off the premises shall be class C operators.

(d) Class D Operators. All operators licensed as drugstores to sell malt, vinous or spirituous liquors in original containers for consumption off the premises shall be class D operators.

(e) Class E Operators. All operators licensed to sell malt, vinous or spirituous liquors as clubs are class E operators.

(f) Class F Operators. All operators who are licensed to sell beer, wine and spirituous liquors for consumption on the premises as racetracks shall be class F operators.

(g) Class G Operators. All operators licensed to sell fermented malt beverages for consumption on the premises where such consumption is in a restaurant to customers of the restaurant and only if meals are actually and regularly served and provide not less than 25 percent of the gross income of the licensed premises are class G operators.

(h) Class H Operators. All operators licensed to sell fermented malt beverages for consumption on the premises, or for both consumption on the premises and in the original package or container for consumption off the premises, where the consumption on the premises is not to customers in a restaurant where meals are actually and regularly served and provide not less than 25 percent of the gross income of the licensed premises are class H operators.

(i) Class I Operators. All operators licensed to sell only 3.2 percent beer or fermented malt beverage and who sell the same solely in the original package or container for consumption off the premises shall be class I operators.

(j) Class J Operators. All operators licensed to sell malt, vinous and spirituous liquor under an arts license shall be class J operators.

(Code 1994 § 34-27; Code 1965 § 4-13)

3.04.030 Declaration of policy and purpose.

The City Council hereby finds, determines and declares that considering the nature of the business of selling at retail 3.2 percent beer, malt, vinous and spirituous liquors for beverage purposes, and the relation of such business to the municipal welfare, as well as the relation thereof to the expenditures required of the City and a proper, just and equitable distribution of tax burdens within the City, and all other matters properly to be considered in relation thereto, the classification of such business as a separate occupation is reasonable, proper, uniform and nondiscriminatory and that the amount of tax hereby imposed by this chapter is reasonable, proper, uniform and nondiscriminatory and necessary for a just and proper distribution of tax burdens within the City.

(Code 1994 § 34-28; Code 1965 § 4-14)

3.04.040 Tax levied.

There is hereby levied and assessed for the year 1977 and for each year thereafter an annual occupation tax upon the business of selling fermented malt beverages or 3.2 percent beer, malt, vinous or spirituous liquors, except medicinal liquors, in the City, as such occupation has been classified in this chapter, as follows:

(a) For all class A operators, the sum of $300.00.

(b) For all class B operators, the sum of $500.00.

(c) For all class C operators, the sum of $300.00.

(d) For all class D operators, the sum of $300.00.

(e) For all class E operators, the sum of $150.00.

(f) For all class F operators, the sum of $300.00.

(g) For all class G operators, the sum of $100.00.

(h) For all class H operators, the sum of $300.00.

(i) For all class I operators, the sum of $100.00.

(j) For all class J operators, the sum of $150.00.

(Code 1994 § 34-29; Code 1965 § 4-15)

3.04.050 When tax due, delinquent – Prepayment.

The tax imposed by this chapter shall be due and payable to the City Manager on January 1st of each year and shall be delinquent on February 1st of the same year. Prepayment of such tax may be made in the month of December preceding the due date.

(Code 1994 § 34-30; Code 1965 § 4-16)

3.04.060 Issuance, contents of revenue receipt.

Upon receipt of the tax levied by this chapter, it shall be the duty of the City Manager to execute and deliver to the operator paying the tax a revenue receipt showing the name of the operator paying the tax, the date of payment, the annual period for which such tax is paid, and the place at which such operator conducts business.

(Code 1994 § 34-31; Code 1965 § 4-17)

3.04.070 Revenue receipt to be posted.

The operator of businesses licensed under this chapter shall, at all times during the year, keep the revenue receipt posted in a conspicuous place in his place of business.

(Code 1994 § 34-32; Code 1965 § 4-18)

3.04.080 Prorating taxes.

If any operator begins business subsequent to January 1st of any year, the tax required by this chapter shall be prorated on a monthly basis for the remaining portion of the year; but no refund shall be made to any person who discontinues such business during the year. All prorated taxes provided for in this section shall be due and payable upon the beginning of business and shall be delinquent 10 days thereafter.

(Code 1994 § 34-33; Code 1965 § 4-19)

3.04.090 Interest on delinquent taxes.

Interest shall accrue on all delinquent taxes due under this chapter from the day of delinquency until paid or collected, at the rate of one percent per month.

(Code 1994 § 34-34; Code 1965 § 4-20)

3.04.100 Effect of delinquency.

No delinquency in payment of the tax provided for in this chapter shall be grounds for suspension or revocation of any license granted to any such operator by any licensing authority pursuant to the statutes enacted by the general assembly of the State, and in performance of any duties imposed upon the City Council as a licensing authority by such statutes, the City Council shall exclude from consideration any delinquency in payment of the tax provided for in this chapter.

(Code 1994 § 34-35; Code 1965 § 4-21)

3.04.110 Recovery of taxes by suit.

The City shall have the right to recover all sums due by the terms of this chapter, including attorney fees, court costs and expert fees, by judgment and execution thereon in a civil action, in any court of competent jurisdiction; such remedy shall be cumulative with all other remedies provided in this chapter for the enforcement of this chapter.

(Code 1994 § 34-36; Code 1965 § 4-22)

3.04.120 Use of proceeds.

The purpose of this chapter being to raise revenue for the City and to secure a proper distribution of the burden of taxation, this chapter shall be void in case the State Supreme Court shall hold that any part of the moneys to be raised under this chapter must be used for any other purpose.

(Code 1994 § 34-37; Code 1965 § 4-23)

Chapter 3.08

LODGING TAX

Sections:

3.08.010 Title.
3.08.020 Purpose.
3.08.030 Definitions.
3.08.040 Levy of tax – Amount – Payment – Collection, etc.
3.08.050 Records – Regulations – Enforcement, etc.
3.08.060 Collection and refund of disputed tax – Refund procedure.
3.08.070 Status of unpaid tax in bankruptcy and receivership.
3.08.080 Trust status of tax in possession of vendor.
3.08.090 Hearings, subpoenas and witness fees.
3.08.100 Judge compels attendance.
3.08.110 Depositions.
3.08.120 Tax lien/enforcement.
3.08.130 Recovery of unpaid tax.
3.08.140 Statute of limitation.
3.08.150 Penalty.
3.08.160 Severability.
3.08.170 Rules of construction.

Editor's note – This chapter on lodger's taxes was adopted by referendum of the people, People's Ordinance No. 34, and pursuant to Charter Section 142 may only be amended by referendum. It is printed herein as it was codified in the 1965 Code as Chapter 24.1, as provided in Section 18 of People's Ordinance No. 34.

3.08.010 Title.

This chapter shall be known and may be cited as "The Lodgers' Tax Ordinance."

(People's Ord. 34 § 1, 10-4-89. Code 1994 § 34-61; Code 1965 § 24.1-1)

3.08.020 Purpose.

For the purposes of this chapter, every person who purchases in the City any lodging is exercising a taxable privilege. The purpose of this chapter is to impose a tax which will be collected by every vendor from persons using lodging accommodations in the City of Grand Junction, which tax will provide revenues for advertising the community, promoting tourism and visitors, attracting conferences, conventions, and meetings to the City of Grand Junction, and to allocate a portion of the revenue derived therefrom for administrative and clerical expenses, as set forth.

(People's Ord. 34 § 2, 10-4-89. Code 1994 § 34-62; Code 1965 § 24.1-2)

3.08.030 Definitions.

For the purpose of this chapter, the following words and phrases shall have the following meanings, unless the context requires otherwise:

Finance director means that person appointed by the City Manager of the City of Grand Junction as the director of the Finance Department or his designee.

Gross taxable sale means the total amount received in money, credits, property or other consideration valued in money from sales and purchases of lodging that is subject to the tax imposed in this chapter, but excluding the amounts received pursuant to any other State, County or municipal tax.

Lodging shall mean the providing of the right to use or possess, for consideration, any room or rooms for temporary occupancy, such as, but not limited to: a room in a hotel, guesthouse, hotel apart-

ment and lodginghouses, motel, ranch, resort, mobile home, mobile home park, bed and breakfast establishment, movable structure, auto camp, trailer court, inn, hostel or park under any concession, permit, right of access, lease, contract, license to use or other arrangement or otherwise, but shall not include rentals under a written agreement for occupancy for a period of 30 consecutive days or more.

Person shall include any individual, firm, partnership, joint enterprise, corporation, estate or trust, or any group or combination acting as a unit, in the plural as well as in the singular number.

Purchase or *sale* means the acquisition or furnishing for consideration by any person of lodging within the City.

Purchaser means any person exercising the taxable privilege of purchasing lodging.

Purchasing lodging means the buying of lodging by a purchaser as herein defined.

Tax means either the tax payable by the purchaser or the aggregate amount of taxes due from a vendor during the period for which the vendor is required to report collections under this chapter.

Taxpayer shall mean any person obligated to account to the Finance Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

Vendor means a person making sales of or furnishing lodging to a purchaser in the City.

(People's Ord. 34 § 3, 10-4-89. Code 1994 § 34-63; Code 1965 § 24.1-3)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

3.08.040 Levy of tax – Amount – Payment – Collection, etc.

(a) Amount of Tax.

(1) There is hereby levied and shall be collected and paid a tax by every person exercising the taxable privilege of purchasing lodging as in this chapter defined.

(2) The amount of the tax levied hereby is three percent of the gross taxable sale paid or charged for purchasing such lodging.

(3) Any person providing lodging within the City of Grand Junction shall collect a tax from all those to whom lodging is provided amounting to three percent of the total rental revenue received by such vendor. Such tax shall be in addition to any other tax or levy for providing such service.

(b) Payment of Tax and Filing of Reports. Every vendor making a sale to a purchaser in the City which sale is taxable under the provisions of this chapter shall, at the time of the sale, collect and pay to the Finance Director all tax funds collected by him during each calendar month not later than 20 days after the last day of said month and each payment shall be accompanied by a report for said month.

(c) Exclusions. Purchases shall include all revenues earned and received for the purchase or sale of lodging excluding the following:

(1) Charges for other services, such as food and/or telephone charges, furnished by a person providing lodging;

(2) Deposits placed by any purchaser with a request to hold a room for such purchaser for a future date until such time as said deposit has been credited against the purchase or sale;

(3) All sales to the United States government, the State of Colorado, its departments and institutions, the political subdivisions of the State, and the City of Grand Junction in their governmental capacities only;

(4) All sales to those charitable, religious and eleemosynary organizations which have received from the federal Internal Revenue Service status under Section 501(c)(3) of the Internal Rev-

enue Code as a tax exempt organization, while in the conduct of their regular charitable, religious or eleemosynary functions and activities.

(d) Deductions. The following deductions shall be allowed against sales received by the vendor providing lodging:

(1) Refunds of sales actually returned to any purchaser;

(2) Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale for lodging and does not include any adjustments for other services furnished by a vendor.

(e) Collection Requirement. It shall be unlawful for a person providing lodging to rent lodging without collecting, in addition to the rental thereof, the tax as provided for in this chapter.

(f) Unlawful for Person Providing Lodging to Assume Tax. It shall be unlawful for the person providing lodging to assume or absorb the payment of the tax provided for in this chapter.

(g) Unlawful for Person Providing Lodging to Refuse Payment. It shall be unlawful for the person providing lodging:

(1) To fail or refuse to pay to the City Finance Director the tax collected by such vendor; or

(2) To fail to file reports required of such vendor under the terms of this chapter.

(h) Compliance Required of Agents and Employees. It shall be unlawful for any person, whether as principal, agent or employee of any vendor, to fail to comply with the several provisions of this chapter.

(i) Use and Disposition of Funds. All funds collected pursuant to this chapter, less any authorized lodgers' collection fee (pursuant to GJMC 3.08.050(k)), and less five percent for City administrative costs, shall be used as outlined in GJMC 3.08.020, Purpose, and shall be expended as directed by the City Council or its designee.

(j) Violations, Evasion of Collection or Payment of Tax. In addition to the other violations set forth elsewhere in this chapter, it shall be a violation of this chapter for any vendor to refuse to make any return provided to be made in this chapter, or to make any false or fraudulent return, or any false statement in any return, or to fail or refuse to make payment to the Finance Director of any tax collected or due the City, or in any manner to evade the payment thereof, or to aid or abet another in any attempt to evade the payment of the tax imposed by this chapter. Any corporation, or any other entity, making a false return or a return containing a false statement shall be guilty of a violation of this chapter as shall every person preparing or assisting in preparing such false return or return containing a false statement.

(People's Ord. 34 § 4, 10-4-89. Code 1994 § 34-64; Code 1965 § 24.1-4)

3.08.050 Records – Regulations – Enforcement, etc.

(a) Forms/Regulations. The Finance Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said lodging tax and in particular and without limiting the general language of this section, to provide for:

(1) A form of report on sales and purchases to be supplied to all vendors;

(2) The records which vendors providing lodging are to keep concerning the tax imposed by this chapter.

(b) Duty to Keep Books and Records. It shall be the duty of every vendor to keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the Finance Director in order to determine the amount of the tax for the collection or payment of which the vendor is liable under this chapter. It shall be the duty of every such vendor to keep and preserve

for a period of three years all such books, invoices and other records and the same shall be open for examination by the Finance Director. If such vendor keeps or maintains books, invoices, accounts and other records, or any thereof, outside of Mesa County, upon demand by the Finance Director, the vendor shall make the same available at a suitable place within Mesa County, to be designated by the Finance Director, for examination, inspection and audit by the Finance Director. The Finance Director, in the Finance Director's discretion, may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts and other records so kept or maintained by such vendor or such person outside of Mesa County, Colorado, at the place where the same are kept or maintained or at any place outside of Mesa County, Colorado, where the same will be made available, provided such vendor or such person shall have entered into a binding and enforceable agreement with the City to reimburse it for all costs and expenses incurred by it in order to have such examination, inspection or audit made in such place.

(c) Keeping of Reports – Inspection. All reports and information received pursuant hereto shall be retained by the Finance Director and shall not be open to the inspection of the general public. However, any officer or employee of the City of Grand Junction who may be charged with the duty of enforcement of this chapter shall be entitled to inspect said reports and any information supplemental thereto. Any City officer or employee or any member of the office of, or officer, or employee of the Finance Director who shall divulge any information classified herein as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided by law, shall be guilty of a violation hereof.

(d) Enforcement – Inspection. Any police officer of the City of Grand Junction or any person designated by the Finance Director to enforce this chapter shall have the right at any reasonable time to enter upon the premises of any vendor providing lodging and to request to see the register of guests or rate schedule maintained by any vendor for the purpose of attending to the enforcement of this chapter.

(e) Special Accounting Basis for Remittance of Tax. If the accounting methods regularly employed by the vendor in the transaction of business, or other conditions, as determined by the Finance Director, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the Finance Director may, upon request of the vendor, or at the election of the Finance Director, accept returns at such intervals as will, in the Finance Director's opinion, better suit the convenience of the vendor and the City and will not jeopardize the collection of the tax; provided, however, the Finance Director may by rule permit a vendor to make returns and pay taxes at intervals not greater than annually.

(f) Consolidation of Returns. A vendor doing business in two or more places or locations, whether within or without the City, and collecting taxes under this chapter may file one return covering all such places or locations, when accompanied by a supplemental report showing the gross and net taxable sales and taxes collected thereon for each such place or location.

(g) Investigation of Vendor's Books. For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the Finance Director may hold investigations and hearings concerning any matters covered by this chapter, and may examine any relevant books, papers, records or memoranda of any such person and may require the attendance of such person, or any officer or employee of such person, or of any person having knowledge of such sales, and may take testimony and require proof for their information. The Finance Director shall have power to administer oaths to such persons.

(h) Refusal to Make Return – Estimate of Tax – Penalty – Notice – Assessment.

(1) If any person neglects or refuses to make a return in payment of the taxes as required by this chapter, the Finance Director shall make an estimate, based upon such information as may be available, of the amount of the taxes due for the period for which the taxpayer is delinquent; and upon the basis of such estimated amount, compute and assess in addition thereto a penalty

equal to 10 percent thereof, together with interest on such delinquent taxes at the rate of one and one-half percent per month from the date when due.

(2) Promptly thereafter, the Finance Director shall give to the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice must be served personally on the vendor or on an agent or employee at the vendor's place of business or by registered or certified mail.

(3) Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the Finance Director 10 days from the date of service of the notice or the date of mailing by certified or registered mail; provided, however, that within the 10-day period such delinquent taxpayer may petition the Finance Director for a revision or modification of such assessment and shall, within such 10-day period, furnish the Finance Director the documents, facts and figures showing the correct amount of such taxes.

(4) Such petition shall be in writing and the facts and figures submitted shall be submitted either in writing or orally, and shall be given by the taxpayer under penalty of perjury.

(5) Thereupon the Finance Director may modify such assessment in accordance with the facts submitted in order to effectuate the provisions of this chapter. Such assessment shall be considered the final order of the Finance Director, and may be reviewed under Rule 106(a)(4) of the Colorado Rules of Civil Procedure; provided, that the taxpayer gives written notice to the Finance Director of such intention within 10 days after receipt of the final order of assessment.

(i) Failure to Report – Penalties and Interest. Any vendor who fails to make said payment or fails to file said report within the period of time as herein provided shall pay a penalty of 10 percent of the total amount collected by such vendor for each month or fraction thereof, together with interest at the rate of one and one-half percent per month of said total amount collected, until said payment and report shall be properly filed with the Finance Director and such vendor shall not be entitled to deduct any amounts collected as a collection fee.

(j) Finance Director May Waive Penalty. The Finance Director is hereby authorized to waive, for good cause shown, any penalty assessed as in this chapter provided. Any interest imposed in excess of 12 percent per annum shall be deemed a penalty for the purposes of this section only.

(k) Vendors' Collection Fee. Vendors collecting and remitting the tax can, if such vendor is in compliance with the several provisions of this chapter, deduct three and one-third percent of the amount remitted as a collection fee.

(People's Ord. 34 § 5, 10-4-89. Code 1994 § 34-65; Code 1965 § 24.1-5)

3.08.060 Collection and refund of disputed tax – Refund procedure.

(a) Collection and Refund of Disputed Tax. Should a dispute arise between the purchaser and vendor as to whether or not the sale of lodging is exempt from taxation under this chapter, nevertheless, the vendor shall collect and the purchaser shall pay such tax, and the vendor shall thereupon issue to the purchaser a receipt or certificate, on forms prescribed by the Finance Director, showing the names of the purchaser and vendor, the date, price, amount of tax paid, and a brief statement of the claim of exemption. The purchaser thereafter may apply to the Finance Director for a refund of such taxes, and it shall be the duty of the Finance Director to determine the question of exemption, subject to review by the courts.

(b) Refund Procedure.

(1) Generally. A refund shall be made, or credit allowed, for the tax paid under dispute by any purchaser who has an exemption as in this chapter set out. Such refund shall be made by the Finance Director after compliance with the conditions of this section.

(2) Application. Applications for a refund must be made within 60 days after the purchase of the lodging on which the exemption is claimed and must be supported by the affidavit of the pur-

chaser accompanied by the original paid invoice or sales receipt and a certificate issued by the vendor, and be made upon such forms as shall be prescribed and furnished by the Finance Director, which forms shall contain such information as the Finance Director shall prescribe.

(3) Decisions. Upon receipt of such application, the Finance Director shall examine the same as soon as is practicable and shall give notice to the applicant by an order in writing of the decision thereon.

(4) Hearing. An aggrieved applicant may, within 10 days after such decision is mailed to him, petition the Finance Director for a hearing on the claim in the manner provided in this chapter.

(5) Refunds Not Assignable. The right of any person to a refund under this chapter shall not be assignable, and application for refund must be made by the same person who purchased the lodging and paid the tax thereon as shown in the invoice of the sale thereof.

(6) Penalty for Violating Refund Provisions. Any applicant for refund under the provisions hereinabove, or any other person, who shall make any false statement in connection with an application for a refund of any tax shall be deemed guilty of a violation of this chapter.

(7) Violations of Refund Provisions to Be Used as Evidence of Fraudulent Intent. If any person is convicted under the provisions of subsection (b)(6) of this section, such conviction shall be prima facie evidence that all refunds received by such person during the current year were obtained unlawfully, and the Finance Director is hereby empowered and directed to bring appropriate action for recovery of such refund. A brief summary of the above-mentioned penalties shall be printed on each form application for refund.

(8) Burden of Proof. The burden of proof that sales of lodging on which tax refunds are claimed are exempt from taxation under this chapter shall be on the one making such claim under such reasonable requirements of proof as the Finance Director may prescribe.

(People's Ord. 34 § 6, 10-4-89. Code 1994 § 34-66; Code 1965 § 24.1-6)

3.08.070 Status of unpaid tax in bankruptcy and receivership.

Whenever the business or property of any taxpayer subject to this chapter shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this chapter and for which the taxpayer is in any way liable under the terms of this chapter shall be a prior and preferred lien against all the property of the taxpayer, except as to other tax liens which have attached prior to the filing of the notice, other than the goods and stock in trade of such taxpayer, and no sheriff, receiver, assignee or other officer shall sell the property of any person subject to this chapter under process or order of any court, without first ascertaining from the Finance Director the amount of any taxes due and payable under this chapter, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any moneys to any judgment creditor or other claimants of whatsoever kind or nature, except the cost of the proceedings and other preexisting tax liens as above provided.

(People's Ord. 34 § 7, 10-4-89. Code 1994 § 34-67; Code 1965 § 24.1-7)

3.08.080 Trust status of tax in possession of vendor.

All sums of money paid by the purchaser to the vendor as taxes imposed by this chapter shall be and remain public money, the property of the City, in the hands of such vendor, and the vendor shall hold the same in trust for the sole use and benefit of the City until paid to the Finance Director as herein provided, and for failure so to pay to the Finance Director, such vendor shall be punished for a violation hereof.

(People's Ord. 34 § 8, 10-4-89. Code 1994 § 34-68; Code 1965 § 24.1-8)

3.08.090 Hearings, subpoenas and witness fees.

All subpoenas issued under the terms of this chapter may be served by any person of full age. The fees of witnesses for attendance and trial shall be the same as the fees of witnesses before the district court, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Finance Director, such fees shall be paid in the same manner as other expenses under the terms of this chapter, and when a witness is subpoenaed at the instance of any party to any such proceeding, the Finance Director may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Finance Director, in the Finance Director's discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

(People's Ord. 34 § 9, 10-4-89. Code 1994 § 34-69; Code 1965 § 24.1-9)

3.08.100 Judge compels attendance.

Any judge of the municipal court, upon the application of the Finance Director, may compel the attendance of witnesses, the production of books, papers, records of memoranda, and the giving of testimony before the Finance Director or any duly authorized deputies, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

(Amended during 2009 recodification; People's Ord. 34 § 10, 10-4-89. Code 1994 § 34-70; Code 1965 § 24.1-10)

3.08.110 Depositions.

The Finance Director or any party in an investigation or hearing before the Finance Director may cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in courts of this State and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

(People's Ord. 34 § 11, 10-4-89. Code 1994 § 34-71; Code 1965 § 24.1-11)

3.08.120 Tax lien/enforcement.

(a) The tax imposed by this chapter, together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be and, until paid, remain a first and prior lien superior to all other liens on all the tangible personal property of a taxpayer within the City and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the Finance Director whenever the taxpayer is in default in the payment of the tax, interest, penalty, or costs. Such warrant may be served and the goods subject to such lien seized by any deputy or employee of the City thereunto duly authorized. The property so seized may be sold by the agency seizing the same or by the Finance Director at public auction after 10 days have passed after an advertisement in a newspaper published in the City.

(b) The Finance Director or the Sheriff of Mesa County shall forthwith levy upon sufficient of the property of the taxpayer, and the property so levied upon shall be sold in all respects, with like effect and in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply. The Sheriff shall be entitled to such fees in executing such warrant as are allowed by law for similar services.

(c) The tax imposed by this chapter shall be, and remain, a first and prior lien superior to all other liens on the real property and appurtenant premises at which the taxable transactions occurred.

(People's Ord. 34 § 12, 10-4-89. Code 1994 § 34-72; Code 1965 § 24.1-12)

3.08.130 Recovery of unpaid tax.

(a) The Finance Director may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the City from the taxpayer.

(b) In case of failure to pay the taxes, or any portion thereof, or any penalty, costs, or interest thereon, when due, the Finance Director may recover at law the amount of such taxes, penalties, costs, the reasonable value of an attorney's time or the reasonable attorney's fees charged, plus interest, in any municipal, county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amounts sought to be collected.

(c) The return of the taxpayer or the assessment made by the Finance Director shall be prima facie proof of the amount due.

(d) Such actions may be actions in attachment, and writs of attachment may be issued to the police or Sheriff, as the case may be, and in any such proceeding no bond shall be required of the Finance Director, nor shall any policeman or sheriff require of the Finance Director an indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The Finance Director may prosecute appeals in such cases without the necessity of providing bond therefor.

(e) It shall be the duty of the City Attorney, when requested by the Finance Director, to commence action for the recovery of taxes due under this chapter and this remedy shall be in addition to all other existing remedies, or remedies provided in this chapter.

(f) The City may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection, as a charge against the property at which the taxable transaction occurred to the County Treasurer for collection in the same manner as delinquent ad valorem taxes.

(People's Ord. 34 § 13, 10-4-89. Code 1994 § 34-73; Code 1965 § 24.1-13)

3.08.140 Statute of limitation.

(a) The taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this chapter shall not be assessed, nor shall any notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable. Nor shall any lien continue after such period, except for taxes assessed before the expiration of such three-year period, notice of lien with respect to which has been filed prior to the expiration of such period.

(b) In case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time.

(c) Before the expiration of such period of limitation, the taxpayer and the Finance Director may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

(People's Ord. 34 § 14, 10-4-89. Code 1994 § 34-74; Code 1965 § 24.1-14)

3.08.150 Penalty.

It shall be unlawful for any person to violate, omit or refuse or fail to comply with the several provisions of this chapter, or to commit any act or omission declared to be a violation of this chapter. A violation of any provision of this chapter shall be punished by a fine not exceeding $300.00 or imprisonment for not more than 90 days, or both. Each day, or portion thereof, any violation of this chapter shall continue shall constitute a separate offense.

(People's Ord. 34 § 15, 10-4-89. Code 1994 § 34-75; Code 1965 § 24.1-15)

3.08.160 Severability.

The several sections, sentences, clauses and provisions of this chapter are intended to be severable; if any such section, sentence, clause or provision is declared unconstitutional, invalid or unenforceable by the valid judgment of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect the remaining portions of this chapter.

(People's Ord. 34 § 16, 10-4-89. Code 1994 § 34-76; Code 1965 § 24.1-16)

3.08.170 Rules of construction.

The construction of terms and the rules set forth in GJMC 1.04.020 are incorporated herein by this reference as though fully set forth herein.

(People's Ord. 34 § 17, 10-4-89. Code 1994 § 34-77; Code 1965 § 24.1-17)

Chapter 3.12

SALES AND USE TAX

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State law reference(s) – Sales and use tax, § 29-2-101, C.R.S. et seq.

3.12.010 Legislative intent.

(a) It is the intent of the City Council, in exercising the home rule powers reserved by the State Constitution, that, through this legislation and in the manner described in this chapter, every person in the City who purchases at retail, leases, consumes, stores or puts to any use any tangible personal property or taxable services is exercising a taxable privilege. All sales, leases and purchases of tangible personal property and taxable services defined in this chapter are taxable unless specifically exempted by this chapter. The sales tax imposed upon tangible personal property by this chapter applies to each transfer of ownership, possession and control of such property and may occur more than once during the life of the property.

(b) The sales tax is a transaction levied upon all sales, purchases and leases of tangible personal property and taxable services sold or leased by persons engaged in business in the City and is collected by the vendor or lessor and remitted to the City. The use tax is levied upon the privilege of persons in the City to store, use, distribute or consume tangible personal property located in the City and taxable services purchased or leased at retail and furnished within the City, whether purchased or leased inside or outside the City, and not subject to the sales tax imposed by this chapter. The use tax is remitted to the City by the persons storing, using, distributing or consuming the tangible personal property or taxable services. The use tax is a complement to the sales tax, and its purposes are to equalize competition between in-City and out-of-City vendors and lessors of tangible personal property and services and to eliminate incentives for City residents to leave the City to purchase or lease tangible personal property and taxable services.

(Code 1994 § 34-101; Code 1965 § 24-2)

3.12.020 Definitions.

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

Access services means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

Auction means any sale where tangible personal property is sold by an auctioneer who is either the agent or the owner of such property or is in fact the owner thereof.

Automotive vehicle means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway or right-of-way, or any device used or designed for aviation or flight in the air. Such term includes, but is not limited to, motor vehicles, trailers, semitrailers, or mobile homes. "Automotive vehicle" shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

Business means all activities engaged in or caused to be engaged in with the object of gain, benefit or advantage, direct or indirect.

Charitable organization means any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, so long as:

(1) No part of the net earnings of which inures to the benefit of any private shareholder or individual;

(2) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and

(3) Which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Construction activity means to build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or improvement, on or to real property.

Construction equipment means any purchased tangible personal property used, owned, operated or stored by a person engaging in construction activity, including, but not limited to, equipment, machinery, tools, automotive vehicles, mobile machinery and self-propelled construction equipment.

Construction materials means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weatherstripping, wire netting and screen, water mains and meters, and wood preserver. The above materials when used for forms or other items which do not remain as an integral or inseparable part of a completed structure or project are not construction materials.

Consumer means any individual person, or any other person, engaged in business in the City who uses, stores, distributes or otherwise consumes in the City tangible personal property or taxable services purchased from sources inside or outside the City.

Document means all written, printed, typed, recorded or graphic matter, photographic matter, sound reproductions, computer files, tapes, inputs or outputs, however produced or reproduced, or all other matters from which information may be obtained, and drafts and nonidentical copies thereof. "Nonidentical copies" refers to reproductions, however made, of the original document which have notations, markings, comments or other material not appearing on the original.

Drugs dispensed in accordance with a prescription means drugs dispensed in accordance with an order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by such a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

Engaged in business in the City means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. "Engaged in business in the City" includes, but is not limited to, any one of the following activities by a person:

(1) Maintaining or using, directly, indirectly or by a subsidiary, a building, store, office, salesroom, warehouse, or other place of business within the City;

(2) Sending one or more employees, agents or salespersons into the City to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;

(3) Maintaining one or more employees, agents or salespersons at a location within the City;

(4) Owning, leasing, renting or otherwise exercising control over real or personal property within the City; or

(5) Making more than one delivery into the City within any 12-month period.

Exempt commercial packaging materials means containers, labels or shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meet all of the following conditions:

(1) Are used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;

(2) Are transferred by such person along with, and as a part of, the finished product to the purchaser; and

(3) Are not returnable to such person for reuse.

Farm closeout sale means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

Food means food for domestic home consumption as defined in 7 U.S.C. Section 2012(g), as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. Section 2012(h), as amended, except that "food" does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow food; prepared salads and salad bars; cold sandwiches; delicatessen trays; and food or drink vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor.

Gross sales means the total amount received in money, credit, property or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

License means a City sales and use tax license.

Linen services means services involving provision and cleaning of linens, including, but not limited to, rags, uniforms, coveralls and diapers.

Lodging services means the furnishing of rooms or accommodations by any person to another person who for a consideration uses, possesses, or has the right to use or possess any room in a hotel, inn, bed and breakfast, residence, apartment, hotel, lodginghouse, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, or similar establishment, for a period of less than 30 days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

Manufacturing means the operation of producing a new product, article, substance or commodity different from and having a distinctive name, character or use from raw or prepared materials.

Manufacturing equipment means machinery or machine tools used directly and exclusively in manufacturing by a person engaged in manufacturing, compounding for sale, profit or use any article, substance or commodity.

Medical supplies means drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose useable for treatment of insulin reactions; urine- and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a practitioner of the healing arts as part of professional services provided to an individual; and corrective eyeglasses, contact lenses, or hearing aids.

Mobile machinery and self-propelled construction equipment means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways; and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been

designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways; and includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, or the digging of ditches.

Newspaper means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term "newspaper" does not include magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

Occasional sale means retail sales by charitable organizations for fundraising purposes, which funds are retained by the organization to be used in the course of that organization's charitable service to the community, provided the following occur:

(1) The sale of tangible personal property takes place no more than 12 days, consecutive or not, during any one calendar year; and

(2) Gross sales do not exceed $25,000 in one calendar year.

Pay television shall include, but not be limited to, cable, microwave or other television service for which a charge is imposed.

Person means any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee, or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

Preprinted newspaper supplements means inserts, attachments, or supplements circulated in newspapers that:

(1) Are primarily devoted to advertising; and

(2) The distribution, insertion, or attachment of which is paid for by the advertiser.

Prescription drugs for animals means drugs dispensed in accordance with any order in writing, dated and signed by a practitioner, or given orally by a practitioner, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

Price or *purchase price* means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this chapter, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if such exchanged property is to be sold thereafter in the usual course of the retailer's business; or such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this State, including, but not limited to, vehicles operating upon public highways, off-highway recreational vehicles, watercraft, and aircraft. Any money and/or other consideration paid over and above the value of the exchanged property is subject to tax.

(1) *Price* or *purchase price* includes:

(i) The amount of money received or due in cash and credits;

(ii) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business;

(iii) Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or any other person reimburses the retailer for part of the purchase price and other media of exchange;

(iv) The total price charged on credit sales, including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price

is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except that the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of a note or other written evidence of debt is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price;

(v) Installation, delivery and wheeling-in charges included in the purchase price and not separately stated;

(vi) Transportation and other charges to effect delivery of tangible personal property to the purchaser;

(vii) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock; and

(viii) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all materials used, labor and service performed and the profit thereon.

(2) *Price* or *purchase price* shall not include:

(i) Any sales or use tax imposed by the State or by any political subdivision thereof;

(ii) The fair market value of property exchanged if such property is to be sold thereafter in the retailer's usual course of business. This is not limited to exchanges in the State. Out-of-State trade-ins are not included in the purchase price;

(iii) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is included in the purchase price.

Private communications services means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations.

Prosthetic device means any artificial limb, part, device or appliance for human use which aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed practitioner of the healing arts. The term "prosthetic devices" includes, but is not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, oxygen concentrators, and oxygen with related accessories.

Purchase or *sale* means the acquisition, for any consideration by any person, of tangible personal property or taxable services that are purchased, leased, rented, sold, used, stored, distributed or consumed, but excludes a bona fide gift of property or services.

(1) The term "purchase" or "sale" includes capital leases, installment and credit sales, and property and services acquired by:

(i) A transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;

(ii) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services;

(iii) Performance of taxable services; or

(iv) Barter or exchange for other property or services, including coupons.

(2) The terms "purchase" and "sale" do not include:

(i) A division of partnership assets among the partners according to their interests in the partnership;

(ii) The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;

(iii) The transfer of assets of shareholders in the formation or dissolution of professional corporations;

(iv) The dissolution and the pro rata distribution of the corporation's assets to its stockholders;

(v) A transfer of a partnership interest;

(vi) The transfer in a reorganization qualifying under Section 368(a)(1) of the Internal Revenue Code of 1954, as amended;

(vii) The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;

(viii) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

(ix) The transfer of assets from a parent corporation to a subsidiary corporation or corporations which is owned at least 80 percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

(x) The transfer of assets from a subsidiary corporation or corporations which are owned at least 80 percent by the parent corporation to a parent corporation or to another subsidiary which is owned at least 80 percent by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

(xi) The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders with identical percentages of stock, computed on a share-by-share basis, when a tax imposed by this chapter was paid by the transfer corporation at the time it acquired such assets; however, any increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation is taxable. For the purposes of this paragraph, a "closely held subsidiary corporation" is one in which the parent corporation owns stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and owns at least 80 percent of the total number of shares of all other classes of stock.

Recreation services means all services relating to athletic or entertainment participation events, including but not limited to pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin-operated amusement devices, video games and video club memberships.

Retail sales mean all sales except wholesale sales.

Retailer means any person selling, leasing or renting tangible personal property or services at retail. "Retailer" shall include any:

(1) Auctioneer;

(2) Salesperson, representative, peddler or canvasser who makes sales as direct or indirect agent of, or obtains such property or services sold from, a dealer, distributor, supervisor or employer;

(3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired

by gift or donation or that consideration received is to be used for charitable or governmental purposes.

Return means the sales and use tax reporting form used to report sales and use tax.

Sales tax means the tax to be collected and remitted by a retailer on sales taxed pursuant to this chapter.

Security system services means electronic security system services. Such term does not include non-electronic security services such as consulting or human or guard dog patrol services.

Sound system services means sound system services involving provision of broadcast or prerecorded audio programming to a building or portion thereof. "Sound system service" does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

Tangible personal property means corporeal personal property.

Tax means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

Tax deficiency means any amount of tax that is not reported and paid on or before the due date.

Taxable sales means gross sales less any exemptions and deductions specified in this chapter.

Taxable services means services subject to tax pursuant to this chapter.

Taxpayer means any person obligated to collect and/or pay tax under the terms of this chapter.

Telecommunications service means the transmission of any two-way interactive electromagnetic communications, including but not limited to voice, image, data and any other information, by the use of any means including, but not limited to, wire, cable, fiber optical cable, microwave, radio wave or any combinations of such media. "Telecommunications service" includes, but is not limited to, basic local exchange telephone service; toll telephone service; teletypewriter service including but not limited to residential and business service; directory assistance; cellular mobile telephone or telecommunications service; specialized mobile radio and two-way pagers and paging service; and any form of mobile two-way communication. "Telecommunications service" does not include separately stated nontransmission services which constitute computer processing applications used to act on the information to be transmitted.

Therapeutic device means devices, appliances or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality. If such a device, appliance or related accessory has a retail value of more than $100.00, it must be sold in accordance with a written recommendation from a practitioner of the healing arts to qualify as a therapeutic device for purposes of this chapter.

Total tax liability and *tax due* means the total of all tax, penalties and/or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

Use tax means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

WATS/800 service means any outbound or inbound interstate-wide area telecommunications service or other similar service which entitles the subscriber, upon payment of a periodic charge, based upon a flat amount and/or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located.

Wholesale sales means sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to nonlicensed retailers are not wholesale sales.

Wholesaler means any person selling to retailers, jobbers, dealers or other wholesalers for resale, and not for storage, use, consumption or distribution.

Yard sale means the retail sale of tangible personal property by an individual who resides on the real estate on which the retail sale occurs for which sales occur no more than four calendar days, whether consecutive or not, in any 12-month period, and which the gross sales do not exceed $5,000 in any 12-month period, so long as such individual is not authorized to operate a home occupation, pursuant to GJMC 21.32.080, from out of the residence at which the retail sale occurs.

(Code 1994 § 34-102; Code 1965 § 24-3)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

3.12.030 Levied.

(a) Sales Tax. There is hereby levied a tax or excise upon all sales of tangible personal property and services specified in GJMC 3.12.050. The rate levied shall be 2.75 percent of the purchase price.

(b) Use Tax. There is hereby imposed and shall be collected from every person in the City a use tax for the privilege of storing, using, distributing, or consuming in the City any articles of tangible personal property or taxable services purchased for which no City sales tax has been paid. The rate levied shall be 2.75 percent of the purchase price.

(Code 1994 § 34-103; Code 1965 § 24-4)

3.12.040 Imposition and collection.

The taxes levied by this chapter are imposed upon, and are to be paid by, the purchaser. Each seller engaged in business in the City shall collect such tax and remit it to the City pursuant to the schedules or systems approved and specified by the City Manager.

(a) The tax imposed in this chapter shall continue to be levied and collected until specifically amended or repealed by ordinance.

(b) The tax imposed in this chapter shall be in addition to all other taxes imposed by law.

(Code 1994 § 34-104; Code 1965 § 24-5)

3.12.050 Transactions and items subject to sales tax.

The sales tax levied by GJMC 3.12.030(a) shall apply to the purchase price of the following:

(a) Tangible personal property that is sold, leased or rented, whether or not such property has been included in a previous taxable transaction.

(b) Telecommunications services for all international, interstate and intrastate telecommunications service originating from or received on telecommunications equipment in the City if the charge for the service is billed to an apparatus, telephone, or account in this City, without regard to where the bill for such services is actually received, except:

(1) Carrier access services; and

(2) Interstate or international private communications service.

If a taxpayer presents to the City Manager written proof of a sales tax paid to another municipal taxing entity of such telecommunications services, the City Manager shall credit against the tax accruing under this chapter the amount of tax actually paid by the taxpayer to another municipal taxing entity. If the tax accruing under this chapter exceeds the amount of the tax actually paid by the taxpayer to another municipal taxing entity, the taxpayer shall pay the difference to the City. The credit provided for in this section shall not be allowed if the tax actually paid by the taxpayer to another municipal taxing entity was not by law required to be paid.

(c) Telecommunications services sold for resale to other persons for purposes of providing telecommunications services to the final end user will not be subject to the sales tax.

(d) Installation in the City of equipment which is used to receive or transmit telecommunications service.

(e) Meals sold to employees, except that meals which are sold to employees at a reduced charge and which are reported to the Internal Revenue Service as part of the employee's salary, wages or income shall be exempt from taxation under this section.

(f) Natural gas, manufactured gas, liquefied gas, electricity, steam, coal, wood, fuel oil, coke, or nuclear energy furnished for commercial consumption, whether furnished by municipal, public, or private corporations or enterprises or any other person.

(g) Warranty or maintenance services relating to tangible personal property, whether included in the cost of the tangible personal property relating thereto or sold separately.

(h) Lodging services.

(i) Coin-operated services that dispense tangible personal property.

(j) Food or drink served or furnished in or by restaurants, cafes, lunchcounters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snackbars, caterers, carryout shops, and other like places of business at which prepared food or drink is regularly sold, including sales from pushcarts, motor vehicles, and other mobile facilities. Cover charges shall be included as part of the amount paid for such food or drink.

(Code 1994 § 34-105; Code 1965 § 24-6)

3.12.060 Application of use tax.

The use tax levied by GJMC 3.12.030(b) shall apply to the purchase price of the following:

(a) Tangible personal property purchased for use in the City without previous payment of the sales or use tax and used, stored, or consumed in the City in conjunction with the rendering of a service.

(b) Tangible personal property purchased at wholesale or component parts purchased for manufacture which are subsequently used by the taxpayer, either personally or in the business.

(c) Taxable services purchased without previous payment of the sales tax.

(d) Automotive vehicles required to be registered at an address inside the City on which a municipal sales tax has not been paid. The County Clerk or the City's authorized agent is authorized to collect such tax for the City prior to or at the time of registration.

(1) The determination of vehicle registration requirements for individuals shall be the same as for the determination of residency for voter registration purposes.

(2) The determination of vehicle registration requirements for a vehicle which is owned by any person and operated primarily for business purposes shall be based on the address from which such motor vehicles are principally operated or maintained.

(e) Construction or building materials which are used or consumed within the City and upon which a sales or use tax equal to or greater than the rate set in GJMC 3.12.030(a) has not been paid.

(Code 1994 § 34-106; Code 1965 § 27-7)

3.12.070 Exemptions from sales tax.

The tax levied by GJMC 3.12.030(a) shall not apply to the following:

(a) Vehicles purchased by nonresidents of the City for registration outside the City, except business vehicles pursuant to GJMC 3.12.060(d)(2).

(b) Sale of tangible personal property when both of the following conditions exist:

(1) The sale is to an individual who resides, or to a business which is located, outside the City; and

(2) The articles purchased are delivered to the purchaser outside the City by common carrier or by the conveyance of the seller or by mail, and such articles delivered are used outside the City.

(c) Sale of construction materials and fixtures to licensed building contractors purchased within the City for use outside the City when compliance with all three of the following conditions exists:

(1) That such licensed building contractor shall certify to the vendor that the construction materials and fixtures so purchased are to be used outside the City;

(2) That construction materials and fixtures are delivered to the licensed building contractor outside the City by common carrier, by the conveyance of the seller, or by the motor vehicle of the licensed building contractor;

(3) That such exemption shall not apply to tools, machinery or parts for repair of such tools and machinery used by such licensed building contractor in his trade or occupation. Such certification to the vendor by the licensed building contractor shall be made on forms furnished by the Finance Director, and any sale so made without proper certification shall be subject to the sales tax provided in this chapter.

(d) Sale of tangible personal property for use outside the City to persons engaged in manufacturing, processing, mining, or to an irrigation company when compliance with all of the following conditions exist:

(1) That such purchaser shall certify to the vendor that the tangible personal property is to be used outside the City;

(2) That such purchase of tangible personal property is delivered to the purchaser outside the City by common carrier, or by conveyance of seller, or by the motor vehicle of such purchaser;

(3) That such exemption shall not apply to tools, machinery or parts for repairs of such tools and machinery used by such purchaser in his trade or occupation. Such certification to the vendor by the purchaser shall be made on forms furnished by the Finance Director, and any sale so made without proper certification shall be subject to the sales tax provided in this chapter.

(e) The sale and purchase of medical supplies.

(f) An occasional sale.

(g) A yard sale.

(h) Sale of prosthetic devices.

(i) Sale of a drug dispensed in accordance with a prescription.

(j) Cigarettes.

(k) A direct sale to a charitable organization in the conduct of its charitable functions and activities, when billed to and paid for by the charitable organization.

(l) All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned or used by charitable organizations in the conduct of their regular charitable functions and activities.

(m) All direct sales to the United States government, the State, its departments or institutions, and the political subdivisions thereof in their governmental capacities only, when billed to and paid for by the governmental entity.

(n) All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration or repair of structures, highways, roads, streets and other public works owned or used by the United States government, the State, its departments and institutions, or the political subdivisions thereof, in their governmental capacities only.

(o) All sales which the City is prohibited from taxing under the Constitution or laws of the United States, or the Constitution of the State.

(p) Sale of tangible personal property sold to a public utility company or railroad doing business both inside and outside the City, for use in its business operations outside the City, even though delivery thereof is made inside the City.

(q) All commodities which are taxed under the provisions of Title 39, Article 27, C.R.S. and all commodities which are taxed under such provisions and for which the tax is refunded, and the sale of special fuel, as defined in § 39-27-201(8), C.R.S., used for the operation of farm vehicles when such vehicles are being used on farms and ranches. Notwithstanding provisions to the contrary, aviation and special fuel, whether used in turbo-propeller or jet engine aircraft, shall not be exempt, except that aviation and special fuel used as fuel for the propulsion of aircraft of "air carriers" engaged in interstate, intrastate and foreign air transportation, as those terms are defined in 49 U.S.C. Section 1301, are exempt.

(r) Neat cattle, sheep, lambs, fish for stock purposes, swine and goats; mares and stallions for breeding purposes.

(s) Sale of feed for livestock, poultry or horses.

(t) Sale of seed and orchard trees.

(u) All wholesale sales.

(v) Sale of exempt commercial packaging materials.

(w) Sale of tangible personal property to a person engaged in the business of manufacturing or compounding for use, profit or sale, which tangible personal property meets all of the following conditions:

(1) Is transformed by the process of manufacturing;

(2) Becomes, by the manufacturing process, a necessary and recognizable ingredient, component and constituent part of the finished product;

(3) Its physical presence in the finished product is essential to the use thereof in the hands of the ultimate consumer and, when not sold for resale, shall be deemed wholesale sales and shall be exempt from taxation in this section.

(x) Sale of electricity, coal, coke, fuel oil, nuclear energy or gas if used in processing, manufacturing, mining, refining, irrigation, telegraph and telephone and radio communication, street and railroad transportation services and all industrial uses.

(y) Sale of electricity, coal, wood, gas, fuel oil or coke sold, but not for resale, to occupants of residences, whether owned, leased or rented by such occupants, for the purpose of operating residential fixtures and appliances which provide light, heat and power for such residences. For the purpose of this subsection, "gas" includes natural, manufactured and liquefied petroleum gas.

(z) Tangible personal property sold for rental or leasing inventory, including but not limited to coin-operated devices; provided, that such property is not otherwise used except for customer demonstration or display. The rental or leasing of such tangible personal property is subject to sales tax.

(aa) Labor sold with tangible personal property, but only if such labor is stated separately on the invoice from the tangible personal property sold; except that labor used in or necessary in manufacturing, fabricating or processing is not exempt.

(bb) Construction materials, if the purchaser of such materials presents to the retailer a building permit, or other documentation acceptable to the City Manager, which evidences that a use tax on such materials has been paid to the City or a municipality.

(cc) Tangible personal property sold through coin-operated devices for a price of $0.15 or less.

(dd) All sales of food as defined in this chapter.

(ee) All sales of aircraft used or purchased for use in interstate commerce by a commercial airline.

(ff) Forty-eight percent of the purchase price of factory-built housing, as such housing is defined in § 24-32-703(3), C.R.S., shall be exempt from taxation under this chapter.

(gg) The entire purchase price in any subsequent sale of a mobile home, as such vehicle is defined in § 42-1-102(106)(b), C.R.S., after sales tax pursuant to GJMC 3.12.030(a) has been paid on such mobile home.

(hh) Farm close-out sales.

(ii) Farm implements, and parts and accessories for farm implements.

(jj) Newspapers.

(kk) Newsprint and printer's ink for use by publishers, newspapers, and commercial printers.

The list of exemptions shall not be increased by implication or similarity. It is the intent of this chapter to exempt only those items or transactions which are specifically set forth in this section.

(Code 1994 § 34-107; Code 1965 § 24-8)

3.12.080 Exemptions from use tax.

The tax levied by GJMC 3.12.030(b) shall not apply to the following:

(a) Tangible personal property which is exempt from the sales tax pursuant to GJMC 3.12.070.

(b) The storage, use or consumption of any tangible personal property the sale of which is subject to the sales tax imposed by the City.

(c) Tangible personal property which is first used or consumed inside the City more than three years after its purchase, if such property has been significantly used for the principal purpose for which it was purchased outside the City.

(d) Automotive vehicles if the owner is, at the time of registration, a nonresident of the City who purchased the vehicle for use outside the City.

(e) The storage of tangible personal property purchased from a nonresident vendor by a common carrier, public utility company or construction company which is a resident of the City or is doing business in the City, provided such tangible personal property is stored but not used or consumed in the City.

(f) Manufacturing equipment.

(g) Tangible personal property used and consumed exclusively and directly in the manufacturing process when such tangible personal property does not become a necessary and recognizable ingredient, component and constituent part of the finished product.

The list of exemptions shall not be increased by implication or similarity. It is the intent of this chapter to exempt only those items or transactions which are specifically set forth in this section.

(Ord. 2810, 2-15-95. Code 1994 § 34-108; Code 1965 § 24-9)

3.12.090 Exemption – Burden of proof.

(a) The burden of proving that any retailer is exempt from collecting or paying sales tax shall be on the retailer under such reasonable requirements of proof as the City Manager may prescribe.

(b) The burden of proving that any consumer is exempt from paying the use tax shall be on such consumer under such reasonable requirements of proof as the City Manager may prescribe.

(Code 1994 § 34-109; Code 1965 § 24-10)

3.12.100 Deductions and credits.

(a) Deductions from Gross Sales. If included in reported gross sales, the following are deductible from gross sales:

(1) Refunds. The price of tangible personal property or taxable services returned by a purchaser when the price and the sales tax collected are refunded in cash or by credit.

(2) Bad Debts Charged Off. Taxable sales which are represented by accounts not secured by a conditional sales contract, rental purchase contract or security interest and which are found to be worthless and are actually and properly charged off as bad debts for the purpose of the income tax imposed by the laws of the State; provided, however, that if such amounts are thereafter collected by the taxpayers, a tax shall be paid on the amount so collected.

(3) Interest and Finance Charges. The amount of interest or finance charges on credit extended in connection with any sale, if the interest or finance charges are separately stated from the price on the invoice.

(b) Credits from Total Tax Liability.

(1) Vendor's Fee. A retailer's collection and remittance expense equal to three and one-third percent of the sum of the sales tax collected and any excess tax collected may be taken as a credit against sales tax paid on or before the due date. However, no such credit shall be allowed for any sales tax that is not timely reported and paid by the due date. Forfeiture of the vendor's fee shall be prima facie evidence that the taxpayer was in violation of this chapter.

(2) Amounts previously paid pursuant to a tax levied by a municipality may be credited against the tax due on transactions but only as follows:

(i) When the present owner or user has previously paid a legally imposed municipal sales or use tax on the transaction or item; except that the amount of such credit shall not exceed the amount of tax on such transaction or item computed at the rate established by GJMC 3.12.030(a).

(ii) When the present owner or user of construction equipment has not previously paid a legally imposed sales or use tax attributable to any one municipality on the full price of such equipment, the credit shall be the aggregate value of all such taxes paid on such equipment up to the amount of tax due to the City on such equipment.

(Code 1994 § 34-110; Code 1965 § 24-11)

3.12.110 Tax on credit sales and leases.

Whenever an article is sold to a person who thereby is obligated to the vendor on an account, chattel paper, contract right, general intangible, or a writing which supports a right to the payment of a purchase price, or any part thereof, the tax shall be based on the total purchase price and shall become immediately due and payable. No refund or credit shall be allowed to either party to a transaction in case of repossession by the vendor of collateral securing the purchase price or any part of the purchase price.

(Code 1994 § 34-111; Code 1965 § 24-12)

3.12.120 Maintenance and service contracts.

The full contract price of tangible personal property and services sold in connection with the maintenance or service of tangible personal property shall be subject to the tax. Application may be made to the City Manager for permission to use a percentage basis of reporting the tangible personal property sold and the services supplied under such contract. The City Manager is hereby authorized, but not required, to determine a percentage based on the ratio that the price of the tangible personal property bears to the total price under such contract.

(Code 1994 § 34-112; Code 1965 § 24-13)

3.12.130 Tax on construction materials and supplies.

(a) Estimated Percentage Basis. Any person who shall build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure or improvement on or to real property in the City and who shall purchase or acquire construction materials used therefor from sources within or without the City, upon approval of the City Manager, may elect to be subject to the estimated percentage basis. Prior to the issuance of a building permit, the estimated cost of construction materials shall be calculated by multiplying the estimated value of this construction project, entered on the building permit by the City Building Official, or by general or mechanical contract cost if available, by 50 percent. The resulting product will be multiplied by the current sales/use tax rate in effect. Upon payment of such deposit amount, the City shall issue a deposit tax receipt identifying the address for which the purchase is being made and the City building permit number. Deposit receipt will be issued to each contractor and subcontractor engaged in construction activity under the permit and will be evidence to retailers and suppliers that City sales tax has been paid on construction materials and fixtures. For estimated values or contract costs exceeding $500,000, the deposit amount will only be required on the first $500,000 value. Estimated payments on the values exceeding $500,000 will be made in monthly installments based on percentage of contract completed. Payment of deposit will relieve contractors from filing monthly use tax returns for each permit issued. In any case, the general contractor and/or the owner shall pay such taxes and shall be jointly and severally liable for all taxes due on such materials.

(b) Those persons not electing the estimated percentage basis shall make payment and remit tax on the actual cost of construction materials used. The actual cost of construction materials shall be reported and tax paid on monthly returns for which tax will be due, pursuant to such rules and regulations as the City Manager may adopt.

(c) Each owner and each contractor shall keep and preserve all invoices, receipts and statements showing such purchases of construction materials and tangible personal property for a period of three years after final inspection by the Building Official or issuance of certificate of occupancy, whichever is later. The City may, prior to the expiration of such three-year period, conduct an audit of such records of the owner and contractor and any other relevant information to establish or to verify the total tax liability on the construction materials and tangible personal property used therein. If the total tax liability is more than the deposit paid or tax paid on monthly returns, the City Manager shall serve a notice of determination, assessment and demand for payment on the taxpayer notifying him of the deficiency, including penalty and interest. Interest on any tax deficiency related to construction materials shall accrue from the date that the certificate of occupancy or temporary certificate of occupancy or final inspection occurred or should have occurred, whichever is later, until the tax is paid in full. The amount of any use tax due and not paid constitutes a lien, which shall be first and prior to all other liens and encumbrances, upon the real property benefited by the use of such materials.

If the City Manager determines that the deposit or tax paid on monthly returns is sufficient to pay for the total tax liability, then the deposit or tax paid on monthly tax returns shall be credited against the total tax liability, and any excess amount shall be timely mailed to the person who made the deposit.

(d) No final inspection shall be made by the City Building Official and no certificate of occupancy shall be issued if the City Manager determines that all tax due on construction materials for the project for which the building permit was issued has not been paid or arrangement therefor made with the City Manager.

(Code 1994 § 34-113; Code 1965 § 24-14)

3.12.140 Computation of use tax on construction equipment.

In addition to the use tax on construction materials, use tax shall be due on construction equipment used, owned, operated or stored inside the City. No person shall use, store, operate or own construction equipment in the City without having paid the applicable use tax pursuant to this chapter.

(a) The taxpayer shall identify construction equipment used inside the City, as follows:

(1) Prior to or on the date the equipment is located inside or brought into the City, the taxpayer shall file with the City Manager an equipment declaration on a form approved by the City Manager. Such declaration shall be made under oath or affirmation; state the dates on which the taxpayer anticipates the equipment will be located inside and removed from the boundaries of the City; describe each such anticipated piece of equipment; state the purchase price of each such piece of equipment; and shall include such other information as reasonably deemed necessary by the City Manager.

(2) The taxpayer shall file with the City Manager an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every 90 days after the equipment is brought inside the City. For equipment which is brought inside the City for fewer than 90 days, such amended declaration shall be filed no later than 10 days after substantial completion of the project or within 10 days from the time the equipment is removed from the City, whichever occurs first. Amended declarations for all other projects shall be filed at least once every 90 days after the equipment is brought inside the City.

(3) The taxpayer need not declare any equipment for which the purchase price was less than $2,500. Such equipment shall be presumed to have been purchased in a municipality having a sales or use tax at a rate at least equal to the rate established pursuant to GJMC 3.12.030(a) and such tax shall be presumed to have been paid to that municipality.

(b) Construction equipment located inside the City for 30 consecutive days or less, for which a declaration is properly filed, shall be subject to the tax in an amount equal to one-twelfth of the purchase price of the equipment at the time it was purchased multiplied by the rate established by GJMC 3.12.030(b).

(c) Construction equipment located inside the City for 30 consecutive days, or equipment for which a declaration has not been properly filed, shall be subject to the tax in an amount equal to the purchase price of the equipment multiplied by the rate established by GJMC 3.12.030(b).

(d) In no event will tax be imposed in an amount greater than 100 percent of the full use tax rate on the purchase price of any piece of equipment.

(Code 1994 § 34-114; Code 1965 § 24-15)

3.12.150 Alternative sales and use tax rate on construction equipment.

(a) Upon receipt of a written request from a person in the construction business who uses, stores, operates, or owns construction equipment in the City, the City Manager is hereby authorized to establish an alternative tax calculation which shall apply to the purchase or use of construction equipment.

(b) The alternative sales and use tax calculation will be calculated as follows:

The taxpayer's gross revenue from construction activities during the prior year (gross revenue reported on the taxpayer's last fiscal year federal tax return or other annual period as approved by the City Manager) shall be the denominator. The taxpayer's revenues generated from construction activities within the City limits during the prior year shall be the numerator. The ratio of such numerator and denominator shall be converted to a percentage. Such percentage calculated shall be compared to 25 percent and the greater of the two percentages shall be multiplied by the sales/use tax rate in effect in GJMC 3.12.030(a). The resulting product is the alternative rate to be applied to the purchase price of construction equipment sold or used inside the City limits. If a taxpayer has

not been in existence for at least 365 days prior to the request, the City Manager may establish an alternative tax calculation based on verified information supplied by the taxpayer; the City Manager may refuse to determine an applicable alternative tax calculation for a taxpayer who has not been in existence for the requisite 365 days if the City Manager determines that the information available to him is insufficient to make an accurate estimate.

(c) The credit pursuant to GJMC 3.12.100(b)(2) shall apply with respect to construction equipment on which the taxpayer has paid a legally imposed municipal sales or use tax. Such construction equipment would not be allowed or included in the alternative tax calculation as provided above.

(d) If a taxpayer has more than one place or location of business, revenues generated from the business located inside the City or the place of business closest to the City will be used in the calculation of the numerator.

(e) The alternative tax calculation established in this section will be effective for only 24 months from the date of approval of the City Manager on new purchases, leases and acquisitions. A taxpayer must make written application to the City Manager on forms provided by the City Manager in order to be entitled to this calculation.

(f) The City Manager may, at any time but not to exceed once each calendar year unless for good cause, inspect, interview and audit the taxpayer and the employees of the taxpayer and any and all of the taxpayer's books, documents, or other records as may be necessary to determine total tax liability. If the City Manager determines an underpayment of tax of five percent or more with respect to any reporting period has occurred, the City Manager shall impose, and the taxpayer shall pay, in addition to amounts otherwise due pursuant to this chapter, a penalty of 20 percent of the underpaid amount in addition to the costs incurred by the City (including but not limited to accounting fees, the value of accountants or other professionals engaged in such audit, inspection or interview) in making such determination.

(Code 1994 § 34-115; Code 1965 § 24-16)

3.12.160 Acquisition, inception or cessation of business.

(a) Acquisition of an Existing Business.

(1) Seller's Duties. Each person engaged in business in the City who sells such business shall file a final return. The reporting period for such return shall end on the date of the transfer of ownership of the business.

(2) Purchaser's Duties.

(i) Each person who purchases an existing business shall determine the total tax liability of that business and shall withhold from proceeds available on an amount sufficient to pay the total tax liability to the City, unless the seller produces a receipt signed by the City Manager showing that the total tax liability has been paid or a certificate signed by the City Manager that there is no tax due.

(ii) Any amount so withheld shall be paid to the City within 10 days of the date of the sale of the business.

(iii) Each purchaser who fails to withhold such tax due or fails to pay to the City the amount so withheld within the 10-day period allowed shall be jointly and severally liable, along with the seller, for any unpaid tax due.

(b) Inception of Business – Initial Use Tax. Each person who purchases or establishes a business inside the City shall file an initial use tax return.

(1) Existing Businesses. Use tax shall be due on tangible personal property, except inventory held for lease, rental or resale, which is acquired with the purchase of a business. The tax rate shall be multiplied times the value as evidenced by the bill of sale or agreement which is a part of

the total transaction at the time of the sale or transfer; provided the value is not less than the fair market value of such property. Where the transfer of ownership provides for a lump sum transaction, which does not allocate the price of tangible personal property, the use tax shall be due on the book value established by the purchaser for federal income tax depreciation purposes, or fair market value if no determination has been made. When a business is sold in exchange for the assumption of outstanding indebtedness, the tax shall be paid on the fair market value of all taxable tangible personal property acquired by the purchaser. Such tax shall be reported on an initial use tax return. The reporting period for such return shall be the calendar month of the date of sale.

(2) New Businesses. Use tax shall be paid on the price of all tangible personal property, except inventory held for lease, rental or resale, which is purchased for use inside the City. Such tax shall be reported on the initial use tax return. The reporting period for such return shall be the calendar month of the opening day of business.

(c) Cessation of Business. Each person engaged in business in the City who quits doing business in the City shall file a final return. The reporting period for such return shall end on the last day of business in the City.

(Code 1994 § 34-116; Code 1965 § 24-17)

3.12.170 Retailer responsible for collection and payment of tax.

Each retailer engaged in business in the City shall be liable for and shall pay an amount equal to the total purchase price multiplied by the rate established by GJMC 3.12.030(a).

(a) Tax Added to Price. Retailers shall add the tax imposed to the price, showing such tax as a separate and distinct item. Except as provided in this subsection, no retailer shall advertise or hold out or state to the public or to any consumer, directly or indirectly, that the sales tax or any part thereof shall be assumed or absorbed by the retailer, or that it will not be added to the price, or if added, that it or any part thereof shall be refunded.

(1) Nothing contained in this subsection shall be deemed to prohibit any retailer selling malt, vinous or spirituous liquors by the drink from electing to include in the purchase price any tax levied under GJMC 3.12.030(a). Once having made the election, such retailer shall continue to impose and collect the tax in the manner elected unless granted authorization to change by the City Manager. Any excess taxes collected shall be remitted to the City in accordance with this chapter.

(2) Sales tax may be included in the price of items sold from coin-operated devices or the price of utilizing such devices.

(b) Tax Constitutes Debt. Any tax added to the price, or included in the price pursuant to subsection (a) of this section, by a retailer shall constitute a debt from the purchaser to the retailer and from the retailer to the City until paid and shall be recoverable in the same manner as other debts.

(c) Excess Tax. No retailer shall retain any sales tax collected in excess of the tax computed, but shall report such excess collections on the return for the period in which it was collected, include it in the calculation of tax due, and pay it to the City.

(d) Disputed Tax. When a dispute arises between a retailer and a purchaser who claims that the sale is exempt from tax, the retailer shall collect and the purchaser shall pay such tax. The purchaser shall submit a claim for refund to the City Manager within 60 days of the date of purchase or thereafter be barred. Any such tax refunded by the City will be paid directly to the purchaser.

(Code 1994 § 34-117; Code 1965 § 24-18)

3.12.180 Trust status of tax in possession of retailer.

All sales tax and use tax collected by or paid to any retailer shall be the property of the City and shall remain public money while in the possession of such retailer, who shall hold such money in trust for the sole use and benefit of the City until paid to the City.

(Code 1994 § 34-118; Code 1965 § 24-19)

3.12.190 Use tax – Method of payment.

Each person who has not paid the sales tax to a retailer shall, unless the credit established in GJMC 3.12.100(b)(2) applies, complete the use tax schedule of a return and pay the tax due to the City.

(a) The due date for licensed taxpayers shall be that established by GJMC 3.12.200.

(b) The due date for all other taxpayers shall be 20 days from the end of the reporting period in which the taxable transaction occurred.

(Code 1994 § 34-119; Code 1965 § 24-20)

3.12.200 Filing returns – Due date.

(a) Every taxpayer shall file a return, whether or not tax is due, and remit any tax due the City on or before the twentieth day of the month following the reporting period.

(b) A retailer engaged in business in the City at two or more locations, whether inside or outside the City, who is obligated to collect sales tax, may file one return for all such locations, when accompanied by a supplemental schedule showing the gross sales and net taxable sales for each location.

(c) Any person reporting use tax due from two or more locations may file one return for all such locations.

(d) For good cause shown and upon written request of a taxpayer, the City Manager may extend the time for making a return and paying tax due.

(e) No person shall make any false statement nor provide false information in connection with a return.

(Code 1994 § 34-120; Code 1965 § 24-21)

3.12.210 Reporting periods.

(a) Unless otherwise approved by the City Manager, each taxpayer shall file a return and pay tax based on the filing frequency periodically prescribed by resolution of the City Council.

(b) The reporting period for a final return shall end on the date of the transfer of ownership of business.

(c) The reporting period for an initial use tax return shall be the calendar month of the date of sale if a business was purchased or the opening day of business if a business is new.

(d) The reporting period for a vendor selling tangible personal property at a special event inside the City who is not required to obtain a license shall end on the day the special event concludes.

(e) If the accounting methods employed by the taxpayer, or other conditions, are such that returns made on a calendar month basis will impose unnecessary hardship, the City Manager may, upon written request of the taxpayer, accept returns at such intervals as will, in the opinion of the City Manager, better suit the convenience of the taxpayer, but not jeopardize the collection of the tax.

(f) If any taxpayer who has been granted permission to file returns and pay tax on other than a monthly basis becomes delinquent, authorization for such alternate method of reporting may be revoked by the City Manager. Thereafter following notice of such revocation, the taxpayer shall file returns and pay tax on a monthly basis.

(Ord. 2887, 1-17-96. Code 1994 § 34-121; Code 1965 § 24-22)

3.12.220 Duty to keep books and records.

(a) Each person engaged in business in the City shall keep and preserve, for at least three years after the date of the taxable transaction, suitable records which will allow the accurate determination of the tax due. The date of such taxable transactions for construction projects inside the City shall be the date the final certificate of occupancy is issued or final inspection, whichever is later.

(b) Each person who uses construction equipment inside the City shall keep and preserve, for at least three years after the final certificate of occupancy or final inspection, whichever is later, records of the time, dates and location each piece of construction equipment was located inside the City and any sales or use tax paid on such construction equipment.

(c) Each person shall provide all records required by this section for audit by the City Manager during normal business hours.

(Code 1994 § 34-122; Code 1965 § 24-23)

3.12.230 License required.

(a) No person shall engage in business in the City without first obtaining a license.

(1) No license shall be required of any charitable organization which is exempt from the sales and use tax under this chapter.

(2) No license shall be required for a retailer selling tangible personal property at a special event inside the City for periods of seven consecutive days or less, not exceeding a total of 21 days per calendar year. The reporting period for such special event shall end on the day the special event concludes.

(b) When business is transacted by one person at two or more separate locations inside the City, a separate license for each place of business shall be required.

(Code 1994 § 34-123; Code 1965 § 24-24)

3.12.240 License – Application and content.

(a) Each person who is required to obtain a license shall deliver to the Finance Department an application stating: the name and address of the person requesting such license; the name of the business being licensed and the character thereof; the location, including the street number of such business; and such other information as may be required by the City Manager.

(b) A nonrefundable application fee as established by resolution of the City Council and on file in the City Clerk's office shall be paid before any license will be processed and issued.

(c) For each tax license issued for a period of 30 days or less, the fee shall be as established by resolution of the City Council and on file in the City Clerk's office. Each application shall be accompanied by the prepayment of anticipated tax receipts or $50.00, whichever is greater.

(d) Each annual license shall be in effect through December 31st of the year of issuance and fees thereon will not be prorated. Each annual license shall be automatically renewed if the taxpayer has timely complied with all provisions of this chapter.

(e) Each license shall be numbered and shall show the name, location and mailing address posted in a conspicuous place at the business location for which it is issued.

(f) No license shall be transferable. After any sale of a business, the new owner shall apply for a new license.

(Code 1994 § 34-124; Code 1965 § 24-25)

3.12.250 License – Cancellation or revocation.

(a) Cancellation. The City Manager may cancel any license:

(1) Upon receipt of a written notice that the taxpayer is no longer engaged in business in the City;

(2) Upon the taxpayer's failure to respond to three consecutive notices of delinquency. The City Manager shall give notice to the taxpayer that the license has been canceled at the taxpayer's last known address on file with the Finance Department.

(b) Revocation. The City Manager may, after a reasonable notice and after an opportunity for a hearing, issue a finding and order to revoke the license of any person found to have violated any provision of this chapter.

(c) Appeal. Any licensee may appeal a finding, order or determination of the City Manager revoking their license in district court, pursuant to the process set forth in § 29-2-106.1, C.R.S.

(d) Reissuance. Before a sales tax license may be issued to a person whose license has been canceled or revoked, the licensee shall have complied with all provisions of this chapter and shall post a cash bond in an amount equal to the licensee's estimated sales tax payment for a two-month period. If the licensee timely complies with the provisions of this chapter for 12 months after the issuance of the sales tax license, the bond shall be refunded to the licensee upon request by the licensee.

(e) Engaging in Business After Revocation. No person shall engage in business in the City after such person's license has been cancelled or revoked.

(Code 1994 § 34-125; Code 1965 § 24-26)

3.12.260 Authority of City Manager.

The power to administer this chapter is hereby vested in the City Manager.

(a) Forms and Procedures. The City Manager shall prescribe forms and administrative procedures for the ascertainment, assessment and collection of the tax levied by this chapter.

(b) Regulations. The City Manager may promulgate, after hearing, regulations to effectuate the purposes of this chapter.

(c) Additional Information. The City Manager may require any person to make additional returns, render statements, furnish records, or make informational reports to determine whether or not such person is liable for payment and/or collection of tax.

(d) Subpoenas. The City Manager may issue a subpoena to command a person to attend and give testimony and/or to produce books, accounts and records.

(1) Any subpoena issued under the terms of this chapter shall be served as set forth in the Colorado Rules of Civil Procedure, including the payment of witness fees. When the witness is subpoenaed by the City, such fees shall be paid by the City. When a witness is subpoenaed at the request of a taxpayer, the City Manager shall require that the cost of service of the subpoena and the fee be paid by the taxpayer. The City Manager shall require a deposit to cover the costs of the service of subpoena and witness fees.

(2) If a subpoena issued by the City Manager is duly served and the respondent fails to attend, give testimony or to produce books, accounts and records as commanded, the City Manager may apply to, with the assistance of the City Attorney, the Municipal Court of the City for an order enforcing the subpoena. The Municipal Court shall have jurisdiction to enforce such a subpoena through appropriate proceedings including contempt.

(e) Oaths. The City Manager is authorized to administer oaths and take testimony at the hearing.

(f) Agents. The City Manager may designate one or more agents to perform any of the duties, powers and responsibilities set forth in this chapter.

(g) Partial Payments. The City Manager may accept any partial payment made and apply such payments towards the tax due. Acceptance of such payments shall not in any way limit the power to collect any total tax liability.

(h) Registration of Vehicles. If the City Manager determines that a person has registered or caused to be registered a motor vehicle outside the City and that such motor vehicle should have been registered at an address in the City, the City Manager is authorized to assess a civil penalty of $500.00 against such person in addition to the total tax liability. A written notice of the civil penalty shall be issued, paid and protested in the same manner as a notice of assessment. The City Manager may enforce collection of such civil penalty in the same manner as provided in this chapter for the collection of tax due. Assessment and collection of such penalty shall not preclude the collection of any tax due or fee or the imposition of other civil or criminal penalty provided by law.

(i) Notices. Notices required by this chapter shall be in writing and delivered in person or sent, postpaid by first class mail, to the last known address of the taxpayer on file with the Finance Department.

(Code 1994 § 34-126; Code 1965 § 24-27)

3.12.270 Audit of records.

(a) For the purpose of ascertaining the correct amount of tax due from any person engaged in business in the City, the City Manager may conduct an audit by examining any relevant books, accounts and records of such person and by interviewing a taxpayer and the taxpayer's officers, agents and employees.

(b) The City Manager may make, permit, or cause to be made the examination, inspection, and audit or interviews of books, accounts and records of any taxpayer at a location inside the City limits during regular business hours. The taxpayer may elect to make available such books, accounts and records at a location outside the City provided the taxpayer has agreed in writing with the City Manager to reimburse the City for all costs and expenses incurred in order to perform such examination, inspection, or audit made outside the City. If any taxpayer refuses to provide any of the foregoing information when requested, the City Manager may issue a subpoena to require that the taxpayer or an agent or employee of the taxpayer attend a hearing and produce any such books, accounts and records for examination and copying.

(c) When the taxpayer does not make available suitable records, the City Manager may determine total tax liability based upon generally accepted accounting principles, expert testimony or any other method deemed reasonable by the City Manager.

(d) If a taxpayer provides records which, in the judgment of the City Manager, are so voluminous that excessive and undue time would be required to review and examine each and every record, the City Manager may use a test period or other appropriate sampling technique to determine and compute the total tax liability.

(e) Any charitable entity claiming exemption under the provisions of this chapter is subject to audit in the same manner as any other person engaged in business in the City.

(Code 1994 § 34-127; Code 1965 § 24-28)

3.12.280 Coordinated audit procedure.

(a) Any taxpayer licensed by the City pursuant to this chapter and holding a similar sales tax license in at least four other municipalities in the State that administer their own sales tax collection may request a coordinated audit as provided in this section.

(b) Within 14 days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the City Manager of this City, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice.

Such request shall include a list of those municipalities of the State utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage-of-time based limitation upon this City's right to recover tax owed by the taxpayer for the audit period.

(c) Except as provided in subsection (g) of this section, any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of the statute of limitations may be audited by this City during the 12 months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

(d) If this City desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to subsection (c) of this section, the City Manager shall so notify the finance director of the municipality whose notice of an audit prompted the taxpayer's request within 10 days after the receipt of the taxpayer's request for a coordinated audit. The City Manager shall cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

(e) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this City, this City's City Manager shall facilitate arrangements between this City and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The City Manager shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by or on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

(f) If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this City, this City's City Manager shall, once arrangements for the coordinated audit between the City and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The City Manager shall also propose a schedule for the coordinated audit.

(g) The coordinated audit procedure set forth in this section shall not apply:

(1) When the proposed audit is a jeopardy audit;

(2) To audits for which a notice of audit was given prior to the effective date of this section;

(3) When a taxpayer refuses to promptly sign a waiver of the statute of limitations; or

(4) When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in subsection (b) of this section.

(Code 1994 § 34-128; Code 1965 § 24-29)

3.12.290 Tax information confidential.

All specific information gained under the provisions of this chapter which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or obtained through audit, shall be treated by the City and its officers, employees or legal representatives as confidential.

(a) Except in accordance with judicial order or as otherwise provided by law, the City Manager and his employees shall not divulge or make known in any way any information disclosed in any document, report, or return filed under this chapter, except such information as is displayed on the tax license. The officials charged with the custody of documents, reports, and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City Manager in an action or proceeding under the provisions of this

chapter when the report of a fact shown thereby is directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit into evidence, so much of such reports or of the facts shown thereby as are pertinent to the action or proceeding, and no more.

(b) Nothing in this section shall be construed to prohibit the delivery to a person or a duly authorized representative thereof of a copy of any return or report filed in connection with such person's tax. Copies of such records may be certified by the City Manager or an agent thereof and when so certified shall be evidence equaling with the originals and may be received as evidence of their contents.

(c) Nothing in this section shall be construed to prohibit the publication of statistics classified so as to reasonably prevent the identification of particular reports or returns and the items thereof or the inspection of returns by the City Attorney or other authorized representatives of the City.

(d) Notwithstanding the provisions of this section, the City Manager may furnish to the taxing officials of the State, its political subdivisions, any other state or political subdivisions, any Colorado municipality, or the United States, any information contained in tax returns and related documents filed pursuant to this chapter or in the report of an audit or investigation made with respect to a return, if the recipient jurisdiction agrees with the City Manager to grant similar privileges to the City and if such information is to be used by the jurisdiction only for tax related purposes.

(e) Any City officer or employee or any member of the office of, or officer, or employee of the City Manager who shall divulge any information classified in this chapter as confidential, in any manner, except in accordance with proper judicial order, or as otherwise provided by law, shall be guilty of a violation of this chapter.

(Code 1994 § 34-129; Code 1965 § 24-30)

3.12.300 Timely payment – Computation of dates.

(a) Timely payment shall be evidenced by the postmark date if mailed; otherwise timely payment shall be evidenced by the City cashier validation date.

(b) Any due date, payment date, or deadline for paying tax due, providing information or taking other action which falls on a Saturday, Sunday or legal holiday recognized by either the federal government or the State shall be extended to the first business day following such weekend or holiday.

(Code 1994 § 34-130; Code 1965 § 24-31)

3.12.310 Notice of sales and use tax ordinance amendment.

(a) In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the City Manager shall file in a central repository prior to the effective date of this section a copy of the City sales and use tax ordinance reflecting all provisions in effect on the effective date of this section.

(b) In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the City Manager shall file in a central repository prior to the effective date of an amendment a copy of each sales and use tax ordinance amendment enacted by the City.

(c) Failure of the City to file such ordinance or ordinance amendment pursuant to this section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto.

(Code 1994 § 34-131; Code 1965 § 24-32)

3.12.320 Participation in simplification meetings.

The City Manager shall cooperate with and participate on an as needed basis with a permanent Statewide sales and use tax committee convened by the State Municipal League, which is composed of State and municipal sales and use tax officials and business officials. Such committee will meet for the purpose of discussing and seeking resolution to sales and use tax collection and administration problems which may arise.

(Code 1994 § 34-132; Code 1965 § 24-33)

3.12.330 Intercity claims for recovery.

The intent of this section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect, and remit sales and use taxes to the City.

(a) As used in this section, "claim for recovery" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

(b) When it is determined by the City Manager that sales and use tax owed to the City has been reported and paid to another municipality, the City Manager shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice the vendor must cease improper tax collections and remittances.

(c) The City Manager may make a written claim for recovery directly to the municipality that received tax and/or penalty and interest owed to the City, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for a recovery lies in the sole discretion of the City. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny, in whole or in part, the claim within 90 days of its receipt. The municipality to which the City submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the City shall not be unreasonably withheld.

(d) Within 90 days after receipt of a claim for recovery, the City shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied, in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the City shall remit the undisputed amount to the municipality submitting the claim within 30 days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

(e) The City may deny a claim on the grounds that it has previously paid a claim for recovery rising out of an audit of the same taxpayer.

(f) The period subject to a claim for recovery shall be limited to the 36-month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery.

(Code 1994 § 34-133; Code 1965 § 24-34)

3.12.340 Overpayment from returns.

If the amount remitted with the return is more than the tax due as computed from information in such return, the taxpayer shall be notified. Unless requested otherwise by the taxpayer, all overpayment shall be credited to the tax due for the next reporting period. Upon request by a taxpayer, a taxpayer may submit a claim for refund along with an amended return and other documentation as may be required by the City Manager. Interest shall not be allowed and paid upon any overpayment in respect of any sales or use tax. At the City Manager's discretion, any portion of sales or use tax, or any interest, assessable penalty,

additional amount, or addition to tax, which has been erroneously refunded, shall bear interest at the rate established in GJMC 3.12.420(a) from the date of the payment of the refund.

(Code 1994 § 34-134; Code 1965 § 24-35)

3.12.350 Tax overpayment determined through audit.

If the City ascertains, through an audit of a taxpayer's records, that the tax due is less than the full amount paid, a notice of overpayment shall be issued. Such notice will serve as documentation for a claim for refund, if such claim is signed and submitted by the taxpayer within 30 days of the date of the notice of overpayment.

(Code 1994 § 34-135; Code 1965 § 24-36)

3.12.360 Refunds of disputed tax.

Refunds of tax paid to a retailer by a purchaser who claims that the sale is exempt from the tax may be requested by such purchaser by signing and submitting claim for refund on or before 60 days from the date of such purchase.

(Code 1994 § 34-136; Code 1965 § 24-37)

3.12.370 Claim for refund.

No tax overpayment shall be refunded unless a claim for refund is signed and submitted to the City by the taxpayer.

(a) Application. An application for refund of tax shall:

(1) Be made on a claim for refund form furnished by the City;

(2) Be signed by the taxpayer; and

(3) Include adequate documentation of the claim.

(b) Decision. The City Manager shall examine the claim for refund and give written notice to the taxpayer of the amount to be refunded or denied.

(c) Refunds Not Assignable. The right of any person to obtain a refund pursuant to this chapter shall not be assignable.

(d) False Claims. No person shall make any false statement in connection with a claim for refund.

(Code 1994 § 34-137; Code 1965 § 24-38)

3.12.380 Underpayment from returns.

If the amount remitted with a return is less than the tax computed from information in such return, the taxpayer shall be notified.

(a) If the underpayment is at least $15.00, a notice of assessment may be issued.

(b) If the underpayment is less than $15.00, it shall be added to the tax due for the next reporting period.

(Code 1994 § 34-138; Code 1965 § 24-39)

3.12.390 Tax deficiencies from failure to file.

(a) If any taxpayer neglects or refuses to obtain a license, the amount of tax due shall be estimated based upon such information as may be available, and a notice of assessment shall be issued.

(b) If any taxpayer neglects or refuses to file a return by the due date, the tax due shall be estimated based upon such information as may be available, and a notice of assessment shall be issued.

(c) Estimated tax due shall be adjusted if a return reporting actual tax due is filed on or before the payment date of the notice of assessment.

(Code 1994 § 34-139; Code 1965 § 24-40)

3.12.400 Tax deficiencies determined through audit.

If the City ascertains, through an audit of the taxpayer's records, that the tax due has not been fully reported or paid by the applicable due date, a notice of assessment shall be issued.

(Code 1994 § 34-140; Code 1965 § 24-41)

3.12.410 Penalties.

(a) Penalty for Late Payment. A penalty shall be levied on any tax deficiency. Such penalty shall be $15.00 or 10 percent of the tax deficiency, whichever is greater.

(b) Penalty for Fraud. If any tax deficiency is due to fraud or the intent to evade the tax, the penalty shall be 100 percent of the total tax deficiency.

(c) Penalty for Repeated Enforcement. If three notices of assessment have been issued to the same taxpayer within any 36 consecutive months, a special penalty of $100.00 or 25 percent of the tax due, whichever is greater, shall be levied.

(d) Penalty for Returned Checks. If a taxpayer pays for any tax imposed pursuant to this chapter by check for which there are insufficient funds to cover such check or on a closed account, then the City Manager may assess a penalty against such taxpayer as follows:

(1) Ten dollars for the first violation;

(2) Twenty-five dollars for the second violation; and

(3) Fifty dollars for each additional violation.

(e) Abatement of Penalty. Any penalty assessed in this section may be abated by the City Manager if the taxpayer submits a written request for such abatement on or before the payment date of the applicable notice of assessment, and if the City Manager finds good cause therefor.

(Code 1994 § 34-141; Code 1965 § 24-42)

3.12.420 Interest.

Interest shall be levied on any tax deficiency.

(a) Interest shall be calculated for each month or portion of a month from the due date that a tax deficiency remains unpaid. The monthly interest rate shall be one and one-half percent per month.

(b) When a timely protest is made to a notice of assessment, no additional interest shall be assessed on any tax upheld by the City Manager for the period between the interest date of such assessment and the payment date established in an informal meeting or 30 days after the date of a findings of fact, conclusion and decision issued after a hearing.

(c) The City Manager, at his discretion and for good cause shown, may abate interest assessed on any tax deficiency.

(Code 1994 § 34-142; Code 1965 § 24-43)

3.12.430 Notice of assessment.

The City Manager shall issue a notice of assessment for any total tax liability.

(a) Notices of assessment shall be in writing and delivered in person or sent, postpaid by first class mail, to the last known address of the taxpayer on file with the Finance Department.

(b) The payment due date for the tax due pursuant to a notice of assessment shall be as stated in the notice of assessment.

(Code 1994 § 34-143; Code 1965 § 24-44)

3.12.440 Abatement of tax deficiency.

The City Manager, at his discretion and with good cause therefor and for the purpose of facilitating settlement, may agree to an amount of taxes due which may be less than the actual total tax liability. Payment in accordance with such agreement between the taxpayer and the City Manager fully satisfies the tax liability for the periods and terms set forth in such agreement, unless the taxpayer has committed fraud or malfeasance or misrepresented a material fact regarding the tax or liability thereof.

(Code 1994 § 34-144; Code 1965 § 24-45)

3.12.450 Protest of notice of assessment or denial of refund.

(a) Any notice of assessment for failure to file a return, underpayment of tax owed or as a result of an audit may be protested by the taxpayer or vendor to whom it is issued.

(1) Such protests must be submitted in writing to the City Manager within 20 calendar days from the date of the notice of assessment, and must identify the amount of total tax liability disputed and the basis for the contention that the tax is not due. The time period set forth in this section may, in the absolute discretion of the City Manager, be waived for good cause on written application of a vendor or taxpayer.

(2) When a timely protest is made, no further enforcement action will be instituted by the City for the portion of the assessment being protested unless the taxpayer fails to pursue the protest in a timely manner.

(b) Protest of Denial of Refund. Any denial of a claim for refund may be protested by the taxpayer who submitted the claim. Such protest must be submitted in writing to the City Manager within 20 calendar days from the date of the denial of the refund and shall identify the amount of the denial contested and the basis for the contention that the refund is due. The time period set forth in this section may, in the absolute discretion of the City Manager, be waived for good cause on written application of a vendor or taxpayer.

(c) Any timely protest entitles a taxpayer to a hearing under the provisions of this chapter.

(1) If, in the opinion of the City Manager, the issues involved in such protest are not a matter of interpretation or may be resolved administratively, the City Manager may recommend an informal meeting with the taxpayer.

(2) Participation in such an informal meeting does not prevent either the taxpayer or the City from holding a hearing if the dispute cannot be resolved by such meeting.

(Code 1994 § 34-145; Code 1965 § 24-46)

3.12.460 Hearings.

(a) The City shall commence a hearing within 90 days after the City's receipt of the taxpayer's written protest; except the City may extend such period if the delay is requested by the taxpayer. The City Manager shall notify the taxpayer in writing of the time and place of such hearing.

(b) Every hearing shall be held in the City before the City Manager.

(c) The taxpayer may assert any facts, make any arguments and file any briefs and affidavits which, in the opinion of the taxpayer, are pertinent to the protest. The filing of briefs shall not be required.

(d) Based on the evidence presented at the hearing, the City Manager shall issue findings of fact, conclusions, and a decision which may modify or abate in full the tax, penalties and interest protested at the hearing, approve a refund, or uphold the assessment.

(e) After such hearing, the taxpayer shall not be entitled to a second hearing on the same notice of assessment or denial of refund.

(f) An appeal of a final decision of the City Manager shall be commenced within 30 days of mailing of the City Manager's written decision pursuant to the process set forth in § 29-2-106.1, C.R.S.

(g) Unless the decision of the City Manager is appealed as provided in this chapter, the remaining tax due, if any, shall be paid on or before 30 days after the date of the findings of fact, conclusions and decision.

(Code 1994 § 34-146; Code 1965 § 24-47)

3.12.470 Review by district court.

(a) If the petitioner or if an applicant for a refund is aggrieved by the final decision of the City Manager, then he may appeal to the district court of the County. The procedure shall be in accordance with § 29-2-106.1, C.R.S.

(b) Within 15 days after filing a notice of appeal as provided in subsection (c) of this section, the taxpayer shall file with the district court a surety bond in twice the amount of the taxes, interest, and other charges stated in the final decision by the City Manager that are contested on appeal. The taxpayer may, at his option, satisfy the surety bond requirement by a savings account or deposit in or a certificate of deposit issued by a State or national bank or by a State or federal savings and loan association, in accordance with the provisions of § 11-35-101(1), C.R.S., equal to twice the amount of the taxes, interest, and other charges stated in the final decision by the City Manager. The taxpayer may, at his option, deposit the disputed amount with the City Manager in lieu of posting a surety bond. If such amount is so deposited, no further interest shall accrue on the deficiency contested during the pendency of the action. At the conclusion of the action, after appeal to the supreme court or the court of appeals or after the time for such appeal has expired, the funds deposited shall be, at the direction of the district court, either retained by the City Manager and applied against the deficiency or returned in whole or in part to the taxpayer. No claim for refund of amounts deposited with the City Manager need be made by the taxpayer in order for such amounts to be repaid in accordance with the direction of the district court.

(c) Any appeal pursuant to § 29-2-106.1, C.R.S. shall, to the extent allowed by law, be filed on the district court of the County upon a verified petition of the taxpayer filed within 20 days after notice of the decision of the City Manager in any such matter.

(Code 1994 § 34-147; Code 1965 § 24-48)

3.12.480 Appeals.

(a) Subsequent to a hearing, the taxpayer may appeal the decision of the City Manager in district court pursuant to the process in § 29-2-106.1, C.R.S..

(b) Upon appeal to the district court, the taxpayer shall either file with the City Manager a bond for twice the unpaid amount or deposit the unpaid amount with the City Manager.

(Code 1994 § 34-148; Code 1965 § 24-49)

3.12.490 Lien for tax due.

(a) Issuance. If any tax due is not paid by the payment date of a notice of assessment, the City Manager may issue a notice of lien on the real and personal property of the taxpayer. Such lien shall specify the name of the taxpayer, the tax due, the date of the accrual thereof, and the location of the property if known, and shall be certified by the City Manager.

(b) Filing. The notice of lien may be filed in the office of the clerk and recorder of any county in the State. Such filing shall provide additional notice of such a lien.

(c) Priority. The attachment and priority of such a lien shall be as follows:

(1) Such lien shall be a first and prior lien upon the goods and business fixtures owned or used by any taxpayer, including those used under lease, installment sale or other contract agreement, and shall take precedence on all such property over all other liens or claims of whatsoever kind or nature.

(2) Such lien on the real and tangible personal property of the taxpayer that is not goods, stock in trade, and business fixtures shall be a first and prior lien except as to preexisting claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights have attached and been perfected prior to the filing of the notice of lien.

(3) The personal property of an owner who has made a bona fide lease to a taxpayer shall be exempt from the lien created in this subsection if such property can reasonably be identified from the lease description and if the lessee is given no right to become the owner of the property leased. This exemption shall be effective from the date of the execution of the lease if the lease is recorded with the county clerk and recorder of the county where the property is located or based.

(4) Motor vehicles which are properly registered in this State, showing the lessor as owner thereof, shall be exempt from such lien except that such lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest which is or may be credited to the lessee.

(5) Where a lessor and lessee are blood relatives or relatives by law or have 25 percent or more common ownership, a lease between such lessee and such lessor shall not be considered as bona fide for purposes of this section.

(d) Enforcement Against Real Property. If a notice of lien is filed against real property, the City Manager may request the City Attorney to file a civil action to enforce such lien. The court may determine the interest in the property of each party, decree a sale of the real property, and distribute the proceeds according to such findings. Procedure for the action and the manner of sale, the period for and manner of redemption from the sale and the execution of deed of conveyance shall be in accordance with the law and practice relating to foreclosures of mortgages upon real property. In any such action, the court may appoint a receiver of the real property involved in such action if equity so requires.

(Code 1994 § 34-149; Code 1965 § 24-50)

3.12.500 Perpetuance of lien.

(a) Any lien for tax due shall continue until a release of lien is filed by the City Manager.

(b) Any person who purchases or repossesses real or personal property upon which a lien has been filed by the City Manager for tax due shall be liable for the payment of such tax due up to the value of the property taken or acquired.

(Code 1994 § 34-150; Code 1965 § 24-51)

3.12.510 Release of lien.

Upon payment of the tax due or enforcement of the lien, the City Manager shall file a release of lien with the county clerk and recorder of the county in which the lien was filed.

(Code 1994 § 34-151; Code 1965 § 24-52)

3.12.520 Civil action to recover tax due.

(a) Any unpaid tax due shall constitute a debt of the taxpayer to the City and the City Manager may request the City Attorney to file a civil action to collect such tax due.

(b) The return filed by a taxpayer or the notice of assessment issued by the City Manager shall be prima facie proof of the tax due.

(c) If a judgment is obtained by the City, collection of the tax due may be made by attachment, garnishment or other means established by law. When attachment is sought, no bond shall be required of the City Manager, nor shall any sheriff require of the City Manager an indemnity bond for executing the writ of attachment or writ of execution upon any judgment.

(Code 1994 § 34-152; Code 1965 § 24-53)

3.12.530 Jeopardy assessment.

(a) Issuance. If the collection of any tax due from a taxpayer, whether or not previously assessed, may be jeopardized by delay, the City Manager may declare the taxable period immediately terminated, determine the tax, and issue a jeopardy assessment and demand for payment. Any tax so assessed shall be due and payable immediately.

(b) Security for Payment. Enforcement of a jeopardy assessment and demand for payment may be stayed if the taxpayer gives security for payment which is satisfactory to the City Manager.

(c) Dispute of a Jeopardy Assessment. If, in the opinion of the taxpayer, the jeopardy assessment is not for the correct amount of tax due, the taxpayer shall pay the tax due as assessed and submit a claim for refund to the City.

(Code 1994 § 34-153; Code 1965 § 24-54)

3.12.540 Distraint and sale.

(a) Warrant Commanding Distraint. Unless such property is exempt by State statute from distraint, sale, levy or garnishment the City Manager may sign and issue a warrant directed to any employee or agent of the City or any sheriff of any county in the State, commanding him or her to levy upon, seize and sell or convert sufficient of the real and personal property of the taxpayer for the payment of the amount due, together with interest, penalties and costs as may be provided by law, subject to valid preexisting claims or lien.

(b) Who May Act on Warrant. Such employee, agent of the City or sheriff of any county in the State shall forthwith levy upon sufficient of the property of the taxpayer, including account(s) and/or property used by the taxpayer in conducting his retail business, except property made exempt from lien by State statute. The tangible property so levied upon shall be sold in all respects with like effect and in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record. The remedies of garnishment shall apply to the taxpayer's account(s) and money.

(c) Application for Warrant. If the taxpayer does not volunteer entry to the premises, the City Manager may apply to the Municipal Court of the City for a warrant authorizing any employee or agent of the City to search for and distrain property located inside the City to enforce the collection of tax due.

(1) The City Manager shall demonstrate to the Court that the premises to which entry is sought contains property that is subject to distraint and sale for tax due.

(2) If a jeopardy assessment and demand for payment has been issued, the City Manager shall specify to the Court why collection of the tax will be jeopardized.

(3) The procedures to be followed in issuing and executing a warrant pursuant to this subsection shall comply with Rule 241 of the Colorado Municipal Court Rules of Procedure.

(d) Disposal of Distrained Property.

(1) A signed inventory of the property distrained shall be made by the City or its agent. Prior to the sale the owner or possessor shall be served with a copy of such inventory, a notice of the sum of the tax due and related expenses incurred to date, and the time and place of sale.

(2) A notice of the time and place of the sale, together with a description of the property to be sold, shall be published in a newspaper of general circulation within the county where distraint is made or, in lieu thereof and in the discretion of the City Manager, the notice shall be posted at the courthouse of the county where distraint is made, and in at least two other places within such county.

(3) The time fixed for the sale shall not be less than 10 days nor more than 60 days from the date of distraint. The sale may be postponed by the City or agent for no more than 90 days from the date originally fixed for the sale.

(4) If the property is not sold, such property may be disposed of in the same manner as other City property, such as an annual auction, and the lien thereon shall be reduced by the amount of the net proceeds received.

(5) The property may be offered first by bulk bid, then subsequently for bid singularly or by lots, and the City or its agent may accept the higher bid.

(6) The property offered for sale may be redeemed if the owner or possessor or other person holding a security interest pays the total tax liability and all collection costs not less than 24 hours before the sale.

(7) The City Manager shall issue to each purchaser a certificate of sale which shall be prima facie evidence of its right to make the sale and transfer to the purchaser all right, title, and interest of the taxpayer in and to the property sold.

(i) When the property sold consists of certificates of stock, the certificate of sale shall be notice to any corporation, company, or association to record the transfer on its books and records.

(ii) When the property sold consists of securities or other evidences of debt, the certificate of sale shall be good and valid evidence of title.

(8) Any surplus remaining after satisfaction of the tax due plus any costs of making the distraint and advertising the sale may be distributed by the City first to other jurisdictions which have filed liens or claims of sales and use or personal property ad valorem taxes, and second to the owner, or such other person having a legal right thereto.

(e) Property Subject to Distraint. Property of the taxpayer subject to distraint shall include the personal property of the taxpayer and the personal property of corporate officers deemed to be in a fiduciary position of such sales and use tax, and the goods, stock in trade and business fixtures owned or used by any taxpayer, including those used under lease, installment sale, or other contract arrangement. Property exempt from distraint and sale shall include the personal property described as such in GJMC 3.12.490(c)(3).

(f) Return of the Property. The taxpayer or any person who claims an ownership interest or right of possession in the distrained property may petition the City Manager, or the Municipal Court if the property was seized pursuant to a warrant issued by the Court, for the return of the property.

(1) The grounds for return of the property shall be that the person has a perfected interest in such property which is superior to the City's interest or that the property is exempt from the City's lien.

(2) The fact finder shall receive evidence on any issue of fact necessary to the decision of the petition. If the fact finder determines by a preponderance of the evidence in favor of the taxpayer or other petitioner, the property shall be returned.

(Ord. 3626, 5-4-04. Code 1994 § 34-154; Code 1965 § 24-55)

3.12.550 Status of tax due in bankruptcy and receivership.

Whenever the business or property of any taxpayer is subject to receivership, bankruptcy or assignment for the benefit of creditors, or is under distraint for property taxes, total tax liability shall be a prior and preferred lien against all the property of the taxpayer. No sheriff, receiver, assignee or other officer shall sell the property of any such taxpayer under process or order of any court, without first ascertaining from the City Manager the amount of the total tax liability payable under this chapter. Such officer shall pay any total tax liability to the City before making payment to any judgment creditor or other claimants.

(Code 1994 § 34-155; Code 1965 § 24-56)

3.12.560 Violations – Summons and complaint – Penalty.

(a) It shall be a violation of this chapter to fail to perform any applicable affirmative duty specified in this chapter, including, but not limited to:

(1) The failure of any person engaged in business in the City to obtain a license.

(2) The failure of any taxpayer to file a timely return or to make timely payment of any tax due.

(3) The failure of any person to comply with the registration requirements for automotive vehicles.

(4) The making of any false or fraudulent statement, whether orally or in writing, by any person in any return, claim for refund, application for a license, hearing or as a part of any audit.

(5) The evasion of collection of any sales tax by any person or the aiding or abetting of any other person in an attempt to evade the timely payment of tax due.

(b) The City Manager may request that the City Attorney issue a complaint and summons to appear before the Municipal Court of the City to any person who may be in violation of this chapter or of the rules and regulations promulgated by the City Manager to enforce this chapter.

(c) A violation of this chapter shall be punished by a fine or imprisonment or both pursuant to the limits established in GJMC 1.04.090. Each day or portion thereof that any violation of any provision of this chapter exists shall constitute a separate offense.

(Code 1994 § 34-156; Code 1965 § 24-57)

3.12.570 Statute of limitations.

Unless the limitation period has been extended as provided in this section, the statute of limitations for provisions contained in this chapter shall be as follows:

(a) Refunds.

(1) Any claim for refund for disputed tax shall be submitted to the City on or before 60 days from the date of such purchase.

(2) Any claim for refund resulting from a notice of overpayment shall be submitted to the City on or before 30 days after the date of such notice of overpayment.

(3) Any other claim for refund shall be filed on or before three years after the date such overpayment was paid to the City.

(b) Assessments. Except as otherwise provided in this chapter, no notice of assessment shall be issued more than three years after the due date of such tax due, or for a construction project which requires

a City building permit, the date the final certificate of occupancy was issued for such project or final inspection, whichever is later.

(c) Liens. Except as otherwise provided in this chapter, no notice of lien shall be issued more than three years after the due date of the tax due. If the limitation period is extended, a notice of lien may be filed on or before 30 days from the date of the notice of assessment issued for such extended period.

(d) Returns.

(1) When a taxpayer fails or refuses to file a return, the tax due may be assessed and collected at any time.

(2) In the case of a false or fraudulent return filed with intent to evade tax, the tax due may be assessed, or proceedings for the collection of such tax due may be begun, at any time.

(e) Protests. No protest of a notice of assessment or denial of a claim for refund shall be valid unless submitted to the City Manager in written form within the period allowed in this chapter.

(f) Extension. The period of limitation may be extended before its expiration.

(1) The taxpayer and the City Manager may agree in writing to extend the period.

(2) If the City provides written notice to the taxpayer prior to the expiration of the period of limitation that the latter's records will be audited pursuant to this chapter, such period of limitation shall be extended for the audit period until 30 days after the date of the notice of assessment or notice of overpayment issued as a result of such audit. "Audit period" is the 36-month reporting period preceding the date of the notice of audit, or if a City building permit is required, the period between the issuance of such building permit and the issuance of a final certificate of occupancy, or final inspection.

(g) Audits. Performance of an audit does not constitute a statute of limitations or preclude additional audits of the same period within the parameters of this section.

(Code 1994 § 34-157; Code 1965 § 24-58)

3.12.580 Enforcement, collection and delinquency policy.

(a) The City's enforcement policies and practices relative to sales tax as outlined in this chapter are hereby confirmed and approved for continuation in the day-to-day administration of the City's sales tax.

(b) The following enforcement policies and practices are hereby approved in addition to those contained in this chapter:

(1) Automatic administrative remedies including notice of tax assessments from our sales tax system, loss of vendors fee, penalties and interest.

(2) Telephone and/or physical visit by customer service staff to location of local vendors to obtain compliance.

(3) Payment arrangements to eliminate delinquency, while keeping current on all required filings and remittances.

(c) If the above procedures fail to achieve compliance more aggressive action will be taken including: turning the account over to the City Attorney for contact, Municipal Court complaint, bank account garnishment, and seizure and sale of assets at public auction.

(d) While proceeding through the above processes, every attempt will be made to coordinate and evaluate conditions of delinquency with the State of Colorado enforcement personnel.

(e) No open and ongoing business will be allowed to continue in operation beyond nine months of delinquency without the seizure and sale of assets being activated; unless a payment arrangement being complied with goes beyond this period. Also failure to comply with a payment arrangement

on an account over nine months delinquent will result in immediate seizure of bank accounts and/or business assets.

(Res. 45-04, 5-5-04)

Title 4

(Reserved)

Title 5

BUSINESS LICENSES AND REGULATIONS

Chapters:

5.04 General Licenses
5.08 Alarm System Installers
5.12 Alcoholic Beverages
5.16 Contractors
5.20 Massage Parlors
5.24 Pawnbrokers
5.28 Secondhand Goods Dealers
5.32 Moving Buildings

Cross reference(s) – Alcoholic beverages, Chapter 5.12 GJMC; certain businesses designated as nuisances, GJMC 8.08.060; smoking restricted in certain places, GJMC 8.20.020; license required for tree trimming, cutting, pruning, removing, etc., GJMC 8.32.110.

State law reference(s) – Power to regulate business, § 31-15-501, C.R.S.

Chapter 5.04

GENERAL LICENSES

Sections:

5.04.010 Payment of fees – Issuance of licenses.
5.04.020 Duration, expiration.
5.04.030 Licenses subject to laws and ordinances – Revocation for violations.
5.04.040 Scope of licenses – Nontransferability.
5.04.050 Form of licenses.
5.04.060 Records.

5.04.010 Payment of fees – Issuance of licenses.

Every person who obtains a license or permit to conduct or carry on any business, avocation, trade, or calling mentioned in this code or in any ordinance of the City, shall pay to the City Manager in cash, check or certified funds, in advance of issuance, the specified license fee. The City Manager shall thereupon issue to such person a license for the purpose specified, except as otherwise provided.

(Code 1994 § 10-26; Code 1965 § 17-1)

5.04.020 Duration, expiration.

No license shall be granted by the City at any time for a longer period than one year, and every license shall expire on or before December 31st following the issuance thereof. In all cases, the term of the license shall be expressed thereon. There shall be no prorations of any fee nor partial fees (for part of a year), nor any refunds of any fees paid.

(Code 1994 § 10-27; Code 1965 § 17-2)

5.04.030 Licenses subject to laws and ordinances – Revocation for violations.

All licenses shall be subject to the ordinances, resolutions and regulations of the City and the statutes of the State which may be in force at the time of issuance thereof or become effective during the period covered by such license. A license may be revoked at the discretion of the City Council when it shall appear by a preponderance of the evidence that the licensee has violated any of the ordinances, resolutions or regulations of the City or any of the laws of the State or has knowingly permitted any of the ordinances of the City or the laws of the State to be violated by any person in his employ for which a license has been issued.

(Code 1994 § 10-28; Code 1965 § 17-3)

5.04.040 Scope of licenses – Nontransferability.

Licenses shall not be assigned or transferred nor shall any license authorize any person to do business or act under it, other than the person named therein.

(Code 1994 § 10-29; Code 1965 § 17-4)

5.04.050 Form of licenses.

All licenses shall be issued under the seal of the City, be signed by the City Manager and City Clerk and shall be in a form as approved by the City Manager.

(Code 1994 § 10-30; Code 1965 § 17-5)

5.04.060 Records.

The City Manager shall keep a license register in which shall be entered the name of each and every person licensed pursuant to the ordinances of the City, the date of the license, the purpose for which the license is granted and the license fee paid. The fee for each license required by this chapter shall be established by resolution of the City Council.

(Code 1994 § 10-31; Code 1965 § 17-6)

Chapter 5.08

ALARM SYSTEM INSTALLERS

Sections:

5.08.010 License required – Exemptions.
5.08.020 Issuance of license – Expiration.
5.08.030 Investigation, fingerprinting, photographing of applicant – Grounds for denial of license – Identification cards.
5.08.040 Approval of identification cards for agents of nonresident companies.
5.08.050 Bond requirement.
5.08.060 Direct dial systems.
5.08.070 Audible alarm requirements.
5.08.080 Appeal.

Cross reference(s) – Burglar alarm systems, Chapter 8.24 GJMC; buildings and building regulations, GJMC Title 15.

5.08.010 License required – Exemptions.

It shall be unlawful for any person to install or maintain alarm systems in the City without first having obtained a license so to do. Nothing in this section shall be construed to apply to persons that sell but neither install nor maintain alarm systems, or to individuals who either purchase and install their own systems or design and install their own systems.

(Amended during 2009 recodification; Code 1994 § 10-51; Code 1965 § 22-45)

5.08.020 Issuance of license – Expiration.

A license under this chapter shall be issued by the City Manager after approval of the applicant and his employees, if any, by the City Manager and upon payment of a fee as established by resolution of the City Council and on file in the City Clerk's office. Each such license shall expire on December 31st.

(Code 1994 § 10-52; Code 1965 § 22-46)

5.08.030 Investigation, fingerprinting, photographing of applicant – Grounds for denial of license – Identification cards.

(a) Such information as may be required by the City Manager shall be furnished by all persons who will be doing installations or maintenance work as may be required by him to enable a background investigation to determine the fitness of the applicant for a license to install or maintain police alarm systems. Applicants will be fingerprinted and photographed in conjunction with such investigation. Identification cards shall be issued by the City.

(b) The license required by this chapter shall be denied by the City Manager if:

(1) The character or reputation of the applicant is determined to be inimical to the safety or general welfare of the community;

(2) The applicant, his employee or agent has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit or in any report or record required to be filed with any City agency; or

(3) The applicant has had a similar type permit previously revoked for good cause within the past year, unless the applicant can show a material change in circumstances since the date of revocation.

(c) Approved identification cards shall be carried at all times by persons licensed under this chapter, and such cards will be shown on demand.

(Code 1994 § 10-53; Code 1965 § 22-47)

5.08.040 Approval of identification cards for agents of nonresident companies.

The City Manager may approve identification cards for use in the City by agents of companies based elsewhere without background identification upon payment of the license fee.

(Code 1994 § 10-54; Code 1965 § 22-48)

5.08.050 Bond requirement.

No license required under this chapter shall be issued until the applicant files with the City Manager a surety bond or other surety guarantee in the amount of not less than $10,000 conditioned on the faithful and honest conduct of the business and individuals under the license. Such bond shall run in favor of the City and citizens thereof who are served by the licensee, his agents and employees.

(Code 1994 § 10-55; Code 1965 § 22-49)

5.08.060 Direct dial systems.

No installer may code a direct dial alarm system to any telephone without the express permission of the person to whose telephone it is to be coded. Direct dial alarm systems shall not be coded to call 911.

(Code 1994 § 10-56; Code 1965 § 22-50)

5.08.070 Audible alarm requirements.

Every person maintaining an audible alarm shall post a notice containing the names and telephone numbers of the persons to be notified to render repairs or service and secure the premises during any hour of the day or night that the burglar alarm is actuated. Such notice shall be posted near the alarm in such a position as to be legible from the ground outside the building where the alarm system is located. Such requirement shall not apply to audible automobile alarms.

(Code 1994 § 10-57; Code 1965 § 22-51)

5.08.080 Appeal.

Appeals from decisions of the City Manager under this chapter shall be taken to the City Council.

(Code 1994 § 10-58; Code 1965 § 22-52)

Chapter 5.12

ALCOHOLIC BEVERAGES

Sections:

Article I. In General

5.12.010 Regulation of licensees.

Article II. Hearing Officer

5.12.110 Position established – Appointment.
5.12.120 Duties.
5.12.130 Hearing procedures.
5.12.140 Powers in the conduct of hearings.
5.12.150 Determinations with respect to hearings.

Article III. Licenses and Permits

5.12.210 Application fees.
5.12.220 Distance restriction.
5.12.230 Temporary permits.
5.12.240 Special event permits.
5.12.250 Responsibility for conduct on licensed premises.
5.12.260 Suspension of license – Fines.

Article IV. Alcoholic Beverage Tastings

5.12.310 Definitions.
5.12.320 Permit required.
5.12.330 Violations.
5.12.340 Severability.
5.12.350 Repeal of conflicting provisions.

Cross reference(s) – Law enforcement, Chapter 2.44 GJMC; liquor occupational tax, Chapter 3.04 GJMC; businesses, GJMC Title 5.

State law reference(s) – Colorado beer code, § 12-46-101, C.R.S. et seq.; Colorado liquor code, § 12-47-101 C.R.S., et seq.

Article I. In General

5.12.010 Regulation of licensees.

Under the authority granted in §§ 12-46-107 and 12-47-309, C.R.S., to the local licensing authority, the regulations in this chapter are adopted by the City Council governing the conduct of operations by licensees under § 12-46-101, C.R.S. et seq. and § 12-47-101, C.R.S. et seq.

(Code 1994 § 4-1; Code 1965 § 4-1)

Article II. Hearing Officer

Cross reference(s) – Officers and employees, Chapter 2.08 GJMC.

State law reference(s) – Definitions, §§ 12-46-103(4), 12-47-103(17), C.R.S.

5.12.110 Position established – Appointment.

In accordance with the permission of §§ 12-46-103(4) and 12-47-103(17), C.R.S., there is established in the City, as the licensing authority, the position of Hearing Officer, who shall be appointed by and serve at the pleasure of the City Council.

(Code 1994 § 4-26; Code 1965 § 4-30)

5.12.120 Duties.

The Hearing Officer shall conduct all hearings required under State and City liquor and beer codes and regulations construing and implementing the same for the issuance of all licenses and shall conduct all hearings to determine the renewal of licenses, for proposed changes of ownership of licenses and changes of the structure of licensed premises, and for proposed changes of location of licensed premises, and shall conduct all hearings brought under such codes when violations of the codes or the regulations under the codes have been alleged to have occurred.

(Amended during 2009 recodification; Code 1994 § 4-27; Code 1965 § 4-31)

5.12.130 Hearing procedures.

The Hearing Officer may establish such procedures to be followed in actions before him as may be consistent with the terms and conditions of the State liquor and beer codes and special events provisions.

(Code 1994 § 4-28; Code 1965 § 4-34)

5.12.140 Powers in the conduct of hearings.

The Hearing Officer shall have those powers given the local licensing authority under the State liquor and beer codes and special events provisions in conducting hearings.

(Code 1994 § 4-29; Code 1965 § 4-32)

5.12.150 Determinations with respect to hearings.

The Hearing Officer shall make his determination after hearings in accordance with the State liquor and beer codes and special events provisions and established legal principles. The decision of the Hearing Officer shall be final, and appeal from that decision shall be to the district court of the 21st Judicial District.

(Code 1994 § 4-30; Code 1965 § 4-33)

Article III. Licenses and Permits

State law reference(s) – Fees, §§ 12-46-105, 12-47-505, C.R.S.; licensing, § 12-47-301, C.R.S.; local licensing authority, §§ 12-46-107, 12-47-309, C.R.S.

5.12.210 Application fees.

(a) Under the provisions of §§ 12-46-105, 12-46-107, 12-47-301 and 12-47-505(4), C.R.S., as applicable, there shall be filed with the City Clerk with the application for a fermented malt beverage license an application fee as established by resolution of the City Council and on file in the City Clerk's office.

(b) Under the provisions of §§ 12-47-301 and 12-47-505(4), C.R.S., there shall be filed with the City Clerk with the application for a license provided for in Title 12, Article 47, C.R.S., an application fee as established by resolution of the City Council and on file in the City Clerk's office.

(c) The City Clerk may also, as established by resolution of the City Council and on file in the City Clerk's office, charge a background investigation fee, fingerprinting fee and any other fee lawfully established.

(Ord. 3025, 10-1-97. Code 1994 § 4-51; Code 1965 § 4-1(d), (e))

5.12.220 Distance restriction.

Under the provisions of § 12-47-313(1)(d)(III), C.R.S., the distance that a hotel-restaurant liquor license premises must be separated from the principal campus of a college or university in the City is reduced to zero feet.

Under the provisions of § 12-47-313(1)(d)(III), C.R.S., the distance that a brew pub liquor licensed premises must be separated from the principal campus of a college or university in the City is reduced to zero feet.

The distance shall be determined in accordance with § 12-47-313(1)(d)(II), C.R.S., and Colorado Liquor Regulation 47-326.

(Amended during 2009 recodification; Ord. 3803, 8-3-05; Ord. 3620, 5-5-04; Ord. 3025, 10-1-97. Code 1994 § 4-52; Code 1965 § 4-1(f))

State law reference(s) – Temporary licenses, § 12-47-106(1), (b.5), C.R.S. Recodified to § 12-47-302, C.R.S. and amended 7-1-97 deleting temporary licenses; restrictions for applications, § 12-47-313(1)(d)(III), C.R.S.

5.12.230 Temporary permits.

(a) Notwithstanding anything in this article to the contrary, a local licensing authority shall have discretionary authority to issue a temporary permit to a transferee of any class of fermented malt beverage or liquor license issued by the State licensing authority. Such temporary permit shall authorize a transferee to continue selling beverages as permitted under the permanent license during the period in which an application to transfer the ownership of the license is pending.

(b) A temporary permit issued under this section shall authorize a transferee to conduct business and sell beverages at retail in accordance with the license of the transferor subject to compliance with all of the following conditions:

(1) The premises where such beverages are sold shall have been previously licensed by the State and local licensing authorities, and such license shall have been valid at the time the application for transfer of ownership was filed with the local licensing authority for a temporary permit.

(2) The applicant has filed with the local licensing authority on forms provided by the State Department of Revenue an application for the transfer of the license. Such application shall include, but not be limited to, the following information:

(i) The name and address of the applicant; if the applicant is a partnership, the names and addresses of all the partners; and, if the applicant is a corporation, association or other organization, the names and addresses of the president, vice-president, secretary, and managing officer thereof;

(ii) The applicant's financial interest in the proposed transfer;

(iii) The premises for which the temporary permit is sought; and

(iv) Such other information as the local licensing authority may require.

(c) The application for a temporary permit under this section shall be filed no later than 30 days after the filing of the application for transfer of ownership and shall be accompanied by a temporary permit fee as established by resolution of the City Council and on file in the City Clerk's office.

(d) A temporary permit under this section, if granted by the local licensing authority, shall be issued within three working days after the receipt of such application. A temporary permit issued pursuant to this section shall be valid until such time as the application to transfer ownership of the license to the applicant is granted or for 120 days, whichever shall first occur; except that, if the application to transfer the license has not been granted within the 120-day period and the transferee demonstrates good cause, the local licensing authority may extend, in its discretion, the validity of such permit for an additional period not to exceed 60 days.

(e) A temporary permit under this section shall also be authorized in the event of a transfer of possession of the licensed premises by operation of law, a petition in bankruptcy pursuant to federal bankruptcy law, the appointment of a receiver, a foreclosure action by a secured party, or a court order dispossessing the prior licensee of all rights of possession pursuant to Title 13, Article 40 C.R.S.

(f) A temporary permit under this section may be cancelled, revoked, or summarily suspended if the local or State licensing authority determines that there is probable cause to believe that the transferee has violated any provision of this article or has violated any rule or regulation adopted by the local or State licensing authority or has failed to truthfully disclose those matters required pursuant to the application forms of the Department of Revenue.

State law reference(s) – Similar provisions, § 12-47-303, C.R.S.

(Code 1994 § 4-53)

5.12.240 Special event permits.

(a) Under the authority granted in § 12-48-107(1) and (2), C.R.S., an application for a special event permit shall be filed with the local licensing authority and shall be accompanied by a fee as established by resolution of the City Council for both investigation and issuance of such permit.

(b) A special event permit issued by the City for any event occurring in or on any public street, road, highway, and park or public way which is publicly owned shall not allow the possession and consumption of spirituous liquors.

(Ord. 3772, 5-18-05. Code 1994 § 4-54)

State law reference(s) – Special event permit, § 12-48-101, C.R.S. et seq.

5.12.250 Responsibility for conduct on licensed premises.

A licensee under this article shall be required to notify the Police Department of the City whenever any person within his establishment becomes disorderly in conduct by lewd or indecent display, rowdiness, fighting or challenging to fight, gambling, or any other conduct that would be offensive to the average citizen or to the residents of the neighborhood in which the establishment is located, and such requirement shall extend to such conduct in the area immediately adjacent to the premises as well as to the interior thereof.

(Amended during 2009 recodification; Code 1994 § 4-55; Code 1965 § 4-1(a))

5.12.260 Suspension of license – Fines.

(a) Payment of Fine in Lieu of Suspension of License.

(1) Whenever a decision of the Hearing Officer suspending a retail license for 14 days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the sus-

pension, petition for permission to pay a fine in lieu of having his retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the Hearing Officer may, in his sole discretion, stay the proposed suspension and cause any investigation to be made which he deems desirable and may, in his sole discretion, grant the petition if satisfied that:

(i) The public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

(ii) The books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and

(iii) The retail licensee has not had his license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

(2) The fine accepted shall be the equivalent of 20 percent of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than $200.00 nor more than $5,000.

(3) Payment of any fine pursuant to the provisions of this subsection (a) shall be in the form of cash or in the form of a certified check or cashier's check made payable to the City.

(b) Upon payment of the fine pursuant to subsection (a) of this section, the Hearing Officer shall enter a further order permanently staying the imposition of the suspension. The City Council shall cause such moneys to be paid into the general fund of the City.

(c) In connection with any petition pursuant to subsection (a) of this section, the authority of the Hearing Officer is limited to the granting of such stays as are necessary for him to complete his investigation and make findings and, if the Hearing Officer makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(d) If the Hearing Officer does not make the findings required in subsection (a)(1) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Hearing Officer.

(Code 1994 § 4-56; Code 1965 § 4-35)

State law reference(s) – Suspension or revocation of license, § 12-47-601, C.R.S.

Article IV. Alcoholic Beverage Tastings

5.12.310 Definitions.

Terms used in this article which are defined in the Colorado Liquor Code (Title 12, Article 47, C.R.S.) or in the Colorado Beer Code (Title 12, Article 46, C.R.S.) shall have the meanings provided in such statutes. Additionally, as used in this article, the following words, terms and phrases shall have the meanings ascribed to them in this section.

Tasting permit means a separate permit issued by the local licensing authority pursuant to this article authorizing tastings of beer and wine to be conducted by the licensee.

(Ord. 3716 § 1, 2-2-05. Code 1994 § 4-57)

5.12.320 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 § 12-47-301, C.R.S., as the term "tastings" is defined in said § 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 this 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 $100.00.

(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 prescribed 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 § 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 five consecutive hours per day.

  (4) Tastings shall be conducted during the licensee's operating hours and in any event no earlier than 1:00 p.m. or later than 7:00 p.m.

  (5) Samples to be tasted shall be served only in single use, disposable cups. 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 drugstore operating within the City whose license is valid, in good standing and in full force and effect.

(Ord. 4345, 4-13-09; Ord. 3716 § 1, 2-2-05. Code 1994 § 4-58)

5.12.330 Violations.

(a) A violation of a limitation specified in § 12-47-301, C.R.S., by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents, or otherwise, shall be the

responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.

(b) A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee for a violation of any of § 12-47-301, C.R.S.

(Ord. 3716 § 1, 2-2-05. Code 1994 § 4-59)

5.12.340 Severability.

If any portion of this article is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this article. The City Council hereby declares that it would have passed this article and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

(Ord. 3716 § 1, 2-2-05. Code 1994 § 4-60)

5.12.350 Repeal of conflicting provisions.

(a) All other ordinances or portions thereof inconsistent or conflicting with this article or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

(b) The repeal or amendment of any provision of the code by this article shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

(Ord. 3716 § 1, 2-2-05. Code 1994 § 4-61)

Chapter 5.16

CONTRACTORS

Sections:

5.16.010 Contractor defined.
5.16.020 Contractors classified.
5.16.030 License required.
5.16.040 License fees.
5.16.050 Fees not to be prorated.
5.16.060 Scope of licenses.
5.16.070 Duties of Building Official – Requirements for issuance of license.
5.16.080 License application, examination and issuance procedure.
5.16.090 License renewal.
5.16.100 Contractor's responsibility – License revocation.
5.16.110 Building Board of Appeals – Generally.
5.16.120 Building Board of Appeals – Meetings – Quorum – Removal of members for absence – Personal interest prohibited.
5.16.130 Building Board of Appeals – Officers.
5.16.140 Building Board of Appeals – Powers and duties.
5.16.150 Violation of chapter – Penalties.

Cross reference(s) – Buildings and building regulations, GJMC Title 15.

5.16.010 Contractor defined.

(a) A "contractor," within the meaning of this chapter, is any person who:

(1) Undertakes with or for another, within the City, to build, construct, alter, repair, add to, move, or wreck any building or structure or any portion thereof, or who undertakes the improvement of any building or structure for which improvement a charge is made, either by a fixed sum, price, fee, percentage, or other combination besides wages, or any combination beside wages. Such definition shall include those normally denominated in the building trades as "subcontractors" or "special contractors."

(2) Builds, constructs, alters, adds to, moves, or wrecks any building or structure, either on his own or other property, for purpose of resale or rental. A homeowner may secure a permit on only one residence in any 12-month period, and the construction of more than one residence by a person in any one year shall be construed to mean that such extra construction will be for resale or rental purposes, and that such party is to be classified as a contractor.

(b) The definition of "contractor" shall not include:

(1) A person who is paid wages by a homeowner, as defined in subsection (a)(2) of this section, if the owner of the building or structure buys his own building material.

(2) Plumbers, electricians or other specialized trades for which special licenses are required.

(3) Owners making nonstructural repairs or maintenance in their buildings where a contractor is not employed, except as such owner is governed by subsection (a)(2) of this section.

(4) Construction managers who provide design, inspection and administration services with the owner entering into separate contracts for construction or material purchases.

(Code 1994 § 10-81; Code 1965 § 7-31)

5.16.020 Contractors classified.

For the purposes of this chapter, contractors shall be divided into the following classifications for definition:

(a) General Contractor Unlimited. A contractor on an unlimited type or size of structure, as may by ordinance be permitted, shall be known as a "general contractor unlimited."

(b) General Contractor Not to Exceed $750,000. A contractor on a type or size of structure, as may by ordinance be permitted, on which the total value of all labor and materials used shall not exceed $750,000, shall be known as a "general contractor not to exceed $750,000."

(c) General Contractor Not to Exceed $250,000. A contractor on a type or size of structure, as may by ordinance be permitted, on which the total value of all labor and materials used shall not exceed $250,000, shall be known as a "general contractor not to exceed $250,000."

(d) General Contractor Not to Exceed $150,000. A contractor on a type or size of structure, as may by ordinance be permitted, on which the total value of all labor and materials used shall not exceed $150,000, shall be known as a "general contractor not to exceed $150,000."

(e) General Contractor Not to Exceed $75,000. A contractor on a type or size of structure, as may by ordinance be permitted, on which the total value of all labor and materials used shall not exceed $75,000, shall be known as a "general contractor not to exceed $75,000."

(f) General Contractor Not to Exceed $25,000. A contractor on a type or size of structure, as may by ordinance be permitted, on which the total value of all labor and materials used shall not exceed $25,000, shall be known as a "general contractor not to exceed $25,000."

(g) General Contractor Not to Exceed $10,000. A contractor on a type or size of structure, as may by ordinance be permitted, on which the total value of all labor and materials used shall not exceed $10,000, shall be known as a "general contractor not to exceed $10,000."

(h) Special Contractor. A person who contracts for labor or for labor and material involving only one trade or one particular kind of work with the building industry shall be known as a "special contractor." The following categories of special contractor are established based upon the contract amount of the total of labor and material for the performance of the specialty:

(1) Special contractor unlimited.

(2) Special contractor not to exceed $750,000.

(3) Special contractor not to exceed $250,000.

(4) Special contractor not to exceed $100,000.

(5) Special contractor not to exceed $50,000.

(6) Special contractor not to exceed $25,000.

(7) Special contractor not to exceed $10,000.

(Code 1994 § 10-82; Code 1965 § 7-32)

5.16.030 License required.

No person shall engage in the business of a contractor within the City without having first obtained a license from the City. No building permits shall be issued to, nor any work performed by, any contractor who has not first obtained a license, or is delinquent in the payment of his annual fee, or whose license has been suspended or revoked by action of the Building Board of Appeals. On any work requiring a licensed contractor, permits shall be issued only to the contractor or to his authorized representative. If any portion of the work is excluded from the contract, the application for a permit shall state the portions so excluded. Should the contractor be discharged, or abandon the work, he shall notify the Chief Building

Official in writing of the fact. No further work shall be done until a new licensed contractor has been selected, who shall notify the Chief Building Official in writing of his selection to complete the work.

(Code 1994 § 10-83; Code 1965 § 7-38)

5.16.040 License fees.

For the purpose of providing for the regulation and licensing of contractors and special contractors, such contractors and special contractors are divided into separate classifications under this chapter and shall pay the annual license fee therefor as established by resolution of the City Council and on file in the City Clerk's office.

(Code 1994 § 10-84; Code 1965 § 7-39)

5.16.050 Fees not to be prorated.

License fees required by this chapter shall not be prorated for any portion of a year.

(Code 1994 § 10-85; Code 1965 § 7-40)

5.16.060 Scope of licenses.

A person licensed as a special contractor shall be limited to the trade or particular kind of work specified in such license and such other work as may be incidental thereto, but shall not contract to do any work other than that so specified in his license. Nothing contained in this section shall prohibit the issuance of one or more licenses for different trades or particular kinds of work to the same individual; provided, however, that such person shall be first duly examined and qualified by the Building Official as to each trade or particular kind of work.

(Code 1994 § 10-86; Code 1965 § 7-41)

5.16.070 Duties of Building Official – Requirements for issuance of license.

(a) The Building Official shall receive and consider license applications, hold examinations for licenses, and issue new licenses as appropriate. Each applicant shall submit in writing, on forms made available by the Building Official, a completed application for license, information establishing the applicant's net worth, assets and liabilities, additional personal information, and such fees as are required. The Building Official shall review the license application and shall issue the license if he finds the application to be complete and proper; if the required examinations have been successfully completed; and if the appropriate fees and charges have been tendered.

(b) Prior to issuing a contractor's license, the Building Official shall see that the following conditions are met:

  (1) No general or special contractor license shall issue unless the applicant establishes that the applicant's net worth is equal to at least 25 percent of the stated dollar amounts in GJMC 5.16.020. An applicant for a "general contractor unlimited" license shall establish that the applicant's net worth is at least 25 percent of $750,000.

  (2) The Building Official shall obtain a credit report, from a credit reporting agency approved by him, which establishes that:

    (i) There are no unsatisfied judgments against the applicant; and

    (ii) There are no overdue accounts. For the purpose of this subsection (b)(2)(ii), "overdue" shall mean not having been paid within 60 days of the due date.

  (3) Every contractor shall be required to maintain, at all times, Colorado employee's liability (or worker's compensation insurance). If there are no employees, a waiver of worker's compensation, in a form as required by the Building Official, shall be permitted.

Automobile insurance, in any form, shall neither be offered in satisfaction nor found to satisfy these requirements.

(4) With respect to partnerships, joint ventures and limited liability companies, the applicant shall submit the necessary financial information or proof for the partnership, joint venture or company, as well as for each individual comprising the partnership, joint venture or company.

(5) The Building Official may require additional information, and may investigate at any time that a license is in effect in order to determine if a licensee is acting pursuant to the requirements of this code. Failure or refusal of the licensee to supply such information shall constitute grounds for suspension or revocation of the license, which suspension or revocation shall be referred to the Building Board of Appeals for action by it.

(6) If an owner of a structure for which a building permit is required pays wages to a person, and such owner purchases such owner's own building materials, the Building Official may require of the owner that either the person performing the work and being paid wages or the owner provide proof that the owner is purchasing directly from the supplier.

(c) At any time that the Building Official has reasonable grounds to believe that a licensee's net worth is not sufficient to satisfy the standards of an applicant for such license, the Building Official may require that such licensee submit additional and/or updated information to evaluate whether or not to suspend or revoke such license. A licensee's failure to supply such information, or evidence of inadequate net worth, shall be grounds for suspension or revocation of the license by the Building Board of Appeals.

(Ord. 3868, 2-15-06; Ord. 3326, 2-7-01. Code 1994 § 10-87; Code 1965 § 7-37)

5.16.080 License application, examination and issuance procedure.

The determination of eligibility for licenses shall be made by the Building Official. All hearings for suspension or revocation of licenses and matters pertaining thereto shall be by the Building Board of Appeals. Applications for contractor's licenses shall be on such forms, and the applicant shall furnish such information, as the Building Official may prescribe. Such applications shall be accompanied by an examination fee as established by resolution of the City Council and on file in the City Clerk's office. Examinations shall be given at reasonable intervals and if, in the opinion of the Building Official, the applicant is qualified by training and/or experience and is financially and morally responsible to fulfill the obligations of a contractor, he shall direct the City Manager to issue the applicant a license upon payment of the annual license fee.

(Code 1994 § 10-88; Code 1965 § 7-42)

5.16.090 License renewal.

Licenses may be renewed annually without further examination upon payment of the annual license fee on or before January 31st of each successive year. Licenses which are one year or more in arrears may be renewed by the City Manager only upon reexamination and payment of all fees as set forth in this chapter.

(Code 1994 § 10-89; Code 1965 § 7-43)

5.16.100 Contractor's responsibility – License revocation.

(a) A contractor shall be responsible for all work included in his contract, whether or not such work is done by him directly or by a subcontractor. He shall be responsible for all funds or property received by him for prosecution or completion of a specific contract or for a specific purpose. The chief Building Official may, upon his own motion, and shall upon the verified complaint in writing of any person, require any contractor to appear before the Building Board of Appeals for hearing upon five days' notice in writing, mailed to his last known post office address, and the Board shall have the

power to temporarily suspend or permanently revoke a license if the holder thereof is found guilty of, or commits, any one or more of the following acts or omissions:

(1) Abandonment of any contract without legal cause.

(2) Diversion of funds or property received for performance or completion of a specific contract, or for a specified purpose in the performance or completion of any contract, and their application or use for any other contract, obligation or purpose, or the failure, neglect or refusal to use such funds or property for the performance or completion of such contract.

(3) Fraudulent departure from, or disregard of, plans or specifications in any material respect without consent of the owner or his duly authorized representative and the Building Official.

(4) Willful and deliberate disregard and violation of the building code of the City or failure to comply with any lawful order of the Building Official.

(5) Failure to keep records showing all receipts and disbursements of the licensee in all of his transactions as a contractor, and to produce such records for examination by the Building Board of Appeals when so required.

(6) Misrepresentation of a material fact by the applicant in obtaining a license.

(7) The doing of any willful, fraudulent act by the licensee as a contractor in consequence of which another is substantially injured.

(8) Fraudulent use of a license to obtain building permits for another.

(9) Carelessness or negligence in providing reasonable safety measures for the protection of workmen and the public.

(10) Failure to obtain a building permit for any work as required by this code.

(11) Conduct by the licensee or an employee thereof consisting of threats of violence, direct or implied, against or harassment of any person, including harassment consisting of destruction of property of another or imposition by improperly altering boundary lines of property or improper use of property so as to burden adjoining properties, while the licensee or employee is engaged in work under the license.

(b) The Building Board of Appeals may reinstate a revoked license if sufficient evidence is presented to the Board.

(Code 1994 § 10-90; Code 1965 §§ 7-44, 7-45)

5.16.110 Building Board of Appeals – Generally.

(a) Appeals from administrative decisions made by the Building Official shall be heard by the Building Board of Appeals, which is established pursuant to GJMC 15.12.010. An appeal to such Board shall be initiated by an applicant for a license by submitting a completed appeal on an approved form to the Building Official within five days of mailing of notice of denial or other adverse decision.

(b) The Building Board of Appeals, when meeting as the contractors' licensing appeal board, shall be governed by the rules applicable to the Building Board of Appeals, insofar as applicable. The Building Board of Appeals shall be governed by such rules as will afford due process and fairness, as determined by such Board.

(Code 1994 § 10-91; Code 1965 §§ 7-33, 7-34)

5.16.120 Building Board of Appeals – Meetings – Quorum – Removal of members for absence – Personal interest prohibited.

Meetings of the Building Board of Appeals shall be called by the Building Official in his capacity as secretary of the Board in order to give proper service to applicants for licensing under this chapter. A major-

ity of the members of the Board shall also have the power to call a special meeting upon their own motion. Four members of such Board shall constitute a quorum and a majority. Continued absence of any member from regular meetings of the Board shall, at the discretion of the City Council, render any such member liable to immediate removal from the Board. No Board member shall act in a case in which he has a personal interest.

(Code 1994 § 10-92; Code 1965 § 7-35)

5.16.130 Building Board of Appeals – Officers.

At the first meeting in each year, the Building Board of Appeals shall elect officers to serve for a term of one year. These officers shall consist of a chairman and vice-chairman, and the Building Official shall act as secretary.

(Code 1994 § 10-93; Code 1965 § 7-36)

5.16.140 Building Board of Appeals – Powers and duties.

The Building Board of Appeals shall have the following powers and duties:

(a) To consider appeals of license applications or rejections.

(b) To decide appealed issues concerning examinations and other administrative tasks assigned to the Building Official and to revoke/suspend any license, as well as to adopt reasonable rules and regulations for the conduct of its business.

(c) To render all decisions and findings in writing to the Building Official, with a copy to the City Manager and a copy to the licensee or the applicant for the license.

(d) If undue hardship has arisen which results in an unfair application of the terms of this chapter, the Board may, in a specific case, by unanimous action, vary the application of the regulations in this chapter, so long as such variance is consistent with the general purpose and intent to protect the public and to maintain equal treatment among all licensees.

(Code 1994 § 10-94; Code 1965 § 7-37)

5.16.150 Violation of chapter – Penalties.

In addition to suspension or revocation of licenses by the Board as provided by this chapter, any person violating any of the provisions of this chapter or any lawful rule or regulation of the Building Board of Appeals, or any lawful order of the Building Inspector, shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter are committed, continued or permitted.

(Code 1994 § 10-95; Code 1965 § 7-48)

Chapter 5.20

MASSAGE PARLORS

Sections:

5.20.010 Purpose.
5.20.020 Definitions.
5.20.030 Licensing authority established.
5.20.040 License required – Display.
5.20.050 Application fee.
5.20.060 License application.
5.20.070 Public notice – Posting and publication.
5.20.080 Investigation.
5.20.090 Results of investigation – Decision of authority – Change of financial interest.
5.20.100 Renewals.
5.20.110 Transfer of ownership.
5.20.120 Location of massage parlors.
5.20.130 Identity cards.
5.20.140 Suspension – Revocation – Denial of identification card – Hearings.
5.20.150 Persons prohibited as licensees.
5.20.160 Unlawful acts.
5.20.170 Penalty.
5.20.180 Employee apparel.
5.20.190 Right of entry.
5.20.200 Exemptions.
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5.20.220 Prostitution prohibited.
5.20.230 Soliciting for prostitution.
5.20.240 Pandering.
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5.20.260 Patronizing a prostitute.
5.20.270 Prostitute making display.
5.20.280 Confiscation of monies used in prostitution offenses.
5.20.290 Additional definitions.

5.20.010 Purpose.

This chapter is enacted for the purpose of promoting the health, safety and welfare of the citizens of the City by regulating and licensing massage parlors.

(Ord. 4324, 2-4-09. Code 1994 § 10-200)

5.20.020 Definitions.

As used in this chapter, unless the context otherwise requires, the following words and terms shall be defined as follows:

License means a grant to a licensee to operate a massage parlor.

Licensed premises means the premises specified in an approved application for a license under this chapter which are owned or in the possession of the licensee and within which such licensee is authorized to carry on the practice of massage.

Licensing authority or *authority* means the massage parlor licensing authority of the City.

Location means a particular parcel of land that may be identified by an address or by other descriptive means.

Massage means a method of treating the body of another for medical, remedial or hygienic purposes, including but not limited to rubbing, stroking, kneading or tapping with the hand or an instrument or both.

Massage parlor means an establishment providing massage, but it does not include training rooms of public or private schools accredited by the State Board of Education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams, or licensed health care facilities. A facility that is operated for the purpose of massage therapy performed by a massage therapist is not a massage parlor.

Massage Therapist. For purposes of this chapter, *massage therapist* has the meaning set forth in § 12-35.5-103, C.R.S. For purposes of this chapter, a massage therapy school may include an equivalency program approved by the State Educational Board or division charged with the responsibility of approving private occupational schools.

Person means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization or the manager, lessee, agent, servant, officer or employee of any of them.

Premises means a distinct and definite location which may include a building, a part of a building, a room, or any other definite area contiguous thereto.

(Ord. 4324, 2-4-09. Code 1994 § 10-220)

5.20.030 Licensing authority established.

(a) There is established a massage parlor licensing authority, which shall have and is vested with the authority to grant or refuse licenses for massage parlors based upon the criteria set forth herein, and State law to conduct investigations and to suspend or revoke such licenses for cause in the manner provided by this code.

(b) Hereinafter, the massage parlor licensing authority shall be the persons that comprise the Grand Junction liquor and fermented malt beverage licensing authority (to wit a designated hearing officer, the City Attorney or his/her designee and the City Clerk or her/his designee). The qualifications and appointment of members to fill vacancies and removal of members by the City Council shall be in the manner provided by the Charter and this code.

(c) The authority shall meet as needed. The hearing officer shall preside over all hearings and proceedings of the authority.

(d) The City Clerk shall receive all applications for licenses and shall issue all licenses granted by the authority, upon receipt of all fees as are required by this chapter. All public notices required by this chapter shall be accomplished by the City Clerk.

(e) The Code Enforcement Officer for the affected area shall also be the massage parlor inspector, who shall perform routine periodic inspections of the licensed premises and such other duties as the massage parlor licensing authority may reasonably direct. Public notice by posting of signs required by this chapter shall be accomplished by the Code Enforcement Officer.

(Ord. 4324, 2-4-09. Code 1994 § 10-230)

5.20.040 License required – Display.

(a) It is unlawful for any person to operate a massage parlor within this City unless such person shall have first obtained a massage parlor license from the City.

(b) Such license shall be prominently displayed at all times upon the premises for which the license was issued.

(Ord. 4324, 2-4-09. Code 1994 § 10-240)

5.20.050 Application fee.

Each applicant, whether an individual, partnership or corporation, shall pay an application fee as determined by City Council in accordance with its annual fee resolution at the time of filing an application. Such application fee shall be nonrefundable.

(Ord. 4324, 2-4-09. Code 1994 § 10-250)

5.20.060 License application.

(a) Applications for a license under the provisions of this chapter shall be on forms prepared and furnished by the City Clerk which shall set forth such information as the licensing authority requires to enable the authority to determine whether a license should be granted. Each individual applicant, partner of a partnership, officer, director and holder of over 10 percent of the corporate stock of the corporate applicant and all managers shall be named in each application form and each of them shall be photographed and fingerprinted by the Grand Junction Police Department. Each individual applicant, partnership and corporate applicant shall also furnish evidence from the Public Works and Planning Department that the proposed establishment meets the requirements of the City zoning ordinance, proof of the applicant's right to possession of the premises, complete plans and specifications for the premises, a financial questionnaire, a background investigation report and consent to release financial information and any other information necessary to complete the investigation of the applicant. Each corporate applicant shall furnish evidence that it is in good standing under the laws of the State of Colorado or in the case of a foreign corporation, evidence that the corporation is currently authorized to do business in the State of Colorado.

(b) The City Clerk shall not accept any application that is not complete in every detail. If an omission or error is discovered by the City Clerk, the application shall be rejected and returned to the applicant for completion or correction without further action by the City Clerk or the licensing authority. All fees shall be returned with the application. For purposes of this chapter, the date the City Clerk accepts an application which is complete in every detail shall be the filing date.

(c) Upon receipt of a complete application for a license to operate a massage parlor, the City Clerk shall set the boundaries of the neighborhood to be considered pursuant to GJMC 5.20.090(b) in determining whether or not to grant said license.

(Ord. 4324, 2-4-09. Code 1994 § 10-260)

5.20.070 Public notice – Posting and publication.

(a) Upon receipt of a complete application, except an application for renewal or for transfer of ownership, the licensing authority shall schedule a public hearing upon the application not less than 30 days after the filing date of the application and shall post and publish the public notice thereof not less than 10 days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the municipality in which the premises are located.

(b) Notice given by posting shall include a sign of suitable material, stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners and, if the applicant is a corporation, association or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary and manager.

(c) Notice given by publication shall contain the same information as that required for notice signs.

(d) If the building in which the massage parlor is to be operated is in existence at the time of the application, any sign posted as required in subsections (a) and (b) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time

of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(e) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and cross-examine witnesses. As used in this chapter, "party in interest" includes the applicant, a resident of the neighborhood under consideration, or the owner or manager of a business located in the neighborhood under consideration.

(f) The licensing authority, in its discretion, may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.

(Ord. 4324, 2-4-09. Code 1994 § 10-270)

5.20.080 Investigation.

(a) When a complete application has been accepted for filing, the required individuals have been fingerprinted and photographed, and the license fee has been paid, the City Clerk shall transmit the application to the Grand Junction Police Department for investigation of the background and financial interest of each individual applicant, each partner holding over 10 percent interest of a partnership, and each officer, director and holder of over 10 percent of the stock of a corporation of a proposed massage parlor establishment. The Police Department shall also investigate the source of funds for the business. Each applicant shall pay a nonrefundable investigation fee at the time the application is filed in the amount then charged by the Colorado Department of Public Safety for each person who will be investigated.

(b) The investigation conducted by the Grand Junction Police Department shall be sufficient to verify the accuracy of all the information submitted as part of the application. The Grand Junction Police Department shall make a recommendation to the licensing authority to approve or deny the license based on its investigation. In investigating the qualifications of any applicant, licensee, or employee or agent of the licensee or applicant, the licensing authority may have access to criminal history record information furnished by criminal justice agencies subject to any restrictions imposed by such agencies. In the event the licensing authority takes into consideration information concerning the applicant's criminal history records, the licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of his/her application for a license.

As used in this subsection (b), "criminal justice agency" means any federal, State, or municipal court or any governmental agency or subunit of such agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(c) No application for a massage parlor license at a particular location by or on behalf of the same person shall be received or acted upon concerning a location for which, within two years preceding, the local licensing authority has refused to approve a license on the grounds, in whole or in part, that the license(s) already granted for the particular locality were adequate for the reasonable requirements of the neighborhood and the desires of the inhabitants at the time of such refusal.

(Ord. 4324, 2-4-09. Code 1994 § 10-280)

5.20.090 Results of investigation – Decision of authority – Change of financial interest.

(a) Not less than 10 days prior to the date of the hearing, the City shall make known the findings based upon its investigation, in writing, to the applicant and other interested parties. The licensing authority has authority to refuse to issue any license, subject to judicial review.

(b) Before entering any decision approving or denying the application, the licensing authority shall consider, except where this chapter specifically provides otherwise, the facts and evidence pro-

duced as a result of the investigation, including the reasonable requirements of the neighborhood for the license for which application has been made, the desires of the inhabitants, the number, type and availability of other massage parlors located in or near the neighborhood under consideration, and any other pertinent matters affecting qualifications of the applicant for the conduct of the business proposed.

(c) Any decision of the licensing authority approving or denying an application shall be in writing stating the reasons therefor and shall be made within 30 days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application.

(d) No license shall be issued by the licensing authority after approval of an application until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the provisions of this chapter, and then only after inspection of the premises has been made by the licensing authority to determine that the applicant has complied with the plans and specifications submitted upon application. If the building has not been constructed or placed in operation within one year after approval of the license application or construction of the building has not commenced within one year after such approval, the licensing authority, in its discretion, may revoke or elect not to renew the license.

(e) Any change in the partners holding over 10 percent in interest of a partnership or in the officers, directors or holders of over 10 percent of the stock of a corporate licensee holding a massage parlor license shall result in termination of the license of the partnership or corporation, unless such licensee within 30 days after such change, files a written notice of such change with the City Clerk on forms provided by the City Clerk, together with the required fees, fingerprints and photographs. The Grand Junction Police Department shall thereafter conduct an investigation and make a recommendation as set out in GJMC 5.20.080.

(f) Each license issued under this chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he holds. A separate license shall be issued for each specific business or business entity and each geographical location.

(Ord. 4324, 2-4-09. Code 1994 § 10-290)

5.20.100 Renewals.

Application for the renewal of an existing license shall be made to the licensing authority not less than 45 days prior to the date of expiration. The licensing authority may cause a hearing on the application or renewal to be held. No such renewal hearing shall be held by the licensing authority until a notice of hearing has been conspicuously posted on the licensed premises for a period of 10 days and notice of the hearing has been provided the applicant at least 10 days prior to the hearing. The licensing authority, in its discretion, may revoke or elect not to renew a license if it determines that the licensed premises have been inactive for at least three months. The licensing authority may also refuse to renew any license for good cause, subject to judicial review.

(Ord. 4324, 2-4-09. Code 1994 § 10-300)

5.20.110 Transfer of ownership.

(a) Application shall be made to the licensing authority prior to any transfer of ownership on forms prepared and furnished by the licensing authority. In determining whether to permit a transfer of ownership, the licensing authority shall consider the requirements of GJMC 5.20.060. The licensing authority may cause a hearing on the application for transfer of ownership to be held. No such hearing shall be held by the licensing authority until the notice of hearing has been conspicuously posted on the licensed premises for a period of 10 days and written notice of the hearing has been provided the applicant at least 10 days prior to the hearing.

(b) When a license has been issued to a husband and wife or to general or limited partners, the death of a spouse or partner shall not require the surviving spouse or partner to obtain a new license. All rights and privileges granted under the original license shall continue in full force and effect as to such survivors for the balance of the license.

(Ord. 4324, 2-4-09. Code 1994 § 10-310)

5.20.120 Location of massage parlors.

(a) It is unlawful to operate or cause to be operated a massage parlor which is in violation of GJMC Title 21, Zoning and Development.

(b) It is unlawful to operate or cause to be operated a massage parlor within 1,000 feet of:

(1) A church;

(2) A school or child care facility, as defined in GJMC Title 21, Zoning and Development;

(3) A public park;

(4) A boundary of any residential district;

(5) The property line of a lot devoted to residential use.

(c) It is unlawful to cause or permit the operation of a massage parlor within 1,000 feet of another massage parlor or an adult business as defined in GJMC Title 21, Zoning and Development.

(d) It is unlawful to cause or permit the operation or maintenance of more than one massage parlor in the same building, structure or portion thereof.

(e) For the purposes of subsections (b) and (c) of this section, the distance between any two massage parlors shall be measured in a straight line, without regard to intervening structures or objects, from the closest point of the property line of such use to the closest exterior wall of the structure in which the massage parlor is located.

(f) Any massage parlor lawfully operating on the effective date of the ordinance codified in this chapter that is in violation of subsections (b) through (e) of this section shall be allowed to continue operating for an amortization period of six months. Six months after the ordinance codified in this chapter becomes effective, all massage parlors must comply with subsections (b) through (e) of this section and all other provisions of this chapter.

(g) A massage parlor lawfully operating is not rendered a nonconforming use by the subsequent location of a church, a school or child care facility, as defined in GJMC Title 21, Zoning and Development, public park, residential district, a residential lot, or adult business within 1,000 feet of the massage parlor; however, if the massage parlor ceases operation for a period of 180 days or more, regardless of any intent to resume operation, it may not recommence operation in that location.

(h) No changes of location for a licensed massage parlor shall be allowed.

(Ord. 4324, 2-4-09. Code 1994 § 10-320)

5.20.130 Identity cards.

(a) Every applicant, licensee, agent or employee of said applicant or licensee who administers massages shall, prior to commencing work in or upon the licensed premises, obtain an identity card from the City Clerk and shall carry said identity card at all times while in or upon the licensed premises.

(b) The identity card shall include the location of the massage parlor, the name, signature and photograph of the individual. A fee of $50.00 shall be charged for each card, said fee to be collected by the City Clerk and used to defray the expenses of providing such identity cards. A separate identity card shall be required for each person for each place of employment.

(c) Each applicant for an identity card shall be photographed and fingerprinted by the Grand Junction Police Department and must submit an application form, background investigation report, a copy of a valid picture driver's license or other form of acceptable picture identification, and the required identity card and investigation fees to the City Clerk. Upon receipt of a properly completed application form, acceptable form of identification and fee, the City Clerk shall transmit the application to the Grand Junction Police Department for investigation of the applicant's background. The City Clerk shall reject any application that is not complete in every detail.

(d) Within 45 days after filing of a properly completed application for an identity card, the City Clerk will either issue the requested identity card or notify the applicant that the Police Department has recommended denial of the identity card. The Police Department may request a reasonable extension of time from the City Clerk if such extension of time is necessary in order to complete its investigation. Notice of denial of an identity card setting out the grounds for denial shall be sent by certified mail to the applicant at the address provided by the applicant. The grounds for denial shall be those set out in this section and GJMC 5.20.140. In the event of a denial, an applicant shall have the right to a hearing before the licensing authority as set forth in GJMC 5.20.140.

(e) Should any identity card be lost, stolen or otherwise missing, the person to whom the identity card was issued shall report the missing card to the City Clerk within 48 hours of discovery that the identity card is missing. Replacement identity cards shall be issued within five business days of receipt of an application for a replacement identity card. The fee for a replacement card shall be $10.00.

(Ord. 4324, 2-4-09. Code 1994 § 10-340)

5.20.140 Suspension – Revocation – Denial of identification card – Hearings.

(a) The licensing authority may suspend or revoke any license granted pursuant to this chapter upon a finding of the following:

(1) That repeated disturbances of the public peace involving patrons, agents or employees, or the licensee of the establishment have occurred within the licensed establishment or upon any parking areas, sidewalks, access ways or grounds within the neighborhood of the licensed establishment;

(2) That the licensee or any agents or employees thereof are illegally offering for sale or illegally allowing to be sold or consumed upon the licensed premises, or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed premises, narcotics or dangerous drugs, fermented malt beverages, or malt, vinous or spirituous beverages;

(3) That the licensee or any agents or employees thereof permitted patrons to engage in public displays of indecency prohibited by law or permitted patrons or employees to engage in acts of prostitution or negotiations for acts of prostitution with the licensed establishment or upon any parking areas, sidewalks, access ways or grounds immediately adjacent to the licensed establishment, when the licensee or agent or employee knew or should have known such displays or acts were taking place;

(4) That the licensee made a false statement or gave false information in connection with an application for or renewal of a massage parlor license;

(5) That the licensee violated or permitted a violation of any provisions of this chapter.

(b) Nothing in this chapter shall prohibit the City from taking any other enforcement action provided for by the Grand Junction Municipal Code, the laws of the State or of the United States.

(c) A licensee shall be entitled to a hearing before the licensing authority if the City Attorney files a written complaint with the licensing authority seeking to suspend or revoke a license.

(1) When there is probable cause to believe that a licensee has committed or has allowed to be committed acts which are grounds for suspension or revocation under this chapter, the City

Attorney may file a written complaint with the licensing authority setting forth the circumstances of such acts.

(2) The licensing authority shall provide a copy of the complaint to the licensee, together with notice to appear before the licensing authority or his designee for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked.

(3) At the hearing referred to above, the licensing authority shall hear and consider relevant evidence from any witness. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in aggravation of the offense shall also be permitted. The licensing authority shall make findings of fact from the evidence as to whether a violation has occurred. If the licensing authority determines that a violation did occur, it shall issue an order within 30 days after the hearing suspending or revoking the licensee's license based on its findings of fact. No suspension shall be for a period longer than six months. A copy of the findings and order shall be mailed to or served on the licensee at the address on the license.

(4) The order of the licensing authority made pursuant to subsection (c)(3) of this section shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of a licensee to appeal said order in a timely manner shall constitute a waiver of any right a licensee may otherwise have to contest the suspension or revocation of his or her license.

(5) (i) The licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and production of papers, books and records necessary for the determination of any hearing which the licensing authority conducts. It is unlawful for any person to fail to comply with any subpoena issued by the licensing authority.

(ii) A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State. Upon failure of any witness to comply with such subpoena, the City Attorney shall petition any judge of the Municipal Court of the City, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, that the court after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify or produce books, records or other evidence, under penalty of punishment for contempt in case of willful failure to comply with such order of court.

(d) The City Attorney may act on behalf of the City during hearings before the licensing authority.

(e) All hearings held before the licensing authority under this chapter shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the City Clerk, and shall pay all costs of preparing such record.

(Ord. 4324, 2-4-09. Code 1994 § 10-350)

5.20.150 Persons prohibited as licensees.

No license provided by this chapter shall be issued to or held by:

(a) Any corporation, any of whose officers, directors or stockholders holding more than 10 percent of the stock thereof are not of good moral character;

(b) Any partnership, association or company, any of whose officers, or any of whose members holding more than 10 percent interest therein, are not of good moral character;

(c) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the licensing authority;

(d) Any sheriff, deputy sheriff, police officer or prosecuting officer or any of the licensing authority's inspectors or employees;

(e) Any person unless he or she is, with respect to his or her character, record and reputation, satisfactory to the licensing authority.

(Ord. 4324, 2-4-09. Code 1994 § 10-360)

5.20.160 Unlawful acts.

(a) It is unlawful for any person:

(1) To operate a massage parlor anywhere within the City without holding a valid Grand Junction massage parlor license;

(2) To work in or upon the licensed premises of a massage parlor administering massages without obtaining and displaying a valid identity card pursuant to GJMC 5.20.130;

(3) To be in or upon the premises of a massage parlor or to obtain the services provided in a massage parlor by misrepresentation of age or by any other method in any place where massage is practiced when such person is under 18 years of age, unless such person is accompanied by his or her parent or legal guardian, or has a physician's prescription for such massage services;

(4) To allow the sale, giving or procuring of any massage services to any person under the age of 18 years, unless such person is accompanied by his or her parent or legal guardian, or has a physician's prescription for such massage services;

(5) To employ any person under the age of 18 years in a massage parlor; however, if any person who is not 18 years of age exhibits a fraudulent proof of age that he or she is 18 years of age or older, any action relying on such fraudulent proof of age shall not constitute grounds for the revocation or suspension of any license issued under this chapter for violation of subsection (a)(3) through (5) of this section, unless the person inspecting such proof of age knew or should have known that it was fraudulent;

(6) To fail to display at all times in a prominent place on the licensed premises a printed card with a minimum height of fourteen inches and a width of eleven inches with each letter a minimum of one-half inch in height, which shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR HAS A PHYSICIAN'S PRESCRIPTION FOR SUCH MASSAGE SERVICES.

IT IS ILLEGAL FOR ANY PERSON TO ALLOW A PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO BE IN OR UPON THESE PREMISES AT ANY TIME, UNLESS HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN, OR HAS A PHYSICIAN'S PRESCRIPTION FOR SUCH MASSAGE SERVICES.

FINES OR IMPRISONMENTS MAY BE IMPOSED BY THE COURTS FOR VIOLATION OF THESE PROVISIONS UNDER THE GRAND JUNCTION MUNICIPAL CODE AND ARTICLE 48.5 OF TITLE 12, COLORADO REVISED STATUTES.

(7) To permit any narcotics or dangerous drugs on the licensed premises;

(8) To permit any fermented malt beverages or malt, vinous or spirituous liquors on the licensed premises;

(9) To administer a massage or permit any massage to be administered to a patron whose genitals, anus or female breasts are exposed during the massage treatment; and no patron of a massage parlor shall knowingly expose his or her genitals, anus or female breasts during a massage;

(10) To intentionally touch or permit any other person to touch the genitals, anus or female breasts of any other person while on the licensed premises;

(11) To engage in, encourage, or request, or to permit any person to engage in, encourage, or request acts of masturbation while on the licensed premises;

(12) To interfere with or refuse to permit any inspection of the licensed premises by the Grand Junction Police Department or agent of the City.

(b) No massage parlor shall be open for business between the hours of 12:00 midnight and 6:00 a.m.

(Ord. 4324, 2-4-09. Code 1994 § 10-370)

5.20.170 Penalty.

(a) Any person violating any provision of this chapter shall be punished pursuant to GJMC 1.04.090.

(b) The penalties provided in this section shall not be affected by the penalties provided in any other section of this chapter but shall be construed to be an addition to any other penalties.

(Ord. 4324, 2-4-09. Code 1994 § 10-380)

5.20.180 Employee apparel.

All employees of the establishment shall wear clothing that covers the pubic area, perineum, buttocks, cleft of the buttocks and entire chest to four inches below the collar bone and legs not exposed more than six inches above the knees. No transparent clothing shall be permitted.

(Ord. 4324, 2-4-09. Code 1994 § 10-390)

5.20.190 Right of entry.

The application for a massage parlor license shall constitute consent of the licensee and his or her agents or employees to permit the Grand Junction Police Department or any other agent of the City to conduct routine inspections of any licensed massage parlor during the hours the establishment is conducting business and at other times during which activity on the premises is in evidence.

(Ord. 4324, 2-4-09. Code 1994 § 10-400)

5.20.200 Exemptions.

The following classes of persons and establishments are exempted from this chapter:

(a) Physicians, osteopaths, physical therapists, chiropodists, chiropractors or podiatrists licensed or registered to practice in this State while performing such services in the practice of their respective professions;

(b) Registered nurses and licensed practical nurses that are licensed to practice in this State while performing such services in their usual nursing duties;

(c) Barbers and cosmetologists duly licensed under the laws of this State in the course of practice of their usual and ordinary licensed vocation and profession, as defined in § 12-8-101, C.R.S. et seq.;

(d) Hospitals, clinics, nursing and convalescent homes and other similar institutions dedicated to medical or nursing practices licensed under the laws of this State where massage and baths may be given;

(e) Massage practiced in an institution of learning established for such instruction under Title 12, Article 59, C.R.S.;

(f) Training rooms of public and private schools accredited by the State Board of Education or approved by the State Board for Community Colleges and Occupational Education, and training rooms of recognized professional or amateur athletic teams;

(g) Health care facilities licensed by the State of Colorado and not specified in this chapter;

(h) Massage therapists as defined in GJMC 5.20.020.

(Ord. 4324, 2-4-09. Code 1994 § 10-410)

5.20.210 Severability.

If any paragraph or subparagraph of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not invalidate the remainder of this chapter and, to this end, the provisions of this chapter are declared to be severable.

(Ord. 4324, 2-4-09. Code 1994 § 10-420)

5.20.220 Prostitution prohibited.

(a) Any person who performs, offers or agrees to perform any act of sexual intercourse, anal intercourse, cunnilingus, fellatio or masturbation with any person not his or her spouse in exchange for money or other thing of value commits prostitution.

(b) Any person, while giving a massage or while appearing nude or semi-nude, who permits or encourages another person not his or her spouse to masturbate in exchange for money or other thing of value commits prostitution.

(Ord. 4324, 2-4-09. Code 1994 § 10-430)

5.20.230 Soliciting for prostitution.

Any person who does any of the following commits soliciting for prostitution:

(a) Solicits another for the purpose of prostitution;

(b) Arranges or offers to arrange a meeting of persons for the purpose of prostitution;

(c) By word, gesture or action, endeavors or arranges to further the practice of prostitution or to obtain the services of a prostitute; or

(d) Directs another to a place knowing such direction is for the purposes of prostitution.

(Ord. 4324, 2-4-09. Code 1994 § 10-440)

5.20.240 Pandering.

Any person who for money or other thing of value knowingly arranges or offers to arrange a situation in which a person may practice prostitution commits pandering.

(Ord. 4324, 2-4-09. Code 1994 § 10-450)

5.20.250 Keeping a place of prostitution.

Any person who has or exercises control over the use of any place which offers seclusion or shelter for the practice of prostitution and who performs any one or more of the following commits keeping a place of prostitution:

(a) Knowingly grants or permits the use of such place for the purpose of prostitution; or

(b) Permits the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which he should reasonably know that the place is being used for purposes of prostitution.

(Ord. 4324, 2-4-09. Code 1994 § 10-460)

5.20.260 Patronizing a prostitute.

(a) Any person who offers or agrees to pay money or other thing of value to a person not his or her spouse in exchange for the performance of an act of sexual intercourse commits patronizing a prostitute.

(b) Any person who enters or remains in a place of prostitution, with intent to engage in an act of sexual intercourse with a person not his or her spouse, in exchange for the payment of money or other thing of value, commits patronizing a prostitute.

(Ord. 4324, 2-4-09. Code 1994 § 10-470)

5.20.270 Prostitute making display.

Any person who by word, gesture or action, endeavors to further the practice of prostitution in any public place or within public view commits prostitute making display.

(Ord. 4324, 2-4-09. Code 1994 § 10-480)

5.20.280 Confiscation of monies used in prostitution offenses.

In addition to any fines, costs or other penalty that the court may impose, a conviction, plea of guilty, no contest or entry of a deferred judgment or sentence to a violation of this chapter shall result in forfeiture to the seizure fund of the Grand Junction Police Department of any monies used in the commission of a violation of this chapter.

(Ord. 4324, 2-4-09. Code 1994 § 10-490)

5.20.290 Additional definitions.

For the purposes of this chapter, the words and phrases used herein, unless the context otherwise indicates, shall have the following meaning:

Anal intercourse means sexual contact between human beings of the genital organs of one and the anus of another.

Cunnilingus means any act of oral stimulation of the vulva or clitoris.

Fellatio means any act of oral stimulation of the penis.

Masturbation means stimulation of the genital organs by manual or other bodily contact exclusive of sexual intercourse.

Nude means the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region or areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual intercourse means real or simulated intercourse, whether genital-genital, anal-genital, anal intercourse, cunnilingus or fellatio, between human beings of the opposite or same sex or with an artificial device.

(Ord. 4324, 2-4-09. Code 1994 § 10-500)

Chapter 5.24

PAWNBROKERS

Sections:

5.24.010 Definitions.
5.24.020 License required.
5.24.030 Qualifications of licensee and business.
5.24.040 License fee.
5.24.050 Bond required.
5.24.060 Required acts of pawnbrokers.
5.24.070 Prohibited acts.

State law reference(s) – Authority to regulate, § 12-56-102, C.R.S.

5.24.010 Definitions.

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

Contract for purchase means a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker upon the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time, not to exceed 90 days, has the option to cancel such contract.

Fixed price means the amount agreed upon to cancel a contract for purchase during the option period. A fixed price shall not exceed:

(1) One-tenth of the original purchase price for each month, plus the original purchase price, on amounts of $50.00 or more; or

(2) One-fifth of the original purchase price for each month, plus the original purchase price, on amounts under $50.00.

Fixed time means the period, not to exceed 90 days, as set forth in a contract for purchase, for an option to cancel such contract.

Local law enforcement agency means the Police Department of the City.

Option means the fixed time and fixed price agreed upon by the customer and the pawnbroker, in which a contract for purchase may be, but does not have to be, rescinded by the customer.

Pawnbroker means a person regularly engaged in the business of making contracts for purchase or purchase transactions in the course of business.

Purchase transaction means the purchase by a pawnbroker in the course of business of tangible personal property for resale, other than newly manufactured tangible personal property which has not been previously sold at retail, when such purchase does not constitute a contract for purchase.

Tangible personal property means all personal property other than choses in action, securities or evidence of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of business in connection with a contract for purchase or purchase transaction.

(Code 1994 § 10-146; Code 1965 § 17-70)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

State law reference(s) – Definitions, § 12-56-101, C.R.S.

5.24.020 License required.

Any person who shall engage in the business of pawnbrokering shall be termed a pawnbroker and be subject to licensure and the other provisions of this code.

(Code 1994 § 10-147; Code 1965 § 17-71)

5.24.030 Qualifications of licensee and business.

No license required by this chapter shall be granted to any person who has been convicted of a felony. No license required by this chapter shall be granted in conjunction with any business where beer or other alcoholic beverages are sold or consumed or in conjunction with which there is operated any card room, billiard room or other place of amusement.

(Code 1994 § 10-148; Code 1965 § 17-72)

5.24.040 License fee.

The fee for each license required by this chapter shall be as established by resolution of the City Council and on file in the City Clerk's office and shall be payable in advance.

(Code 1994 § 10-149; Code 1965 § 17-73)

5.24.050 Bond required.

Each applicant for a pawnbroker's license shall, prior to being issued a license, give a bond in the sum of $2,000 to ensure the faithful observance of the provisions of this chapter and for the safekeeping and return of the articles held under a contract of purchase.

(Code 1994 § 10-150; Code 1965 § 17-74)

5.24.060 Required acts of pawnbrokers.

(a) A pawnbroker shall keep a numerical register in which he shall record the following information: The name, address and date of birth of the customer and driver's license number or other identification number from any other form of identification which is allowed for the sale of valuable articles pursuant to § 18-16-103, C.R.S., or for the sale of secondhand property pursuant to § 18-13-114, C.R.S.; the date, time and place of the contract for purchase or purchase transaction; and an accurate and detailed account and description of each item of tangible personal property, including but not limited to any trademark, identification number, serial number, model number, brand name or other identifying marks on such property. The pawnbroker shall also obtain a written declaration of the customer's ownership which shall state that the tangible personal property is owned by the customer, or shall have attached to such declaration a power of sale from an owner to the customer; how long the customer has owned the property; whether the customer or someone else found the property and, if the property was found, the details of the finding.

(b) The customer shall sign his name in the pawnbroker's register and on the declaration of ownership and shall be given a copy of the contract for sale or a receipt of the purchase transaction.

(c) The pawnbroker's register shall be made available to any local law enforcement agency for inspection at any reasonable time.

(d) The pawnbroker shall keep each register required by this section for at least three years after the date of the last transaction entered into the register.

(e) A pawnbroker shall hold all contracted goods for a period of 10 days following the maturity date of the contract for purchase, during which time such goods shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

(f) A pawnbroker shall hold all property purchased by him through a purchase transaction for 30 days following the date of purchase, during which time such property shall be held separate and apart

from any other tangible personal property and shall not be changed in any form or altered in any way.

(g) Every pawnbroker shall provide the local law enforcement agency, on a daily basis, with two records, on forms to be provided or approved by the local law enforcement agency, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The forms shall contain the same information required to be recorded in the pawnbroker's register pursuant to subsection (a) of this section.

(Code 1994 § 10-151; Code 1965 § 17-75)

State law reference(s) – Similar provisions, § 12-56-103, C.R.S.

5.24.070 Prohibited acts.

(a) No pawnbroker shall enter into a contract for purchase or purchase transaction with any individual under the age of 18 years, or with any person who is visibly intoxicated.

(b) No pawnbroker licensed under this chapter shall purchase outright any secondhand goods for the purpose of resale without first obtaining a license to deal in secondhand goods as required by this code.

(Code 1994 § 10-152; Code 1965 § 17-76)

State law reference(s) – Similar provisions, § 12-56-104, C.R.S.

Chapter 5.28

SECONDHAND GOODS DEALERS

Sections:

5.28.010 Definitions.
5.28.020 License required – Fee.
5.28.030 Records, reports required.
5.28.040 Duty to hold goods five days.
5.28.050 Purchases from minors, drunks and thieves.

State law reference(s) – Valuable articles, § 18-16-101, C.R.S. et seq.

5.28.010 Definitions.

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

Business of dealing in secondhand goods means and includes the purchase or sale of any secondhand articles of whatever nature, which shall include secondhand automobile parts and accessories, except when such parts and accessories are acquired by the purchase of the entire vehicle to which they are attached; provided, that nothing contained in this definition shall be construed to apply to pianos, books, magazines, tapestries, paintings, drawings, etchings, engravings, automobiles or to exchanges, returns or credits of merchandise when the articles exchanged, returned or credited are accepted in full or part payment for like merchandise; provided, however, that any person holding a valid junk dealer's license may also engage in the business of dealing in secondhand merchandise conducting such business in accordance with the provisions of this code under such license. Any person who shall engage in the business of dealing in secondhand goods shall be termed a secondhand goods dealer and be subject to licensure and the other provisions of this code.

Junk means and includes, but is not limited to, ferrous and nonferrous metals, wood or wood products, appliances not being used for their intended purposes, glass, rubber or plastic products, dismantled or inoperable machinery, equipment, tools, junk vehicles or similar materials. Any person who shall buy, sell, barter, handle, trade or deal in junk shall be termed a junk dealer and be subject to licensure and other provisions of this code.

(Code 1994 § 10-176; Code 1965 §§ 17-55, 17-90)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

5.28.020 License required – Fee.

Any secondhand goods dealer as defined in this chapter shall first procure a license therefor before conducting any business. The cost of such license shall be established by resolution of the City Council.

(Code 1994 § 10-177)

5.28.030 Records, reports required.

(a) Records. Every person licensed under this chapter shall keep a book in the form prescribed by the City Manager in which shall be written at the time of purchase an accurate description of goods, articles or things purchased; the date of receipt of the same; and the name, address and description of the person selling the same; which book as well as the article purchased shall at all times be available to inspection by any member of the Police Department.

(b) Reports. Every person licensed under this article shall make a weekly report in writing, in the form prescribed by the City Manager, giving an accurate description of the goods, articles or things pur-

chased or received; the date of the receipt of the same; and the name, address and description of the person selling the same.

(Code 1994 § 10-178; Code 1965 § 17-92)

5.28.040 Duty to hold goods five days.

No person licensed under this chapter shall sell or remove from his place of business any secondhand goods, articles or things purchased by him until the same shall have been in his possession at least five days.

(Code 1994 § 10-179; Code 1965 § 17-94)

State law reference(s) – Similar provisions, § 18-16-106, C.R.S.

5.28.050 Purchases from minors, drunks and thieves.

No person licensed under this chapter shall purchase, or contract for purchase, any tangible personal property or secondhand goods, articles or things from any person under 18 years of age or from any person who at the time of purchase is intoxicated or from any person known by the purchaser to be a thief or an associate of thieves or receiver of stolen property, or from any person reasonably suspected of being such.

(Code 1994 § 10-180; Code 1965 § 17-95)

Chapter 5.32

MOVING BUILDINGS

Sections:

5.32.010 License, bond required.
5.32.020 Permit required – Scope.
5.32.030 City to be represented.

Cross reference(s) – Streets, sidewalks and other public places, Chapters 12.16, 12.20 and 12.24 GJMC.

5.32.010 License, bond required.

No person shall engage in the business of housing moving, or move any building in, along, or across any public street, alley or public ground in the City, unless such person shall first have secured a license from the City to engage in such business; provided, that before such license shall be granted, an annual fee as established by resolution of the City Council and on file in the City Clerk's office shall be paid to the City Treasurer and a good and sufficient surety bond in the sum of $10,000 be approved by the Building Department, such bond to be conditioned upon the faithful performance of all things required under the provisions of this chapter and the payment of all damages caused in the moving of such building or part thereof.

(Code 1994 § 8-136; Code 1965 § 7-14)

5.32.020 Permit required – Scope.

Before any person licensed under this chapter shall move any building in, along, or across any public street or ground in the City, he shall obtain a permit so to do from the City Manager, in which permit shall be described the route to be taken in the moving of such building, and the length of time which may be consumed in the work. No permit for moving will be considered to cover repairing or any construction work of any nature on the building. Any person desiring such a permit shall, at the time of filing an application therefor, pay to the City Clerk a fee as established by resolution of the City Council and on file in the City Clerk's office.

(Code 1994 § 8-137; Code 1965 § 7-15)

5.32.030 City to be represented.

Before entering upon any street, alley or public ground with any building, the licensed house mover shall notify the City Manager, whose duty it shall be to see that due care is taken to prevent damage to any street, alley, or public ground and to report any damage to the City Manager. The cost of such representative must be paid by the licensed house mover.

(Code 1994 § 8-138; Code 1965 § 7-16)

Title 6

ANIMALS

Chapters:

6.04 Animal Regulations
6.08 Livestock and Fowl
6.12 Dogs and Cats
6.16 Rabies Control

Cross reference(s) – Improper depositing or disposal of animal or human waste declared a nuisance, GJMC 8.08.060.

State law reference(s) – Cruelty to animals, §§ 18-9-201 – 18-9-208, C.R.S.; rabies control, §§ 25-4-601 – 25-4-615, C.R.S.; animals, § 35-40-100.2, C.R.S. et seq.; estrays, § 35-44-101, C.R.S. et seq.

Chapter 6.04

ANIMAL REGULATIONS

Sections:

6.04.010 Cruelty to animals.
6.04.020 Abandonment of animals.
6.04.030 Poisoning animals.
6.04.040 Molesting birds.
6.04.050 Injuring or meddling with police dogs.
6.04.060 Prohibition against ownership or sale of certain animals – Wild animals at large.
6.04.070 Interference with enforcement.
6.04.080 Inspection procedure.
6.04.090 Dead animals.
6.04.100 Refusal to pay fees.
6.04.110 Board of Animal Control.
6.04.120 Removal and disposal of dog excrement.

6.04.010 Cruelty to animals.

It shall be unlawful for any person to overdrive, overload, drive when overloaded, overwork, torture, deprive of necessary sustenance, cruelly beat, mutilate or kill needlessly, or to carry in any vehicle or otherwise transport in a cruel and inhumane manner, any animal, or to cause any of these acts or omissions to be done. It shall be unlawful for any animal owner to fail to provide any animal with proper food, drink, protection from the weather and necessary medical treatment to prevent suffering, or to cause any of these acts or omissions to be done.

(Code 1994 § 6-1; Code 1965 § 6-19(a))

State law reference(s) – Cruelty to animals, § 18-9-201, C.R.S. et seq.

6.04.020 Abandonment of animals.

It shall be unlawful for any person to abandon any animal or to cause such to be done.

(Code 1994 § 6-2; Code 1965 § 6-19(e))

6.04.030 Poisoning animals.

It shall be unlawful for any person to poison any animal or to distribute poison in any manner whatsoever with the intent to, or for the purpose of, poisoning any animal; provided, however, that for the purpose only of this section the word "animal" shall not include mice, rats, bats or other rodents, but shall include hamsters, guinea pigs, rabbits and squirrels. The distribution of any poison or poisoned meat or food, other than those specifically for insect or mouse, rat or bat or other rodent poisoning, shall be prima facie evidence of violation of this section.

(Code 1994 § 6-3; Code 1965 § 6-19(b))

6.04.040 Molesting birds.

It shall be unlawful for any person within the City or within the cemeteries of the City to at any time willfully frighten, shoot at, wound, kill, capture, ensnare, net, trap, or in any other manner molest any robin, lark, whippoorwill, finch, thrush, wren, martin, swallow, snowbird, bob-o-link, red-winged blackbird, raven, oriole, kingbird, mockingbird, song sparrow, or any waterfowl or other song or insectivorous birds; or to in any manner molest or injure the nest, eggs or young of any such birds or waterfowl.

(Code 1994 § 6-4; Code 1965 § 6-19(c))

6.04.050 Injuring or meddling with police dogs.

It shall be unlawful for any person to willfully or maliciously torture, torment, beat, kick, mutilate, injure, disable or kill any dog, including a guard dog, used by a law enforcement agency within the City in the performance of the functions and duties of such agency, or to unwarrantedly interfere or meddle with any such dog while being used by such agency or any member thereof in the performance of any of the functions or duties of such law enforcement agency or of such members.

Interference or meddling with a law enforcement dog includes yelling, barking at, or otherwise distracting by noise, whether yelling or speaking to the canine while he is located inside or outside the law enforcement vehicle. Unsolicited physical touching or throwing objects at or near the dog shall also be included. These examples are inclusive but not limitations.

(Ord. 4350, 4-15-09. Code 1994 § 6-5; Code 1965 § 6-19(f))

Cross reference(s) – Law enforcement, Chapter 2.44 GJMC.

6.04.060 Prohibition against ownership or sale of certain animals – Wild animals at large.

(a) It shall be unlawful for any person to own, possess, harbor, sell, or in any other manner traffic in the following species of animals:

(1) All poisonous snakes and poisonous reptiles; and all nonpoisonous snakes with a length greater than six feet;

(2) Gorillas, chimpanzees, orangutans, and any other primates;

(3) Any species of feline not falling within the categories of ordinary domesticated house cats;

(4) Bears of any species;

(5) Raccoons, porcupines, skunks, badgers, or other similar species, except ferrets (Mustela putruis); or

(6) Foxes, wolves, coyotes, or other species of canines other than dogs.

(b) The provisions of subsection (a) of this section shall not be applicable to any bona fide zoological garden or any circus or carnival licensed by the City or any bona fide research institute using wild, exotic or dangerous animals for scientific research.

(c) It shall be the duty of the Animal Control Officer, or any police officer, to apprehend any wild animal that may be at large within the City. Such wild animal may be impounded, released in wild areas outside of the City which are representative of the animal's natural habitat, or humanely destroyed, as the Animal Control Officer, or police officer, in his discretion shall determine, subject to applicable State law. The Animal Control Officer is hereby authorized to use any tranquilizer gun or other firearm to subdue or destroy any wild or dangerous animal that is determined by the Animal Control Officer to be of danger to either itself or to the public health and safety.

(Code 1994 § 6-6; Code 1965 § 6-20)

6.04.070 Interference with enforcement.

It shall be unlawful for any person to interfere with, molest, hinder or obstruct the Animal Control Officer or any other City employee or official in the discharge of his official duties under this chapter.

(Code 1994 § 6-7; Code 1965 § 6-21(a))

6.04.080 Inspection procedure.

Whenever the Animal Control Officer or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises conditions such that the keeping or the maintaining of any animal is so hazardous, unsafe or dangerous as to require an inspection to safeguard the animal or

the public health or safety, the Animal Control Officer or his authorized representative is hereby authorized to enter such property at any reasonable time and to inspect such property and perform any duty imposed upon the Animal Control Officer by this chapter or by other applicable law; provided, that:

(a) If such property is occupied, he shall first present proper credentials to the occupant and request entry, explaining his reasons therefor and the purpose of his inspection; and

(b) If such property is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry, explaining his reasons therefor. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the Animal Control Officer or his authorized representative shall have recourse to every remedy provided by law to secure lawful entry and inspect the property.

(Code 1994 § 6-8; Code 1965 § 6-21)

6.04.090 Dead animals.

(a) Placing Dead or Sick Animals, Fowl in the City. It shall be unlawful for any person to throw, put or place any dead dog, livestock, fowl or other animal, or part thereof, or any sick or injured dog, livestock, fowl or other animal, in or upon any street, alley, vacant lot, park or other public place within the City.

(b) Disposal of Dead Animals on Private Property. When any animal shall die in this City, it shall be the duty of the owner or keeper thereof to forthwith cause the removal of the body of such animal by an animal carcass removal and disposal company; or to remove the body of such animal for burial in an authorized animal cemetery; or to remove the body of such animal beyond the limits of the City and cause the carcass to be buried in the earth sufficiently deep to prevent the escape of effluvia injurious to public health. If such carcass shall not forthwith be removed, the same shall be deemed a nuisance and such owner or keeper shall be guilty of a misdemeanor.

(c) Disposal of Dead Animals on Public Right-of-Way. When the body of a dead animal shall be in any street, alley, highway or public grounds and the owner or keeper cannot be determined, it shall be the duty of the Chief of Police, other police officer or Animal Control Officer, when knowledge thereof shall come to him, to forthwith cause such body to be taken to or removed by an animal carcass removal and disposal company.

(Code 1994 § 6-9; Code 1965 § 6-22)

6.04.100 Refusal to pay fees.

The refusal to redeem any impounded dog, livestock, fowl or other animal by the owner thereof shall not relieve the owner of the duty to pay the impoundment, license, boarding and veterinary charges and fees that may be assessed. The owner of any dog, livestock, fowl or other animal who fails or refuses to pay such fees and charges shall be in violation of this chapter and upon conviction shall be subject to both such fine and imprisonment as provided by this chapter.

(Code 1994 § 6-10; Code 1965 § 6-23)

6.04.110 Board of Animal Control.

A five-member advisory board consisting of one representative of the City Police Department, County Sheriff's Department, County Community Services, Grand Valley Medical Society, and the Director of the County Health Department is hereby established. The Board shall provide advisory financial and budgetary input regarding the Animal Control Division and shall recommend animal control fees and charges on an annual basis.

(Code 1994 § 6-11; Code 1965 § 6-28)

6.04.120 Removal and disposal of dog excrement.

(a) The terms "dog" and "owner" as used in this section shall be as defined in GJMC 6.12.020.

(b) No person owning, keeping or in charge of any dog shall fail to prevent such dog from defecating upon any public property, sidewalk or way within the areas or boundaries as specified in this chapter.

(c) It is an affirmative defense to a charge of violating this section that the defecation occurred on private property and that the prior express permission of the owner or all tenants thereof had been obtained.

(d) It is an affirmative defense to a charge of violating this section that the owner, keeper or person in charge of such dog immediately removed or cleaned up such deposit and disposed thereof by depositing it in a toilet or a receptacle ordinarily used for garbage or in an otherwise lawful and sanitary manner.

(e) No person shall fail to possess a shovel, scoop or other suitable equipment for removing dog excrement while the dog and the owner, keeper or person in charge of the dog are upon any public property, sidewalk or way within the jurisdictional boundary of this chapter. For the purposes of this section, an Animal Control Officer, police officer or other officer or agent of the City of Grand Junction having jurisdiction to enforce this code may make a prima facie determination as to the sufficiency of any scoop, shovel or removal device. The owner, keeper or person in charge of the dog shall be relieved from the obligations of this subsection (e) if the dog is: used or participating in a parade, exhibition or demonstration authorized by the City of Grand Junction; or the dog is being actively used or is participating as an operative in a law enforcement search, investigation or other official law enforcement activity; or the dog is being transported in an automobile, truck or similar conveyance and the dog remains confined within the automobile, truck or similar conveyance at all times while being transported on or within the specified areas. Law enforcement officers shall be required to properly remove and dispose of excrement of law enforcement canine(s) after completion of any search, investigation or official law enforcement activity.

(f) Violation of subsection (b) of this section constitutes a separate and distinct offense from violation of subsection (e) of this section.

(g) Every person convicted of a violation of subsection (b) of this section shall pay at least a minimum fine, none of which may be suspended by the Court, according to the following schedule: first conviction, $25.00; second conviction, $50.00; third and each subsequent conviction, $100.00. In applying this schedule the date when the actual violation occurred shall control, regardless of the date of conviction and the record of the violator for three years prior to the date of the current violation shall be considered.

(h) Every person convicted of a violation of subsection (e) of this section shall pay at least a minimum fine, none of which may be suspended by the Court, according to the following schedule: first conviction, $25.00; second conviction, $50.00; third and each subsequent conviction, $100.00. In applying this schedule the date when the actual violation occurred shall control, regardless of the date of conviction and the record of the violator for three years prior to the date of the current violation shall be considered.

(i) This chapter is applicable in, and the jurisdictional boundary is designated to be, all public parks within the City of Grand Junction and including the Main Street "park" described as the area around Main Street bounded by the eastern edge of the right-of-way of 1st Street, the western edge of the right-of-way of 7th Street, the north edge of the right-of-way of the alley north of Main Street and the southern edge of the right-of-way of the alley south of Main Street and those portions of the Riverfront Trail, and other trail section or lengths, as designated by the resolution of the City Council so long as such trails, sections, or lengths are within the City's limits and the trail users are given notice by the use of the appropriate signs.

(j) Any person who is blind, as that term is defined in C.R.S § 26-2-103(3) and uses a guide dog shall be exempt from the provisions of this chapter.

(Ord. 2884, 1-3-96. Code 1994 § 6-12)

Chapter 6.08

LIVESTOCK AND FOWL

Sections:

6.08.010 Cleanliness of premises.
6.08.020 Poultry running at large.
6.08.030 Impoundment regulations.

6.08.010 Cleanliness of premises.

(a) It shall be unlawful for any person who keeps any chickens, ducks, geese, turkeys, pigeons or other domestic fowl within the City to permit the yard or place within which such fowl are kept, by reason of any want of care, food, ventilation, cleanliness or otherwise, to be or become dangerous or detrimental to human health.

(b) The City Manager, his agent, or the County Health Department shall have the power to declare all yards or places where domestic fowl as described in subsection (a) of this section are kept in any unclean condition a nuisance, and the same shall be abated as such.

(c) It shall be unlawful for any person to permit any stable, stall, shed or apartment or any yard or appurtenance thereof in which any horse, cow, swine or any other animal is kept, or any other place in the City in which manure or liquid discharges of such animals shall collect or accumulate, to be kept in an unclean and unwholesome condition within the City so that an offensive smell is allowed to escape therefrom or otherwise to be or become dangerous or detrimental to human health; provided, that nothing in this subsection shall be construed to include manure deposits upon any private property for the purpose of cultivating such manure.

(d) The City Manager, his agent, or the County Health Department shall have the power to declare any stable, stall, shed or apartment or any yard or appurtenance thereof kept in any unclean or unwholesome condition a nuisance, and the same shall be abated as such.

(Code 1994 § 6-31; Code 1965 § 6-14(b), (c))

Cross reference(s) – Nuisances, Chapter 8.08 GJMC; solid waste, Chapter 8.28 GJMC.

6.08.020 Poultry running at large.

(a) It shall be unlawful for any person who is the owner or keeper of any chickens, geese, ducks, turkeys or other poultry to permit the same to run or be at large within the City.

(b) The running at large of any chickens, geese, ducks, turkeys or other poultry within the City is hereby declared a nuisance and the same shall be abated as such.

(Code 1994 § 6-33; Code 1965 § 6-14(e))

6.08.030 Impoundment regulations.

(a) Impoundment, Boarding and Sale.

(1) The Animal Control Officer may impound any domestic animal other than dogs and cats pursuant to this section which is at large or which is unclaimed.

(2) Fees. After impounding and before any animal is released to the owner or person having lawful custody thereof, there shall be paid the following fees:

(i) Impounding fee: Such fee as established by resolution of the City Council.

(ii) Boarding fee: The actual cost incurred for boarding the impounded animal to be paid to the stable owner or keeper of the impounded animal.

(iii) Advertising fee: All actual costs for public notice of sale.

(iv) Veterinary care: All actual costs incurred for necessary veterinary care to be paid to the attending veterinarian.

(b) Disposition of Impounded Animals.

(1) Sale. No animal other than dogs and cats shall be impounded and boarded for more than 10 days, and prior to the expiration of such 10-day period, the Chief of Police shall advertise one time in a newspaper of general circulation in the City that such animal so described in the notice of sale will be sold to the highest bidder. If there is no bidder at such sale, the Chief of Police shall sell such animal at private sale. From the proceeds of such sale, there shall be withheld all costs incurred in impounding, boarding, veterinary care and advertising and conducting of the sale, and any excess remaining shall be returned to the owner, if known. If the owner cannot be located or does not claim such excess funds within 30 days after the sale by presenting satisfactory evidence of ownership, such excess, if any, shall be used to defray those costs incurred by the City for the impounding, boarding and sale of such animals.

(2) Bill of Sale. Upon the sale of any animal at public or private sale as provided in this subsection (b), the Chief of Police shall execute to the buyer thereof a bill of sale describing such animal, and such bill of sale shall extinguish any prior title or interest of any other person claiming an interest in such animal.

(c) Provisions Not Applicable to Dogs, Cats. This section shall not apply to the impoundment of dogs or cats, which subject is treated under Chapter 6.12 GJMC.

(d) Illegally Taking Animal from Pound. It shall be unlawful for any person to break open or in any manner, directly or indirectly, aid or assist in breaking open any pound, pen, enclosure or other place used for the safekeeping of any animal taken up under the provisions of this section with the intent of releasing any animal therein confined.

(e) Disposal of Injured or Sick Animals. Any injured or sick animal impounded and not readily identified to an owner may be immediately euthanized if it is deemed by the Animal Control Officer or a representative to be in pain or contagious to other animals. If identified to an owner, the animal control center will make every reasonable effort to contact the owner for a period of 24 hours, after which time the animal may be immediately euthanized.

(Code 1994 § 6-34; Code 1965 § 6-15)

Chapter 6.12

DOGS AND CATS

Sections:

6.12.010 Intent.
6.12.020 Definitions.
6.12.030 Licensing and vaccination.
6.12.040 Dogs running at large.
6.12.050 Dangerous dogs.
6.12.060 Barking dogs.
6.12.070 Cruelty to animals or neglect of animals.
6.12.080 Seizure and impoundment.
6.12.090 Redemption from impoundment and disposition.
6.12.100 Enforcement.
6.12.110 Animal control center charges and fees.
6.12.120 Violation unlawful – Penalty.
6.12.130 Penalty assessment – Fine schedule.
6.12.140 Additional remedies for violation of chapter – Suspension of penalties.
6.12.150 Indemnity clause.
6.12.160 Violations not involving bodily injury.
6.12.170 Violations involving bodily injury.
6.12.180 Severability clause.

State law reference(s) – Animal fighting, § 18-9-204, C.R.S.; dangerous dogs, § 18-9-204.5, C.R.S.; dog injuring livestock, § 35-43-126, C.R.S.

6.12.010 Intent.

The City Council intends by adopting this chapter to declare as a matter of public policy that the keeping of dogs in the City constitutes a potential threat to the health, safety, and welfare of the citizens of the City; that dog owners or keepers must therefore assume full responsibility for the actions and condition of their animals and dogs; that dogs at large, barking dogs, rabid dogs, dangerous dogs, and similar type animals constitute a public nuisance; that the regulation of dogs and similar type animals and the actions of their owners through administrative regulation and civil and criminal enforcement is necessary to protect the citizens of the City and their property; and that the provisions of this chapter should be liberally construed and are intended to implement the maximum control of rabid animals under the home rule powers of this City and the statutes of the State.

(Code 1994 § 6-56; Code 1965 § 6-27)

6.12.020 Definitions.

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

Abandon means the leaving of an animal without adequate provision for the animal's care by its owner, the person assuming responsibility for the animal's care and custody, or any other person having custody or control of such animal.

Animal means any living vertebrate creature, domestic or wild, including dogs but excluding estrays as defined in § 35-44-101(1), C.R.S.

Animal control center means the solely authorized facility or facilities designated by the City Council or the City Manager for the purposes of impounding, caring for, or disposing of animals held under the authority of this chapter or State law.

Animal Control Director means the administrative director of operations of the County animal control program; also referred to as the "Director."

Animal Control Officer means any person designated by the City, the Animal Control Director or the City Police Department. Animal Control Officers shall act under and in accordance with the authority of § 30-15-105, C.R.S.

Animal Control Sergeant means a supervisor of animal control for the County, as designated by the Director; also referred to as the "Sergeant."

At large means to be off the premises of the owner or custodian and not under direct physical control of the owner or custodian by means of a leash or other mechanism of control. This requirement does not apply to any dog while actually working livestock, locating or retrieving wild game in a lawful season for a licensed hunter, assisting law enforcement officers, or participating in an organized obedience training class, dog show or an obedience trial. Dogs tethered to a stationary object within range of a public street, sidewalk, or right-of-way shall be deemed to be at large if the owner or custodian of such dog is not immediately present. This general definition of "at large" shall be superseded by the following if the animal is within the following geographic areas:

(1) Downtown Grand Junction. Defined as the area bounded on the east by 12th Street and on the west by First Street; and on the north by the north side of the pavement of Grand Avenue, and on the south by the south side of the pavement of Colorado Avenue.

(2) The North Avenue Corridor. One-half block north and south of North Avenue from First Street on the west to 29 Road on the east.

In these areas, "at large" is defined as an animal off the premises of the owner or custodian and not under direct physical control by means of a leash.

Bodily injury means any physical pain, illness, impairment of physical or mental condition, or physical injury wherein the skin is broken, bleeding occurs, bruising occurs, or bone, tissue, or muscle damage is suffered or emergency medical treatment becomes reasonably necessary for a person or animal.

Cruelty means the act or omission to act of a person who knowingly or with criminal negligence overdrives, overloads, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries or confines in or upon vehicles in a cruel or reckless manner, or otherwise mistreats or neglects any animal, fails to provide proper food, drink or protection from the weather or abandons it.

Dangerous dog means a dog which:

(1) Causes serious bodily injury to a person;

(2) Causes bodily injury to a person or animal on two or more occasions;

(3) Is infected with rabies;

(4) Is of wild extraction and that on any occasion causes bodily injury to a person or animal by biting, whether or not provoked, or is known to be infected with rabies;

(5) Causes bodily injury to a person or animal and the bodily injury occurs off the dog owner's premises;

(6) Is at large and exhibits repeated or continuous aggressive behavior;

(7) Has engaged in a dogfighting contest with the owner's knowledge; or

(8) Has been specifically found to be dangerous by any court or jury;

Provided, however, that a dog which attacks, terrorizes, or causes any bodily injury to a person or animal in immediate response to objectively unreasonable provocation shall not be found to be dangerous if the dog owner establishes such facts as an affirmative defense to a charge for violation of GJMC 6.12.050 or to the satisfaction of the investigating Animal Control Officer. Any dog which

is found to be dangerous as defined by subsections (1), (2), (3) or (4) of this definition may be destroyed in accordance with GJMC 6.12.090(c)(1).

Dog means any member of the canine species, including dogs of wild extraction.

Dogs of wild extraction means a dog that is, or may credibly be alleged to be, in any hereditary part related to wild canines, including but not limited to the wolf family (Canis lupis) and the coyote family (Canis latrans).

Harboring means the act of keeping or caring for an animal or of providing a premises to which the animal returns for food, shelter or care for a period of at least three consecutive days.

Health Department means the County or State Health Department.

Health Officer means the County Health Officer, or any health department employee or other person authorized by the Health Officer.

Leash means a chain, cord, or tether not more than 10 feet in length which is securely attached to and capable of restraining the animal.

Mistreatment means every act or omission to act which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

Neglect means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual and accepted for an animal's health and well-being consistent with the species, breed and type of animal.

Owner means any person, or person acting as custodian, partnership, corporation, or an agent of the foregoing, who owns, co-owns, possesses, keeps, harbors, or who has control or custody of an animal; or the person named as owner in current County licensing records or on the dog identification license or rabies tag; or any parent, guardian or legal custodian of any unemancipated child under 18 years of age, which child owns, co-owns, possesses, keeps, harbors, or has control or custody of an animal.

Premises means property owned, leased, or expressly permitted to be used by an owner; or any confined area or locality such as a residence, business, room, shop, building, or motor vehicle in which the animal's presence is authorized by the owner of the premises. The term "premises" includes the open bed of a motor vehicle.

Provocation means teasing, threatening, striking, or attacking an animal or its owner in the animal's presence, by either a person or another animal, which is objectively unreasonable to an ordinary person. "Provocation" shall not include the lawful presence of an individual or animal in close proximity to but not within or upon property of another, or where a dog is tied, kept, kenneled or harbored.

Public nuisance means and includes any dog whose owner, keeper or custodian has been charged with three or more violations of this chapter concerning the same dog within a two-year period.

Serious bodily injury means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body or breaks or fractures.

Vaccination means the vaccination of an animal with an antirabies vaccine approved by the State Department of Health and administered by a veterinarian licensed by the State.

(Ord. 3827, 10-5-05. Code 1994 § 6-57; Code 1965 § 6-28)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

6.12.030 Licensing and vaccination.

(a) Vaccination Required. No person shall own, keep or harbor in the City any dog or cat over four months of age unless such dog or cat is vaccinated against rabies. All dogs and cats vaccinated at

four months of age or older shall be revaccinated thereafter in accordance with the recommendation in the "Compendium of Animal Rabies Control" as promulgated by the National Association of State Public Health Veterinarians. After vaccinating a cat or dog for rabies, the veterinarian shall give the owner written certification of such vaccination. Any dog or cat owner who moves into the City and owns any dog or cat four months of age or older shall comply with this chapter within 30 days afterward. If any dog or cat has bitten any person or animal within the last 10 days, the owner of said dog or cat shall report that fact to the vaccinating veterinarian and to the animal control facility, and no rabies vaccine shall be administered to that dog or cat until after the 10-day observation period.

(b) Certificate of Vaccination and License. After vaccinating a cat for rabies, the veterinarian shall give the owner written certification of such vaccination. After vaccinating a dog for rabies, the veterinarian shall take the dog owner's payment for a County license and give the dog owner a County license certificate and dog tag. Dogs must have a current license. A dog owner may choose to buy a County dog license certificate and tag from the animal control center rather than a veterinarian. If so, the veterinarian shall give the owner written certification of the dog's current vaccination, which the owner shall show to an Animal Control Officer when purchasing a County license and tag. Fees for licenses shall be as established by resolution of the City Council and on file in the City Clerk's office. Certificates of license shall contain the following information:

(1) The name, street address, and telephone number of the owner of the vaccinated dog;

(2) The veterinarian's name, rabies tag number and expiration date;

(3) The breed, age, color and sex of the dog; and

(4) The County license number, license year, date of issue, license fee, and licensing agent.

Vaccination of dogs of wild extraction is required, as is the above information required for licensure of a dog of wild extraction.

(c) License Tags. Concurrent with the issuance and delivery of the license referred to in subsection (b) of this section, the dog owner shall cause to be attached to the collar or harness of the vaccinated dog a metal tag, serially numbered and bearing the year of issuance, the name of Mesa County, and the telephone number of the animal control center. This license tag is distinct from a metal rabies tag, which the Department of Health may separately require to be issued to an owner and worn by the dog. No dog owner shall fail to place upon his dog the collar or harness to which the tag is attached, and no dog owner shall fail to ensure that the dog at all times wears the collar or harness displaying the license tag, unless the dog is participating in a sanctioned dog show; is securely confined within the owner's premises; is aiding law enforcement officers in the performance of lawful duties; is hunting or retrieving or is training to hunt or retrieve game; or in circumstances where attachment of a license tag would constitute a clear danger to the dog.

(d) Duplicate Tags. In the event of loss or destruction of the original license tag provided for in this section, the dog owner shall obtain within 30 days a duplicate from the animal control center for a fee as established by resolution of the City Council and on file in the City Clerk's office and comply with the requirements set forth in this section.

(e) Proof of Licensing. No person shall own or harbor any dog and fail or refuse to exhibit a license certificate or license tag within a reasonable time upon demand by any Animal Control Officer.

(f) Harboring Unvaccinated Dogs or Cats. No person shall own or harbor any dog or cat which has not been vaccinated against rabies or whose most recent rabies vaccination has expired. This subsection shall apply to dogs of wild extraction.

(g) False and Stolen License Documents. No person shall possess or make use of a stolen, counterfeit or forged license certificate or license tag.

(h) Transferability. Dog license certificates and license tags are not transferable. No person shall attach or cause to be attached any license tag to any dog other than the dog for which the tag was originally issued.

(i) Records. The animal control center and any veterinarian practicing in the City shall create a record of the contents and date of issuance of each certificate of dog or cat vaccination, dog license certificate and dog license tag. Such records shall be deemed to be public records for purposes of admissibility in any proceeding for violation of this chapter. Such records and the absence of entries in such records shall constitute prima facie evidence of dog or cat ownership and compliance or noncompliance with the licensing and vaccination provisions of this chapter.

(Ord. 3827, 10-5-05; Ord. 3248, 5-17-00. Code 1994 § 6-58; Code 1965 §§ 6-40 – 6-48)

6.12.040 Dogs running at large.

(a) Confinement Required. No dog owner, or any person who harbors, keeps or is custodian of a dog, shall fail to physically, mechanically or electronically confine the dog. Such confinement shall ensure that the dog cannot leave the premises or be at large. No dog owner, or any person who harbors, keeps or is custodian of a dog, shall fail to prevent the dog from being or running at large. Any dog off its owner's premises shall be under leash control by its owner.

(b) Dogs in Common and Public Areas. No dog owner, or any person who harbors a dog, shall fail to prevent his dog from running at large in the yard of any multiple occupancy building which is occupied by other persons; or in the common areas of mobile home complexes, apartments, or condominium developments; or in open space areas of subdivisions; or in public or County parks or fairgrounds, unless permission is posted by public authorities allowing dogs at large.

(c) Confinement During Estrus. Any unspayed female dog in the state of estrus (heat) shall be confined during estrus in a house, building, or secured enclosure constructed so that no other dog may gain access to the confined animal. Owners or keepers who do not comply with this subsection may be ordered by an Animal Control Officer to remove the dog to a boarding kennel, veterinary hospital or the animal control center or be served with a penalty assessment notice. All expenses incurred as a result of such confinement shall be paid by the owner. Failure to comply with the removal order of an Animal Control Officer shall be a violation of this chapter and any unspayed female dog in estrus may be summarily impounded in the event of noncompliance with such a removal order.

(d) Evidence of Running at Large. It shall be prima facie evidence that a dog is running at large if the dog is out of its owner's, harborer's or keeper's sight, or if the dog goes upon public or private property without the property owner's, manager's or tenant's consent.

(Ord. 3827, 10-5-05. Code 1994 § 6-59; Code 1965 §§ 6-60 – 6-64)

Editor's note – Dogs running at large during certain months is also prohibited by People's Ordinance Number 30 adopted by referendum on April 17, 1956, which ordinance provides for impoundment.

Cross reference(s) – Parks and recreation, Chapters 12.04 and 12.08 GJMC; streets, sidewalks and other public places, Chapters 12.16, 12.20 and 12.24 GJMC.

6.12.050 Dangerous dogs.

(a) Prohibited. No person shall own or harbor a dangerous dog within the City, except as provided in this chapter. Such dog shall be impounded as a public nuisance pursuant to the procedures set forth in GJMC 6.12.080, and may be subject to disposition as provided by GJMC 6.12.090(c).

(b) Control of Dogs. No owner of a dog shall fail to prevent it from causing serious bodily injury to any person or animal, including pets, domestic livestock, fowl or wildlife. No owner of a dog shall fail to prevent it from causing bodily injury to or biting, without provocation, any person or animal, including pets, domestic livestock, fowl or wildlife. Provocation is not a defense to this section where the response of the dog is not in proportion to the claimed act of provocation.

(c) Guard Dogs. The owner of any dog which has been specifically trained to attack people shall:

(1) Keep the dog confined to an area from which it cannot escape;

(2) Keep the dog under complete control of the handler at all times; and

(3) Post warning signs bearing letters not less than 10 inches high conspicuously about the area of confinement indicating the presence of a guard dog.

(Ord. 3827, 10-5-05. Code 1994 § 6-60; Code 1965 §§ 6-75 – 6-77)

6.12.060 Barking dogs.

(a) Prohibition. No owner of a dog shall fail to prevent it from disturbing the peace and quiet of any other person by loud and persistent barking, baying, howling, yipping, crying, yelping, or whining, whether the dog is on or off the owner's premises.

(b) Provocation Defense. Provocation of a dog whose noise is complained of is an affirmative defense to any charge for violation of subsection (a) of this section.

(c) Complainant's Rights and Responsibilities.

(1) All complainants must clearly identify themselves by stating their name, address and telephone number. The complainant shall further state the description of the offense, the date, time, place and duration of the offense, and if known, the name of the dog's owner, the owner's address and telephone number, and a description of the dog. The identity of a complainant shall be kept confidential until a violation of this section is charged.

(2) If a violation of this section is charged, the complainant shall sign an affidavit on the citation attesting to the violation, or shall verify in writing the allegations of a complaint prior to its service upon the owner.

(3) No person or owner shall be convicted at trial for violation of this section unless oral testimony or other means of reliable evidence is presented proving the elements of subsection (a) of this section. Other reliable evidence includes, but is not limited to, videotape and digital video recordings.

(Ord. 3589, 12-3-03. Code 1994 § 6-61; Code 1965 §§ 6-86 – 6-91)

Cross reference(s) – Noise, GJMC 8.16.010.

6.12.070 Cruelty to animals or neglect of animals.

(a) Violation. A person commits the offense of cruelty to animals if he knowingly or with criminal negligence engages in conduct defined as "cruelty" in this chapter.

(b) Warning Not Required. A warning process substantially similar to that set forth in GJMC 6-61(d)* may be, in the sound discretion of the Animal Control Officer, utilized prior to charging a violation of this section.

(Code 1994 § 6-62; Code 1965 §§ 6-101, 6-102)

Code reviser's note – Section 6-61(d), containing the warning process to be employed prior to a charge being instituted for notification of violation, was removed by the amendments of Ordinance 3589. The City is currently planning amendments to restore the warning process to the code.

6.12.080 Seizure and impoundment.

(a) Impoundment of Dogs Authorized.

(1) An Animal Control Officer may, in his discretion, seize and impound any dog which is:

(i) At large;

(ii) Off the owner's premises and not wearing a current license tag; or

(iii) An unconfined, unspayed female dog in estrus.

(2) An Animal Control Officer may, in his discretion, seize and impound any animal which:

(i) Is required to be observed for rabies symptoms;

(ii) Is, or appears to be, abandoned, abused or neglected;

(iii) Is a domestic animal, appears to be or is sick or injured, and whose owner cannot be identified or located; or

(iv) Is being kept or maintained contrary to the provisions of this chapter.

If a dog found running at large is properly licensed, the Animal Control Officer shall return the dog to its owner in lieu of impounding the dog upon payment of any seizure or release fee which may be required.

(b) Impoundment of Dangerous Dogs. An Animal Control Officer shall forthwith investigate any credible complaint that a dog is dangerous. If the officer reasonably believes the dog is dangerous, it shall be immediately seized and impounded. If impoundment of a dangerous dog cannot be made with safety to the Animal Control Officer or other persons, the dangerous dog may be summarily destroyed without notice to its owner, and the Animal Control Officer shall not be held liable for such action.

(c) Notice of Impoundment and Disposition Alternatives. When any animal has been impounded, Animal Control personnel shall as soon as practicable give notice in person, by letter, telephone, or service of a citation upon the owner, of the animal's impoundment and disposition alternatives. If the animal's owner is unknown at the time of impoundment, Animal Control personnel shall take all reasonable steps to identify the owner and provide such notification. If the animal's owner still cannot be established, Animal Control personnel may proceed with any disposition authorized by this chapter. Animal Control personnel shall maintain records of the times, dates and manner of any notification or attempts at notification. Such records shall constitute prima facie evidence of notification or attempted notification.

(d) Length of Impoundment.

(1) Minimum Period. Any animal impounded at Animal Control which is not reclaimed by the owner shall be held by Animal Control for a minimum of five days after acquisition by Animal Control, before it may become available for adoption or otherwise disposed of at the discretion of Animal Control, except that an Animal Control supervisor may determine that an animal without identification, including but not limited to a microchip or collar, may be disposed of in three days if such supervisor determines the shelter has insufficient resources for such animal or determines that such animal is dangerous. For purposes of this section, "days" means days during which the shelter is open to the public. If the owner does not properly claim and redeem the animal within this period of impoundment, the animal may be subject to disposition under GJMC 6.12.090.

(2) Sick or Injured Animal. An impounded animal which is sick or injured and in pain or contagious to other animals, and which is not identifiable to an owner is subject to a minimal impoundment period and may immediately be humanely disposed of through euthanasia, if (a) in the opinion of a veterinarian the animal is experiencing extreme pain or suffering; and (b) Animal Control has exhausted reasonable efforts to contact the owner for up to 24 hours.

(3) Dangerous Dog. A dangerous dog shall not be released from impoundment during the pendency of any criminal proceeding for violation of GJMC 6.12.050(a). If no such action has been or will be commenced, such dog shall be disposed of pursuant to GJMC 6.12.090.

(4) Observation Period. Notwithstanding any other provision of this section to the contrary, any dog or cat which is known or credibly alleged to have bitten any person shall be immediately impounded or quarantined for observation for rabies infection until 10 days after the date of

the bite and for such further time as deemed necessary by the Director. During the observation period, the dog or cat shall not have any physical contact with any other person or animal outside the immediate family, nor shall it be removed from the location of quarantine unless authorized by Animal Control personnel. Additionally, the dog or cat shall not be vaccinated against rabies, have ownership transferred, or be destroyed or euthanized unless authorized by Animal Control personnel.

(5) Dogs of Wild Extraction. Any dog of wild extraction which is known or credibly alleged to have bitten any person shall be immediately impounded. Unless otherwise ordered, dogs of wild extraction shall, at the discretion of the Sergeant or Director, be quarantined according to the direction of the State Health Department or killed by humane euthanasia, avoiding damage to the brain, and the remains tested for rabies as provided by State law.

(6) Release from Quarantine – Failure to Comply with Quarantine Order or Conditions. Any owner of an animal, or person harboring or keeping an animal, who has been ordered by an Animal Control Officer to quarantine such animal shall release such animal only to the Animal Control Officer according to the quarantine. The Animal Control Officer may allow the owner of the animal to board the animal at a licensed and approved animal hospital, kennel or veterinary facility approved by the animal control center. The Animal Control Officer may allow the owner to quarantine the animal at the owner's residence provided the owner can establish or maintain conditions of the 10-day quarantine period to the satisfaction of Animal Control. No person or owner shall fail to meet the conditions established pursuant to subsection (d)(4) of this section. Failure to comply with a quarantine order or comply with the conditions of quarantine shall result in the animal being impounded by Animal Control and shall be a violation of this chapter.

(e) Liability for Seizure and Impoundment Expenses. An owner or keeper shall be obligated to reimburse the animal control center for all expenses incurred as a result of seizure or impoundment of an animal. Such fees shall be assessed against the owner or keeper of any impounded animal, and shall be payable upon redemption, release or abandonment of the animal. Owners of unwanted animals and persons in custody of abandoned animals may bring in and release them to the animal control center at no cost to the owner.

(f) Removal of Impounded Animals. No person shall remove any impounded animal from the animal control center or from the official custody of an Animal Control Officer without the consent of the Director, Sergeant or officer.

(g) Impoundment Alternatives. Nothing in this section shall be construed to prevent an Animal Control Officer from taking whatever action is reasonably necessary to protect his person or members of the public from injury by any animal.

(Ord. 3827, 10-5-05; Ord. 3262, 6-21-00; Ord. 3248, 5-17-00. Code 1994 § 6-63; Code 1965 §§ 6-111 – 6-117)

6.12.090 Redemption from impoundment and disposition.

(a) Redemption Fees Authorized. Any dog or animal may be claimed and redeemed from impoundment by the owner and released from the animal control center only upon timely demand at the animal control center by a properly identified owner and upon payment of all seizure fees, impoundment fees, license fees, veterinary charges, charges for unusual care and feeding, redemption fees and such other costs or fees as may be reasonably set by Animal Control personnel or as provided in GJMC 6.12.110, concerning animal control center charges and fees.

(b) Disposition of Impounded Animals. Any animal not properly redeemed by the end of any required impoundment or observation period shall become the property of the City. The animal may then be disposed of by Animal Control personnel by sale, donation, adoption to a suitable owner, or by humane euthanasia. No animal shall be released from the animal control center for the purpose of medical research or experimentation.

(c) Disposition of Dangerous Dogs.

(1) A dog found to be dangerous by any court, as defined by subsections (1), (2), (3) or (4) of the definition in GJMC 6.12.020, shall be finally disposed of by humane euthanasia.

(2) The owner of a dog which is found to be dangerous as defined by subsections (5), (6), (7) or (8) of the definition in GJMC 6.12.020 shall be subject to any reasonable sentencing orders set by the court prior to or after redemption of the dog. Such orders and conditions may include but are not limited to delayed release of the dog, the posting of bond, construction of secure areas of confinement, restrictions on travel with the dog, neutering the dog, muzzling the dog, compensation of victims, restrictions on sale or transfer of the dog, destruction, and any other terms or conditions deemed necessary to protect the public or to abate a public nuisance. Such orders and conditions shall require payment of all fines and fees and expenses for seizure, impoundment and redemption, together with penalties and court costs, if any.

(3) In the event of noncompliance with the conditions imposed pursuant to subsection (c)(2) of this section, the dog may be summarily impounded by Animal Control personnel and disposed of at their discretion, or in accordance with court order. Such disposal shall be in addition to any other civil or criminal remedies, including contempt proceedings for noncompliance with any sentencing orders or with administrative conditions for release of a dangerous dog.

(4) A dog found or declared not to be dangerous shall thereupon be forthwith returned to its owner, subject to payment of redemption fees, licensing and veterinarian care, but excluding liability for boarding expenses.

(d) Adoption of Dogs and Cats. No person may adopt a dog or cat from the animal control center until such has guaranteed sterilization of the dog or cat. A deposit shall be required to ensure the sterilization of the animal. Failure of the person adopting a dog or cat to sterilize it shall be a violation of this chapter and shall be punishable as an offense under this chapter. Additionally, Animal Control personnel may seize and impound an animal which has been adopted by a person who fails to sterilize the animal within the time specified. Animals may be adopted at the discretion of Animal Control personnel and subject to reasonably prescribed conditions.

(Ord. 3827, 10-5-05; Ord. 3248, 5-17-00. Code 1994 § 6-64; Code 1965 §§ 6-126 – 6-128)

6.12.100 Enforcement.

(a) Responsibility. The provisions of this chapter shall be enforced within the City by the Director of Animal Control, Animal Control Officers, and any other person however administratively assigned or titled, as authorized by the Grand Junction City Council. Enforcement by the City employees shall be limited to City limits and such additional areas as the Council may designate by contract or resolution pursuant to § 30-15-101(2), C.R.S.. Animal Control Officers shall be deemed "peace officers" without regard to certification requirements, as authorized by § 30-15-105, C.R.S. The City Attorney shall prosecute at his discretion any violation of this chapter.

(b) Procedure. Whenever an Animal Control Officer has personal knowledge or probable cause to believe that a violation of this chapter has occurred, he may arrest the alleged violator, and either issue a penalty assessment notice pursuant to § 16-2-201, C.R.S. et seq., or issue a summons and complaint pursuant to § 16-2-101, C.R.S. et seq.

(c) Penalty Assessment Procedure.

(1) Penalty Assessment. The penalty assessment procedure consists of personal service of written notice upon a person charged with violating this chapter. Personal service may be waived by the recipient. The alleged violator may be released upon conditions of the notice, may choose to appear before a judge in a court of competent jurisdiction if conditions for release are not met. Conditions for release shall include payment of the applicable fine.

(2) Summons and Complaint. The summons and complaint procedure consists of personal service, or waiver by the recipient, of a summons and complaint. The summons requires the recipient to appear before the Municipal Court Judge at a specified time and place to answer to charges of violating this chapter, as set forth in the complaint.

(3) Mandatory Court. A summons and complaint shall be issued to anyone who is:

(i) Charged under GJMC 6.12.050 involving a dangerous dog;

(ii) Charged under GJMC 6.12.070 involving cruelty to an animal;

(iii) Charged under GJMC 6.12.090 involving failure to comply with impound/quarantine requirements;

(iv) Known to have been issued three or more penalty assessment notices for violation of this chapter within the last two years; or

(v) Charged with a violation of this chapter involving serious bodily injury to or death of any person or animal.

(4) Optional Court. Except for the mandatory requirement for court set forth in subsection (c)(3) of this section, an Animal Control Officer may, at his discretion, issue either a penalty assessment notice or a summons and complaint.

(5) Content. A penalty assessment notice as well as a summons and complaint shall contain the following:

(i) Document sworn to by the arresting officer;

(ii) Verification by the complaining party, if any;

(iii) Name of the alleged offender;

(iv) Specific offense;

(v) Applicable fine;

(vi) The amount of pending fines for prior offenses;

(vii) Identity of any victims; and

(viii) A brief summary of the circumstances of the offense, including the alleged offender's attitude.

(d) Interference with Animal Regulation Officers. No person shall interfere with, molest, hinder, or prevent the Director, Sergeant or any other Animal Control Officer from discharging their duties as prescribed by this chapter or other law.

(e) Compliance with Impoundment Requests. No person shall refuse to immediately deliver up or release any animal to an Animal Control Officer upon lawful demand by the officer to seize and impound the animal.

(f) Search and Seizure of Dogs. An Animal Control Officer shall have the right to enter upon private property when necessary to seize a dangerous dog, or a dog that has been running at large, when in reasonable pursuit of such dogs. Authorized entry upon such property shall not include entry into a residence or any structure that confines the dog except with authorization of the property owner. In the event of a property owner's refusal to allow entry upon property or release of the dog and upon presentation of motion and an affidavit establishing probable cause that the dog is a public nuisance as defined in this chapter, a court may issue an ex parte order requiring the owner to immediately surrender the dog to an Animal Control Officer. Noncompliance with such order shall be grounds for proceedings to establish contempt of court. The court is also authorized to issue an ex parte warrant for search and seizure of a public nuisance dog or abandoned, abused, or neglected animals in order to preserve evidence or to protect the public safety and welfare. An Animal Control Officer

seizing a public nuisance dog may impound the dog, release the dog in lieu of impoundment, and/or issue a penalty assessment notice or a summons and complaint to the dog owner, unless otherwise required by court order or this chapter.

(Ord. 3827, 10-5-05; Ord. 3248, 5-17-00. Code 1994 § 6-65; Code 1965 §§ 6-141 – 6-144)

Cross reference(s) – Municipal court, Chapter 2.28 GJMC.

6.12.110 Animal control center charges and fees.

(a) Charges and Fees Authorized and Required. Charges and fees for seizure, impoundment, boarding, licensing, veterinarian care and adoption of an animal shall be cumulatively assessed to any animal owner according to the schedules adopted by resolution of the City Council. Payment of all applicable fees shall be a condition of release, redemption or adoption of any animal. Such fees shall be assessed to defray the administrative expenses incurred in impounding, boarding, adoption of, licensing and euthanizing animals. The deposits authorized under subsection (b) of this section are to ensure vaccination and spaying or neutering of adopted animals in an effort to help control the pet overpopulation.

(b) Deposits. A spay/neuter deposit and rabies vaccination deposit as established by resolution of the City Council and on file in the City Clerk's office shall be required for adoption of an animal. A rabies vaccination deposit shall be required for redemption of an unvaccinated animal. Deposits shall be returned upon proof of spay/neuter and vaccination, as applicable. If proof is not provided to animal control by the date prescribed on the sterilization or vaccination contract the deposit shall be forfeited.

(c) Veterinary Care. Actual, reasonable costs of necessary veterinarian treatment shall be charged to the owners of any animals impounded under this chapter, as applicable.

(Code 1994 § 6-66; Code 1965 §§ 6-156, 6-157)

6.12.120 Violation unlawful – Penalty.

No person shall violate any provision of this chapter, as amended. Any such violation is unlawful, and upon conviction of any violation, the offender shall be punished as set forth in this chapter.

(Code 1994 § 6-67; Code 1965 § 6-166)

6.12.130 Penalty assessment – Fine schedule.

If the penalty assessment procedure is used by the Animal Control Officer or any arresting law enforcement officer, the following fine schedule shall be applied for violations of any section of this chapter which are committed or repeated by the same person within two years from the date of any prior offense:

First offense (up to)	$50.00
Second offense (up to)	$100.00
Third offense (up to)	$250.00
Fourth and subsequent offenses (up to)	$500.00

Penalties for violation of GJMC 6.12.040, Dogs running at large, shall include a surcharge of $25.00 payable to the City of Grand Junction Parks and Recreation Department for the establishment and maintenance of dog park(s). Fines shall not be suspended or waived in order to offset the surcharge.

(Ord. 3827, 10-5-05; Ord. 3589, 12-3-03. Code 1994 § 6-68; Code 1965 § 6-169)

6.12.140 Additional remedies for violation of chapter – Suspension of penalties.

(a) In addition to payment of any fine or other punishment, any person violating this chapter shall be required as a condition of probation or sentencing to pay to the animal control center all applicable fees and charges pursuant to GJMC 6.12.110, and costs of prosecution as may be required by the Court.

(b) Suspension of any penalty or punishment for violation of this chapter may be conditioned upon compliance with any reasonable order or condition designed to protect the public or abate a public nuisance caused by an owner's animal. Such conditions may include but are not limited to those set forth in GJMC 6.12.090(c).

(Code 1994 § 6-69; Code 1965 § 6-170)

6.12.150 Indemnity clause.

The City Council, the Health Officer, Director, Animal Control Officers, or any other employees, persons or agents authorized to enforce the provisions of this chapter shall not be held responsible for any accident or subsequent disease or for any loss or damages resulting from administration of this chapter.

(Code 1994 § 6-70)

6.12.160 Violations not involving bodily injury.

Any violation of GJMC 6.12.030, 6.12.040, 6.12.050, 6.12.060, 6.12.080(f), 6.12.090(d), 6.12.100(d), (e) or (f) any subsections thereof where a summons and complaint are issued which do not involve bodily injury to any person or animal shall be punishable upon conviction by a fine of not more than $500.00. If the dog owner has been convicted of three or more violations of any section of this chapter not involving bodily injury within a two-year period, the Court may impose a sentence of imprisonment in the County jail for not more than 90 days in addition to any fine and may order the destruction of the animal.

(Ord. 3262, 6-21-00; Ord. 3248, 5-17-00. Code 1994 § 6-71)

6.12.170 Violations involving bodily injury.

Any violation of GJMC 6.12.030, 6.12.040, 6.12.050, 6.12.060, 6.12.080(f), 6.12.090(d), 6.12.100(d), (e) or (f) and any subsections thereof where a summons and complaint are issued which involve bodily injury to any person or bodily injury or death to an animal by a dog or other pet animal shall be punishable upon conviction by a fine of not less than $250.00 nor more than $1,000, or by imprisonment of not less than three months nor more than 12 months, or by both such fine and imprisonment for each separate offense. In addition, the Court may order the destruction of the dog upon conviction of the owner of any violation with bodily injury.

(Ord. 3262, 6-21-00; Ord. 3248, 5-17-00. Code 1994 § 6-72)

6.12.180 Severability clause.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this chapter which can be given effect without the invalid provisions or applications, and to this end, the provisions of this chapter are declared to be severable.

(Ord. 3262, 6-21-00; Ord. 3248, 5-17-00. Code 1994 § 6-73)

Chapter 6.16

RABIES CONTROL

Sections:

6.16.010 Vaccination of animals.
6.16.020 Biting animals – Quarantine.
6.16.030 Exception to chapter provisions.

State law reference(s) – Rabies control, § 25-4-601, C.R.S. et seq.

6.16.010 Vaccination of animals.

All animals lawfully kept as pets which are capable of transmitting rabies and which are harbored, possessed or maintained within the City shall be inoculated against rabies by a licensed veterinarian and such vaccination shall be repeated annually thereafter. The owner acquiring such animal shall have the animal inoculated within 30 days after its acquisition, or before the animal reaches four months of age, whichever occurs last.

(Code 1994 § 6-91; Code 1965 § 6-16)

6.16.020 Biting animals – Quarantine.

(a) Notification – Confinement and Observation. The owner of any dog or other animal that is capable of transmitting rabies which has bitten any person shall immediately notify the Animal Control Officer or a police officer of such.

(1) It shall be unlawful for the owner of any dog or other covered animal that has bitten any person or that has been exposed to another animal that is believed to have rabies to destroy such animal before it can be properly confined and observed under the supervision of the County Health Department and/or the Animal Control Officer.

(2) Any dog or other covered animal that has bitten any person or has been exposed to another animal that is believed to have rabies shall be immediately confined and observed for a period of no fewer than 10 days from the date of the bite or exposure.

(i) Such confinement may be, at the discretion of the Animal Control Officer or police officer, on the premises of the owner if deemed appropriate with sufficient safeguard. If not on the owner's premises, the confinement shall be at the animal control center or at any licensed veterinary hospital of the owner's choice. Such confinement shall be at the sole expense of the owner.

(ii) When any dog or other covered animal is confined on the owner's premises, the Animal Control Officer shall make frequent checks to determine the condition of the confined animal.

(3) Failure To Produce Animal – Penalty. The owner of any dog or other covered animal that has been reported as having inflicted a bite on any person shall, on demand of the Animal Control Officer or a police officer, produce the animal for examination and quarantine. It shall be unlawful for the owner of any such animal to fail or refuse to produce the animal on demand, and any such failure or refusal shall subject the owner to immediate arrest if there shall exist probable cause to believe that the animal in question has inflicted a bite upon a person and that the owner is harboring or keeping the animal and willfully refuses to produce the animal upon such demand. Upon arrest, the owner shall be taken by an officer of the Police Department before a judge of the Municipal Court, who may order the immediate production of the animal. Each day of such willful refusal to produce the animal shall constitute a separate violation and offense.

(4) Diagnosis by Veterinarian.

(i) When an animal under quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify the County Health Department and advise it of any reports of human contact with such rabid animal. The County Health Department shall, pursuant to its rules and procedures, humanely destroy such rabid animal.

(ii) If any animal under quarantine dies while under observation and before a diagnosis has been made, the Animal Control Officer shall immediately notify the County Health Department, which will take action to obtain a pathological and inoculation examination of the animal.

(iii) If after the 10-day or longer confinement and observation period provided for in this section the dog or other covered animal has not been diagnosed by a licensed veterinarian as having rabies, the quarantined animal shall be released from confinement by the Animal Control Officer upon payment of all impoundment and other quarantine fees as applicable and vaccination for rabies.

(b) Removal from Quarantine for Rabies. It shall be unlawful for any person to remove from any place of quarantine any animal which has been quarantined pursuant to subsection (a) of this section without the expressed consent of the Animal Control Officer.

(Code 1994 § 6-92; Code 1965 § 6-17)

6.16.030 Exception to chapter provisions.

Except where specific reference is made in this chapter to dogs, the provisions of this chapter shall not apply to dogs, which are treated in Chapter 6.12 GJMC.

(Code 1994 § 6-93; Code 1965 § 6-18)

Title 7

(Reserved)

Title 8

HEALTH AND SAFETY

Chapters:

8.04 Junk, Rubbish and Weeds
8.08 Nuisances
8.12 Litter
8.16 Noise
8.20 Air Pollution
8.24 Burglar Alarm Systems
8.28 Solid Waste
8.32 Trees

State law reference(s) – Abatement of nuisances, § 16-13-301, C.R.S. et seq.

Chapter 8.04

JUNK, RUBBISH AND WEEDS

Sections:

8.04.010 Definitions.
8.04.020 Duties of property owner and lessee – Unlawful accumulations – Inspections.
8.04.030 Cutting and removal required.
8.04.040 Notice to cut and remove.
8.04.050 Notice to abate – Cutting, removal by City.
8.04.060 Assessing costs.
8.04.070 Notice of assessment.
8.04.080 Collection of assessments.
8.04.090 Penalty for violations.
8.04.100 Administrative hearing.

8.04.010 Definitions.

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

Brush means natural growth of bushes and vegetation such as is growing out of place in the location where growing, and shall include all cuttings from trees and bushes, and high and rank vegetable growth, which may conceal filthy deposits.

Junk means and includes, but is not limited to, ferrous and nonferrous metals, wood or wood products, appliances not being used for their intended purposes, rubber or plastic products, dismantled or inoperable machinery, equipment, tools, junk vehicles or trash or similar materials.

Rubbish means all combustible or noncombustible waste, including but not limited to ashes, bottles, cans, carcasses of dead animals, cardboard, cloth, crockery, human or animal excrement, glass, abandoned or unusable household furnishings or appliances, metals, plastics, tree branches, limbs, waste building materials or items discarded in such a manner as to create a reasonable likelihood of becoming a harborage for insects or vermin or disease, or otherwise create a health or safety hazard.

Weed means an unsightly, useless, troublesome or injurious herbaceous plant and such plant as is out of place at the location where growing, and includes all rank vegetable growth which exudes unpleasant or noxious odors, and also high and rank vegetable growth that may conceal filthy deposits. This includes, but is not limited to, any plant species designated in the categories described in § 35-5.5-108, C.R.S. Plant species described in § 35-5.5-108, C.R.S. are maintained by the Colorado Department of Agriculture.

(Ord. 3864 § 1, 2-1-06. Ord. 2832, 5-3-95. Code 1994 § 16-26; Code 1965 § 14-24)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

State law reference(s) – Junk defined, § 31-15-401(1)(d), C.R.S.

8.04.020 Duties of property owner and lessee – Unlawful accumulations – Inspections.

(a) (1) It shall be the duty of each and every owner and each and every lessee of any tract or parcel of real property in the City, including such owners or lessees of agricultural lands (as defined in § 39-1-102(1.6)(a), C.R.S. to keep the property free of junk and rubbish, to cut to within three inches of the ground all weeds and brush exceeding six inches in height, including puncture vine regardless of height, and to keep such growth down on each lot or tract of ground on or along any street or avenue adjoining such lot or tract between the property line and the curbline thereof, and on or along any alley adjoining such lot or tract between the property line and the center of such alley.

(2) The requirements of subsection (a)(1) of this section shall not apply to undeveloped lands over one acre in size; instead, such owners or lessees of such lands shall be required to keep weeds down or cut between the property line of such land and the center of any adjacent right-of-way and shall be required to keep the weeds down or cut within 20 feet of any adjacent tract, parcel or area on which the weeds are kept down or cut, and within 40 feet of any adjacent right(s)-of-way, as provided or required in subsection (a)(1) of this section or as otherwise set forth in this chapter.

(3) Notwithstanding any language to the contrary in subsections (a)(1) and (a)(2) of this section, every owner and every lessee of any tract or parcel, whether or not agricultural or undeveloped, shall remove and cut designated undesirable plants from such property.

(b) It is unlawful for any owner or lessee of any lot or tract of ground in the City to pile, store or allow to accumulate any junk or rubbish on the premises. This section does not apply to salvage yards permitted under Chapter 21.40 GJMC.

(c) The City, through its agents or employees, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours for the purpose of inspecting for the existence of violations, when at least one of the following circumstances has occurred:

(1) The landowner or occupant has requested an inspection;

(2) A neighboring landowner or occupant has reported a suspected weed, junk or rubbish violation and requested an inspection; or

(3) An authorized agent of the City has made a visual observation from a public right-of-way or area and has reason to believe that a violation exists.

No entry upon premises, lands or places shall be permitted until the landowner or occupant has been notified, either orally or by a notice being posted in a conspicuous location at the property. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.

(d) If after the City has given a notice of a pending inspection or requested an inspection and the landowner or occupant denies access to the City employee, agent or inspector, the City may seek an inspection warrant issued by the Municipal Court. The Court shall issue an inspection warrant upon presentation of an affidavit which contains information which gives the inspector reasonable cause to believe that a provision of this chapter is being or has been violated, establishes that the occupant or landowner has denied access to the inspector, and which describes the land. No landowner or occupant shall deny access to such land when presented with an inspection warrant. Denial of access when presented with an inspection warrant shall be deemed a violation and shall be deemed, in addition to other civil or criminal remedies, contempt of court.

(Ord. 3864 § 2, 2-1-06; Ord. 2832, 5-3-95. Code 1994 § 16-27; Code 1965 § 14-25)

8.04.030 Cutting and removal required.

It shall be the duty of the owner, agent or lessee of any lots, tracts or parcels of land, except as stated in GJMC 8.04.020, to cut weeds or brush and to remove such weeds or brush, together with rubbish, and to keep such weeds down each year. All such weeds and brush shall immediately, upon cutting, be removed with the rubbish to the appropriate disposal site.

(Code 1994 § 16-28; Code 1965 § 14-26)

8.04.040 Notice to cut and remove.

The City Manager shall publish for three consecutive days each spring a notice in the official newspaper of the City notifying all owners of property, without naming them, that it is their continuing duty to cut the weeds and brush and to remove the weeds and brush, together with the rubbish, from their properties and from the streets and alleys as provided in this chapter, during the time provided in this chapter, and

that, in default of such cutting and removal, the work may be done under order of the City Manager and the cost thereof, together with the penalties provided in this chapter, will be charged to the respective lots, tracts or parcels of land.

(Code 1994 § 16-29; Code 1965 § 14-27)

8.04.050 Notice to abate – Cutting, removal by City.

(a) In case of the failure of any owner or lessee of any lot, tract or parcel of land to cut and remove weeds, brush, junk or rubbish, as provided in this chapter, and upon the election of the City to remove such weeds, brush, junk or rubbish, the City Manager is authorized to give notice by certified mail addressed to the last-known post office address of the owner of such land as that address appears in the records of the County Recorder. Such notice shall require:

(1) Compliance with the terms of the notification;

(2) Acknowledgment by the addressee of the notification and submission to the City Manager of an acceptable plan and schedule for the completion of a management plan; or

(3) A request from the addressee for an administrative hearing of which the City must receive on or before the close of business of seven calendar days from the date of the notice.

If such election is not made within seven calendar days from the date of the notice, or the land owner or occupant otherwise fails to comply with the notice, the City may then proceed to enforce a management plan, which may include, but not be limited to, cutting of such weeds and brush or removal of junk and/or rubbish.

(b) A management plan shall be prepared by the City and shall include, but not be limited to, a document containing the signatures of the owner and the lessee, if the owner is not in actual possession of the property, a mutually agreed upon date for elimination or removal of weeds, brush, junk and/or rubbish, and a bond, cash deposit or other acceptable form of security payable to the City in an amount reasonably calculated to approximate the cost of cleanup, and/or to secure performance of the management plan.

(c) An administrative hearing, if requested by the party in interest, shall be specific as to the condition of weeds, brush, accumulated junk and/or rubbish, and evidence shall be heard by the duly appointed board as to these matters only. Statements and evidence, if offered, shall be taken from all parties in interest, which evidence must be relevant to the existence of and/or the removal or elimination of the infestation of weeds, brush and/or the accumulation of junk and/or rubbish. The board shall make findings of fact from the evidence presented at the hearing as to whether the conditions complained of exist and should be eliminated. If the board determines that weed or brush infestation exists or if an accumulation of junk and/or rubbish exists and should be cut or removed, the City Manager may issue an order based on the findings of the board, directing that the infestation or accumulation be removed or eliminated. The order of the City Manager shall be a final decision and may only be appealed to the district court, pursuant to Colorado Rule of Civil Procedure 106(a)(4). Failure of a party in interest to timely file an appeal constitutes a bar and a waiver of any right to contest the City's right to eliminate or remove the weeds, brush, junk and/or rubbish from the property and charge the resulting costs against the person and/or the property. The City, through its agents or employees, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours for the purpose of ensuring compliance with the requirements of this chapter. If an order of the City Manager has not been complied with within 30 days after its issuance, the City, at the discretion of the City Manager or his designee, may cause the elimination or removal of the infestation of weeds or brush and/or the removal or elimination of accumulated junk and/or rubbish. Any owner, lessee or other party in interest who fails to comply with an order issued by the City Manager or his designee is hereby obligated to pay administrative costs and expenses incurred in the elimination or removal of the conditions complained of. Such administrative costs shall include the cost of removal or elimination, legal costs and fees, and

administrative fees which are occasioned by enforcement of this chapter. All costs are independent of any other penalties or powers of enforcement of the City.

(d) No agent or employee of the City shall have a civil cause of action against a landowner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with this section except when such damages were willfully or deliberately caused by the landowner or occupant.

(Ord. 3864 § 3, 2-1-06. Code 1994 § 16-30; Code 1965 § 14-28)

8.04.060 Assessing costs.

Upon completion of the cutting work done by City forces and/or the City's designee under this chapter, charges shall be made against the owner of the property on which the weeds were cut. The charges shall be the City's actual costs for labor, equipment and materials plus an administrative penalty of $50.00 for the first cutting, $100.00 for the second cutting and $150.00 for the third and subsequent cutting(s) within five years, plus a 25 percent surcharge for supervision and inspection. The City Manager may set a minimum labor, equipment and material charge for cutting operations of less than one hour.

(Ord. 3864 § 4, 2-1-06. Code 1994 § 16-31; Code 1965 § 14-29)

State law reference(s) – Authority to assess costs, § 35-5.5-109, C.R.S.

8.04.070 Notice of assessment.

The Community Development Department, as soon as may be practicable after an assessment is made under this chapter, shall send by mail, addressed to the owner of the affected lots or tracts of land, at the reputed post office address of such owner as it appears in the records of the County Assessor, a notice of such assessment, which notice shall contain a description of the lots or parcels of land, the name of the owner or owners, and the amount of the assessment.

(Code 1994 § 16-32; Code 1965 § 14-30)

8.04.080 Collection of assessments.

It shall be the duty of the owner to pay the assessment levied under this chapter within 20 days after the mailing of such notice, and in case of his failure so to do, he shall be liable personally for the amount of the assessment, and such assessment shall be a lien upon the respective lots or parcels of land from the time of such assessment. In case the owner shall fail to pay such assessment within 20 days after notice has been mailed to him, as provided by this chapter, then it shall be the duty of the City Manager to certify the amount of the assessment to the County Treasurer or other officer of the County having custody of the tax list at the time of such certification, to be by him placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with a 25 percent administrative surcharge thereon to defray the costs and to provide an economic disincentive for violations and the continuation of violations; and all of the laws of the State for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full effect for the collection of all such assessments.

(Code 1994 § 16-33; Code 1965 § 14-31)

8.04.090 Penalty for violations.

The fact that assessments have been made against property as provided in this chapter for cutting and removing weeds, brush and rubbish shall not prevent the owner, agent or lessee from being punished by fine or jailing under the general provisions of this code, but such fine or penalty may be imposed on those found guilty of violating the provisions of this chapter in all cases, whether an assessment has or has not been made in accordance with the provisions of this chapter.

(Code 1994 § 16-34; Code 1965 § 14-32)

8.04.100 Administrative hearing.

(a) Hearing Board. The City Council shall, as needed, appoint an administrative hearing board which shall hear evidence and render findings of fact as outlined in this section. The board shall serve as the Undesirable Plant Management Advisory Commission. The members of the board shall be residents of the City. The board shall annually elect a chairperson and a vice-chairperson. A majority of the members of the board shall constitute a quorum for the conduct of business.

(b) Management Plan. The administrative hearing board in its capacity as the Undesirable Plant Management Advisory Commission shall develop a recommended management plan for the integrated management of designated undesirable plants within the City. The management plan shall be reviewed at regular intervals but not less often than once every three years. The management plan shall be transmitted to the City Council for approval, modification or rejection.

(c) Designation of Undesirable Plants. The administrative hearing board shall designate undesirable plants which are subject to management. Plant species may be in addition to those designated in GJMC 8.04.010.

(d) Individual Management Plans. The administrative hearing board shall require that identified landowners or lessees be required to submit an individual management plan to control undesirable plants upon such person's property.

(e) Authority of City Council. The City Council shall have the sole and final authority to approve, modify or reject the management plan, management criteria and management practice recommendations of the administrative hearing board as to the requirements of weed management in and for the City. The City Council shall not hear appeals from the board on enforcement actions taken by the board, the City Manager or City staff.

(Code 1994 § 16-35; Code 1965 § 14-33)

Chapter 8.08

NUISANCES

Sections:

8.08.010 Common law and statutes adopted.
8.08.020 Prohibited – Abatement authorized.
8.08.030 Bringing nuisance into City.
8.08.040 Responsibility for nuisances.
8.08.050 Notice and abatement procedures.
8.08.060 Emergency abatement.
8.08.070 Violations and penalty.
8.08.080 Recovery of expense of abatement.
8.08.090 Other remedies.
8.08.100 Enumeration of nuisances.

Cross reference(s) – Cleanliness of premises where domestic animals are kept, GJMC 6.08.010; lost, stolen, confiscated or abandoned property, Chapter 2.44 GJMC.

8.08.010 Common law and statutes adopted.

In all cases where no provision is made defining what are nuisances and how the same may be removed, abated or prevented, in addition to what may be declared such in this code, those offenses which are known to the common law of the land and State statutes as nuisances may, in case such nuisances exist within the City limits or within a mile thereof, be treated as such and proceeded against as in this chapter provided, or in accordance with any other provision of law.

(Code 1994 § 16-56; Code 1965 § 19-60)

8.08.020 Prohibited – Abatement authorized.

Each and every nuisance mentioned, declared or defined by any ordinance of the City is hereby prohibited, and the County Health Department or City Manager shall have power to abate such nuisances by filling up, draining, clearing, purifying or removing such nuisances, as the case may be.

(Code 1994 § 16-57; Code 1965 § 19-61)

8.08.030 Bringing nuisance into City.

No person shall bring into the City or keep therein for sale or otherwise, either for food or for any other purpose whatever, any animal, dead or alive, matter, substance or thing which shall be or which shall occasion a nuisance in the City, or which shall be dangerous or detrimental to health.

(Code 1994 § 16-58; Code 1965 § 19-62)

8.08.040 Responsibility for nuisances.

Where a nuisance exists upon private property, and is the outgrowth of the usual, natural or necessary use of the property, the owner thereof or his agent is hereby declared the author thereof; but where any such nuisance shall arise from the unusual or unnecessary use to which any such property may be put or from any business thereon conducted, the occupant shall be deemed the author thereof; and any person who shall by himself or agent cause or create any nuisance in any place or manner, or shall suffer his agent or family to so create or cause such nuisance, shall be deemed the author of such nuisance.

(Code 1994 § 16-59; Code 1965 § 19-64)

8.08.050 Notice and abatement procedures.

(a) Notice to Abate. Upon the discovery of any nuisance on public or private property in the City, the City Manager may, in the exercise of his or her discretion, notify the responsible party in writing, requiring the responsible party to remove and abate from the property the thing or things therein described as a nuisance. Service of a notice of violation by a CEO pursuant to GJMC 1.12.040 shall be considered service of a notice to abate and the City may begin the abatement process with the application for abatement order. For any nuisance which does not threaten imminent danger of damage or injury, and for which a discretionary notice to abate has been issued, the reasonable time for abatement shall not exceed seven days unless it appears from the facts and circumstances that compliance could not reasonably be made within seven days or that a good faith attempt at compliance is being made.

Service of Notice. If written notice to abate is given, it shall be served by:

(1) Personally delivering a copy of the notice to the responsible party described in the notice if the responsible party also resides at the property; or

(2) Mailing a copy of the notice by first class or certified mail, return receipt requested, to the last known address of the responsible party as reflected in the City and/or County real estate or other records; or

(3) Posting a copy of the notice in a conspicuous place at the premises.

(b) Abatement Order. Upon the expiration of the period of notice, or at any time thereafter, if the nuisance has not been abated on the property described in such notice, the City may apply to the Municipal Court for an abatement order, as follows:

(1) The application shall be accompanied by an affidavit affirming that the City has complied with the notice requirements of subsection (a) of this section and that the owner has failed to abate the identified nuisance upon the property.

(2) The city shall give notice to the responsible party of its application for the abatement of order in the same manner as provided above for service of the original notice.

(3) The notice of application for an abatement order shall include a copy of the city's application and its affidavit in support thereof, as well as the time, date, and place at which the City will appear before the Municipal Court to request entry of the abatement order.

(4) At the stated time, date, and place, the Municipal Court Judge shall review the application for administrative abatement order, the affidavit, any statement of the City in support thereof, as well as any statement and evidence presented by the responsible party, if present.

(5) Thereafter, the Municipal Court is authorized to enter an order permitting the City to enter upon such property, abate the same and recover its costs.

(c) Abatement Without Notice or Court Order. Any nuisance located or found in or upon any street, avenue, alley, public sidewalk, highway, public right-of-way, public grounds, park, recreation facility, or public property in the City may be abated without notice.

(Ord. 4233 § 2, 5-7-08. Code 1994 § 16-60; Code 1965 § 19-65)

8.08.060 Emergency abatement.

If in the judgment of the CEO a nuisance is a cause of imminent danger to the public health, safety or welfare, any such nuisance may be summarily abated by the City, and costs of abatement shall be charged and recovered as provided by GJMC 8.08.080.

(Ord. 4233 § 3, 5-7-08. Code 1994 § 16-61)

8.08.070 Violations and penalty.

(a) Any person violating any provision of this chapter shall be subject to the penalties set forth in GJMC 1.12.130; provided, however, that nothing contained in this section or GJMC 1.12.130 shall impair the ability of the City to enforce the other remedial provisions provided in this chapter.

(b) Any responsible party violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be subject to fines set forth in accordance with GJMC 1.12.130.

(c) In levying and imposing fines upon conviction of any of the violation(s) specified in the code, the Court shall have no authority to reduce or suspend all or any portion of the fines, it being the expressed intent of the City Council that the fines specified in the fine schedule be strictly adhered to.

(d) As a portion of any judgment, fine or assessment levied upon conviction of a violation of this code, the Court shall order that the violation be abated within a time established by the Court, but in no event to exceed 30 days from the date of conviction. Failure to abate within the time so ordered may constitute contempt of court, and shall be punishable as such. The order shall also provide that, in the event the defendant has not abated the nuisance within 30 days after the Court order, the City or its agents are authorized to do so.

(e) In addition to any fines levied hereunder, the Court shall impose, as a portion of the costs assessed against a convicted responsible party, any costs incurred by the City in prosecuting, enforcing and abating the nuisance.

(f) Each day during which any responsible party commits, or allows to remain unabated, any of the actions specified as unlawful in this code shall constitute a separate offense. Multiple violations of this code may be included on a single notice to abate or a single summons and complaint.

(Ord. 4233 § 3, 5-7-08. Code 1994 § 16-62)

8.08.080 Recovery of expense of abatement.

(a) The actual costs of abatement, plus 15 percent of such abatement costs for inspection, a minimum fee assessment of $100.00 and other incidental costs of abatement shall be assessed upon the lot, lots or tracts of land upon which such nuisance is abated.

(b) Such costs shall be paid to the City within 30 days after the City has mailed notice of the assessment by certified mail to the owner of the property; provided, however, that if the property is occupied by someone other than the owner, the City Treasurer shall mail such notice of assessment by certified mail to both the occupant and the owner. Service shall be complete upon depositing the notice within the United States Postal Service, postage prepaid for certified mail. Every such assessment shall be a lien in the several amounts assessed against such lot, lots or tract of land until paid.

(c) Failure to pay such assessment within such period of 30 days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments, and the same may be certified at any time after such failure to so pay the same, by the City to the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with 15 percent penalty to defray the cost of collection.

(Ord. 4233 § 3, 5-7-08. Code 1994 § 16-63)

8.08.090 Other remedies.

The remedies set forth herein are cumulative. The initiation of any action or the imposition of any penalty shall not preclude the City from instituting any other proceeding to require compliance with the provisions of this chapter and with any administrative orders and determinations made hereunder. No provi-

sion herein shall be construed to limit the right of any person to bring a private action to abate a private nuisance.

(Ord. 4233 § 3, 5-7-08. Code 1994 § 16-64)

8.08.100 Enumeration of nuisances.

In addition to those things which are elsewhere by ordinance of the City or statutes of the State declared to be and constitute nuisances, the following are hereby declared to be a nuisance, or an act in the nature of a nuisance, and it shall be unlawful for any owner, agent or occupant to create, permit or maintain any such nuisance:

(a) Businesses: To so negligently conduct any business or use any premises as to create such an offensive smell as may taint the air and render it unwholesome or disagreeable to the neighborhood.

(b) Dangerous trade, business or condition: Whenever any trade, business or manufacturer, or the maintenance of any substance or condition or thing, shall be dangerous to the public health.

(c) Garbage in watercourses: To throw or deposit, or cause to be thrown or deposited, any offal or any offensive matter, or the carcass of any animal, in any watercourse, pond, spring or well, or on land within the City which results in offensive or unwholesome conditions.

(d) Animal or human fecal material: To deposit any animal or human fecal material, dead animal, or other filthy, offensive or noisome substance upon any lot, street, alley, highway, park or place other than an approved wastewater system or lawfully designated sanitary landfill site.

(e) Impure water: To corrupt or render unwholesome or impure the water of any drinking fountain, spring, stream, pond or lake, to the injury or prejudice of others, or any part of the City water supply system.

(f) Cross-connection: It shall be unlawful to cross connect with the City water supply system by introducing into such system any foreign water not a part of the treated City water supply system. Provided, it shall be permissible to introduce into the City water supply system water of another approved water system.

(g) Noxious emissions: To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture which by occasioning noxious emissions, offensive smells or otherwise is offensive or dangerous to the health of individuals or of the public.

(h) Private drain/sewers: For any person to suffer or permit any cellar, vault, private drain, pool, sewer or sink upon any premises belonging to or occupied by him to become nauseous, foul, offensive or injurious to the public health.

(i) Stagnant water: The permitting or maintaining of stagnant water on any lot or piece of ground within the limits of the City is hereby declared to be a nuisance, and every owner or occupant of a lot or piece of ground within the City is hereby required to drain or fill up such lot or piece of ground whenever such draining or filling is necessary so as to prevent stagnant water or other nuisance accumulating thereon.

(j) Encouragement of illegal activities: Any public or private place or premises which encourages professional gambling, unlawful use of drugs, unlawful sale or distribution of drugs, furnishing or selling intoxicating liquor to minors, furnishing or selling fermented malt beverages to persons under 21 years of age, solicitation for prostitution, or trafficking in stolen property.

(Ord. 4233 § 4, 5-7-08. Code 1994 § 16-65; Code 1965 § 19-66)

Cross reference(s) – Businesses, GJMC Title 5; animals, GJMC Title 6; solid waste, Chapter 8.28 GJMC; parks and recreation areas, Chapters 12.04 and 12.08 GJMC; waste water system, Chapter 13.04 GJMC; water system, Chapter 13.08 GJMC.

Chapter 8.12

LITTER

Sections:
8.12.010 Unlawful deposits.
8.12.020 Securing of vehicle contents to prevent spillage.

8.12.010 Unlawful deposits.

It shall be unlawful for any person to cast, throw, place, sweep or deposit anywhere within the City any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway, or other public or private place; nor shall any person place or deposit his refuse in the container of another in a manner so it will be collected as though it had been generated by that other.

(Code 1994 § 16-81; Code 1965 § 19-74)

8.12.020 Securing of vehicle contents to prevent spillage.

No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded or the load thereof securely covered so as to prevent any of its load from dropping, sifting, leaking, blowing or otherwise escaping therefrom; except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

(Code 1994 § 16-82; Code 1965 § 19-71)

Cross reference(s) – Traffic and vehicles, GJMC Title 10.

State law reference(s) – Similar provisions, § 42-4-1407, C.R.S.

Chapter 8.16

NOISE

Sections:
8.16.010 Unnecessary and unusually loud noise.

Cross reference(s) – Barking dogs prohibition, GJMC 6.12.060.

8.16.010 Unnecessary and unusually loud noise.

(a) Prohibition During Certain Hours. It shall be unlawful for any person to make, continue or cause to be made or continued any unnecessary, unusually loud or unusual noise between the hours of 8:00 p.m. and 6:00 a.m. which either annoys, injures or endangers the comfort, repose, health or safety of other persons. For the purpose of this section, a member of the Police Department of the City is empowered to make a prima facie determination as to whether such noise constitutes a public nuisance.

(b) Near Schools and Hospitals. It shall be unlawful for any person, by himself or in the operation of any instrument, machine or vehicle, to make any unnecessary noise within 150 feet of any hospital or other institution reserved for the sick, or any school during school hours.

(c) Exemptions. Persons actively engaged in lawful employment or other lawful pursuits in the area described in subsection (b) of this section shall be exempt from the provisions of this section.

(d) Excessive Noise. No person operating or occupying a motor vehicle on any street, highway, alley, parking lot, or driveway, either public or private property, shall operate or permit the operation of any sound amplification system, including, but not limited to, any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound from within the motor vehicle so that the sound is plainly audible.

(1) For the purposes of this section, "plainly audible" means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight of 50 or more feet, however, words or phrases need not be discernable and said sound shall include bass reverberation.

(2) Prohibitions contained in this section shall not be applicable to emergency or public safety vehicles, vehicles owned and operated by the City or any utility company, for sound emitted unavoidably during job-related operation, or any motor vehicle used in an authorized public activity for which a permit has been granted by the appropriate agency of the City.

(Ord. 3203, 11-3-99. Code 1994 § 16-106; Code 1965 § 19-4)

Chapter 8.20

AIR POLLUTION

Sections:

8.20.010 Control of dust-producing areas.
8.20.020 Smoking in workplaces and public places.
8.20.030 Air quality – Declaration of policy.
8.20.040 Definitions.
8.20.050 Regulation of new solid fuel burning devices – Clean stoves only.
8.20.060 Solid fuel burning during high pollution days – Prohibited.
8.20.070 Elimination of nonconforming wood stoves.
8.20.080 Entry to inspect.
8.20.090 Appeals.
8.20.100 Exemptions – Economic need and sole source of heat.
8.20.110 Severability.
8.20.120 Nuisance – Injunction.
8.20.130 Penalty.
8.20.140 No duty created.
8.20.150 Wood stove incentive replacement fund.
8.20.160 Wood stove replacement grant program.

8.20.010 Control of dust-producing areas.

It shall be unlawful for any person to own, possess or control any cleared area, parking lot, vacant lot or other site used by vehicular traffic without implementing an effective abatement or preventive fugitive dust-control measure, as may be required, which may include, but is not limited to, the following:

(a) Wetting down of the dust-producing area;

(b) Landscaping;

(c) Covering, shielding or enclosing;

(d) Paving on a temporary or permanent basis;

(e) Treating through the use of palliatives and chemical stabilization.

(Code 1994 § 16-126; Code 1965 § 19-70)

8.20.020 Smoking in workplaces and public places.

(a) Definitions. The following words and phrases, whenever used in this section, shall have the following meanings:

Bar means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages.

Bingo hall means any enclosed area used for the management, operation or conduct of a game of bingo by any organization holding a license to manage, operate or conduct games of bingo pursuant to Colorado law and in which food service for consumption on the premises is incidental to the games of bingo.

Bowling alley means a business open to the public which offers the use of bowling lanes, typically equipped with operable automatic pin setting apparatus and in which food service for consumption on the premises is incidental to bowling and related activities.

Business means any sole proprietorship, partnership, joint venture, corporation or other entity formed for profit-making or nonprofit purposes, including retail establishments where goods or services are sold, as well as professional corporations and limited liability companies. *Business* includes entities

where legal, accounting, financial, planning, medical, dental, engineering, architectural or other services are delivered.

Employee means any person whether such person is referred to as an employee, contractor, independent contractor, volunteer or by any other designation who:

(1) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

(2) Provides uncompensated work or services to a business or nonprofit entity.

Employer means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons.

Enclosed area means all space between a floor and ceiling within a structure or building which is closed in on all sides by solid walls, doors or windows which extend from the floor to the ceiling.

Indoor area means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removed of wall panels, does not convert an indoor area to an outdoor area.

Person means a natural person or any entity or business recognized by law or formed to do business of any sort.

Place of employment means any indoor place and any public place or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

Private club means any establishment which restricts admission to members of the club and their guests. See *Public place*.

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

Public meetings means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other applicable law.

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

Restaurant means a business in which the principal business is the sale of food or meals prepared on-site, typically for consumption on-site. Examples of restaurants, without limitation, are coffee shops, cafeterias, sandwich stands, private or public school or other cafeterias, and other eating establishments which give or offer food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

Retail tobacco store means a business utilized primarily for the sale of tobacco and accessories and in which the sale of other products is incidental.

Service line means any indoor or outdoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

Smoke or *smoking* means the carrying or possession of a lighted cigarette, lighted cigar or lighted pipe of any kind, and includes lighting of a pipe, cigar, cigarette, tobacco, weed or other combustible plant.

Smoke-free means that air in an enclosed area is free from smoke caused by smoking.

Sports arena means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

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

Tobacco is defined in § 25-14-203(17), C.R.S.

Work area means an enclosed area in which one or more employees are routinely assigned and perform services for or on behalf of the employer.

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

(c) Prohibition of Smoking in Public Places and Indoor Areas.

(1) Except as provided herein, smoking shall be prohibited in all public places and indoor areas within the City, including, but not limited to, the following:

(i) Elevators.

(ii) Restrooms, lobbies, reception areas, hallways and any other common-use areas.

(iii) Buses, taxicabs, other means of public transit while operating within the City limits, and ticket, boarding and waiting areas of public transit systems including stops, bus benches, shelters and depots.

(iv) Service lines.

(v) Retail stores.

(vi) All areas available to and customarily used by the public in all businesses and nonprofit entities patronized by the public, including, but not limited to, professional and other offices, banks, and laundromats.

(vii) Restaurants and bars except that smoking is allowed in outdoor seating areas of restaurants and bars that are not enclosed and are not under a roof or a projection of a roof as defined by the IBC as a *roof assembly*, such as patios, and any person smoking is at least 15 feet from the front or main doorway.

(viii) Aquariums, galleries, libraries, museums and similar facilities.

(ix) Any structure primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance.

(x) Sports arenas whether enclosed or outdoors.

(xi) Public meeting places.

(xii) Health care facilities including hospitals, clinics, therapists' offices and facilities, physical therapy facilities, doctors' offices, dentists' offices and the offices and facilities of other health care providers.

(xiii) Restrooms, lobbies, hallways, and other common areas in public and private buildings including but not limited to apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.

(xiv) Billiard or pool halls.

(xv) Polling places.

(xvi) Facilities in which games of chance are conducted, including but not limited to bingo halls.

(xvii) To the extent not otherwise provided in § 25-14-103.5, C.R.S., public and nonpublic schools.

(xviii) Other educational and vocational institutions.

(xix) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least 75 percent of the sleeping quarters within a hotel or motel that are rented to guests.

(xx) Any place of employment that is not exempted in subsection (f) of this section.

(xxi) The indoor area of a private club. Smoking is allowed in the outdoor areas of a private club, except where otherwise prohibited in this section.

(2) Notwithstanding any other provision of this section, any person or business who controls any business or facility may declare that entire establishment, facility or grounds as smoke-free.

(d) Smoke-Free Workplace. In the case of employers who own facilities otherwise exempted by subsection (f) of this section, each such employer shall provide a smoke-free area for each employee requesting a smoke-free area. Every employee shall have the right to work in a smoke-free area.

(e) Smoke-Free Exits and Entrances. Smoking shall not occur in or so close to exterior exits or entrances that the free flow of pedestrian traffic may be affected or so close that the operation of the doors, exits or entrances is affected or diminished. No smoking shall occur within 15 feet of the front or main doorway leading into a building or facility.

(f) Where Indoor Smoking Is Not Prohibited.

(1) Notwithstanding any other provision of this section to the contrary, the following areas shall be exempt from the prohibition contained in subsection (c) of this section:

(i) Private homes and residences; except when used as a child care, adult day care or health care facility.

(ii) Retail tobacco stores.

(iii) Private vehicle, except if the private vehicle is being used for the public transportation of children or as part of health care or day care transportation.

(iv) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 25 percent.

(v) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees.

(vi) A private, nonresidential building on a farm or ranch, as defined in § 39-1-102, C.R.S., that has annual gross income of less than $500,000.

(2) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this subsection (f) may declare that entire establishment, facility, or grounds as smoke-free.

(g) Signs.

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

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

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

(2) All signs referred to in this subsection (g) shall be a minimum size of 20 square inches and must be placed at a height of between four and six feet above the floor.

(3) All signs at public parks or unenclosed public places shall be visible to persons entering from the primary entrance or shall be posted at reasonable intervals along the property boundary. The primary entrance shall be referred to as the location where a sign identifies the park name, hours it is open to the public and other rules and regulations. For purposes of this section, "reasonable intervals" shall be presumed to be no less than 300 feet.

(h) Optional Prohibitions. The owner or manager of any place not specifically listed in subsection (c) of this section, including a place otherwise exempted in subsection (f) of this section, may post signs prohibited smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated nonsmoking portion thereof, in the places where smoking is prohibited pursuant to this section.

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

(j) Violations and Penalties.

(1) It shall be unlawful for any person or business that owns, manages, operates or otherwise controls the use of any premises, enclosed area, public place, or place of employment subject to regulation under this section to fail to comply with any of its provisions.

(2) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this section.

(3) Each violation of any provision of this section shall be deemed to be a separate violation. Each day shall be treated as a separate violation for continuing violations of subsections (d), (g) and (i) of this section.

(k) Other Applicable Laws. This section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(l) Severability. If any provision, clause, sentence or paragraph of this section or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

(Ord. 4296, 9-29-08; Ord. 3914, 6-7-06; Ord. 3829, 10-19-05; Ord. 3540, 7-3-03. Code 1994 § 16-127; Code 1965 § 19-77)

Cross reference(s) – Businesses, GJMC Title 5; parks and recreation areas, Chapter 12.04 and 12.08 GJMC; fire prevention and protection, Chapter 15.44 GJMC; streets, sidewalks and other public places, Chapters 12.16, 12.20 and 12.24 GJMC.

State law reference(s) – Control of smoking, § 25-14-101, C.R.S. et seq.; classes of licenses, § 12-47-401, C.R.S.

8.20.030 Air quality – Declaration of policy.

Air quality is an important part of the health, safety and welfare of the community. City Council desires to protect and improve air quality in and around the City, not only for the health, safety and general welfare of its citizens, but also because air pollution resulting from the use of wood stoves hurts the aesthetic

and economic welfare of the community. Present levels of air pollution which occur during winter inversions in the Grand Valley are unacceptable. The Grand Valley Air Quality Planning Committee has studied and made recommendations concerning local efforts which can protect the air quality in the Grand Valley. The City Council endorses such efforts.

To assist in maintaining existing air quality levels and to improve air quality in the City, and its environs, the City Council endorses:

(a) The continuation of City support of the voluntary "no burn" program presently being implemented by the Mesa County Health Department;

(b) In the City, a mandatory "no burn" requirement prohibiting the use of uncertified solid fuel burning devices on days of high pollution;

(c) Provisions to require that only certified wood burning devices or gas devices be installed in the future;

(d) Provisions which "grandfather" existing devices until the transfer of ownership of the property as provided below;

(e) Programs, either by local governments or others, or combinations, which provide financial incentives to reduce the use of wood stoves and fireplaces.

(Ord. 2981, 2-19-97. Code 1994 § 16-128)

8.20.040 Definitions.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(a) *Approved nonsolid fuel burning device*: any device that operates exclusively with nonsolid fuel, i.e., gas or liquid, and is installed in accordance with City ordinances and resolutions and State regulations, including a properly installed fire box, flues, and gas log apparatus. Hereinafter an approved nonsolid fuel burning device is referred to as "gas stove."

(b) *Approved solid fuel burning device*: a solid fuel burning device (e.g., wood stove, pellet stove, masonry heater) which meets the standards set forth, or referred to, in Regulation No. 4 (5 CCR 1001-6). Hereinafter, an approved solid fuel burning device is referred to as "clean stove."

(c) *Building Inspector*: such person as is designated by the City Manager, e.g., the City's code enforcement personnel.

(d) *Dwelling unit*: as defined by the City's zoning and development code (hereinafter referred to as "home"). Work shops, garages, and other accessory areas are not included within the definition of "home" or "dwelling unit" for purposes of this chapter.

(e) *High pollution day*: for any area within the City, that period of time or days declared by the Mesa County Health Department, or other person or agency designated by the City Council, to be a high pollution day or "no burn" day. The County Health Department, or other designated person or agency, may make such declaration when monitoring indicates violations within the City of air quality standards established by the City, the United States Environmental Protection Agency, or the State Department of Public Health and Environment, or when meteorological conditions warrant.

(f) *Operate a wood stove or a fireplace*: to burn any solid material, including but not limited to wood, in a wood stove or fireplace.

(g) *Regulation No. 4*: regulations adopted by the State of Colorado concerning wood stoves and wood burning appliances, or any replacement or amended regulation; presently found at 5 CCR 1001-6.

(h) *Sole source of heat*: one or more wood stoves which constitute the only source of space heating in a home.

(i) *Solid fuel burning device*: any stove, masonry heater, pellet stove, firebox or device intended or used for the purpose of burning wood, pulp, paper or other nonliquid or nongaseous fuel. Hereinafter a solid fuel burning device is referred to as "wood stove." "Solid fuel burning device" and "wood burning stove" are also defined in Regulation No. 4. Natural gas devices and solid fuel barbecue devices are excluded from this definition as are devices used by the City in the provision of City services.

(j) *Transfer of ownership*: any conveyance of any interest in the property upon or in which a wood stove is installed or used. Conveyance by devise, descent, distribution, succession, gift, foreclosure or operation of law is not included within the term "transfer of ownership." Conveyance, whether by quit claim or by warranty or otherwise, of interests less than the fee such as conveyance of an easement, a lease or a mortgage are not included within the term "transfer of ownership."

(Ord. 2981, 2-19-97. Code 1994 § 16-129)

8.20.050 Regulation of new solid fuel burning devices – Clean stoves only.

No wood stove shall be installed within any structure, mobile home, building or home within the City unless it is a clean stove. No fireplace shall be installed within any structure, mobile home, building or home within the City unless it complies with Regulation No. 4. See 5 CCR 1006(VIII)(A)(1) through (6).

(Ord. 2981, 2-19-97. Code 1994 § 16-130)

8.20.060 Solid fuel burning during high pollution days – Prohibited.

It shall be unlawful for any person to operate a wood stove or a fireplace during a high pollution day unless an exemption has been granted pursuant to this provision or unless such wood stove is a clean stove or it meets the requirements of 5 CCR 1006(VIII)(A)(1) through (6). It shall be the duty of all persons owning or operating a wood stove or a fireplace to be aware of any declaration of a high pollution day by the Mesa County Health Department or other person or agency designated by the City Council. Any such declaration shall constitute constructive notice of the existence of a high pollution day and of the applicability of the prohibition of this section. Each time a high pollution day or period is declared, four hours shall be allowed for the burn down of existing fires in solid fuel burning devices or fireplaces prior to the initiation of enforcement. Prior to prosecution for the first allegation of a violation of this section, a written warning shall be delivered to the person or posted conspicuously on the premises on which such person has, in violation hereof, operated a wood stove or a fireplace. If a written warning has been issued during the preceding 365 days, a prosecution may be initiated if probable cause exists to believe that a second instance of violation of this section has occurred.

(Ord. 2981, 2-19-97. Code 1994 § 16-131)

8.20.070 Elimination of nonconforming wood stoves.

For each transfer of ownership of property which occurs after September 1, 1997, on which is installed or used a wood stove which is not a clean stove other than an exempt wood stove, the transferor, grantor or seller shall prior to any transfer of ownership:

(a) Replace such wood stove with a clean stove;

(b) Replace such wood stove with a gas stove; or

(c) Remove such wood stove.

(Ord. 2981, 2-19-97. Code 1994 § 16-132)

8.20.080 Entry to inspect.

(a) The Building Inspector may enter onto property in order to inspect: if a wood stove is located upon the property or installed in a structure in compliance with this provision or operated in violation of this provision; if a fireplace or wood stove is being operated in violation of this provision. If an

owner or occupant refuses to consent to such inspection, the Building Inspector may apply for an appropriate court order from the Municipal Court or other appropriate court.

(b) When the Building Inspector has reasonable grounds based upon his or her investigation or upon complaints sufficiently demonstrating reasonable grounds that a person has violated this provision, the Building Inspector shall issue a notice and order setting forth the alleged violations and the corrective action that needs to be taken. The notice shall be served personally, by certified mail, or by posting in a conspicuous place on the property, or in any other manner provided by law for the service of process and shall allow 30 days for the person to take necessary actions to comply with this provision and any regulations adopted to implement or interpret this chapter. Compliance with this section is not a prerequisite to the filing, or prosecution, of a violation pursuant to GJMC 8.20.130. Compliance with this subsection (b) is not a condition precedent to the filing of a complaint, or the prosecution of a violation of, concerning burning in violation of the provisions of GJMC 8.20.060.

(Ord. 2981, 2-19-97. Code 1994 § 16-133)

8.20.090 Appeals.

An appeal of the Building Inspector's order to comply may be filed with the City Clerk in writing no later than 10 days from the date of the Building Inspector's order. This section shall not apply to a violation of GJMC 8.20.060.

Upon receipt of a timely filed notice of appeal, the City Clerk shall set a hearing date before the Board of Appeals to review the order of the Building Inspector. The Building Inspector shall present information which he or she believes shows a violation of this provision, or the adopted regulations, and the appellant shall be given the opportunity to respond.

The Board of Appeals may affirm, modify, rescind or delay an order, if any one or more of the following criteria are established by the applicant by clear and convincing evidence:

(a) Owing to exceptional and extraordinary circumstances, literal enforcement of this chapter or adopted regulations will result in extreme hardship. Such circumstances may include, but are not limited to, structural conditions which would impose extraordinary costs in order to comply with the provisions of this chapter or adopted regulations.

(b) Compliance with the requirements of this chapter or adopted regulations would create a threat to the health and safety of an owner or occupant.

(c) There is imminent planned termination of operations or replacement of a noncomplying wood stove with a gas stove or a clean stove. The Board shall take such steps as are necessary to ensure compliance with such termination or replacement.

The order of the Board of Appeals shall determine whether the provision was violated and shall state the time for compliance with the order.

(Ord. 2981, 2-19-97. Code 1994 § 16-134)

8.20.100 Exemptions – Economic need and sole source of heat.

(a) The Building Inspector shall issue an exemption from the no burn requirement or the requirement to remove or replace a wood stove to the owner of a wood stove if such owner makes application to the Building Inspector and takes an oath or affirms that such owner is a person whose sole source of heat for the home is a wood stove(s).

(b) Each person who has received an exemption under this section shall display a decal issued by the Building Inspector in a manner and place on the property so as to be clearly visible from a place of public access on high pollution days.

(c) An exemption granted pursuant to this section shall be valid only so long as the owner of the exempt wood stove continues to qualify as provided in subsection (a) of this section.

(Ord. 2981, 2-19-97. Code 1994 § 16-135)

8.20.110 Severability.

The provisions of GJMC 8.20.030 through 8.20.100 are severable. If any provision within these sections or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect, without the invalid provisions or application.

(Ord. 2981, 2-19-97. Code 1994 § 16-136)

8.20.120 Nuisance – Injunction.

Any violation of any provision of this chapter, or any regulation implementing or interpreting this chapter, is declared to be a nuisance. In addition to any other relief provided by this chapter, the City Attorney may apply to a court of competent jurisdiction, including the Municipal Court, for an injunction to prohibit the continuation of any violation of this provision or any such regulation. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(Ord. 2981, 2-19-97. Code 1994 § 16-137)

8.20.130 Penalty.

(a) Any person, firm or corporation violating any provision of this chapter shall be fined not more than $1,000 and/or 10 days in jail for each offense. A separate offense shall be deemed committed on each day, or portion thereof, during or on which a violation occurs or continues. Notwithstanding the foregoing, a realtor, closer or inspector involved in a transfer of ownership shall not be deemed to have violated this chapter in the event that a transfer of ownership occurs in violation of this chapter, unless such realtor, closer or inspector is the transferor, grantor or seller. For the first conviction of GJMC 8.20.060, a person, firm or corporation shall not be fined in excess of $100.00 and no jail time shall be imposed.

(b) Unless otherwise authorized, the operation of a wood stove or fireplace on a high pollution, "no burn" day is found and declared to be a nuisance against both the public and private individuals. It is the intent and the purpose of the City Council that private individuals aggrieved or injured by the unauthorized operation of a wood stove or fireplace on a high pollution, "no burn" day or days may cite a violation of this chapter or any regulation implementing this chapter as evidence of nuisance per se in support of any claim for damages and/or injunctive or other relief before a court of competent jurisdiction, including the Municipal Court. It is therefore found and declared that any written evidence of a violation of this chapter or any regulation implementing this chapter issued by an authorized agent for the City of Grand Junction, and served on any individual as required by law, shall constitute prima facie evidence of the violation of this chapter and/or any applicable regulation implementing this chapter, as well as prima facie evidence of a nuisance per se.

(c) This section shall not confer a private right for an action against the City of Grand Junction for the endorsement of this chapter or for the enforcement of any regulation implementing this chapter.

(Amended during 2009 recodification; Ord. 2981, 2-19-97. Code 1994 § 16-138)

8.20.140 No duty created.

The provisions of this chapter shall not be construed to create any duty, other than as explicitly provided, of any realtor, inspector, closer or appraiser to ensure that the provisions of this chapter are satisfied, unless such realtor, inspector, closer or appraiser is the owner of the affected property.

(Ord. 2981, 2-19-97. Code 1994 § 16-139)

8.20.150 Wood stove incentive replacement fund.

A wood stove replacement incentive fund is hereby created, in accordance with the resolution of the City Council. The criteria for such incentive fund are shown in GJMC 8.20.160.

(Code 1994 § 16-140)

8.20.160 Wood stove replacement grant program.

(a) Program Objective. The City Council of Grand Junction passed Ordinance No. 2981 on February 20, 1997, "regulating wood stoves and fireplaces, providing exemptions for sole source heating, penalties for violation, authorizing incentives and grants to eliminate existing devices, creating a wood stove replacement incentive fund, and restricting burning on certain days." The City set aside $25,000 in 1997 to help pay for removing non-EPA certified stoves and replacing them with certified wood burning or gas burning devices.

(b) Qualifying Criteria for Participating Households.

(1) To be eligible for grant money under this program:

(i) Stoves may only be removed and/or installed by an installer licensed by the City to remove and install stoves.

(ii) Only wood stoves in owner-occupied residences qualify.

(iii) The residence must be within the City limits.

(iv) Accessory areas, such as garages and work shops, do not qualify.

(v) The household income must be less than or equal to the income criteria table.

(vi) A removed or replaced wood stove becomes the property of the City, so that the wood stove may be destroyed and disposed of.

(vii) Grant money will be paid directly to a stove retailer and to approved installers.

(2) The maximum grant amount is $2,000 per residence. As household income increases, the maximum grant amount decreases, as shown on the table below.

(3) The grant moneys will be available on a "first-come, first-served" basis.

(4) The day-to-day administration will be provided by the Energy Office.

(5) Policy matters, appeals and other disputes will be finally decided by the Grant Program Appeals Committee (GPAC), appointed by the City Council. The GPAC may adopt its own operating rules and may adopt implementing regulations. Until then, it will follow the rules adopted by the Grand Junction Planning Commission, as appropriate, except that the only notice of meetings and decisions is posting at City Hall. The City Council may remove or replace any member of the GPAC at any time. Financial information supplied to the GPAC by any applicant will be treated as private and confidential, unless otherwise provided by law.

Income Criteria (based on the current U.S. Dept. of Housing and Urban Development guidelines for Mesa County)	**Grant Request Limit (% of total purchase and installation cost of new stove, maximum $2,000)**
Very Low	90%
Low	80%
Moderate	70%
Economic Hardship[1]	100%

[1] Economic hardship cases should be submitted to:
Assistant City Manager
City of Grand Junction
250 North Fifth Street
Grand Junction, Colorado 81501

(c) Qualifying Expenses up to a Maximum of $2,000.

(1) Wood stove cost (basic, no frills, sized correctly for home, low bid);

(2) Chimney upgrade or replacement to meet the City's building code standards;

(3) Installation of gas lines needed to supply a replacement gas stove;

(4) Building permit fees;

(5) Non-EPA certified old wood stove removal and proof of destruction by an approved installer up to a maximum of $60.00.

(d) Application Procedure. Applications are available from the City Clerk and Assistant City Manager of the City of Grand Junction, the Energy Office, and local wood stove retailers. Completed applications should be sent to The Energy Office, 128 South Fifth Street, Grand Junction, CO 81501 (241-2871).

(e) Required Inspections. Recipients must have their home inspected twice: After approval of the application, a pre-installation inspection will be conducted by the Energy Office; after installation, a post-installation inspection will be required prior to payment to a dealer or installer.

(f) Income Criteria Based on HUD Guidelines for Mesa County (Effective 1/01/97).

Listed below:

Income Limits By Household Size								
Number in Household	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**
Very Low Income	13,550	15,500	17,400	19,350	20,900	22,450	24,000	25,550
Low Income	16,260	18,600	20,880	23,220	25,080	26,940	28,800	30,660
Moderate Income	21,650	24,750	27,850	30,950	33,450	35,900	38,400	40,850
Hardship Cases[1]	No limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit

[1] Economic hardship cases should be submitted to:
Assistant City Manager
City of Grand Junction
250 North Fifth Street
Grand Junction, Colorado 81501

(Amended during 2009 recodification; Ord. 2981, 2-19-97; Adm. Reg. 97-01, 8-20-97)

Chapter 8.24

BURGLAR ALARM SYSTEMS

Sections:
8.24.010 False alarms.
8.24.020 Monitoring fees.

Cross reference(s) – Alarm system installers, Chapter 5.08 GJMC.

8.24.010 False alarms.

(a) Definition of Alarm. As used in this section, an "alarm" means a signal from a system requiring the dispatch of a police officer.

(b) User Fee for Alarms. Any person using an alarm system shall pay to the City a fee as established by resolution of the City Council and on file in the City Clerk's office for response to a place of business or home by members of its Police Department occasioned by an alarm from the system where such alarm exceeds the following:

(1) One alarm in any 30-day period;

(2) Two alarms in any 90-day period;

(3) Three alarms in any 180-day period; or

(4) Four alarms in any 360-day period;

provided, however, that any alarm caused by criminal activity shall not be considered an alarm under this section; and provided further, that any alarm occurring within 15 days after the installation of the system shall not be considered.

(c) Collection Method. The recovery of any sums owing, including court costs, attorney fees and expert fees, may be made through an action at law in addition to other remedies which may be available to the City.

(Code 1994 § 20-56; Code 1965 §§ 22-60 – 22-62)

8.24.020 Monitoring fees.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alarm company means any individual, partnership, corporation or company engaged in the business of selling, installing or maintaining alarm systems.

Installed alarm means any fire, intrusion or holdup alarm signal that terminates in the Grand Junction Regional Communications Center and is monitored by dispatch personnel.

Installed alarm month means any month in which an alarm is installed on or between the first day and the fifteenth day of the month, and the signal is monitored by dispatch personnel, which will be considered a full month.

(b) Fees. Each alarm company will pay such sum as may be from time to time established by the City Council, by resolution, per installed alarm per month, to the Grand Junction Regional Communications Center for each alarm monitored by dispatch personnel.

(c) Billing. Each alarm company will be billed on the first day of each calendar quarter, i.e., January 1st, April 1st, July 1st and October 1st. Each alarm company will pay the amount owed by the fifteenth day of the second month of each quarter, i.e., February 15th, May 15th, August 15th and

November 15th. Any adjustments for nonpayments by, bad debts and disconnections of a company will be made on an individual basis by the Board of Directors of the Grand Junction Regional Communications Center.

(Code 1994 § 20-57; Code 1965 §§ 22-70, 22-71)

Chapter 8.28

SOLID WASTE

Sections:

Article I. In General

8.28.010 Definitions.
8.28.020 Collection area – Duty of owner or occupant.

Article II. Collection and Disposal

8.28.030 Who may collect, dispose of rubbish.
8.28.040 Supervision of collection – Regulations authorized.
8.28.050 Licensing procedure – Fee.
8.28.060 New service fee.
8.28.070 Appeals from decisions of the Solid Waste Superintendent.
8.28.080 Preparation of refuse.
8.28.090 Refuse containers – Nature and size of containers.
8.28.100 Refuse containers – Duty to provide and maintain in sanitary condition.
8.28.110 Refuse containers – Ashes.
8.28.120 Refuse containers – Collection point.
8.28.130 Storage of refuse.
8.28.140 Collection practices.

Article III. Rates, Charges, Billing Procedure

8.28.150 Collection at ground level of right-of-way.
8.28.160 Delinquent accounts.
8.28.170 Responsibilities of owner of premises.

Cross reference(s) – Cleanliness of premises where domestic animals are kept, GJMC 6.08.010; certain solid waste disposal and collection practices declared nuisances, GJMC 8.08.060.

Article I. In General

8.28.010 Definitions.

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

Ashes means the residue from the burning of wood, coal, coke, or other combustible material.

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

Refuse means all putrescible and nonputrescible solid waste, except human body wastes, ashes, street cleanings, dead animals, abandoned motor vehicles, solid market and industrial wastes, and all material or substances which are hazardous, infectious, toxic, or contain radioactive particles or are regulated by any federal or State law concerning hazardous, toxic or other similar substances or materials.

Residential means used by natural persons for living accommodations, but excludes structures or uses containing eight or more dwelling units.

Rubbish means nonputrescible solid waste consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials, but excluding ashes.

(Code 1994 § 30-1; Code 1965 § 14-2)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

8.28.020 Collection area – Duty of owner or occupant.

It shall be the duty of each owner or occupant of property from which refuse is collected to provide a surface or area with sufficient structural integrity so that the refuse collection trucks and equipment may safely operate thereon.

(Code 1994 § 30-2; Code 1965 § 14-10(d))

Article II. Collection and Disposal

Cross reference(s) – Buildings and building regulations, GJMC Title 15.

State law reference(s) – General police powers, § 31-15-401, C.R.S.

8.28.030 Who may collect, dispose of rubbish.

(a) Refuse accumulated in the City shall be collected, conveyed and disposed of in accordance with applicable statutes, rules and regulations including, but not limited to, § 31-15-401, C.R.S.

(b) No person other than as authorized and otherwise in compliance with applicable statutes, rules and regulations shall collect, convey over any of the streets in the City, or dispose of, any refuse accumulated in the City. The City shall have the sole and exclusive right to serve and charge for service any and all residential customers of the City existing as of April 9, 1994. Areas annexed on or after April 9, 1994, may be served by the City or a private refuse provider in accordance with § 30-15-401, C.R.S. This article shall not prohibit the actual producer of refuse, or the owner or occupant of premises upon which refuse has accumulated, from personally collecting, conveying and disposing of such refuse provided such refuse is of a nature not normally collectible or is in addition to the amount normally collected from the producer and the disposal of such refuse is in compliance with the provisions of this article and with any other applicable ordinance(s), statute(s), rules and regulations. Hauling by the producer shall not effect the obligation of residential refuse producer(s) or owner(s) to pay the charges established by this article.

(Code 1994 § 30-26; Code 1965 § 14-3)

8.28.040 Supervision of collection – Regulations authorized.

The City Manager shall have the authority to adopt regulations concerning the days of collection, type and location of waste containers, routes, safety and related matters and such other matters pertaining to collection, conveyance and disposal of refuse as he shall find necessary and to change and modify such regulations after notice as required by law; provided, that such regulations are not contrary to law.

(Code 1994 § 30-27; Code 1965 § 14-4)

8.28.050 Licensing procedure – Fee.

Licenses referred to under this article shall be granted in accordance with Chapter 5.04 GJMC and under regulations established by the City Council. Such license shall be issued upon payment of a license fee as established by resolution of the City Council and on file in the City Clerk's office for each refuse/recycling motor vehicle or truck which operates in or on the City rights-of-way. Such fee(s) shall be nonre-

fundable and shall be revocable upon violation of any regulation or ordinance of the City or other applicable law. Any person operating in the City without such license shall be guilty of a misdemeanor.

(Code 1994 § 30-28; Code 1965 § 14-5)

8.28.060 New service fee.

Whenever a solid waste account is created or is changed, a service fee in the amount as established by resolution of the City Council and on file in the City Clerk's office shall be charged for the creation or change of the account, unless at the same time water or sewer service is being commenced or changed and a fee is being charged therefor. Such account change fee shall be in addition to any and all collection fees.

(Code 1994 § 30-29; Code 1965 § 14-6)

8.28.070 Appeals from decisions of the Solid Waste Superintendent.

Any person aggrieved by the application of a regulation, or fee charged by, or the decision made by the City may appeal to the City Manager or his designee, who shall have the authority to confirm, modify or revoke any such fee or decision or the application of a regulation.

(Code 1994 § 30-30; Code 1965 § 14-7)

8.28.080 Preparation of refuse.

(a) Refuse. Each producer of refuse shall, before placing such refuse for collection, drain from the refuse all free liquids and shall contain all refuse in an approved container.

(b) Cans and Bottles. Each producer of refuse cans and bottles shall thoroughly rinse and drain all such cans and bottles before depositing them for collection.

(c) Trimmings and Clippings. Each producer shall cut tree trimmings, hedge clippings, and similar materials to lengths not to exceed three feet before depositing such materials in a approved container for collection.

(Ord. 2988, 3-5-97. Code 1994 § 30-31; Code 1965 § 14-8(a))

8.28.090 Refuse containers – Nature and size of containers.

All refuse containers serviced by the City shall be approved by the City. Containers for recyclables shall meet the requirements and specifications established by the City Manager. The owner or producer shall remove all noncomplying containers from service and from the public rights-of-way.

(Ord. 2988, 3-5-97. Code 1994 § 30-32; Code 1965 § 14-8(b)(1))

8.28.100 Refuse containers – Duty to provide and maintain in sanitary condition.

Every refuse producer shall maintain his refuse containers in sanitary condition. The City Manager shall have the authority to refuse collection services and/or remove containers from service for failure to comply with this article.

(Ord. 2988, 3-5-97. Code 1994 § 30-33; Code 1965 § 14-8(b)(2))

8.28.110 Refuse containers – Ashes.

Ashes shall be contained in paper or plastic bags and shall be cold. The generator of any hot ashes shall be liable for damages including damages to any City-owned container.

(Ord. 2988, 3-5-97. Code 1994 § 30-34; Code 1965 § 14-8(b)(3))

8.28.120 Refuse containers – Collection point.

Containers shall be kept on the owner's or tenant's premises and off the City right-of-way except on the days of pickup.

(Code 1994 § 30-35; Code 1965 § 14-8(b)(4))

8.28.130 Storage of refuse.

(a) No person shall place any refuse in any street, alley or other public place, or upon any private property whether owned by such person or not, within the City, except in proper containers for collection or under express approval granted by the City Manager or other authorized City official. No person shall throw or deposit any refuse in any stream, other body of water, or any place other than a lawfully designated sanitary landfill site.

(1) Unauthorized Accumulations. Any unauthorized accumulation of refuse on any premises is hereby declared to be a public nuisance and is prohibited.

(2) Scattering of Refuse. No person shall cast, place, sweep or deposit anywhere within the City any refuse in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway, or other public place, or onto any premises, occupied or not, within the City.

(3) Depositing Refuse in Container of Another. No person shall place or deposit his refuse in the container of another or in a manner so that it will be collected as though it had been generated by another.

(b) Refuse containers shall:

(1) Be placed for collection at the ground level of the right-of-way designated by the City Manager.

(2) Be accessible from the curb of the street or side of the alley from which collection is made.

(3) Not obstruct a sidewalk.

(4) Not be more than two feet from the traveled portion of the rights-of way.

(5) Not be placed within three feet of any obstruction.

(c) City solid waste equipment operators may not enter private property to collect residential refuse. The City Manager may provide additional services when extra payment is agreed upon by both parties for the additional service rendered.

(Ord. 2988, 3-5-97. Code 1994 § 30-36; Code 1965 § 14-8(c))

8.28.140 Collection practices.

(a) Limitation of Quantity.

(1) Residential. The City shall collect from its customers a designated volume of refuse not to exceed the volume of the container during the collection period for a specified charge. Extra accumulations or nonrefuse items may be collected upon request. The City shall have the authority to refuse to collect extra accumulation of refuse and/or nonrefuse items, or it may require additional charges for such amounts.

(2) Commercial. The City shall collect from its customers the amount of refuse agreed upon according to the weight, volume and frequency of collections. The City may collect additional amounts of refuse which shall require the payment of additional charges, which additional charges shall be established by the City Manager.

(b) Special Refuse Problems.

(1) Contagious/Diseased Refuse. No person shall deposit or place for collection any garbage, refuse, rubbish or substance or thing which is contagious, infectious, or contains any disease producing item or thing regulated by the State Department of Health including, but not limited to, those organisms, conditions, substances or activities controlled in Title 25, C.R.S.

(c) Collection Practices.

(1) Requirements for Vehicles. Persons who dispose of waste material which is not refuse and all persons who haul refuse in the City or over the streets in the City shall use a watertight hauling area provided with a tight cover and operated so as to prevent offensive odors escaping therefrom and to prevent refuse from being blown, dropped or spilled.

(2) Disposal. Disposal of refuse shall be made outside the City limits, unless otherwise specifically authorized by the City Manager. The City Manager shall have the authority to permit the disposal of such material in a City sanitary landfill if one exists, provided the charge(s) as provided in this article is paid.

(3) Rules and Regulations. The City Manager shall have the authority to adopt such other regulations concerning collection and disposal, and/or relating to the hauling of refuse in or over the streets in the City, as he shall find necessary, subject to the right of appeal as set forth in GJMC 8.28.070 and if otherwise in accordance with law.

(Code 1994 § 30-37; Code 1965 § 14-9)

Article III. Rates, Charges, Billing Procedure

8.28.150 Collection at ground level of right-of-way.

(a) Each owner or occupant shall place refuse for collection by the City in an approved container at ground level of the street and within two feet of the traveled portion of the right-of-way from which collection is made.

(b) Additional service by the City to a customer may be provided on a cost basis determined by the City Manager based on the frequency, volume, weight, loading out difficulty and nature of material to be disposed of.

(c) Where the collection of refuse from other than ground level of the right-of-way and not within two feet of the traveled portion of the right-of-way is accepted by the City Manager, the fee shall be as established by resolution of the City Council and on file in the City Clerk's office, plus a fee set by the City Manager to cover the cost of the extra service rendered.

(Ord. 2988, 3-5-97. Code 1994 § 30-61; Code 1965 §§ 14-10(a), 14-10(b))

8.28.160 Delinquent accounts.

Each producer, owner, occupant of a property has a duty to pay such fees and charges as established in or by this article at the rates established by resolution of the City Council and on file in the City Clerk's office. Amounts shall be billed monthly. A City customer is delinquent if such customer has not paid in full within 10 days after the due date on the bill. If the customer has not paid the bill in full within that time, the service may be discontinued and other City services including water and sewer may be shut off. Refuse services shall resume when all amounts owed to the City are paid in full, plus a fee or interest as established by resolution of the City Council and on file in the City Clerk's office, on the delinquent amount for each month, or portion of a month, that the account was delinquent. In addition, water and sewer service may be discontinued to enforce collection of delinquent refuse accounts. The City may proceed to collect all amounts due in the manner provided by law for the collection of a municipal claim. Any and all amounts unpaid pursuant to this article shall be a personal debt of the owner of the lands benefitted or served and in addition shall constitute a lien upon each lot, land, building and premises served or benefitted. If such amounts are not timely paid when due, the City Manager may, in addition to other remedies, certify to the County Treasurer a lien to be by him placed upon the tax list for the current year

to be collected in the manner other taxes are collected, plus a 10 percent administrative charge to defray the cost of collection. 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 1994 § 30-62; Code 1965 § 14-10(c))

8.28.170 Responsibilities of owner of premises.

(a) The owner of the premises, as well as the occupant or occupants thereof, shall be subject to the terms of this article, shall be jointly and severally liable for payment of all charges authorized by this chapter, and the failure to timely pay all charges authorized by this chapter shall constitute a misdemeanor violation of this chapter.

(b) The owner of the premises and each adult occupant thereof shall be jointly and severally responsible to, within 30 days of any change of use or structure, notify the utility accounting department of such change of building structure and/or use to ensure correct monthly charges. The City shall have no obligation to credit or refund any account unless such timely and proper notice is given.

(Code 1994 § 30-63; Code 1965 § 14-11)

Chapter 8.32

TREES

Sections:

8.32.010 Trees in right-of-way.
8.32.020 List of trees and plantings in public ways.
8.32.030 Inspection of trees.
8.32.040 Planting of approved species.
8.32.050 Duty to replace trees.
8.32.060 Duty to trim trees.
8.32.070 Removal of dead trees.
8.32.080 Maintenance of planting strip.
8.32.090 Tree pruning for building movers.
8.32.100 Use of equipment.
8.32.110 License required.
8.32.120 Control of Dutch elm disease.
8.32.130 Appeals from order of City Manager.
8.32.140 Failure to comply with notice – Payment of costs.
8.32.150 Statement of costs – Notice of hearing.
8.32.160 Service and notice of assessment.

8.32.010 Trees in right-of-way.

The Department of Parks and Recreation is hereby authorized to furnish the necessary personnel and services for the planting of trees or replacing damaged trees in the right-of-way of the City.

(a) As a part of its service, the Department shall give advice and counsel regarding the tree varieties to be selected, the soil conditions involved, fertilizers needed, protective devices suggested and other information concerning the selection of the tree sizes and varieties and the planting of trees. Such advice and information regarding the selection and care of trees shall be available to any person in the City requesting such information.

(b) The planting and other services rendered by the Department shall be upon the specific condition that all watering and care, except for spraying and trimming of the trees after the planting, shall be the responsibility of the person requesting the planting, and the services of the Department personnel will only be for the purpose of planting the trees. No guarantee or assurance whatsoever shall be made or assumed regarding the growth or survival of the trees so planted.

(c) The planting of trees and services by the Department for such planting shall be available only during the usual spring months of each year; provided, however, that subject to the availability of personnel, plantings may be had at other times of the year upon request therefor.

(Amended during 2009 recodification; Code 1994 § 40-51; Code 1965 § 20-80)

8.32.020 List of trees and plantings in public ways.

Trees, shrubs, vines and evergreens planted in public ways or parkings shall be in conformity with an official list approved by the Forestry Board. The Forestry Board shall consider in preparing an official list the growth habits, mature size, disease resistance or other factors which minimize maintenance costs and nuisances and conform with other provisions of the ordinances of the City. Plantings not in conformity with the approved list shall be removed by the owner or agent at the request of the City Manager.

(Amended during 2009 recodification; Code 1994 § 40-52; Code 1965 § 20-81(b))

8.32.030 Inspection of trees.

The City Manager or designated representative is hereby authorized to inspect trees, shrubs, plants, vines, logs or branches and every other type of plant material on all private and public property to ascertain the condition of such plantings in relation to disease and insects detrimental to the growth, health and life of such plantings, to discover incidence of disease, and take appropriate action to preserve and restore the growth, health and life of the plantings by spraying, removing, pruning or other remedial action. Further, the Director or designated representative is hereby authorized to inspect trees, shrubs and plantings on private property for the above-mentioned conditions. If such conditions are found to exist and, in the professional judgment of the City Manager, such conditions are or will become injurious to other private or public plantings, the owner of the property shall be given written notice to spray, remove, prune or take any other necessary remedial action in regard to the infested plantings within a specified period of time.

(Code 1994 § 40-53; Code 1965 § 20-83(a))

8.32.040 Planting of approved species.

It shall be the responsibility of the City Manager to prepare or cause to be prepared a list of approved trees for planting in public ways and parkings along the streets and highways, and the City Manager shall be available for consultation with property owners regarding such plantings.

(Code 1994 § 40-54; Code 1965 § 20-84)

8.32.050 Duty to replace trees.

If a tree is removed by contractors pursuant to any work done in a City right-of-way, such tree shall be replaced by the contractor responsible for such removal. The ratio of replacement shall be as follows: For every six inches of trunk diameter removed measured four feet aboveground, one two and one-half inch balled and burlapped, or equivalent method, tree shall be used in replacement thereof up to a maximum of five inches in diameter, the species of which shall be determined by the City Manager.

(Code 1994 § 40-55; Code 1965 § 20-85)

8.32.060 Duty to trim trees.

The owner of any house, building or premises shall not permit the branches of any shade, ornamental or other tree to project over any street, avenue or sidewalk in front of or alongside of such building or premises lower than eight feet from the surface of the sidewalk and 14 feet over the surface of the alley or street. In estimating such heights, personnel of the Department of Parks and Recreation shall take into consideration the variation of height due to normal rain, snow, sleet and foliage conditions.

(Code 1994 § 40-56; Code 1965 § 20-86)

8.32.070 Removal of dead trees.

It shall be the duty of the City Manager to require the owner or agent of any premises whereon are situated any dead trees or overhanging boughs dangerous to life, limb or property to remove the same within a reasonable time. If the owner or agent fails to follow the requirements of a notice to remove same, then it shall be the duty of the City Manager to remove or destroy the dead trees or boughs or otherwise correct the offending condition at the expense of the owner or agent, and if the owner or agent fails to pay the expenses, the City shall recover its cost by suit or assessment, as is provided in GJMC 8.04.080.

(Code 1994 § 40-57; Code 1965 § 20-87)

8.32.080 Maintenance of planting strip.

(a) "Planting strip" shall refer to that area between the back of any curb of any street and the edge of the sidewalk closest to the street or if there is no curb then from edge of asphalt of any street to the edge of the sidewalk.

(b) Duty of Owner to Maintain. It shall be the duty and obligation of every person in the City to keep and care for in the manner provided in this section the planting strip fronting or adjoining the premises owned by such person. Such planting strip shall be maintained in an aesthetically pleasing manner in either drought tolerant plant material, grass or other plantings, stone aggregate, decorative rocks, bark mulch, or like materials or combinations thereof, with or without plantings. Vegetation shall be watered and fertilized to provide optimum growing conditions.

(c) Trees. Any trees planted shall be on the approved list of trees as established by the Park and Recreation Department. The City shall provide maintenance (spraying, trimming and removal) of trees only. Prior to any maintenance, the City shall attempt to notify any contiguous property owner but the City shall not be held liable for failure to give notice.

(d) Hard Surfacing. In unusual situations where drainage or traffic problems exist, or in commercial zones or premises where public buildings or uses are involved, hard surfacing such as concrete, terrazzo, brick, flagstone, asphalt or other impervious substances may be authorized by written permit at the discretion of the City Manager. If hard-surfacing materials are authorized in conjunction with tree plantings, proper tree wells as determined by the City Manager shall be constructed by the owner.

(e) Minimum Open Area Around Trees. No person shall deposit or maintain, upon the parking strip in any street, stone, cement, debris or other substance which impedes the free entrance of water and air to the roots of any tree in such public highway or other public place without leaving an open space or ground outside the trunk of such tree, in area not less than six square feet for a tree three inches in diameter and for every two inches of increase of such diameter there must be an increase of at least two square feet of open ground.

(f) Compliance with Other Provisions. Any shrubs or other plantings and the use of other materials shall comply with regulations concerning traffic safety and other provisions of this code.

(g) Appeal. Any person aggrieved by the decision of the City Manager may appeal such decision to the Forestry Board, and such Board may affirm, reverse or modify the decision of the City Manager.

(Ord. 3431, 5-15-02. Code 1994 § 40-58; Code 1965 § 20-88)

8.32.090 Tree pruning for building movers.

(a) If, in the process of moving any building or other object along the streets, alleys or public ways of the City, it is necessary to trim any trees, the trimming shall be done by direction of the City Manager and the cost of labor, material and equipment shall be paid by the person requiring the trimming. Branches over three inches in diameter may not be removed unless in the opinion of the City Manager removal of the limb will not impair the aesthetic value or well being of the tree. If, in the process of moving any building, machine or other object, any tree, shrub or other planting is damaged, destroyed or removed, the replacement or repair of such shall be borne by the party moving or causing to be moved such building or other object. If such work has been performed by the City, payment thereof must be made within 10 days after billing has been made. The City Manager may, in his discretion, require a bond, deposit or other security in advance of such moving to indemnify the payment of the aforesaid expenses.

(b) If, in the process of moving any building, machinery or other object along the streets, alleys or public ways of the City, the City Manager determines that it is necessary to remove any branch over three inches in diameter or any major portion of any tree, or such branch or portion of a tree becomes broken or damaged and must be removed as a result of the moving, the person doing or requesting the moving shall pay to the City such amounts as determined by the City Manager as compensation for the loss of each such branch removed plus the regular service charges for all labor and materials used in connection with the removal of the branches. All measurements to determine the size of the branches shall be made by the City. When, in the process of moving any building or other object, it is necessary to remove a tree from the streets, alleys or other public ways of the City, the value of the tree so removed shall be paid for by the person requiring its removal and the moneys received

shall be used to replace as nearly as possible a planting of comparable size and value. The determination of the value of the tree shall be made by the City Manager, and he shall consider in arriving at the value current nursery estimates including the age, variety and condition of the tree removed.

(Code 1994 § 40-59; Code 1965 § 20-89)

8.32.100 Use of equipment.

It shall be the duty of any person using tools on trees or shrubs to properly disinfect such tools immediately after any work done on any individual tree or shrub. Failure to so disinfect such tools shall be considered to be a misdemeanor, and any person convicted of such a violation shall be punished in accordance with GJMC 1.04.090.

(Code 1994 § 40-60; Code 1965 § 20-90)

8.32.110 License required.

(a) No person shall engage in the business of cutting, pruning, removing, trimming or spraying of trees in the City without first obtaining from the Forestry Board a license each year authorizing such person to engage in such business.

(b) The license required by this section shall be issued in the manner and form and subject to the conditions and regulations prescribed by Chapter 5.04 GJMC.

(c) The applicant receiving a license under this section shall pay an annual license fee as established by resolution of the City Council and on file in the City Clerk's office beginning January 1st of each year.

(d) Every license issued under this section shall show on its face the types, classification or kinds of services for which the licensee is licensed and authorized to perform. All motor vehicles and other major equipment of any person licensed under this section used in conducting the licensed business shall be clearly identified with the name of the licensee and the license number.

(e) No license shall be issued under this section until the applicant therefor has presented to the City Manager a satisfactory public liability insurance policy covering all proposed operations of the applicant in such business in the City in the sum of at least $150,000 for the injury or death of any one person; $600,000 for the injury or death of any number of persons in any one accident; and $75,000 for damage to property. Such policy may allow the first $100.00 of liability to be deductible. Such insurance policy must be prepared for at least the term of the license and shall require at least 30 days' advance notice to the City before cancellation. In the event of the cancellation or termination of any such required insurance policy during the licensed term, the license shall be terminated and the holder thereof shall surrender such license to the City Manager unless the licensee presents to the City Manager a substitute insurance policy meeting the requirements of this section.

(Code 1994 § 40-61; Code 1965 § 20-91)

Cross reference(s) – Businesses, GJMC Title 5.

8.32.120 Control of Dutch elm disease.

(a) It shall be unlawful to possess or transport into or within the City all or any part of trees infected with the Ceratocystis ulmi fungus; provided, however, that the wood, branches and roots of such trees may be transported to a safe place for burial under a minimum of two feet of earth within 10 days following discovery of such infection, or to such sites and under such conditions as are approved by the City Manager for processing and subsequent elimination of the disease hazard.

(b) Trees or parts thereof of the genus Ulmus in a dead or dying condition that may serve as a breeding place for the smaller European elm bark beetle, Scolytus multistratus and the native bark beetle, Hylurgopinus rufipes, are hereby declared to be a threat and a hazard to all elm trees in the City.

Transportation into or within the City or possession within the City of such trees or parts thereof, except for immediate burial or processing in a manner approved by the City Manager, shall be unlawful unless the bark has been completely removed. If such trees or parts thereof are found to exist, the owner of the property shall be given a written order by the City Manager to take necessary remedial action including, if necessary, the removal of such trees or parts thereof within a specified period of time.

(Code 1994 § 40-62; Code 1965 § 20-92)

8.32.130 Appeals from order of City Manager.

Any person aggrieved by any decision or order of the City Manager regarding the condition of trees, shrubs and plantings on private property may appeal such decision or order to the Forestry Board. If the decision of the Forestry Board is not favorable to the appellant, an appeal of the decision of the Forestry Board may be made to the City Council. Every appeal must be perfected within 10 days from the date of the order appealed from. It shall be lodged with the secretary of the Forestry Board and shall state the grounds for appeal. Such appeal shall operate as a stay of the order unless the City Manager shall certify that a stay would cause imminent hazard to landscape plantings within the City.

(Code 1994 § 40-63; Code 1965 § 20-93)

8.32.140 Failure to comply with notice – Payment of costs.

(a) It shall be unlawful for the owner, agent or occupant of the premises notified that conditions exist in the trees, shrubs and plantings on their property that will or are injurious to other private or public plantings to fail to comply with the written notice provided in GJMC 8.32.030.

(b) Should the owner, agent or occupant of premises fail or refuse to comply with the terms of the written notice sent by the City Manager, the City Manager, his employees or agents may enter upon the premises and cause to be removed, treated or otherwise cared for such diseased matter in order to eradicate or control the same, or to prevent the spreading of any threatening communicable disease or insect infestation.

(c) Payment of costs for failure to comply shall be the same as set out in GJMC 8.32.150.

(Code 1994 § 40-64; Code 1965 § 20-94)

8.32.150 Statement of costs – Notice of hearing.

(a) Upon the completion of the work done pursuant to this chapter and determination of the total cost thereof, the City Manager shall prepare an itemized statement showing the cost, including an additional fee as established by resolution of the City Council and on file in the City Clerk's office for the cost of collection and other incidentals and shall serve a copy of such statement upon the owner, agent or occupant of the real property upon which the work was performed, together with a notice to such owner, agent or occupant therein specifying:

(1) The whole cost of the work done.

(2) That any complaints or objections which may be made in writing by the owner or agent to the City Council must be made within 10 days from the date of such notice, and that such will be heard and determined by the City Council before the passage of any ordinance assessing the cost of such work.

(3) The date and place for hearing of such complaints or objections.

(b) At the time and place specified in the notice provided by subsection (a) of this section, or at some adjourned time, the Council shall hear and determine all complaints and objections and may thereupon make such modifications and changes as may seem equitable and just. The Council shall thereupon, by ordinance, assess the cost of such work, and the passage of such ordinance shall be

prima facie evidence that such assessment has been lawfully levied. More than one assessment against the same or different lots or tracts of land may be included in one ordinance.

(c) Any assessment made under the terms of this section shall be a perpetual lien against the land and shall have priority over all other liens excepting general tax liens, and shall be collected in one installment in the same manner as are other special assessments with interest at one percent from the date of passage of the assessing ordinance.

(Code 1994 § 40-65; Code 1965 §§ 20-95 – 20-97)

8.32.160 Service and notice of assessment.

Service of any notice or assessment statement required in GJMC 8.32.150 shall be made as follows:

(a) Personally, by handing to and leaving with the owner or agent or any member of his household over the age of 18 years a copy of such directive, statement or notice.

(b) Proof of service shall be made by certificate of service of the City Manager or any City employee actually making such service or by the affidavit of the person serving the same, if not a City employee.

(c) By certified mail, by mailing such directive, statement or notice, postage prepaid, return receipt requested, to be signed by addressee only, addressed to the last known address of the owner or agent. Service by certified mail shall be complete upon the date of receipt by the addressee. Proof of service shall be made by certificate of mailing of the City Manager, together with signed receipt of the addressee.

(d) If service cannot be made personally or by certified mail, such directive, statement or notice shall be served by publishing the same for one publication in the official City newspaper. Service shall be complete five days after the date of publication. Proof of service shall be made by the certificate of mailing of the City Manager, together with the publisher's affidavit of publication.

(Code 1994 § 40-66; Code 1965 § 20-98)

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

9.04 Offenses

Chapter 9.04

OFFENSES

Sections:

9.04.010 Unlawful to discard or abandon iceboxes, furniture or motor vehicles.
9.04.020 Aiding and abetting.
9.04.030 Disturbing the peace.
9.04.040 Disorderly conduct.
9.04.050 Discharging firearms, BB guns.
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9.04.220 Purchase, possession, consumption or sale of alcohol by or to persons under the age of 21.
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9.04.250 Prohibition against standing on or occupying medians.

Cross reference(s) – Law enforcement, Chapter 2.44 GJMC.

9.04.010 Unlawful to discard or abandon iceboxes, furniture or motor vehicles.

It is unlawful for any person to abandon or discard, in any public or private place accessible to children, any chest, closet, piece of furniture, refrigerator, icebox, motor vehicle, or other article having a compartment of a capacity of one and one-half cubic feet or more and having a door or lid which when closed cannot be opened easily from the inside, or for anyone, being the owner, lessee or manager of such place, knowingly to permit such abandoned or discarded article to remain in such condition.

(Code 1994 § 24-1; Code 1965 § 19-1)

State law reference(s) – Similar provisions, § 18-13-106, C.R.S.

9.04.020 Aiding and abetting.

It shall be unlawful for any person to aid or abet another person to violate or fail to comply with any of the provisions of this chapter or any other provision of the code of ordinances and the Charter of the City.

(Code 1994 § 24-2; Code 1965 § 19-80)

9.04.030 Disturbing the peace.

It shall be unlawful for any person within this City to disturb the peace of others. A person disturbs the peace of another when he:

(a) Causes to be produced or permits unreasonably loud or unusual noises which seriously inconvenience other persons in the area, including, but not limited to, the use of televisions, radios, phonographs and amplifiers.

(b) Molests pedestrians upon the streets, or in other public places, by following them on foot or in a vehicle or by soliciting them to take rides in automobiles.

(c) Permits another to commit an act of disturbing the peace as described in this section in or upon any premises owned, possessed or under his management or control when it is in his power to prevent such an act.

(Code 1994 § 24-3; Code 1965 § 19-7)

9.04.040 Disorderly conduct.

It shall be unlawful to engage in disorderly conduct in this City. A person commits disorderly conduct if he knowingly:

(a) Addresses abusive language or threats to any person present which creates a clear and present danger of violence.

(b) Fights with another in a public place.

(c) Without authorization, alters or befouls public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.

(d) Causes likelihood of harm or serious inconvenience by failing to obey any lawful order or command for dispersal by a police officer or fire fighter where either three or more persons are committing disorderly conduct, or in the immediate vicinity of fire fighter operations being conducted.

(Code 1994 § 24-4; Code 1965 § 19-8)

State law reference(s) – Similar provisions, § 18-9-106, C.R.S.

9.04.050 Discharging firearms, BB guns.

(a) It shall be unlawful for any person to fire, shoot or discharge any cannon, gun, pistol or other firearm of any description, or BB gun or pellet gun whatsoever, whether powered with gunpowder, compressed air, gas cartridges or spring, within the City limits; however:

  (1) The discharge of firearms or weapons by any member of any law enforcement office, federal, State, County or City, in the course of official duty, shall not be deemed a violation of this section.

  (2) The discharge of firearms or weapons by authorized classes of a law enforcement agency, Parks and Recreation Department program, schools or universities at all times under proper instruction and supervision of shooting ranges as may be authorized or permitted by law shall not be deemed a violation of this section.

  (3) Permission to discharge a firearm or weapon, subject to being revoked by the City Council at any time, may be granted in writing by the Chief of Police. Such permission shall limit the time and place of such firing and specifically set forth the purpose and limitations for which such permission to discharge a firearm or weapon has been granted. When the firing of a firearm or weapon is within the authorized limits, it shall not be deemed a violation of this section.

(b) Any weapon, firearm, BB gun or pellet gun discharged in violation of this section shall be confiscated and disposed of by order of the Municipal Court of the City.

(Code 1994 § 24-5; Code 1965 § 19-54)

9.04.060 Throwing stones, other missiles.

It shall be unlawful for any person to throw any stone or other missile upon or at any building, whether occupied or unoccupied, or at any motor vehicle, awning or other public or private property in a manner to injure such property, or upon or at any person whomsoever.

(Code 1994 § 24-6; Code 1965 § 19-24)

9.04.070 Theft.

(a) It shall be unlawful to commit theft in the City. A person commits a theft when he knowingly obtains or exercises control over any thing of value of another without authorization or by threat or deception with intent to permanently deprive the person having lawful dominion, possession or control of the thing of value of its use or benefit. The Municipal Court shall have jurisdiction where the value of the thing involved is less than $1,000. For purposes of this section, the test of value is the reasonable market value of the stolen article at the time of the commission of the alleged offense. If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment be on his own person or otherwise and whether on or off the premises of such store or mercantile establishment, such concealment shall constitute a presumption that the person intended to commit the crime of theft.

(b) It shall be unlawful to knowingly transfer a label or other designation of price from one item to another or alter such label or designation of price with intent to purchase such item at a lesser cost.

(Ord. 4189, 3-5-08. Code 1994 § 24-7; Code 1965 § 19-22)

9.04.080 Trespass.

It shall be unlawful to commit trespass in the City. "Private property" within this section shall include private property where the public is a business invitee. A person commits trespass if he:

(a) Enters upon or refuses to leave any private property of another, where such property has been posted with no trespass signs which are visible to persons entering upon the private property or which have been posted at reasonable intervals along the property boundary.

(b) Enters upon or refuses to leave any private property of another having been given notice by the owner or person responsible for the property that such entry or continued presence is prohibited.

(c) Enters upon or refuses to leave any public or private parking lot during the hours it is closed to business invitees when such property has been posted with no parking or no trespassing signs and the hours such property is closed which are visible to persons entering upon the property or have been posted at reasonable intervals along the property boundary.

(d) Enters upon or refuses to leave any public place after being ordered to do so by any police officer or fire fighter acting in the course of his employment and duties.

(e) Refuses to leave the property of any parochial school, private school or public school, including a college, where such property is used for the education of persons, when asked to do so by the principal, teacher, staff member, or by any person entrusted with the authority to maintain and supervise the property.

(f) Enters upon or remains in any of the public cemeteries of the City between the hours of 10:00 p.m. and 6:00 a.m., unless the person is an employee of the City acting in the course of his employment.

(Code 1994 § 24-8; Code 1965 § 19-25)

State law reference(s) – Similar provisions, § 18-4-501, C.R.S. et seq.

9.04.090 Invitation required to enter posted premises.

It shall be unlawful for any solicitor or peddler to go upon any premises within the City, unless invited to do so, for the purpose of soliciting or peddling where the owner or occupant of such premises has indicated his desire not to be contacted for such purposes by the placing of a no solicitors sign on the premises.

(Code 1994 § 24-9; Code 1965 § 17-85)

9.04.100 Injuring trees, plants or structures.

It is unlawful to prune, plant, cut, break, dig or pull up, destroy or in any manner injure any tree, shrub, bush, vine, flower, grass or plant or to injure any of the buildings, structures, signs, fences, seats, benches, fountains or ornaments of any kind within any public place, including, but not limited to, public ways, public parks, etc.

(Code 1994 § 24-10; Code 1965 §§ 20-16, 20-81(a))

9.04.110 Malicious injury to property – Removal of survey monuments.

It shall be unlawful for any person to willfully, maliciously or wantonly injure, deface or destroy real property or improvements thereto; or uncover, remove, displace or mutilate survey monuments or range stones imbedded in the streets of the City, unless duly authorized by the City Manager; provided, that where it shall become necessary for the purpose of grading, paving or other construction activity to remove or displace such monuments, such displacement or removal shall be done under the supervision of the City Manager and such monuments shall be adequately referenced by the City or a registered land surveyor prior to removal. All survey monuments removed or displaced shall be replaced at the expense of the contractor or entity responsible for their removal.

(Code 1994 § 24-11; Code 1965 § 19-5)

State law reference(s) – Similar provisions, §§ 18-4-505, 18-4-506, C.R.S.

9.04.120 Keeping disorderly house.

It shall be unlawful for any person to knowingly, intentionally, or recklessly keep any disorderly house, which term is defined as any structure and/or adjoining property or both which is used, owned, kept or controlled by such person within this City upon or within which any drinking of alcohol by a person under the age of 21, quarrelling, fighting or riotous or disorderly conduct is permitted, allowed, occasioned, encouraged or suffered.

(Ord. 3201, 11-3-99. Code 1994 § 24-12; Code 1965 § 19-6)

9.04.130 Impersonating an officer.

It shall be unlawful for any person other than an official police officer of the City to wear the uniform apparel and any other insignia of office like or similar to, or a colorable imitation of, that adopted and worn by the police officers of the City, or any other law enforcement agency within the County or of the State, or to impersonate a police officer or any other officer of the City in any other manner.

(Code 1994 § 24-13; Code 1965 § 19-14)

9.04.140 Interfering with officers.

It shall be unlawful for any person to interfere by use of physical force with any person duly empowered with police authority, while such officer, member or person duly empowered with police authority is dis-

charging or apparently discharging his duties; such interference shall include physical actions intended to aid a person who is resisting an arrest or is being arrested.

(Code 1994 § 24-14; Code 1965 § 19-16)

State law reference(s) – Similar provisions, §§ 18-8-104, 18-8-105, 18-8-116, C.R.S.

9.04.150 Resisting arrest.

It shall be unlawful to intentionally prevent or attempt to prevent a police officer, any member of the Police Department, or any person duly empowered with police authority acting under color of his official authority from effecting an arrest of the actor by either using physical force or violence against a peace officer, or using any other means which creates a substantial risk of causing physical injury to the police officer. It is no defense to a prosecution under this section that the police officer was attempting to make an arrest which in fact was unlawful, if he was acting under color of his official authority, and in attempting to make the arrest he was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts "under color of his official authority" when, in the regular course of assigned duties, he is called upon to make and does make a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him.

(Code 1994 § 24-15; Code 1965 § 19-21)

State law reference(s) – Similar provisions, § 18-8-103, C.R.S.

9.04.160 Public meetings and parades.

It shall be unlawful to hold any outdoor meeting on public property to which the general public is invited or permitted to attend, addressed by one or more speakers, or conduct a processional parade, unless a permit for such event has been issued by the City. Applications for such permit shall be made to the City Manager or his designated agent at least 21 days prior to the event, with a copy sent to the Fire Department, Police Department, Parks and Recreation Department and Public Works Department, and shall contain the following information:

(a) A description of the event.

(b) The day and hour of the event.

(c) The location of the event. Should the event be a parade, the preferred route for a parade in the City shall be from or to Second and Main Streets to Lincoln Park via Main Street and 12th Street, or any portion thereof, as this provides the route most easily police controlled. Variations from this route may be permitted by the City Manager for good cause shown.

(d) A reasonable and good faith approximation of the number of persons expected to attend the event.

(e) A reasonable and good faith approximation of the number and types of units expected to participate in the parade.

(f) The names and addresses of the persons sponsoring the event.

Upon compliance with this section, a permit shall be issued by the City Manager or his agent.

(Code 1994 § 24-16; Code 1965 § 19-27)

9.04.165 Use of City Hall facilities and the designated outdoor area.

Certain designated areas on the grounds and inside City Hall are deemed to be appropriate for speech as defined by the federal and State courts and the City's use policy.

With regard to the use of City Hall grounds at City Hall located at 250 N. 5th St. in Grand Junction, the City Council finds that a limited public forum should exist on the area known as the "designated public assembly area."

The City Council adopts this section in the interest of promoting among the populace the right to freely assemble and reasonably exercise the privileges conferred by the First Amendment.

(Res. 18-04, 2-18-04)

9.04.170 Prostitution, soliciting.

It shall be unlawful to commit prostitution in the City. Any person who performs, offers or agrees to perform or solicits another person to perform any act of sexual intercourse, oral contact with the genitals, or stimulation of the genitals with any person not his spouse, in exchange for money or other things of value, commits prostitution in the City.

(Code 1994 § 24-17; Code 1965 § 19-18)

State law reference(s) – Similar provisions, § 18-7-201, C.R.S. et seq.

9.04.180 Indecent exposure.

It shall be unlawful to commit a lewd or indecent act in the City. Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public violates this section:

(a) An act of sexual intercourse;

(b) An act of carnal copulation either per anus or per os;

(c) To willfully or knowingly: be nude; wear any indecent or lewd dress; make or perform any indecent exposure of such person's intimate parts; or to make or perform any indecent exposure of the intimate parts of another person. For the purposes of this section, "intimate parts" means the external genitalia, the anus, the buttocks, the pubes or the breast or breasts of any person;

(d) A lewd fondling or caress of the body of another person;

(e) Intentional exposure of genitals to the view of any person;

(f) Urinating in public; or

(g) Aiding, suffering or permitting in the doing of any of the offenses described in this section.

(Ord. 3312, 11-15-00; Ord. 3202, 11-3-99. Code 1994 § 24-18; Code 1965 § 19-15)

State law reference(s) – Similar provisions, §§ 18-7-301, 18-7-302, C.R.S.

9.04.190 Use of explosives – Permit required.

It shall be unlawful for any person within this City to explode or set off any explosive material without a permit.

(Code 1994 § 24-19; Code 1965 § 19-10)

9.04.200 Skate devices, wheeled devices – Regulations.

(a) No person shall operate a skate device in any place where there are one or more signs posted prohibiting such activity. No person shall operate a skate device in any place in a manner which causes injury to any person or damage to public or private property.

(b) A person using a skate device upon any sidewalk, public path, trail or right-of-way within the City shall use the same in a careful and prudent manner and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of pedestrian traffic, grade and width of sidewalk, path, trail or right-of-way and condition of the surface thereof, and shall obey all traffic control devices. Every person using

a skate device upon a sidewalk, public path, trail or other right-of-way shall yield the right-of-way to any pedestrian thereon.

(c) Skate device(s) shall include and mean any skateboard(s), conventional or in-line roller skates or other similar device or apparatus, all which may be collectively referred to as skate device or skate devices.

(Ord. 2861, 8-16-95. Code 1994 § 24-20)

9.04.210 Regulation of tobacco products.

(a) Definitions. For the purposes of this section, the following words or phrases shall have the meanings set forth.

(1) *Tobacco product* means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing or dipping tobacco. This definition does not include any nicotine containing product which is used for the purpose of helping a person stop smoking, such as nicotine gum or nicotine patches.

(2) *Smoking* means the carrying or possession of a lighted cigarette, cigar, pipe, and includes lighting of the same.

(3) *Self service display* means any retail tobacco display to which customers have direct physical access, including cigarette vending machines.

(4) *Minor* means any person under the age of 18.

(5) *Vending machine* means any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or other form of payment, dispenses a tobacco product.

(b) Possession and Use of a Tobacco Products by Minors.

(1) It shall be unlawful for any minor to knowingly possess, consume, or use, either by smoking, ingesting, absorbing, or chewing, any tobacco product.

(2) It shall be unlawful for any minor to knowingly obtain or attempt to obtain any tobacco product by misrepresentation of age or by any other method.

(3) It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco product.

(c) Furnishing Tobacco Products Prohibited.

(1) Any person who knowingly furnishes any tobacco product to any minor by gift, sale, or any other means commits a violation hereof.

(2) It shall be an affirmative defense to a prosecution under this section that the person furnishing the tobacco product was presented with and reasonably relied upon a document which identified the person receiving the tobacco product as being 18 years of age or older.

(d) Vending Machines. It shall be unlawful for any person to sell a tobacco product by use of a vending machine or other coin-operated machine; except that cigarettes may be sold at retail through vending machines only in:

(1) Factories, businesses, offices, or other places not open to the public; or

(2) Places to which minors are not permitted access.

(e) Retail Sale of Tobacco Products.

(1) It shall be unlawful for any business proprietor, manager, or other person in charge or control of a retail business of any kind to engage, employ or permit any minor to sell any tobacco product from such retail business.

(2) It shall be unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to use a self-service display of tobacco products or stock a tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of an adult business employee for each transaction. The provisions of this subsection (e)(2) shall not apply to stores possessing a valid retail liquor store license, as defined by the Colorado Liquor Code, issued by the City and to vending machines meeting the requirements of subsection (d) of this section.

(3) Any person who sells or offers to sell any cigarettes or tobacco products at retail shall display a warning sign, as specified in this subsection.

(4) Said warning sign shall be displayed in a prominent place in the building and on such machine at all times and shall have a minimum height of three inches and a width of six inches, and shall read as follows:

WARNING:

IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE TO PURCHASE OR POSSESS CIGARETTES AND TOBACCO PRODUCTS. UPON CONVICTION A FINE OF UP TO $500 PLUS NOT MORE THAN 48 HOURS OF USEFUL PUBLIC SERVICE MAY BE IMPOSED.

(f) Sale of Single Cigarettes Prohibited. It shall be unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to sell or offer to sell single cigarettes or any pack of cigarettes containing fewer than 20 cigarettes.

(g) False or Altered Identification. It shall be unlawful for any person under the age of 18 years of age to misrepresent that person's identity or age, or use any false or altered identification for the purpose of purchasing any tobacco product.

(h) Penalty. Any person who violates any provision hereof is guilty of a petty offense and upon conviction shall be subject to:

(1) A fine of up to $50.00 for the first offense; a fine of up to $100.00 for the second offense; a fine of up to $500.00 for a third offense; and up to $1,000 for each subsequent offense; and one year in jail;

(2) Except that a minor shall not be subject to any jail time but may be required to pay a fine not to exceed $500.00, as provided, and may be required to perform not more than 48 hours useful public service (which may include educational efforts or programs) or any combination of fine, public service and education.

(i) Savings Clause. Should any provision of said ordinance be found by a court of competent jurisdiction to be unconstitutional or otherwise unenforceable, the rest of the provisions hereof shall remain in full force and effect.

(Ord. 3508, 4-2-03; Ord. 3095, 2-17-99. Code 1994 § 24-21)

State law reference(s) – Local regulations, §§ 18-13-121(3), 25-14-105, C.R.S.

9.04.220 Purchase, possession, consumption or sale of alcohol by or to persons under the age of 21.

(a) Definitions. *Alcoholic beverage*, as used in this section, shall mean any vinous, spirituous or malt liquor and/or any fermented malt beverage, including 3.2 percent beer, of any kind and in any quantity.

(b) Providing Alcohol to Minor.

(1) It shall be unlawful for any person to knowingly sell, serve, give away, dispose of, exchange or deliver, or to permit the sale, serving, giving or procuring of any alcoholic beverage to or for anyone under the age of 21 years.

(2) It shall be unlawful for any person to knowingly permit any person under the age of 21 years to violate subsections (c)(1), (c)(2) or (d) of this section.

(c) Purchase of Alcohol by Minor.

(1) It shall be unlawful for any person under the age of 21 years to obtain or attempt to obtain any alcoholic beverage by misrepresentation of age or any other method in any place selling or providing alcoholic beverages.

(2) It shall be unlawful for any person under the age of 21 years to purchase any alcoholic beverage.

(d) Possession or Consumption of Alcohol by Minor. It shall be unlawful for a person under the age of 21 years to possess or consume any alcoholic beverage.

(e) Defenses, Exceptions.

(1) It shall be an affirmative defense to any violation of this section that the person under the age of 21 years was participating in a religious ceremony or practice, or was participating in a supervised and bona fide investigation conducted by a law enforcement agency, or that the conduct was permitted by Articles 46 and/or 47 of Title 12, Colorado Revised Statutes.

(2) Nothing in this section shall prohibit any person under the age of 21 from possessing or consuming any alcoholic beverage in their own home with the knowledge and permission of, and in the presence and under the supervision of, their natural parent(s) or legal guardian, nor to prohibit any natural parent or legal guardian from providing any alcoholic beverage to their child(ren) in their own home.

(f) Penalties.

(1) Each violation of subsection (b)(1) or (b)(2) of this section (providing alcohol to a minor) shall be punishable by a fine of up to $1,000, useful public service, up to 30 days in jail, or any combination thereof, in the discretion of the Court.

(2) Each violation of subsection (c)(1), (c)(2) or (d) of this section (purchase, possession or consumption of alcohol by a minor) shall be punishable by useful public service, suspension of driver's license, alcohol education classes, alcohol evaluation and treatment, fines, or any combination of these in the discretion of the Court, subject to the following:

(i) Useful public service of no less than 24 hours for any single offense shall be imposed.

(ii) Driver's license shall be suspended for a period of three months for a first offense and up to one year for subsequent offenses.

(iii) Fines of up to $250.00 for a first offense, up to $500.00 for a second offense and up to $1,000 for a third offense may be imposed. Fines may be suspended on the condition of timely completion of useful public service and alcohol classes or treatment. This subsection (f)(2)(iii) shall not limit the discretion of the Court to suspend fines for other reasons it deems appropriate. It is the intention of the City Council in adopting this subsection (f)(2)(iii) to establish a preference for useful public service, alcohol education and/or treatment over fines.

(3) Each violation of subsection (c)(1), (c)(2) or (d) of this section (purchase, possession or consumption of alcohol by a minor) by a person who is 18 years of age or older may be punishable by up to 30 days in jail, in combination with or in lieu of any penalties set forth in subsection (f)(2) of this section in the discretion of the Court.

(4) "First offense," "second offense," "third offense" and further offenses shall be defined as including any prior municipal alcohol or drug related possession or consumption offense(s).

(5) Aggravating factors for sentence enhancement include but shall not be limited to the following factor(s):

(i) Prior conviction(s) for minor in possession or consumption of alcohol or marijuana;

(ii) Prior conviction(s) for possession, consumption, or distribution of alcohol or other unlawful drugs (including prescription drugs);

(iii) Prior conviction(s) for driving under the influence of alcohol, driving while impaired by alcohol and other motor vehicle offense(s) involving the use of alcohol and drugs; and

(iv) Lack of cooperation by the defendant, including poor attitude and/or aggressive or hostile demeanor.

(Ord. 4321 § 1, 1-21-09. Ord. 3852, 12-21-05. Code 1994 § 24-22)

9.04.230 Purchase, possession, consumption of marijuana by persons under the age of 21.

(a) It shall be unlawful for any person under the age of 21 years to purchase or possess one ounce or less of marijuana, and/or to consume any quantity of marijuana, except as allowed for medicinal purposes.

(b) Penalties.

(1) Each violation of this section shall be punishable by useful public service, suspension of driver's license, drug education classes, drug evaluation and treatment, fines, or any combination of these in the discretion of the Court, subject to the following:

(i) Useful public service of no less than 24 hours for any single offense shall be imposed.

(ii) Driver's license shall be suspended for a period of three months for a first offense and up to one year for subsequent offenses.

(iii) Fines of up to $250.00 for a first offense, up to $500.00 for a second offense and up to $1,000 for a third offense may be imposed. Fines may be suspended on the condition of timely completion of useful public service and drug classes or treatment. This subsection (b)(1)(iii) shall not limit the discretion of the Court to suspend fines for other reasons it deems appropriate. It is the intention of the City Council in adopting this subsection (b)(1)(iii) to establish a preference for useful public service and drug education and/or treatment over fines.

(2) Each violation of this section by a person who is 18 years of age or older may be punishable by up to 30 days in jail, in combination with or in lieu of any penalty provided for in subsection (b)(1) of this section, in the discretion of the Court.

(3) "First offense," "second offense," "third offense" and further offense(s) shall be defined as including any prior municipal alcohol or drug related possession or consumption offense(s).

(4) Aggravating factors for sentence enhancement include but shall not be limited to the following factor(s):

(i) Prior conviction(s) for minor in possession or consumption of alcohol or marijuana;

(ii) Prior conviction(s) for possession, consumption, or distribution of alcohol or other unlawful drugs (including prescription drugs);

(iii) Prior conviction(s) for driving under the influence of alcohol, driving while impaired by alcohol and other motor vehicle offense(s) involving the use of alcohol and drugs; and

(iv) Lack of cooperation by the defendant, including poor attitude and/or aggressive or hostile demeanor.

(Ord. 4321 § 2, 1-21-09. Ord. 3853, 12-21-05. Code 1994 § 24-23)

9.04.240 Possession and purchase of drug paraphernalia by persons under the age of 21 years.

(a) It shall be unlawful for any person under the age of 21 years to knowingly purchase or possess drug paraphernalia.

(b) *Drug paraphernalia* as used in this section shall mean all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing marijuana into the human body in violation of this section, including but not limited to:

(1) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of marijuana in violation of this section;

(2) Scales and balances used, intended for use, or designed for use in weighing or measuring marijuana in violation of this section;

(3) Separation gins or sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana in violation of this section;

(4) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding marijuana with other substances, including but not limited to foods;

(5) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of marijuana;

(6) Containers and other objects used, intended for use, or designed for use in storing or concealing marijuana; or

(7) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips, meaning objects used to hold a burning marijuana cigarette that has become too small or too short to be held in the hand;

(vi) Chamber pipes;

(vii) Carburetor pipes;

(viii) Electric pipes;

(ix) Air-driven pipes;

(x) Chillums;

(xi) Bongs;

(xii) Ice pipes or chillers.

(c) In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

(1) Statements by the owner or by anyone in control of the object concerning its use;

(2) The proximity of the object to marijuana;

(3) The existence of any residue of marijuana on the object;

(4) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person unreasonably should know, that it will be delivered to persons who he knows or reasonably should know, could use the object to facilitate a violation of this section;

(5) Instructions, oral or written, provided with the object concerning its use;

(6) Descriptive materials accompanying the object which explain or depict its use;

(7) National or local advertising concerning its use;

(8) The manner in which the object is displayed;

(9) Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;

(10) The existence and scope of legal uses for the object in the community;

(11) Expert testimony concerning its use.

(d) In the event a case brought pursuant to this section is tried before a jury, the Court shall hold an evidentiary hearing on issues raised pursuant to this section. Such hearing shall be conducted in camera.

(e) Penalties. Any person who violates this section shall be punished by a fine of not more than $100.00.

(Ord. 3853, 12-21-05. Code 1994 § 24-24)

9.04.250 Prohibition against standing on or occupying medians.

(a) It is unlawful for any person to stand on or occupy a median, other than as a pedestrian in the act of crossing a street, for any purpose. No person may use a median to conduct political campaign activities or to solicit employment, business, contributions of any kind or sales of any kind and/or to collect money for the same from the operator or any occupant of a motor vehicle traveling upon any street, roadway or highway within the City.

For purposes of this section a *median* shall be defined as any island or street divider, including but not limited to areas that are landscaped, painted or otherwise constructed, that separate traffic for vehicular travel into opposite or different directions.

For purposes of this section *solicit* means asking for money or things of value. Soliciting includes using the spoken, written or printed word; gestures, signs or other means to obtain or try to obtain a donation of money or other thing(s) of value or the sale or receipt of goods or services.

(b) Penalties. Any violation of the provisions of this section constitutes a misdemeanor punishable in accordance with the penalties provided in GJMC 1.04.090.

(c) Severance. If any section, sentence, clause or phrase of this section is held invalid or unconstitutional by a court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this law.

(Ord. 4382, 9-2-09. Code 1994 § 24-26)

Title 10

TRAFFIC AND VEHICLES

Chapters:

10.04 Traffic and Vehicles

Chapter 10.04

TRAFFIC AND VEHICLES

Sections:

10.04.010 Model traffic code – Generally.
10.04.020 Amendments and deletions.
10.04.030 Notice on illegally parked vehicle.
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10.04.370 Parking where spaces are designated.

Cross reference(s) – Drivers of City-owned vehicles or emergency vehicles liability, GJMC 2.16.020; vehicle loads required to be secured to prevent spillage, GJMC 8.12.020.

State law reference(s) – Vehicles and traffic regulations, § 42-4-102, C.R.S.

10.04.010 Model traffic code – Generally.

(a) Adoption. Pursuant to applicable law including Title 31, Article 16, Parts 1 and 2, C.R.S., there is hereby adopted by reference Article I and II, inclusive; Parts 1 through 19, excluding Part 12, Parking; and Article II inclusive, of the 2003 Edition of the Model Traffic Code for Colorado, promulgated and published as such by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of the

2003 Model Traffic Code for Colorado relates primarily to comprehensive traffic control regulations for local governments. The purpose of this section and the code adopted in this section is to provide a system of traffic regulations consistent with State law and generally conforming to similar regulations throughout the State and nation. One copy of the 2003 Edition of the Model Traffic Code for Colorado adopted in this section is now filed in the office of the City Clerk and may be inspected during regular business hours. The 2003 Edition of the Model Traffic Code for Colorado is adopted as if set out at length in this section.

(b) Penalties. Penalties for violations of this chapter may include fines, points, incarceration, useful public service and driver education, as determined by the Judge of the Municipal Court, and in accordance with GJMC 1.04.090.

(1) It is unlawful for any person to violate any of the provisions stated or adopted in this section.

(2) Every person convicted of a violation of any provision stated or adopted in this section shall be punished pursuant to and not in excess of the penalties specified in GJMC 1.04.090.

(c) Application. Except as otherwise provided, the provisions of this chapter shall apply to every street, alley, sidewalk area, driveway, park, planting strip and to every other public way or public parking area, either within or outside the corporate limits of this municipality, the use of which this municipality has jurisdiction to regulate. The provisions of Sections 606, 1401, 1402, and 1413 of the adopted Model Traffic Code, respectively concerning unauthorized devices, reckless driving, careless driving and eluding officer shall apply not only to public places and ways but also throughout this municipality.

(d) Interpretation. This section shall be so interpreted and construed as to effectuate its general purpose to conform to the State's uniform system for the regulation of vehicles and traffic. Article and section headings of the sections of the adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

(Ord. 4110, 8-15-07. Code 1994 § 36-1)

10.04.020 Amendments and deletions.

The Model Traffic Code adopted in GJMC 10.04.010 is hereby amended as follows:

(a) Part 12, inclusive, is deleted.

(b) Section 103(2)(c) is added to read:

On no portion of any state highway or connecting link within the city shall any person violate any of the provisions of this Code, or any of the laws amending the same, or any of the rules or regulations issued pursuant thereto.

(c) Section 109.5 is amended to read:

(1) (Deleted)

(2) No person shall operate a neighborhood electric vehicle on a limited access highway.

(d) Section 238 is added to read:

(a) Definition. For the purposes of this section, "golf cart" means a four-wheel, pneumatic tired vehicle powered by a gasoline or battery driven motor that is designed for use as a transport device on a golf course, or as a means of transportation for Mesa State College authorized personnel, within Mesa State College boundaries, as defined in paragraph (b) below.

(b) A golf cart may be driven upon streets under the jurisdiction of the City, excluding country roads, state or federal highways, in the following designated areas:

(1) the area bounded on the west by 26 Road, on the east by 28 Road, on the south by Patterson Road, and on the north by H Road. Golf carts may be driven on 26 Road, 28 Road, and H Road, but are not permitted on Patterson Road or Horizon Drive (however, crossing Horizon Drive at an intersection is permitted); and

(2) the area beginning at the intersection of Shadow Lake Road and Mariposa Road (but excluding Mariposa Road) along Ridges Boulevard to the west, continuing along West Ridges Boulevards and inclusive of all streets within the Redlands Mesa Planned Development; and

(3) the area bounded on the west by Cannell Avenue, on the east by 13th Street, on the south by North Avenue and on the north by Orchard Avenue. (However, driving on North Avenue is not allowed).

(c)(1) No person shall operate a golf cart on any public street in the city:

a. Unless within the boundaries set forth in subsection (b) of this section;

b. Unless the golf cart is equipped at a minimum with:

1. A state approved slow triangle mounted on the rear of the cart;

2. A rearview mirror;

3. An audible warning device;

4. Turn signals;

5. Both headlights and tail lights;

6. A steering wheel;

7. A foot-controlled accelerator; and

8. A foot brake;

c. Except during the time from one-half hour before sunrise to one-half hour after sunset; however, in the designated area around Mesa State College, authorized MSC personnel may operate golf carts on a 24-hour basis.

d. Unless in a direct route from the operator's residence to a golf course, or from a golf course to the operator's residence; unless the golf cart operator is an authorized MSC facilities employee driving within the designated boundaries specified in Section 238 (b)(3).

e. Unless such person possesses, on the person of the operator, a valid State of Colorado driver's license.

f. In a way or at a speed which impedes the normal flow of traffic; the operator has the affirmative duty to observe traffic behind and around him. If the golf cart is traveling at a speed which is more than five miles per hour below the applicable speed limit, the oper-

ator of a golf cart shall pull over to the right side of the road at the first safe opportunity and allow vehicles to pass the golf cart.

g. While under the influence of, or impaired by, alcohol; nor shall any person operate a golf cart while under the influence of any drug. The definition of, and proof of, intoxication or impairment shall be as set forth in C.R.S. § 42-4-1202. The operator of a golf cart who is arrested for operating a golf cart while under the influence of or impaired by alcohol or drugs shall submit to chemical testing as set forth in C.R.S. title 42. Failure to submit to a test as required shall result in the immediate revocation of the permit issued to an operator.

h. Without first obtaining a permit from the city police department, which permit shall be attached to the golf cart at all times that such cart is being operated upon a city right-of-way.

i. Unless such person has, on his person, proof of recreational vehicle or similar insurance that is current and provides coverage for injury to persons and property.

(2) The operator of a golf cart on public streets shall comply with the provisions of the Model Traffic Code as adopted by the city.

(3) Nothing in this section authorizes the operation of a golf cart on rights-of-way under the jurisdiction of the county. It is the duty of each operator of a golf cart to ascertain whether a right-of-way is within the city limits.

(d) The police chief, after having determined that the golf cart and the operator are in compliance with requirements of this section, shall issue a permit. Such permits shall be valid for three years from the date of issuance unless revoked for just cause. Fees for the permit shall be as established by resolution of the City Council. The City Council may alter such fees by resolution.

(e) Police officers are authorized to stop a golf cart which is being operated on a City right-of-way, without probable cause or other reason, at any time, to verify that the operator has a valid permit and to inspect for required safety equipment.

(f) The City Council shall, by resolution, establish the minimum requirements of required insurance for operation of golf carts on city rights-of-way.

(e) Section 705. Section 705 shall be amended and Sections 705 (b), (c), and (d) added to read:

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible or visual signals meeting the requirements of section 213 or 222, the driver of every other vehicle shall yield the right-of-way and where possible shall immediately clear the farthest left-hand lane lawfully available to through traffic and shall drive to a position parallel to, and as close as possible to, the right-hand edge or curb of a roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer or other authorized emergency personnel.

(b) Whenever an authorized service vehicle is performing its service function and is displaying audible or visual signals meeting the requirements of section 213 or 222, drivers of all other vehicles shall exercise more than ordinary care and caution in approaching, overtaking or passing such service vehicle.

(c) On a highway with at least two adjacent lanes proceeding in the same direction on the same side of the highway where a stationary authorized emergency vehicle is located, the driver of an approaching or passing vehicle shall proceed with due care and caution and yield the right of way by moving into a lane at least one moving lane apart from the stationary authorized emergency vehicle, unless directed otherwise by a peace officer or other authorized emergency personnel. If movement to an adjacent moving lane is not possible due to weather, road conditions, or the immediate presence of vehicular or pedestrian traffic, the driver of the approaching vehicle shall proceed in the manner described in paragraph (d) of this section.

(d) On a highway that does not have at least two adjacent lanes proceeding in the same direction on the same side of the highway where a stationary authorized emergency vehicle is located, or if movement by the driver of the approaching vehicle into an adjacent moving lane, as described in paragraph (c) of this section, is not possible, the driver of an approaching vehicle shall reduce and maintain a safe speed with regard to the location of the stationary authorized vehicle, weather conditions, road conditions, and vehicular or pedestrian traffic and proceed with due care and caution, or as directed by a peace officer or other authorized emergency personnel.

(f) Section 1102. Section 1102 in locations where the speed is altered because of road and traffic conditions is hereby amended. The new section shall read as follows:

When a reduced speed limit is authorized pursuant to Section 1102 of the 2003 Model Traffic Code, as adopted by the City of Grand Junction, a violation of the altered speed is a violation of the speed regulations in Section 1101(2)(h).

(g) Section 1409. Section 1409 (3) shall be amended to read:

(3) When requested to do so by a peace officer following any lawful traffic contact or during any traffic investigation, no owner or operator of a motor vehicle shall fail to present to the requesting officer immediate evidence of a complying policy or certificate of insurance in full force and effect as required by sections 10-4-705 and 10-4-716, C.R.S. The Municipal Court shall not have jurisdiction under this section in those cases in which property damage and/or injury results.

(h) Section 1416 shall be added to read:

Section 1416. Limitations on backing.

(a) The driver of a vehicle, whether on public property or private property which is used by the general public for parking purposes, shall not back the same unless such movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.

(i) Section 1417 shall be added to read:

Section 1417. Opening and closing vehicle doors. No person shall open the door of a motor vehicle on a side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic; nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(j) Section 1418 shall be added to read:

Section 1418. Starting parked vehicle.

The driver of a vehicle, whether on public property or private property which is used by the general public for parking purposes, shall not start moving a vehicle from a stopped, standing or parked position unless and until such movement can be made with reasonable safety.

(k) Section 1503. Section 1503 is hereby amended by adding subsection (6), which shall read as follows:

(6) It shall be unlawful for any person to drive, ride or use a motorcycle, motor-driven cycle, motor scooter, motorbike, minibike, dune buggy, or other similar on- or off-road vehicle upon any public or private property which is not an improved public street or highway, or improved private street approved by the City of Grand Junction, except that this subsection shall not apply in either of the following instances:

(a) Where such vehicle is being driven, ridden, or used upon property by the owner, resident or tenant of such property, or by an authorized visitor when such visitor is accompanied by or has a written authorization in his possession from the owner, resident or tenant of the property.

(b) Where such use is permitted pursuant to a use permit or otherwise in accordance with the zoning regulations of the City of Grand Junction.

(7) Nothing herein shall be interpreted to permit the operation on city streets of vehicles otherwise prohibited from such operation.

(l) Article II, Section 102. Section 102 (68) is hereby amended to read as follows:

(68) Sidewalk or sidewalk area means that portion of a street between the curblines, or the lateral lines, of a roadway and the adjacent property lines.

(m) Article II, Section 102. Section 102 is hereby amended by the creation of subsection (90) to read as follows:

(90) Golf cart means a four-wheel, pneumatic tired vehicle powered by a gasoline or battery driven motor that is designed for use as a transport device on a golf course.

(n) Article II, Section 102. Section 102 is hereby amended by the creation of subsection (91) to read as follows:

(91) Holidays. Where used in this ordinance or on official signs shall, in addition to Sundays mean New Year's Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, General Presidential Election Day, Veterans Day, Thanksgiving Day, and Christmas Day.

(92) Neighborhood electric vehicle means a self-propelled, four-wheeled, pneumatic tire vehicle that is powered by a battery driven motor and can attain a speed of not more than twenty-five (25) miles per hour.

(Ord. 4370, 8-3-09; Ord. 4351, 4-15-09; Ord. 4234, 5-7-08; Ord. 4110, 8-15-07. Code 1994 § 36-2)

10.04.030 Notice on illegally parked vehicle.

(a) Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by the ordinances of this municipality, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a penalty assessment notice, directing the driver thereof to respond to and answer the charge against him at a place and at a time specified in said notice.

(b) If upon the violation of any of the parking restrictions imposed by this chapter a person produces photographic evidence of a stopping, standing or parking violation and reports the same to the municipal law enforcement agency, then the municipal law enforcement agency or the City Attorney, upon a determination of probable cause to believe that a stopping, standing or parking violation has been committed, may issue a penalty assessment notice to the registered owner of the vehicle as otherwise provided in this section. Upon a determination of the registered owner of the vehicle, a penalty assessment may be mailed to the address of record shown on the current registration for the vehicle.

(c) For purposes of this section, "photographic evidence" means still photographs, video or digital images which show the violation, the front and rear license plates of the vehicle and the date and time of the violation. The person procuring the photographic evidence shall for the purposes of prosecution be considered the complaining witness. The person procuring the photographic evidence shall in order for a prosecution thereon to be sustained, be sworn and under oath or affirmation testify that the photographic evidence is true and accurate and faithfully depicts what he/she observed.

(Ord. 4110, 8-15-07. Code 1994 § 36-3)

10.04.040 Failure to comply with notice on parked vehicle.

(a) If the driver or owner of an unattended motor vehicle charged with an apparent violation of the restrictions on stopping, standing or parking under the traffic ordinances of this municipality does not respond within the time specified to a penalty assessment notice affixed to such vehicle, by appearance and payment at the court having jurisdiction, or by mailing payment by means of the United States mail, or by other disposition of the charge as provided by law, the clerk of said court shall send another notice by mail to the registered owner of the vehicle to which the original notice was affixed, warning him that in the event such notice is disregarded for a period of 20 days from date of mailing, a complaint will be filed and a warrant of arrest will be issued.

(b) If the driver or owner of an unattended motor vehicle charged with an apparent violation of the restrictions on stopping, standing or parking under the traffic ordinances of this municipality does not respond within the time specified to a penalty assessment notice affixed to such vehicle or mailed to the registered owner of the vehicle, as provided in GJCM 10.04.030, by appearance and payment at the Traffic Violations Bureau or court having jurisdiction, or by mailing payment by means of the United States mail or by other disposition of the charges as provided by law, the clerk of said court or Traffic Violations Bureau shall send notice by mail to the registered owner of the vehicle to which the penalty assessment was affixed or another notice to the registered owner of the vehicle to which the first mailed notice was sent, warning him that in the event such notice is disregarded for a period of 20 days from the date of mailing, a warrant of arrest will be issued.

(c) When a driver, owner, or person in charge of a vehicle has failed to respond to the following notices of illegal parking:

(1) A notice placed on the vehicle pursuant to GJMC 10.04.030; and

(2) An additional notice mailed to the registered owner of the vehicle;

a police officer or other authorized person of the City of Grand Junction, acting in his official capacity, may temporarily immobilize such vehicle by attaching to it a device designed to restrict the nor-

mal movement of the vehicle; provided, however, that the vehicle shall be located on a public right-of-way or in such a place frequented by the public for public purposes, or private property where the public frequents for public purposes, or private property where the public is a business invitee. Prior to immobilization the Municipal Court shall review the procedure followed and enter an order directing the immobilization.

(d) If a vehicle is immobilized, the officer shall affix a conspicuous notice to the vehicle informing the driver, owner or person in charge of the vehicle that:

(1) The vehicle has been immobilized by the City of Grand Junction for a parking violation pursuant to the code of ordinances of the City of Grand Junction by an order issued by the Judge of the Municipal Court.

(2) The owner of the vehicle may request an immediate hearing in the Grand Junction Municipal Court to contest the citation or immobilization of the vehicle, or the owner of the vehicle shall have the right, upon request, to a post-deprivation hearing within 48 hours after the request for such hearing, excluding Saturdays, Sundays and holidays. In the alternative, the owner may obtain immediate release of the vehicle by posting bond in the amount of the delinquent parking fines and fees plus booting costs as established by resolution of the City Council and on file in the City Clerk's office with the Clerk of the Municipal Court. If the vehicle is so released, any hearing requested will be set within the normal time limits of any other hearing in Municipal Court.

(3) Release of the vehicle may be obtained without a hearing by payment of fines, fees and costs as established by resolution of the City Council and on file in the City Clerk's office to the Clerk of the Municipal Court.

(4) Unless arrangements are made for the release of the vehicle within 72 hours, the vehicle shall be removed from the streets by a police officer pursuant to GJMC 10.04.060.

(5) That removing or attempting to remove the device before a release is obtained is unlawful.

(e) It shall be unlawful for any person to remove or attempt to remove an immobilized vehicle before a release is obtained or to move any such vehicle before the Police Department releases it.

(Ord. 4110, 8-15-07. Code 1994 § 36-4)

10.04.050 Presumption in reference to illegal parking.

In any prosecution charging a violation of any provision of this chapter governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(Ord. 4110, 8-15-07. Code 1994 § 36-5)

10.04.060 Abandoned vehicles and authority to impound vehicles.

(a) No person shall abandon any motor vehicle upon private property within the City other than his or her own. Subject to other provisions of law concerning junk and/or inoperable motor vehicles, any owner or lessee of property within this municipality, or the owner or lessee's agent, may have an abandoned motor vehicle removed from his or her property by having it towed and impounded by a tow operator.

(b) With respect to any vehicle towed pursuant to subsection (a) of this section, the tow operator having in his or her possession any motor vehicle that was abandoned on private property shall, within one hour of impoundment, notify the Police Department of the following: name of tow operator in possession of the abandoned vehicle, the location of the impound lot where the vehicle is located, a

description of the abandoned motor vehicle, including make, model, color and year, the number, issuing state and expiration date of the license plate, and the vehicle identification number.

(c) Whenever any police officer finds a vehicle, attended or unattended, standing upon any portion of a street or highway right-of-way within this municipality in such a manner as to constitute a violation of Section 10-5 of the 1977 version of the Model Traffic Code, or left unattended for a period of 24 hours or more and presumed to be abandoned under the conditions prescribed by § 42-4-2102, C.R.S., such officer shall require such vehicle to be removed or cause the same to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by this municipality.

(d) Notice and Hearing.

(1) As to any vehicle impounded pursuant to this chapter by or at the request of the City, its agents or employees, a person who has a legal entitlement to possession of the vehicle has a right to a post-seizure administrative hearing to determine whether there was probable cause to impound the vehicle if such person files a written demand, on forms so provided for such a hearing, with the City within 10 days after such person has learned such vehicle has been impounded or within 10 days after the mailing of the date set in the notice of stored vehicle, whichever occurs first. The notice of stored vehicle shall be sent in the mail to the legal and registered owner or his agent and to the garage where the vehicle is stored within 48 hours, excluding weekends and holidays, after impounding and storage of the vehicle.

(2) A hearing shall be conducted before a hearing officer designated by the City Manager within 48 hours of receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays, and City holidays are to be excluded from the calculation of the 48-hour period. The hearing officer shall be someone other than the person who directed the impounding and storage of the vehicle. The sole issue before the hearing officer shall be whether there was probable cause to impound the vehicle in question.

"Probable cause to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, State or federal law to grant legal authority for the removal of the vehicle.

The hearing officer shall conduct the hearing in an informal manner and shall not be bound by the technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vehicle. The Police Department shall carry the burden of establishing that there was probable cause to impound the vehicle in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The hearing officer's decision in no way affects any criminal proceeding in connection with the impounding in question and any criminal charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final. Failure of the registered or legal owner or his agent to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

(3) The hearing officer shall only determine that as to the vehicle in issue, either (i) there was probable cause to impound the vehicle or (ii) there was no such probable cause. If the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, copies of which shall be given to the possessor of the vehicle and the Police Department. Upon receipt of the possessor's copy of such certificate, the official police garage having custody of the vehicle shall release the vehicle to its possessor. Upon a finding of no probable cause, towing and storage fees shall be paid by the City in accordance with arrangements made between the City and the official police garage. If the possessor fails to present such certificate to the official police garage having custody of the vehicle within 24

hours of its receipt, excluding such days when the official police garage is not open for business, the possessor shall assume liability for all subsequent storage charges. Such certificate shall advise the possessor of such requirement.

(4) This subsection (d) shall not apply if the vehicle was towed from private property.

(Ord. 4110, 8-15-07. Code 1994 § 36-6)

10.04.070 Parking on State highways during snow removal.

There shall be no parking whatsoever on any roadway or contiguous shoulder of any State highway or connecting link within the City during the times and places where snow removal operations are in progress.

(Ord. 4110, 8-15-07. Code 1994 § 36-7)

10.04.080 Parking at curb or edge of roadway.

(a) Except where angle parking is permitted by this code and, in the case of State highways, is approved by the State Department of Highways, and except as otherwise provided by this code every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(b) Except as otherwise provided by this code, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder or with its left-hand wheels within 12 inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(Ord. 4110, 8-15-07. Code 1994 § 36-8)

10.04.090 Obedience to angle-parking signs or markings.

(a) On those streets which have been approved and signed or marked for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(b) No person shall park a vehicle at an angle upon any street except those streets upon which angle parking is specifically permitted.

(c) Where signs are posted specifying the direction of a vehicle for angle parking, it shall be unlawful to park a vehicle not in accordance with the signs. No person shall park front-in or head-in in a space or area designated for rear-in angle parking.

(d) When parked at an angle, a vehicle shall be parked only within the designated angle parking space with the front wheel of the vehicle nearest the curb within 12 inches of the curb or, in those areas specifically designated for back-in angle parking, with the back wheel nearest to the curb within 12 inches of such curb.

(Ord. 4110, 8-15-07. Code 1994 § 36-9)

10.04.100 Lamps on parked vehicles.

(a) Whenever a vehicle is lawfully parked upon a highway during the hours between sunset and sunrise, and in the event there is sufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between sunset and sunrise, and there is not sufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, such vehicle so

parked or stopped shall be equipped with one or more operating lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of 500 feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of 500 feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or a combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

(c) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

(Ord. 4110, 8-15-07. Code 1994 § 36-10)

10.04.110 Unattended motor vehicle.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition and effectively setting the brake thereon, and, when standing upon any grade, said person shall turn the front wheels to the curb or side of the highway in such a manner as to prevent the vehicle from rolling onto the traveled way.

(Ord. 4110, 8-15-07. Code 1994 § 36-11)

10.04.120 Parking not to obstruct traffic or maintenance.

No person shall park any vehicle upon a street or highway in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance.

(Ord. 4110, 8-15-07. Code 1994 § 36-12)

10.04.130 Parking in alleys.

(a) No person shall park a vehicle within an alley except during the necessary and expeditious loading and unloading of merchandise or freight.

(b) No person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

(Ord. 4110, 8-15-07. Code 1994 § 36-13)

10.04.140 Moving unattended vehicle.

No person shall move a vehicle not owned by or in charge of such person into any prohibited area or away from a curb such distance as is unlawful.

(Ord. 4110, 8-15-07. Code 1994 § 36-14)

10.04.150 Clearance between vehicles.

No person shall stand or park a vehicle in such a manner as to leave available less than two feet clearance between vehicles when parked.

(Ord. 4110, 8-15-07. Code 1994 § 36-15)

10.04.160 Waiting for parking space being cleared.

The driver of a vehicle while waiting for a parking space to be cleared by another vehicle which is in the actual process of leaving such parking space shall stop on the roadway side immediately to the rear of such leaving vehicle and shall remain in such position until the parking space has been cleared.

(Ord. 4110, 8-15-07. Code 1994 § 36-16)

10.04.170 Stopping, standing or parking prohibited in specified places.

(a) No person, other than a peace officer conducting traffic enforcement in or on a marked patrol vehicle at or along an arterial or collector street or roadway as defined or described in the Grand Valley Circulation Plan, a duly adopted neighborhood plan or street plan, or Transportation Engineering Design Standards shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or official traffic control device, in any of the following places:

(1) On a sidewalk;

(2) Within an intersection;

(3) On a crosswalk;

(4) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority indicates a different length by signs or markings; every vehicle shall be parked wholly within a designated parking space. Parking space designations shall be made by markings, signs or other appropriate indication upon the curb and/or pavement. Except where prohibited by other provision of this code, a vehicle which is of a size too large to be parked within a single space shall be permitted to occupy two adjoining spaces when the vehicle will fit wholly and completely within the designated spaces and where, as applicable, the necessary number of parking meter charges have been paid;

(5) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(6) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(8) On any railroad tracks;

(9) On any controlled-access highway;

(10) In the area between roadways of a divided highway, including crossovers;

(11) At any other place where official signs prohibit stopping, standing, or parking;

(12) Either in whole or in part on a planting strip.

(b) In addition to the restrictions specified in subsection (a) of this section, no person other than a peace officer conducting traffic enforcement in or on a marked patrol vehicle at or along an arterial or collector street or roadway as defined or described in the Grand Valley Circulation Plan, a duly adopted neighborhood plan or street plan, or GJMC Title 24, Transportation Engineering Design Standards (TEDS), shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device, in any of the following places:

(1) Within five feet of a public or private driveway;

(2) Within 15 feet of a fire hydrant;

(3) Within 20 feet of a crosswalk at an intersection;

(4) Within 30 feet upon the approach to any flashing beacon or signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;

(5) Within 20 feet of the driveway entrance to any fire station or, on the side of a street opposite the entrance to any fire station, within 75 feet of said entrance when properly signposted;

(6) At any other place where official signs prohibit standing.

(c) In addition to the restrictions specified in subsections (a) and (b) of this section, no person other than a peace officer conducting traffic enforcement in or on a marked patrol vehicle at or along an arterial or collector street or roadway as defined or described in the Grand Valley Circulation Plan, a duly adopted neighborhood plan or street plan, or GJMC Title 24, Transportation Engineering Design Standards (TEDS), shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device, in any of the following places:

(1) Within 50 feet of the nearest rail of a railroad crossing;

(2) At any other place where official signs prohibit parking.

(d) Nothing in this section shall prohibit persons from parking bicycles in accordance with Section 1412 of the Model Traffic Code adopted by reference herein.

(Ord. 4370, 8-3-09; Ord. 4188, 3-5-08; Ord. 4110, 8-15-07. Code 1994 § 36-17)

10.04.180 Parking for certain purposes prohibited.

No person shall park a vehicle upon a roadway for the principal purpose of:

(a) Displaying such vehicle for sale;

(b) Washing, greasing, painting, or repairing such vehicle except repairs necessitated by an emergency;

(c) Displaying advertising.

(Ord. 4110, 8-15-07. Code 1994 § 36-18)

10.04.190 Stopping, standing or parking on highway.

No person shall stop, stand or park a vehicle on any highway ramp or on any other portion of the main-traveled way of such highway.

(Ord. 4110, 8-15-07. Code 1994 § 36-19)

10.04.200 Regulations not exclusive.

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places, at specified times, or in a specified manner.

(Ord. 4110, 8-15-07. Code 1994 § 36-20)

10.04.210 Obedience to stopping, standing or parking regulations.

On any street or at any place within this municipality where official signs are posted giving notice of stopping, standing or parking restrictions or prohibitions as authorized in this code and described in traffic control schedules, no person shall stop, stand or park a vehicle in any manner in violation of the provisions contained on such sign or signs except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or official traffic control device or except for the purpose of loading or unloading passengers when such standing does not obstruct, impede or endanger any traffic.

(Ord. 4110, 8-15-07. Code 1994 § 36-21)

10.04.220 Parking privileges for persons with disabilities.

(a) A vehicle with distinguishing license plates or an identifying placard indicating a person with a disability as defined in § 42-3-204, C.R.S., where such distinguishing license plate or identifying placard has been issued pursuant to § 42-3-204, C.R.S., may be parked along public streets regardless

of any time limitation imposed by official signs upon parking in such area; except that such privilege shall not apply to zones in which:

(1) Stopping, standing, or parking of all vehicles is prohibited at all times;

(2) Only special vehicles may be parked; or

(3) Parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

(b) It is unlawful for any person other than a person with a disability as defined in § 42-3-204, C.R.S., to park in a parking space on public or private property that is clearly identified by an official sign as being reserved for use by persons with disabilities unless:

(1) Such person is parking the vehicle for the direct benefit of a person with a disability to enter or exit the vehicle while it is parked in the space reserved for use by persons with disabilities; and

(2) A valid license plate or placard is displayed in or on such vehicle.

(c) A person with a disability as defined in § 42-3-204, C.R.S., may park in a parking space identified as reserved for use by persons with disabilities whether on public property or private property available for public use; provided, that such person has conspicuously displayed at all times on the vehicle parked in such space a placard or license plate obtained pursuant to § 42-3-204, C.R.S.

(Ord. 4110, 8-15-07. Code 1994 § 36-22)

10.04.230 All-night parking.

No person, except physicians or other persons on emergency calls, shall park a vehicle on any street signed to prohibit all-night parking, for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day.

(Ord. 4110, 8-15-07. Code 1994 § 36-23)

10.04.240 Emergency stopping or parking only.

When official signs are erected giving notice thereof, no person shall stop, stand or park a vehicle on the shoulder of any highway or any other facility so marked except in case of emergency involving the vehicle or its occupants.

(Ord. 4110, 8-15-07. Code 1994 § 36-24)

10.04.250 Standing in passenger loading zone.

No person shall stand a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place officially marked as a passenger loading zone during hours when the regulations applicable to such loading zone are effective and then only for a period not to exceed three minutes.

(Ord. 4110, 8-15-07. Code 1994 § 36-25)

10.04.260 Standing in freight loading zone.

(a) No person shall stand a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place officially marked as a freight loading zone during hours when the provisions applicable to such zones are in effect.

(b) In no case shall the standing for loading and unloading of materials exceed 30 minutes.

(Ord. 4110, 8-15-07. Code 1994 § 36-26)

10.04.270 Permits for loading zones.

Whenever special permits are issued, as authorized by the Transportation Engineer, to establish or control the use of loading zones or to allow the backing of a vehicle for the purpose of loading or unloading merchandise or materials subject to certain conditions, no permittee or other person shall violate any of the special terms of any such permit.

(Ord. 4110, 8-15-07. Code 1994 § 36-27)

10.04.280 Bus stops regulated.

(a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stop so designated as authorized by the Transportation Engineer.

(b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated as authorized by the Transportation Engineer, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(Ord. 4110, 8-15-07. Code 1994 § 36-28)

10.04.290 Taxicab stands regulated.

(a) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as authorized by the Transportation Engineer.

(b) This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other parking, standing or stopping regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(Ord. 4110, 8-15-07. Code 1994 § 36-29)

10.04.300 Standing in restricted parking zone.

No person shall stop, stand or park a vehicle for any purpose or length of time in any restricted parking zone other than for the purpose specified on official signs marking such restricted zone and during the period of time the restriction is effective, except that the driver of a passenger vehicle may stop momentarily therein for the purpose of and while actually engaged in loading or unloading passengers when such standing or stopping does not interfere with the kind of traffic for which the zone is reserved.

(Ord. 4110, 8-15-07. Code 1994 § 36-30)

10.04.310 Parking meter zones.

Wherever parking meter zones have been established on streets or in parking areas regulated by this municipality, the parking of vehicles at places, streets or parts of streets so designated shall be controlled by parking meters between the hours and on the days declared in said schedules or records and specified on authorized parking meter signs or legends.

(Ord. 4110, 8-15-07. Code 1994 § 36-31)

10.04.320 Parking meters.

Parking meters installed in parking meter zones established as provided in this code shall be so designed, constructed, installed and set as to meet the following conditions:

(a) Said meters shall be capable of being operated, either automatically or mechanically, upon the deposit therein of one or more coins of United States currency or authorized tokens for the full period of time for which parking is lawfully permitted in any such parking meter zone or, in lieu thereof, for an appropriate fractional period of time.

(b) Upon the expiration of the time period registered by the deposit of one or more coins or authorized tokens as provided herein, said meters will indicate by an appropriate signal that the lawful parking meter period has expired, and during said period of time and prior to the expiration thereof will indicate the interval of time which remains of such period.

(c) Each parking meter shall bear thereon an authorized sign or message clearly legible indicating the days and hours when the requirement to deposit coins or tokens therein shall apply, the value of the coins or tokens to be deposited, and the limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located.

(Ord. 4110, 8-15-07. Code 1994 § 36-32)

10.04.330 Parking meter spaces.

(a) Parking meter spaces shall be of appropriate length and width as determined by an engineering and traffic investigation and may be designated by appropriate markings upon the curb and/or pavement of the street.

(b) Except where parking is permitted within a double parking meter space, every vehicle shall be parked wholly within a metered space with the front end or front portion of such vehicle immediately opposite the parking meter for such space.

(c) Every vehicle parked in a double parking meter space where coins or tokens shall be deposited in the meter on the right side of the double meter shall be parked wholly within the metered space with the back end or back portion of such vehicle immediately opposite the parking meter for such space.

(d) Except where prohibited by other provisions of this code, a vehicle which is of a size too large to be parked within a single parking meter space shall be permitted to occupy two adjoining parking meter spaces when coins or tokens shall have been deposited in the parking meter for each space so occupied as is required in this ordinance for the parking of other vehicles in such space.

(Ord. 4188, 3-5-08; Ord. 4110, 8-15-07. Code 1994 § 36-33)

10.04.340 Deposit of coins or tokens and time limits.

(a) No person shall park a vehicle in any parking space upon a street alongside of and next to which a parking meter has been installed during the restricted and regulated time applicable to the parking meter zone in which such meter is located unless a coin or coins of United States currency or authorized tokens of the appropriate denomination as provided in this code shall have been deposited therein, or shall have been previously deposited therein for an unexpired interval of time, and said meter has been placed in operation.

(b) No person shall deposit or attempt to deposit in any parking meter any slug, button or any other device or substance as substitutes for coins of United States currency or authorized tokens, and no person shall deposit any lawful coin or authorized token that is bent, cut, torn, battered or otherwise misshapen.

(c) No person shall permit a vehicle within his control to be parked in any such parking meter space during the restricted and regulated time applicable to the parking meter zone in which such meter is located while the parking meter for such space indicates by signal that the lawful parking time in such space is expired. This provision shall not apply to the act of parking or the necessary time which is required to deposit immediately thereafter a coin(s) or token(s) in such meter.

(d) No person shall park a vehicle in any such parking meter space for a consecutive period of time longer than that limited period of time for which parking is lawfully permitted in the parking meter

zone in which such meter is located, irrespective of the number or amount of the coins or tokens deposited in such meter.

(e) A vehicle may be parked in a parking meter space without operation of the meter on Sundays, on holidays as defined in this code, and during those hours of the day when the requirement to deposit coins or tokens does not apply as determined from the parking meter sign or legend.

(f) The provisions of this section shall not relieve any person from the duty to observe other and more restrictive provisions of this code prohibiting or limiting the stopping, standing or parking of vehicles in specified places, at specified times, or in a specified manner.

(Ord. 4110, 8-15-07. Code 1994 § 36-34)

10.04.350 Tampering with meter.

(a) No person shall deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter.

(b) No person, firm or corporation shall place any sack or covering over, upon or around any parking meter head, remove any parking meter head, or otherwise indicate or show that the said meter is inoperative or inapplicable without proper authority to do so.

(Ord. 4110, 8-15-07. Code 1994 § 36-35)

10.04.360 Authorized service vehicles.

The warning lamps authorized by State law for authorized service vehicles and those service vehicles designated as emergency vehicles by the Police Chief shall be activated by the operator only when the vehicle is operating upon the roadway and may create a hazard to other traffic. The use of such lamps shall not relieve the operator from his duty of using due care for the safety of others or from the obligation of using any other safety equipment or protective devices that are required by State law. Service vehicles authorized to operate also as emergency vehicles shall also be equipped to comply with signal requirements for emergency vehicles.

(Ord. 4110, 8-15-07. Code 1994 § 36-37)

10.04.370 Parking where spaces are designated.

In areas where parking spaces are designated by painted lines or other markings, no vehicle shall:

(a) Park within more than one designated parking space;

(b) Park where no parking space is designated;

(c) Park in a space that is leased, reserved or otherwise assigned or designated by the City for the use of a specified person.

(Ord. 4188, 3-5-08. Code 1994 § 36-38)

Title 11

(Reserved)

Title 12

STREETS, SIDEWALKS AND PUBLIC PROPERTY

Chapters:

12.04 Parks
12.08 Riverfront Trails
12.12 Public Improvements
12.16 Streets and Sidewalks
12.20 Driveways
12.24 Commercial Use of Public Right-of-Way in Downtown Area
12.28 Construction in City Rights-of-Way
12.32 City Public Works and Utility Projects Bidding Procedures

Chapter 12.04

PARKS

Sections:

12.04.010 Hours.
12.04.015 Hours classification system.
12.04.020 Use for business.
12.04.030 Building fires – Posting bills – Defacing property.
12.04.040 Use permits.

Cross reference(s) – Dogs running at large prohibited, GJMC 6.12.040; pollution of waters declared a nuisance, GJMC 8.08.060; smoking restricted in certain places, GJMC 8.20.020; streets, sidewalks and other public places, Chapter 12.16 through 12.24 GJMC; drinking of alcoholic beverages in public parks restricted, use of glass containers prohibited, GJMC 12.16.100.

12.04.010 Hours.

It shall be unlawful for any person to be or remain in any of the public parks of the City during prohibited hours, except employees of the City on official duty, those persons who are participating in or attending those functions permitted by other sections or chapters of this code, to the extent of such participation or attendance and the reasonable time necessary to leave such functions, and those persons who have obtained a permit from the City Manager for being or remaining in the public parks during otherwise prohibited hours. Prohibited hours for public parks of the City shall be as set forth by resolution of the City Council.

(Code 1994 § 26-51; Code 1965 §§ 19-76, 20-11)

12.04.015 Hours classification system.

(a) The City Council of the City of Grand Junction hereby establishes the following classifications and hours of prohibited park use for each classification:

(1) Midnight – 5:00 a.m.: Community, regional and neighborhood parks with formal programmable sports facilities.

(2) 10:30 p.m. – 5:00 a.m.: Neighborhood and mini parks.

(3) 10:00 p.m. – 5:00 a.m.: Open space and undeveloped parks and properties.

(4) 10:00 p.m. – 6:00 a.m.: Cemeteries.

(b) The City Council of the City of Grand Junction hereby authorizes and directs the City Manager to classify each City park to one of the approved classifications at the time of acquisition, or development, when the principal use or function of the park changes, or as needed to address vandalism or similar operational concerns. The City Manager may defer any such classification decision to the City Council as he deems necessary.

(c) The classification system attached to the ordinance codified in this section is hereby approved. The City Manager is hereby delegated the power and duty to amend the classification system as he deems necessary from time to time, by administrative regulation. The City Manager may defer any changes to the attached classification system to the City Council as he deems necessary.

(d) "Community," "regional," "neighborhood," "mini" parks are defined or distinguished by reference to the current City-adopted Parks Master Plan.

(e) This section shall be in full force and effect upon its adoption; however, no criminal charges shall be issued or filed based on any changes from prior practices until adequate notice is posted on the park, open space, cemetery or other site.

(Res. 103-03, 11-5-03)

12.04.020 Use for business.

No person shall use any public park for business purposes, including but not limited to food and other concessions, and no business of any kind shall be carried on except by a permit from the City Manager.

(Code 1994 § 26-52; Code 1965 § 20-13)

12.04.030 Building fires – Posting bills – Defacing property.

The building of fires, the posting of any bills or advertisements, or painting or making any advertisements, names, pictures, characters or signs of any description on any object or thing whatsoever within or connected with any City park is hereby prohibited, except that the City Manager may permit posting or painting of advertisements under such terms and conditions as the City Manager shall prescribe.

(Code 1994 § 26-53; Code 1965 § 20-17)

12.04.040 Use permits.

(a) The City Manager may grant a permit to any responsible person for permission to use the parks and the facilities therein for public entertainment, the sale of food or other refreshments, ball games or any other athletic games or sports and public exhibitions; provided, that the permittee shall agree to obey and conform to all rules and regulations made by the City Manager in reference to the care, management and government of City parks.

(b) Charges for the use of all public property belonging to the City, including but not limited to parks and recreation facilities, shall be established from time to time by the City Council by resolution.

(c) Permission may be granted by the City Manager to erect any temporary buildings or tents for exhibition or other purposes in the parks, and any buildings or tents so erected shall be removed from the park by the owner of such buildings or tents within five days after the close of such exhibition, fair or entertainment. Upon the failure of such owner to remove such buildings or tents within such five-day period, every such building or tent shall be and remain the property of the City.

(Code 1994 § 26-54; Code 1965 §§ 20-27 – 20-29)

Chapter 12.08

RIVERFRONT TRAILS

Sections:

Article I. Generally

12.08.010 Definition – Incorporation of riverfront map.
12.08.020 Purpose.
12.08.030 Duties not created.
12.08.040 Exemptions.
12.08.050 Regulations.

Article II. Regulations for the Riverfront Trails

12.08.110 Purpose.
12.08.120 Exemptions.
12.08.130 Violation – Penalty.
12.08.140 Regulations relating to riverfront trails, lands and waters.
12.08.150 Adoption.

Article I. Generally

12.08.010 Definition – Incorporation of riverfront map.

"Riverfront," "riverfront trails" or "trails" means those areas, facilities, lands and waters as identified on the map entitled "Riverfront Map," which map is incorporated in this article by this reference. The City Manager or his designee shall provide to the Parks and Recreation Advisory Board updated and revised maps of the riverfront as additional trails, lands, lakes or facilities are acquired, placed or constructed. The most current map shall be on file in the office of the City Clerk and incorporated by reference into this chapter and shall constitute the riverfront map. The substitution of maps and incorporation thereof by reference shall not necessitate readoption of this chapter.

(Code 1994 § 26-76)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

12.08.020 Purpose.

The purposes of this chapter are to:

(a) Establish formal policies and regulations for the use and conduct of the users of the riverfront trails;

(b) Protect the public by assuring that regulations are in place for the safety of trail users;

(c) Protect the public from unsafe and insanitary activities occurring on the trails; and

(d) Allow for the orderly and lawful operation of the trail system.

(Code 1994 § 26-77)

12.08.030 Duties not created.

No duty or duties not otherwise created or implied by law are or shall be created by the adoption of this chapter or the regulations authorized hereunder or the adoption or enforcement thereof.

(Code 1994 § 26-78)

12.08.040 Exemptions.

This chapter shall not apply to:

(a) Maintenance vehicles and maintenance activities which are approved by the City Manager or his designee and are conducted on the trails or in the vicinity of the trails; or

(b) Emergency vehicles, activities and/or equipment authorized by the City, used on or near the trails.

(Code 1994 § 26-79)

12.08.050 Regulations.

(a) The Parks and Recreation Advisory Board shall propose riverfront regulations for adoption by the City Council. The City Council may amend or add to those regulations as may be necessary from time to time to carry out the intent of the Parks Board and/or the intent of the Council.

(b) The City Manager shall cause one certified copy of the regulations adopted under this section, together with the most recent amendments thereto, to be filed with the City Clerk. The City Manager shall make available additional copies at the Office of Parks and Recreation for review by the general public.

(c) The adopted regulations shall have the force and effect of law with respect to all persons who use or visit any of the riverfront trails.

(d) The Parks and Recreation Advisory Board shall propose necessary and reasonable rules and regulations applicable to the use of the riverfront trails, those areas adjacent to the trails and the bodies of water which are owned or controlled by the City and/or the Riverfront Commission, which may be accessed from or are near to the trails.

(e) The riverfront regulations promulgated hereunder shall include, but not necessarily be limited to, prohibiting motorized vehicles, except wheelchairs, maintenance and emergency vehicles, on the trails; prohibiting boats, vessels or craft in the waterways; closing the trails at set times; prohibiting glass containers; prohibiting the possession, consumption or use of malt beverages containing more than 3.2 percent alcohol by weight, spirituous or vinous liquor; requiring animals to be leashed; prohibiting animals or animals of certain species; and allowing camping, vending or commercial activities by permit only.

(f) After review by the Parks and Recreation Advisory Board, but prior to recommendation of adoption by the Board, any and all regulations shall be submitted to the City Council for its comments, consideration and concurrence, if any.

(Code 1994 § 26-80)

Article II. Regulations for the Riverfront Trails

Editor's note – Printed herein are the riverfront trails regulations recommended by the Parks and Recreation Board and adopted as provided in GJMC 12.08.010. Amendments to the riverfront trails regulations are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original adoption in Ordinance No. 2606. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to State statutes, and expression of numbers in text has been used to conform to the Grand Junction Municipal Code.

12.08.110 Purpose.

The purposes of these regulations are to:

(a) Enact formal policies and regulations for the use of and conduct of the users of the riverfront trails;

(b) Protect the public by assuring that regulations are in place for the safety of trail users;

(c) Protect the public from unsafe and unsanitary activities occurring on the trails;

(d) Allow for the orderly and lawful operation of the trail system;

(e) Preserve the public investment in the trail system.

(Code 1994 App. C § 1)

12.08.120 Exemptions.

(a) These regulations shall not apply to maintenance or emergency vehicles and such activities conducted on the trails or in the vicinity of trails, which are approved by the Parks and Recreation Director or his designee.

(b) GJMC 12.08.140(b)(9) shall not apply to the discharge of firearms or weapons by any certified peace officer in the course of his/her official duty or to the discharge of weapons or firearms by participants in authorized classes or activities conducted under the supervision of the Parks and Recreation Department Director or his designee.

(Code 1994 App. C § 2)

12.08.130 Violation – Penalty.

The adopted regulations shall have the force and effect of law with respect to all users of, or visitors to, the riverfront trails. Any person 18 years of age or older or any partnership, firm or corporation who violates any provision of the adopted regulations shall be subject to a fine up to $1,000 and/or up to 90 days in jail or any combination thereof. Any person under 18 years of age who violates any provision of this article or the regulations promulgated hereunder shall be subject to a fine up to $1,000 and/or be required to perform useful public service not to exceed 48 hours or any combination thereof.

(Code 1994 App. C § 3)

12.08.140 Regulations relating to riverfront trails, lands and waters.

(a) "Riverfront trails, lands and waters" shall mean all trails, surfaced or unsurfaced, lands and waters which are under the administration, ownership or control of the City of Grand Junction Parks and Recreation Department and/or the trails, lands and waters of the Riverfront Commission which lie within the City of Grand Junction.

(b) No person shall:

(1) Operate any motor vehicle on any of the riverfront trails or lands of the riverfront except as may be authorized by the City or by signs or except for motorized wheelchairs, maintenance or emergency vehicles. Motor vehicle shall be as defined in § 42-1-101, C.R.S. et seq.

(2) Operate any motorboat, motorized vessel or gasoline or electric motor-powered craft on any of waters owned and/or controlled by the City. All as defined in § 33-13-102, C.R.S.

(3) Enter, use or occupy the lands or trails of the riverfront between the period from 10:00 p.m. to 5:00 a.m.

(4) Carry or possess any glassware or serve or consume food or beverages from glass containers on riverfront lands or trails.

(5) Carry, possess, serve or consume any malt, vinous or spirituous liquor on riverfront lands or trails. Fermented malt beverages containing no more than three and two-tenths percent alcohol by weight which are served or consumed from nonglass containers are allowed.

(6) Allow any dog or other animal on riverfront lands or trails unless the animal is under control by means of a leash not exceeding six feet in length. Animal(s) shall likewise be subject to all animal control ordinances and regulations of the City of Grand Junction.

(7) Camp, park a motor vehicle, trailer or camper on riverfront lands or trails, with the intention or for the purpose of camping, unless such is by the authority of a camping permit issued by the Department of Parks and Recreation of the City of Grand Junction. Possession of a valid camping permit shall authorize the use of the riverfront lands and trails subject to the terms and conditions imposed thereon by the Director or his designee. "Camp" means the use of camping equipment or facilities such as tents, tarpaulins or temporary shelters or the use of temporary cooking and bedding facilities such as open fires, camp stoves and cots, bedrolls, hammocks or sleeping bags.

(8) Vend, sell or otherwise engage in a commercial or business operation on riverfront land or trails unless such is by the authority of a vending permit issued by the Department of Parks and Recreation of the City of Grand Junction. Possession of a valid vending permit shall authorize the use of the riverfront lands and trails subject to the terms and conditions imposed thereon by the Director or his designee.

(9) Fire, shoot, or discharge any cannon, gun, pistol or other firearm of any description or any BB or pellet gun or any explosive device or any bow, crossbow or other dangerous weapon or device.

(Code 1994 App. C § 4)

12.08.150 Adoption.

The foregoing regulations having been duly promulgated and the public having had opportunity to comment on the propriety of said regulations, said regulations are hereby adopted this twenty-first day of October, 1992.

(Code 1994 App. C § 4)

Chapter 12.12

PUBLIC IMPROVEMENTS

Sections:

Article I. In General

12.12.010 Definitions and rules of construction.
12.12.020 Authority to make improvements, assess costs.
12.12.030 Construction specifications.
12.12.040 Statutory procedures for forming districts.
12.12.050 Findings – Limitation of actions.
12.12.060 Ratification of actions.

Article II. Districts Created by City Council

12.12.070 Types of improvements authorized.
12.12.080 Prerequisites to establishment of districts.
12.12.090 Assessment of costs.
12.12.100 Adjustment of assessment for irregularly shaped property.
12.12.110 Sidewalk construction – Reconstruction.
12.12.120 Acquisition of property by eminent domain.
12.12.130 Construction of bridges, viaducts, tunnels by railroads.
12.12.140 Certificate of completion and cost.
12.12.150 Notice of completion and cost – Hearing.
12.12.160 Lien for assessments – New assessments.
12.12.170 Preparation, form of assessment roll.
12.12.180 Payment, collection of assessments.
12.12.190 Payment of delinquent assessments – Sale of real estate or purchase by City – Report of collections – Actions by Council.

Article III. Districts Created by Petition

12.12.200 Authorized.
12.12.210 Form of petition – Filing.
12.12.220 List of landowners in proposed district – Notice.
12.12.230 Hearing on petition – Challenges – Rulings.
12.12.240 Establishment of district.

Article IV. Improvements

12.12.250 Procedures generally.
12.12.260 Special assessments.
12.12.270 Reapportionment of assessments.
12.12.280 Collection of assessments.
12.12.290 Special assessment bonds.

Editor's note – People's Ordinance Number 33 adopted by referendum states in part that the City shall not order construction of any improvement where assessments are levied against property owners except after approval of the property owners in the district to be assessed.

Article I. In General

12.12.010 Definitions and rules of construction.

(a) Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City Manager means the City Manager of the City, his designee or the City Finance Director.

Costs of an improvement or any similar term means all capital costs incurred in connection with any improvement authorized, including, but not limited to, land acquisition costs, architectural, engineering and inspection fees, soil testing expenses and consulting charges, acquisition, construction or installation costs pertaining to any improvement, allowances for contingencies, legal and other professional fees, the costs of issuing any bonds to finance any improvement, bond printing discount or reserve costs, interest costs, and any related costs necessary to or relating to the levy of special assessments to pay for any of the foregoing.

District means a public improvement district.

Interested party means a landowner or interested person as further defined in this chapter.

Landowner means any person who is the owner in fee of any undivided interest in real property or any improvements permanently affixed thereto. As used in this definition, "owner in fee" includes a contract purchaser of real property obligated to pay general taxes, an heir of a deceased owner, or a devisee of a deceased owner under a will admitted to probate, but does not include a contract seller of property with respect to which the contract purchaser is deemed to be the owner.

Mailed notice means notice by certified or registered first class postage prepaid United States mail within the time required for notice.

Net effective interest rate means the net interest cost of securities divided by the sum of the products derived by multiplying the principal amount of the securities maturing on each maturity date by the number of years from their date to their respective maturities. In all cases, net effective interest rate shall be computed with regard to the approved schedule of maturities or estimated mandatory redemptions.

Net interest cost means the total amount of interest to accrue from the date of securities to the date of maturity, less the amount of any premium or plus the amount of any discount at which such bonds or securities are being or have been sold. In all cases, net interest cost shall be computed with regard to the approved schedule of maturities or redemptions.

Posted notice means notice by continuous posting for three days at City Hall prior to the event to which the notice relates.

Published notice means notice by publication in a newspaper of general circulation within the City one time by one publication not more than 30 days nor less than 10 days prior to the event to which the notice relates.

Special benefit means a benefit to a particular property within a district separate and apart from general benefits to the City as a whole, which may include, but is not limited to, the following:

(1) Any increase in the market value of the property;

(2) Any adaptability of the property to a superior or more profitable use;

(3) Any increase in convenience or reduction in inconvenience accruing to a particular property owner, including the facilitation of access to a residence or a commercial establishment; or

(4) Any increase in patronage of a commercial establishment due to the availability of additional, better located, or less expensive access/parking.

Special improvement fund means a special fund authorized by this chapter.

Special operation and maintenance fund means a fund authorized by this chapter.

Special surplus and deficiency fund means a fund authorized by this chapter.

Street means and includes avenues, boulevards and other highways.

(b) Rules of Construction. The term "real estate or property" shall include all land within the limits of the City either platted or unplatted, regardless of lot or land line and the franchises of any railroad within any street improved under this chapter. Lots, plats, blocks and other subdivisions may be designated in accordance with any recorded plat thereof, unplatted lands by any definite description thereof and franchises by the name of the corporation owning such franchise.

(Code 1994 § 28-1)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

12.12.020 Authority to make improvements, assess costs.

The City shall have the power to make local improvements and to assess the cost thereof wholly or in part upon the property benefitted as provided in this chapter.

(Code 1994 § 28-2; Code 1965 § 18-1)

12.12.030 Construction specifications.

All public improvements shall be constructed in accordance with the Charter, ordinances and specifications prescribed and authorized by the City Council and the City Manager or his designee.

(Code 1994 § 28-3; Code 1965 § 18-2)

12.12.040 Statutory procedures for forming districts.

In addition to the method and procedures for the formation of improvement districts as set out in this chapter, the City Council may follow those methods and procedures for the formation of districts as established in the State statutes. In the absence of a provision in this chapter, an applicable provision of the State statutes shall govern.

(Code 1994 § 28-4; Code 1965 § 18-3)

12.12.050 Findings – Limitation of actions.

All findings and determinations of the City Council with respect to the matters required by this chapter to be considered shall be final and conclusive upon all parties in interest. No ordinance or resolution or action of the City Council relating to the organization of any district, the authorization of any improvements, the approval of any method of apportioning assessments, the issuance of any bonds, or the levy of any special assessments shall be challenged after the expiration of 30 days from the effective date of any such ordinance, resolution or action.

(Code 1994 § 28-5; Code 1965 § 18-72)

12.12.060 Ratification of actions.

All actions not inconsistent with the provisions of this chapter heretofore taken by the officers of the City, elected or appointed, directed toward the establishment of improvement districts are hereby ratified, approved and confirmed.

(Code 1994 § 28-6; Code 1965 § 18-73)

Article II. Districts Created by City Council

12.12.070 Types of improvements authorized.

The Council may, in districts to be prescribed, order the construction, reconstruction, replacement, renewal or extension of:

(a) Paving, grading, curbing, guttering or otherwise improving the whole or any parts of any streets, alleys or other rights-of-way in the City or any combination of improvements;

(b) Grades, crosswalks, culverts, drains, manholes, catchbasins;

(c) Sewers and sewer facilities, water main facilities and other lines, street lighting and others;

(d) Any local improvement and renewals or extensions thereof which benefit the land abutting such improvements, such as sidewalks, water mains;

(e) The necessary construction and the installation of lighting;

(f) Sewage disposal works and renewals or extensions thereof;

(g) Other public works as may be considered necessary and authorized by the City Council;

(h) Providing of landscaping and beautification of an area or areas within the district or for the providing of other aesthetic improvements.

The Council may also create local improvement districts for the purpose of developing an improvement plan for a district with subsequent formation of smaller districts.

(Code 1994 § 28-26)

12.12.080 Prerequisites to establishment of districts.

(a) In establishing any improvement district, the City Council shall observe the following:

(1) Before ordering any improvement, the Council shall adopt details and specifications for the improvement; determine the number of installments and the time in which the cost shall be payable; determine the rate of interest on the unpaid installment; and determine the lands to be assessed for the improvements. The City Manager shall provide an estimate of the total cost of such improvements and a map of the lands to be assessed, exclusive of the cost of collection and other incidental costs.

(2) The Council shall, by advertisement for one issue in a newspaper of general circulation, give notice to the owners of the real estate in the district and to all persons generally interested, without naming such owners or persons, of:

(i) The kinds of improvements proposed;

(ii) The number of installments and the time in which the cost of the improvements will be payable;

(iii) The rate of interest on unpaid installments;

(iv) The extent of the district to be assessed, by boundaries or other brief description;

(v) The probable cost as shown by the total estimate of the City's engineer(s);

(vi) The maximum total estimate per front foot where the assessment is made per front foot, or per square foot of lot where the assessment is made according to the area that will be assessed upon any lot or lands in the district and, in case the assessment shall be made otherwise than per front foot or square foot, the maximum share to be assessed upon any lot or lands in the district or to any persons shall be stated according to the method of assessment adopted;

(vii) The time, not less than 30 days after advertisement, when the Council will consider the proposed improvements and hear all complaints and objections that may be made by the owner of any real estate to be assessed or any interested persons; and

(viii) The fact that the map and estimates and all proceedings of the Council are on file and can be examined at the office of the City Clerk during business hours at any time within the 30 days, by any interested person.

(b) Except as provided in this section, all improvements made under the provisions of this article shall be constructed by independent contractors and all contracts shall be procured and let by the City Manager with the approval of the City Council. The City may, under the provisions of this article, provide for the doing of the work by hiring labor and may arrange for the purchase of the necessary material under the supervision of the City Manager.

(c) Districts may be formed by the City Council pursuant to petition(s) of the owners for any improvement provided in this article. The petition must be subscribed and acknowledged in the manner provided by law for acknowledgements of deeds of conveyances of real estate, by the owners or their agents duly authorized by power of attorney. No petitioner, heir, successor or assign shall be permitted to withdraw his name from the petition after such petition has been filed with the Council unless the Council fails to order such improvements upon petition within the time specified in the petition filed. On all projects the Council shall have discretionary power to elect the type and specifications of the project and materials.

(d) All proceedings by the Council may be modified, confirmed or rescinded at any time prior to the adoption of the resolution authorizing the improvements; provided, that no substantial change in the district, map details, specifications or estimate shall be made by the City Council without further notification equivalent to that made in the first publication of the notice to the property owners.

(e) If at the time of the adoption of the resolution authorizing the improvements, any real estate in the district has the whole or any part of the proposed improvements, conforming or approximately conforming to the general plan, the Council may adopt the same in whole or in part, or make the necessary changes to make the same conform to the general plan. The owner of such real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adopting such existing improvements.

(f) The findings of the City Council by resolution that any improvements provided for in this article are duly ordered after notice was duly given, or that petition or remonstrance was or was not filed, or was or was not duly subscribed and acknowledged by the required number of owners, as in this article provided, shall be conclusive in every court.

(Code 1994 § 28-27; Code 1965 § 18-4(a) – (d), (g) – (i))

12.12.090 Assessment of costs.

(a) In case of any improvement made pursuant to this article, the cost of such improvements, or such part thereof as may be assessed against the property specially benefitted, may be assessed without regard to lot or land lines, on a frontage, zone or other equitable basis in accordance with benefits as the same may be determined by the City Council.

(b) When the City Council determines that any improvement authorized by this article results in special benefits to both the City and the abutting property owner, that portion of the cost of the improvement which results in special benefit to the City may be assessed against the City and be payable in installments, as provided in this article. The determination by the City Council as to the property to be assessed and the amount of special benefit shall be conclusive.

(Code 1994 § 28-28; Code 1965 §§ 18-5, 18-6)

12.12.100 Adjustment of assessment for irregularly shaped property.

When any real estate is V-shaped or of any irregular form, the Council may make adjustment or change in the assessment thereon as equitable and just, or may refuse to make any adjustment or change.

(Code 1994 § 28-29; Code 1965 § 18-9)

12.12.110 Sidewalk construction – Reconstruction.

The City Council may order the construction or reconstruction of sidewalks other than in improvement districts whenever in the opinion of the Council that shall be proper, because sufficient sidewalks have been laid in the vicinity to make it reasonable that intervening sidewalks should be provided, or existing sidewalks should be reconstructed. In all such cases, the City Council shall notify the owner to construct or reconstruct such sidewalks within 30 days, or other period of time established by the Council, from the date of service of notice. The notice shall be in writing and served in person upon the owner, if within the City, and if not, it may be served by certified mail or by publication for 10 days. The owner shall have the right to construct or reconstruct sidewalks with plans and specifications of the City. If the owner fails to timely complete the improvements or otherwise be in default, the Council may have the required work done, either by the City acting through its officers, agents or employees or by others and when done, issue to the person, City or other corporation doing the work its certificate therefor stating the just amount due. The certificate shall draw interest at the rate established by the Council until paid, and when recorded in the office of the County Clerk and Recorder shall be a lien upon the benefitted property, and such amount may be recovered by the holder of the certificate against the owner in any court of law. Such lien may be foreclosed by the holder of such certificate if not paid within 30 days of its date. The City Council may, by resolution, provide further means of construction or reconstruction of sidewalks upon failure of the owner to do so within the limits specified by notification, such as by the inclusion of the area in the improvement district. Upon passage of a resolution creating an improvement district, the owner may not thereafter do or have done the construction or reconstruction of sidewalks, but such construction or reconstruction may be done only under the improvement district.

(Code 1994 § 28-30; Code 1965 §§ 18-12 – 18-14)

12.12.120 Acquisition of property by eminent domain.

As deemed necessary by the City Council to facilitate any improvement authorized by this article, rights-of-way and other real estate or property may, upon the order of the Council, be purchased or acquired by eminent domain on behalf of the City and the whole cost thereof shall be included as a cost of an improvement district, as may be determined by the City Council.

(Code 1994 § 28-31)

12.12.130 Construction of bridges, viaducts, tunnels by railroads.

The Council may, by resolution, require railroad companies to construct, at their own expense, bridges and their approaches, tunnels or other conveniences at public crossings and viaducts and approaches over railroad tracks where the same cross or extend along public highways or streets. Whenever the Council shall deem any such improvement necessary, it may by resolution require the construction of such improvement, the character and location of such proposed improvement to be therein described of sufficient certainty and an estimated cost to be stated. Where a viaduct or tunnel crosses or passes under the tracks of several railroad companies, the Council may apportion the cost thereof equitably among the different companies owning the tracks.

(Code 1994 § 28-32; Code 1965 § 18-26)

12.12.140 Certificate of completion and cost.

Upon completion of any improvement authorized by this article, the City Manager shall prepare a statement showing the whole cost of the improvement, or such parts thereof as completed, including costs of

collection, real estate or property acquisition (including the costs, fees and charges associated with any condemnation), and incidental costs, including interest, and apportioning the same upon each lot or tract of land to be assessed. The statement shall be certified by and filed in the office of the City Manager.

(Code 1994 § 28-33; Code 1965 § 18-27)

12.12.150 Notice of completion and cost – Hearing.

(a) The City Manager shall for three consecutive days advertise in a newspaper of general circulation that: such improvements have been or are about to be completed and accepted; specifying the whole cost of the improvements; the share so apportioned to each lot or tract of land or parcel; the part to be paid by the City; and that any complaints or objections may be made in writing by owners or interested persons to the City Council by filing with the City Manager within 30 days from the first publication of notice. Complaints or objections will be heard and determined by the City Council at its first regular meeting after such 30 days and before the adoption of any ordinance assessing the costs of improvements.

(b) At the meeting specified in the notice provided by subsection (a) of this section, the Council shall hear and determine all complaints and objections. The Council may thereupon make modifications and changes as equitable and just, or may confirm the apportionment. The Council shall thereafter, by ordinance, assess the cost of improvements against all real estate or property in the district and against such persons in proportions determined.

(Code 1994 § 28-34; Code 1965 § 18-28)

12.12.160 Lien for assessments – New assessments.

All assessments made pursuant to this article, together with all interest thereon and penalties for default in payment thereof and all costs in collecting such assessments, shall constitute a perpetual real estate lien equivalent to general property (state, county, city, town or school) taxes. No sale of such property to enforce any general state, county, town or school tax or other lien shall extinguish the perpetual lien of such assessment. As to any subdivision of any land assessed pursuant to this article, the assessment shall in each case be a lien upon all portions of the subdivision without any regard to proportion or area. No delay, mistake, error, or irregularity in any act or proceeding authorized by this article shall prejudice or invalidate any final assessment, but the same may be remedied by subsequent amending acts or proceedings, as the case may require. When so remedied, the assessment shall take effect and have the priority as of the date of the original act or proceeding. If any court of competent jurisdiction declares any final assessment made pursuant to this article invalid, then the City Council may, upon notice as required for the making of an original assessment, make a new assessment in accordance with this article.

(Code 1994 § 28-35; Code 1965 § 18-30)

12.12.170 Preparation, form of assessment roll.

The City Manager shall prepare a local assessment roll showing each piece of real estate assessed, the total amount of the assessment, the amount of each installment of principal and interest, if the assessment is payable in installments, and the date or manner in which such installments will become due. No error, failure, neglect or default on the part of the City, County Treasurer or County Assessor in complying with recordation, certification or collection of any assessment shall invalidate any tax or assessment or affect the underlying lien.

(Code 1994 § 28-36; Code 1965 § 18-31)

12.12.180 Payment, collection of assessments.

(a) All assessments upon real estate made pursuant to this article shall be due and payable within 30 days of the final publication of the assessing ordinance without demand; provided, that all such assessments may at the election of the owners be paid in installments with interest as provided. Fail-

ure to pay the whole assessment within 30 days shall be conclusively considered and held to be an election on the part of all persons interested, whether under disability or otherwise, to pay in installments. All persons electing to pay in installments shall be conclusively considered and held as consenting to such improvements, and such election to pay in installments shall be conclusively held and considered as a waiver of any and all right to question the powers or jurisdiction of the City to order or construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings, the validity or correctness of the assessment, or any other objection or matter. The number of installments, the period of payment and the rate of interest shall be determined by the City Council in its sole and absolute discretion.

(b) All installments of principal and interest for assessments under this article shall be payable at such times as may be specified by the assessing ordinance; provided, that the County Treasurer shall be permitted, without the assessment of penalty or penalty interest, to collect installments in accordance with statutory provisions for the collection of general taxes. When installments are to be paid annually, failure to pay any installment, whether of principal or interest or both, when due shall cause the whole of the unpaid balance to become due and payable immediately and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at a rate established by the City Council. At any time prior to the date of sale, the owner may pay the amount of all delinquent installments together with interest and shall thereupon be restored to the right to pay installments in the same manner as if default had not occurred.

(Code 1994 § 28-37; Code 1965 §§ 18-31 – 18-37)

12.12.190 Payment of delinquent assessments – Sale of real estate or purchase by City – Report of collections – Actions by Council.

(a) The County Treasurer shall receive payment of all delinquent assessments against any real estate, together with interest and other charges and, in case of default in the payment of any installment of principal or interest when due, shall advertise and sell any and all real estate concerning which such default is suffered for the payment of the due but unpaid installment or installments with interest thereon. Such sales and advertisements shall be made at the same time or times and in the same manner and under the same conditions and penalties and to the same effect as are provided by the general laws of the State for the sale of real estate in default of payment of general taxes. The holder of a certificate from the County Treasurer, including the City, showing payment of an assessment, may have subsequent assessments endorsed thereon under the same terms and conditions as provided by the general laws of the State for the endorsement of subsequent taxes on tax certificates.

(b) At any sale by the County Treasurer of any real estate in the City for the purpose of paying any special assessment, the City Manager or his designee may purchase any such real estate without paying for the real estate in cash and shall receive certificates of purchase in the name of the City. Such certificates shall be received and credited at face value, with all interest penalties and other charges accrued, to the City Manager on account of the assessments in pursuance of which the sale was made. The certificates may thereafter be sold by the City Manager at face value, with all interest and penalties accrued. The City Manager shall assign the certificates and the proceeds shall be credited to the fund created by ordinance for the payment of assessments. Assessments shall be made without recourse upon the City in any event. Any such sale and assignment shall operate as a lien in favor of the City and of the holders of certificates as provided by law in the case of sales of real estate for default in payment of general taxes. The owner of any divided or undivided interest may pay his share of any assessment.

(c) All collections made by the County Treasurer upon any assessments in any calendar month shall be accounted for to the City Manager on or before the tenth day of the next succeeding calendar month with separate statements of all collections for each improvement or assessment.

(d) In carrying out the provisions of this article, the City Council shall act by resolution in all cases, except that the cost of all improvements shall be assessed by ordinance.

(Code 1994 § 28-38; Code 1965 §§ 18-38 – 18-41)

Article III. Districts Created by Petition

12.12.200 Authorized.

The establishment of a district may be accomplished by petition by the procedure set forth in this article.

(Code 1994 § 28-61; Code 1965 § 18-64)

12.12.210 Form of petition – Filing.

The petition establishing a district shall set forth the name of the proposed district, a legal description thereof, a statement that if the district is established the City shall acquire, construct, install, finance and operate improvements within the district and defray the costs of doing so by levying special assessments against the property within the district, and a request for the establishment of a district. The petition shall be subscribed by more than 50 percent of the landowners in the district and also by landowners with property within the district comprising more than 50 percent in the aggregate of the valuation for assessment of all property therein. The petition shall be filed in the office of the City Manager. Counterpart petitions may be filed and together shall be regarded as one petition.

(Code 1994 § 28-62; Code 1965 § 18-64(a))

12.12.220 List of landowners in proposed district – Notice.

Upon receipt of a petition for establishment of a district, the City Manager shall cause to be prepared a list of all landowners as of the date of filing. Such list shall be prepared from the official records of the County Treasurer and from such other reliable information as may be available. The City Manager shall give published notice of the date of the intended completion of the list, affording all persons claiming to be landowners an opportunity to present evidence satisfactory to the City Manager of their rights to be included on the list of landowners. Any person who fails to present evidence prior to the date of completion of the list, as announced in the notice thereof, shall be deemed to have waived any objection to the sufficiency of the petition or the failure of the City to give mailed notice to such person of any subsequent proceeding, and the published notice required by this section shall specifically state upon completion of such list that the City Manager shall fix a place and time not less than 20 days nor more than 40 days thereafter for a hearing on the petition before the City Council. The City Manager shall give published and mailed notice to all landowners of the pendency of the petition and of the place and the time of the hearing thereon. Such notice shall also set forth the name of the proposed district, a legal description thereof and a statement that if the district is established the City shall acquire, construct, install, finance or operate improvements within the district and defray the costs of doing so by levying special assessments against the property within the district.

(Code 1994 § 28-63; Code 1965 § 18-64(b))

12.12.230 Hearing on petition – Challenges – Rulings.

At the hearing called pursuant to this article, the City Council shall determine if the petition complies with the requirements of this article and shall determine the qualifications of the subscribers to the petition and the genuineness and sufficiency of the signatures thereon. Any landowner having information relevant to such determinations shall be afforded the opportunity at such hearing to present such information. Unless challenged at the hearing by an interested party having such information, the information contained in the list of landowners prepared by the City Manager shall be presumed correct. In the event of any such challenge, the City Council shall hear and rule upon the challenge. Regardless of whether any challenge is made, the City Council shall make a finding as to its accuracy and completeness. All rulings on challenges and findings concerning the accuracy and completeness of the list shall be embod-

ied in any ordinance adopted pursuant to this article. Any petition may be amended to conform to the facts or to correct technical defects and, whether or not so amended, may be recirculated for the purpose of obtaining additional signatures.

(Code 1994 § 28-64; Code 1965 § 18-64(c))

12.12.240 Establishment of district.

If the City Council finds that the petition complies with the requirements of this article and that it bears the requisite number of signatures, it shall by ordinance declare the district established, giving it the name required by this chapter and an appropriate number and describing its boundaries in accordance with the petition, or any amendment thereto, necessitated by the proceedings.

(Code 1994 § 28-65; Code 1965 § 18-64(d))

Article IV. Improvements

12.12.250 Procedures generally.

The City Council shall proceed with respect to the acquisition, construction or installation of improvements within any district as follows:

(a) Any improvement authorized by this article shall be initiated by resolution of the City Council declaring its intention to acquire, construct or install such improvement. Such resolution shall describe with particularity the nature and location of the improvement, refer to plans and specifications and maps on file with the City Manager, estimate the costs of the improvement, and specify the manner in which such costs will be defrayed. If the costs are to be defrayed in any part by special assessment against the property benefitted, the resolution shall also describe the properties to be assessed, set forth the method of apportioning the total cost among such properties, and state the share of such cost to be assessed against each property. The resolution shall also fix a place and time for public hearing before the City Council on the matters contained in the resolution.

(b) The City Manager shall give published notice of the adoption of the resolution and of the place and time of the hearing on the matters contained therein. The City Manager shall also give mailed notice thereof to all landowners scheduled to bear any portion of the assessment burden, if the scheduled cost is to be defrayed, in whole or in part, by special assessments. Such notice shall describe the matters required to be contained therein by this article. Such notice shall also state that the City Council may not proceed if written protests to the acquisition, construction, or installation of the proposed improvements are filed with the City Manager on or before the date of the hearing by landowners scheduled to bear 50 percent or more of the assessment burden, if any portion of the scheduled cost is to be defrayed by special assessments.

(c) At the hearing, the City Council shall review the nature, location and cost of the proposed improvements and the method of financing such improvements. If any portion of the cost is to be defrayed by special assessments, the City Council shall receive expert testimony concerning the special benefits to be conferred on the properties to be assessed and the fairness of the method of apportioning assessments. Any such method may take into consideration such factors as the City Council deems relevant, including without limitation the following factors:

    (1) The distance of the improvements from the property to be assessed;

    (2) The need for parking for each property;

    (3) The valuation for assessment of each property;

    (4) The square footage of each property;

    (5) The square footage of usable floor space with respect to each property and the use thereof; and

    (6) The availability of existing facilities with respect to each property.

Any method must result in the levy of assessments upon every property assessed not in excess of the special benefit conferred thereon and among all such properties in rough approximation to the special benefits conferred. The City Council shall afford all landowners scheduled to bear any portion of the assessment the opportunity to be heard on the matters before it. Any objection to the method of apportioning the assessment not made at such hearing shall be deemed waived. Any objection to the amount proposed to be assessed not made at such hearing shall be deemed waived to the extent of such amount. The City Council shall determine the sufficiency of protests filed. If the City Council finds that written protests to the acquisition, construction or installation of the proposed improvements have been filed with the City Manager on or before the date of the hearing by landowners scheduled to bear 50 percent or more of the assessment who have not previously signed a petition for formation of the district, it shall not proceed. If the City Council finds that insufficient protests have been received as provided in subsection (b) of this section, the City Council shall rule upon all objections made, may make such adjustments in the nature, location and cost of the improvements as may be warranted, and shall by ordinance authorize the acquisition, construction or installation of the improvement and, if appropriate, the assessment of the cost thereof in accordance with the method approved. By ordinance, the City Council shall also fix an interest rate to be paid on unpaid installments.

(d) Except in cases in which the City receives aid from an agency of the federal government, the City Manager shall give published notice for bids on all contracts for work or material or both involving an expense of $10,000 or more in connection with any improvement within a district. The City Council may reject any and all bids and if it appears that the City can perform the work or secure material for less than the lowest bid, it may proceed to do so.

(Code 1994 § 28-86; Code 1965 § 18-67)

12.12.260 Special assessments.

Whenever the cost of any improvement or the cost of operating or maintaining any improvement is to be defrayed in whole or in part by special assessment, the following procedure shall be observed:

(a) Upon completion of any improvement or upon completion from time to time of any part thereof and upon acceptance thereof by the City Manager or when the total cost of any improvement or any such part thereof can be definitely ascertained, the City Manager shall cause to be prepared a statement showing the whole cost of the improvement and the portion thereof to be defrayed by special assessment. Such cost may be either greater or lesser than that originally approved by the City Council and may include additional expenditures, the nature and amount of which were unforeseen at the time of the authorization of the improvement. Such statement shall also contain an apportionment of the cost to be assessed among the properties to be assessed in conformity with the method previously approved. Such statement shall be filed in the office of the City Manager.

(b) The City Manager shall give published and mailed notice to all landowners scheduled to bear any portion of the assessment burden that the proposed apportionment has been completed and of the hearing thereon. The notice shall specify the whole cost of the improvement, the portion to be defrayed by special assessment, the amount to be assessed against each property, and that any complaints or objections to the proposed assessments which are made in writing by any landowner scheduled to bear any portion of the assessment burden and filed with the City Manager on or before the date of the hearing will be heard and determined by the City Council before the passage of any ordinance assessing the cost of such improvement.

(c) At the time specified in such notice or at some adjourned time, the City Council shall hear and determine all such complaints and objections. If the City Council determines that the assessment is inequitable in any case, the City Council shall make a just and equitable assessment based upon the benefits accruing to the property assessed by reason of the improvement(s) made.

(d) The City Council shall by ordinance apportion and assess the cost of the improvement. The passage of such ordinance shall be prima facie evidence that the assessments have been lawfully levied.

(e) Any clerical or technical errors or mistakes in the levy of assessments may be corrected by amendatory ordinance. Such corrections shall take effect as of the date of the original assessing ordinance.

(f) All assessments, together with all interest thereon, penalties for default in payment thereof, other authorized charges and all costs incurred in collecting the same shall constitute, from the date of the passage of the assessing ordinance, a perpetual lien in the several amounts assessed against each property and shall have priority over all other liens except general tax liens.

(Code 1994 § 28-87; Code 1965 § 18-68)

12.12.270 Reapportionment of assessments.

Whenever due to a change in the use of property assessed for the cost of any improvement, or due to other changes within the district and upon the request of any interested party, the City Council may reapportion the cost of the improvement among the property benefitted thereby as follows:

(a) Reapportionment proceedings shall be commenced only in the discretion of the City Council by resolution declaring its intent to reapportion. Such resolution shall contain a proposed schedule of reapportioned assessments showing with respect to all properties previously or prospectively to be assessed the net change in the assessment obligation. The resolution shall also fix a place and time for a public hearing before the City Council on the proposed reapportionment.

(b) The City Manager shall give published notice of the adoption of the resolution and of the place and time of the hearing on the proposed reapportionment. The City Manager shall also give mailed notice thereof to the landowners with respect to all properties previously or prospectively to be assessed. Such notice shall summarize the resolution and set forth in detail the matters required to be contained therein by this section. Such notice shall also state that the City Council may not proceed if written protests to the proposed reapportionment are filed with the City Manager on or before the date of the hearing by landowners scheduled to bear 50 percent or more of the proposed assessed burden as reapportioned.

(c) At the hearing so set, the City Council shall afford all landowners scheduled to bear any portion of the assessment burden as reapportioned the opportunity to be heard. Any objection not made at such hearing shall be deemed waived. The City Council shall determine the sufficiency of the protests filed. If the City Council finds that written protests to the proposed reapportionment have been filed with the City Manager on or before the date of the hearing by the affected landowners, it shall not proceed. If the City Council finds that insufficient protests have been received as provided in this section, the City Council shall rule on any objections and shall by ordinance reapportion the assessment in accordance with a proposed schedule or any amendment thereto necessitated by the proceedings. In reapportioning the assessment, the City Council shall at the hearing thereon receive expert testimony concerning the special benefits conferred on the properties subject to assessment and the fairness of the proposed method of reapportioning the assessments. Any such method may take into consideration such factors as the City Council deems relevant, including without limitation the factors stated in this article. Any such method must, however, result in the levy of assessments upon every property assessed not in excess of the special benefits conferred thereon and among all such properties in rough approximation to the special benefits conferred.

(d) No such reapportionment shall become effective until after the expiration of the limitation of actions period prescribed in this article or until after all judicial or further City Council proceedings in connection with any action commenced within such period shall have been completed, whichever is later. Reapportioned assessments shall be collected as provided in this article, except that the reapportioned assessments payable in installments shall be payable on the same installment schedule as originally prescribed by the City Council. No assessment shall be reapportioned more frequently than once in any 12-month period and no such reapportionment shall reduce the aggregate

amount of the assessment payable when such assessments constitute in whole or in part the security for any bonds of the City then outstanding.

(Code 1994 § 28-88; Code 1965 § 18-69)

12.12.280 Collection of assessments.

All assessments levied as provided in this article shall be collected as follows:

(a) The City Manager shall cause to be prepared an assessment roll in book form, showing in suitable columns each property assessed, the total amount of each assessment, if applicable, the amount of each installment of principal and interest, and the date when the whole amount or each installment will become due. The assessment roll shall also have suitable columns for use in the event of payment of the whole amount or of any installment before due and of payment of any penalty.

(b) Payment in full of assessments levied pursuant to this article may be made to the City Manager without interest at any time within 30 days after the passage of an assessing ordinance.

(c) At the expiration of such 30-day period, the City Manager shall prepare an assessment roll, therein showing all payments made and the date of each, which roll shall be certified by the City Clerk under the seal of the City and delivered to the County Treasurer for the collection of the same.

(d) The owner of any partial interest in any property assessed may pay such owner's share of any assessment upon producing evidence of the extent of such separate interest satisfactory to the City Manager or County Treasurer having charge of the roll.

(e) All collections made by the County Treasurer upon such assessment roll in any calendar month shall be accounted for and paid over to the City Manager on or before the tenth day of the next succeeding calendar month, with separate statements for all such collections for each improvement.

(f) All special assessments shall be due and payable within 30 days after the passage of the assessing ordinance without demand. The City Manager shall give mailed notice to the landowners of the property assessed.

(g) The City shall have the following rights and remedies with respect to any sale by the County Treasurer of any property for the purpose of paying any special assessment made under the provisions of this article:

(1) The City may purchase any such property without paying for such property in cash and shall receive a certificate of purchase therefor in the name of the City. The certificate shall be received and credited at its face value, with all interest and penalties accrued, on account of the assessments in pursuance of which the sale was made. Any such certificate may thereafter be sold by the City at its face value, with all interest and penalties accrued and assigned to the purchaser in the name of the City. If all bonds issued in payment for the improvement have been discharged in full, such certificate may be sold by the City for the best price obtainable at public sale, at auction or by sealed bids in the manner and under the same conditions as provided in this article. Such assignment shall be without recourse and the sale and assignment shall operate as a lien in the favor of the purchaser and as assignee as provided by law in the case of sales of real estate in the default of payment of general property tax.

(2) The City as purchaser has the right to apply for a tax deed on any such certificate of purchase at any time after three years from the date of issuance thereof, and any such deed shall be issued as provided by law for issuance of tax deeds for the nonpayment of general property tax.

(3) If the City is the owner of the property by virtue of a tax deed, or is the owner of the property otherwise acquired, in satisfaction or discharge of the lien represented by any such certificate of sale, it may sell such property as provided by ordinance and/or City Charter.

(4) If the City is a holder of a certificate of purchase, it may bring a civil action for foreclosure thereof, joining as defendants all persons holding record title, persons having or claiming any interest in the property or the proceeds of foreclosure sale, all government taxing units having taxes or other claims against such property and all unknown persons having or claiming any interest in such property. Any number of certificates may be foreclosed in the same proceeding. In such proceeding the City, as plaintiff, is entitled to all relief provided by law in actions for an adjudication of rights with respect to real property.

(Code 1994 § 28-89; Code 1965 § 18-70)

12.12.290 Special assessment bonds.

For the purpose of paying all or such portion of the cost of any improvement constructed under the provisions of this article as may be assessed against the property specially benefitted thereby and not otherwise paid, the City Council may issue special assessment bonds of the City as provided in this section without an election. If the cost of any improvement is not known with certainty, such bonds may be issued upon estimates approved by the City Council.

(a) Special assessment bonds issued pursuant to the authority of this article may be in such form and bear such date as may be prescribed by the City Council. Such bonds shall mature a sufficient number of years from their date so that payment may be made from assessments levied therefor but subject to call as provided in this article. Such bonds shall be subscribed by the presiding officer of the City Council with the seal of the City affixed thereto and attested by the City Clerk. Such bonds shall bear such rate or rates of interest as may be determined by the City Council, not exceeding the maximum net effective interest rate specified by the City Council prior to the use of such bonds in payment for improvements or the sale thereof. Such interest shall be payable annually or semiannually and evidenced by one or two sets of coupons executed with the facsimile signature of the City Manager. The holders of such bonds may look for the payment thereof solely to, and the bonds shall be secured solely by, a pledge of the appropriate special improvement fund established therefor into which shall be deposited all moneys received on account of special assessments levied against the properties in the district specially benefitted by the acquisition, construction and installation of the improvements financed by the issuance of the bonds. Notwithstanding the foregoing, the City may at its option apply any other funds legally available therefor to the payment of the bonds. All moneys collected from such assessments for any improvement shall be applied to the payment of bonds issued until payment is made in full of all bonds, both principal and interest. The bonds may be used in payment of the cost of the improvement, or the City Council may sell the bonds at public or private sale on such terms as it may determine at a price sufficient to pay such costs.

(b) All such bonds shall be negotiable instruments within the meaning of State statutes, as amended.

(c) Whenever the City Manager has a sum of money to the credit of any special improvement fund exceeding six months' interest on the unpaid principal of the bonds issued therefor and outstanding, he shall call in a suitable number of such bonds for payment by giving published and mailed notice to the holder or holders of all bonds to be so redeemed. For this purpose, the holder of any bond may at any time furnish his postal address to the City Manager. At the expiration of 30 days from such publication of notice, interest on the bonds so called shall cease. The notice shall specify by number the bonds called and all such bonds shall be paid in direct numerical order.

(Code 1994 § 28-90; Code 1965 § 18-71)

Chapter 12.16

STREETS AND SIDEWALKS

Sections:

12.16.010 Definitions.
12.16.020 Sale, display of merchandise.
12.16.030 Encroachments.
12.16.040 Discharging water, other liquids.
12.16.050 Ditches – Uncovered prohibited.
12.16.060 Ditches – Finding, abatement of nuisances.
12.16.070 Excavations – Permit required.
12.16.080 Permit required for construction of sidewalks and curbing.
12.16.090 Duty to clean sidewalks.
12.16.100 Drinking of alcoholic beverages in public ways – Use of glass containers in grassed areas prohibited.

Cross reference(s) – City datum established, GJMC 1.08.010; cemeteries, Chapter 2.40 GJMC; dogs running at large prohibited, GJMC 6.12.040; smoking restricted in certain places, GJMC 8.20.020; parks and recreation, Chapter 12.04 GJMC; procedure for moving buildings, Chapter 5.32 GJMC.

12.16.010 Definitions.

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

Public right-of-way means and includes all streets, roadways, sidewalks, alleys, and all other areas reserved for present or future use by the public, as a matter of right, for the purpose of vehicular or pedestrian travel or utility installation.

(Code 1994 § 32-1; Code 1965 § 26-1)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

12.16.020 Sale, display of merchandise.

It shall be unlawful for any person to place in or upon any public sidewalk, street, alley or public right-of-way any sign, advertisement or any article of merchandise offered, exhibited or advertised for sale or any other thing tending to interfere, obstruct or encroach upon the use of such public sidewalk, street, alley or public right-of-way or which renders such public sidewalk, street, alley or other right-of-way less commodious or convenient for public use, except when directed by the City Council that such display or sale of merchandise or any other thing may be permitted as part of a coordinated promotional effort involving a majority of the retail business establishments in the immediate shopping area. When directed by the City Council, such display or sale may be permitted for a maximum of seven days.

(Code 1994 § 32-2; Code 1965 §§ 19-13, 26-2)

12.16.030 Encroachments.

(a) Duty to Remove on Notice. The owner of any building, fence, vegetation or other obstruction of like nature on any street, avenue, alley, sidewalk or public ground within the City shall remove such obstruction within 30 days after notice in writing signed by the City Manager and served upon such owner or his agent, and a failure or refusal to do so shall be a misdemeanor.

(b) Removal by City. Whenever the owner of any building, fence, vegetation or other obstruction of like nature standing or encroaching upon any street, avenue, alley, sidewalk or public ground shall refuse or neglect to remove such encroachment after notice as provided in subsection (a) of this sec-

tion, the same shall be deemed a nuisance and it shall be lawful for the City Council to cause the same to be removed or taken down, and the expense thereof shall be recoverable from the owner.

(Code 1994 § 32-3; Code 1965 §§ 26-4, 26-5)

12.16.040 Discharging water, other liquids.

(a) It shall be unlawful to discharge steam, water, including but not limited to swimming pool water and irrigation water, or other liquids from any building directly onto or in such a manner that it will flow onto or seep under the streets, alleys and sidewalks within the City; provided, that the provisions of this section shall not apply to runoff water resulting from natural precipitation or sprinkling.

(b) It is unlawful to discharge or cause to be discharged any gasoline, oils, benzene, naphtha, fuel oil, or other flammable, toxic, explosive or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to be capable of causing damage or hazard to structures, equipment or people, into the streets or other public ways.

(Code 1994 § 32-4; Code 1965 §§ 19-75, 26-7)

12.16.050 Ditches – Uncovered prohibited.

(a) No person, other than the commissioner of highways [City Manager] in the performance of his official duties, shall construct, maintain or conduct water through any open or uncovered ditch or canal, along or across any of the public highways in the City.

(b) It shall be the duty of any person conducting irrigating water through any part of the City to immediately cover such [opened or uncovered] ditch or canal in some safe and substantial manner, to be approved by the commissioner of highways [City Manager], or to convey such waters through pipes, tiling or other closed conduits to be approved by said commissioner [City Manager].

(People's Ord. 3, 11-7-11. Code 1994 § 32-5; Code 1965 §§ 26-8, 26-9)

Charter reference(s) – This section was derived from People's Ordinance Number 3 which was adopted by referendum and which pursuant to the Charter § 142 must be amended by referendum.

12.16.060 Ditches – Finding, abatement of nuisances.

(a) To carry out the intent of GJMC 12.16.050, the City Council shall determine whether an existing open ditch within the City constitutes a nuisance by endangering the public health, safety or welfare. Such finding of nuisance shall be made by resolution of the City Council after consideration of the conditions in regard to such ditch.

(b) Upon a finding by the City Council that a nuisance exists, the City Manager shall proceed to either eliminate the ditch by closing such ditch or seek the covering of such ditch. As an encouragement to elimination of the ditch entirely, the City Manager may offer any one or all of the following inducements to the water users from the ditch:

(1) The payment of a lump sum equal to the estimated water charges for a five-year period for watering the existing planted portion of the ditch water users' premises; provided, however, that the maximum lump sum payment to the owner of any one premises shall not exceed the amount established by resolution of the City Council and on file in the City Clerk's office.

(2) The purchase by the City, at the option of the ditch water user, of the shares of ditch water at current value. The ditch water user may elect to retain ownership of such shares or sell them elsewhere.

(3) Upon the closing of a ditch, or portion thereof, within the City, the former water users from such ditch or such portions shall be relieved of all responsibility in connection with such ditch, or portions thereof.

(c) If the closing of the ditch is impractical, the City may participate with the ditch water users in the covering of such ditch, or portions thereof. In such case, the City's share as custodian of the public right-of-way shall not exceed one-half of the cost of such covering, with the balance being assumed by ditch water users. If the City is also a user as well as custodian of the right-of-way, the share of cost of covering may be increased proportionately.

(Code 1994 § 32-6; Code 1965 § 26-10)

12.16.070 Excavations – Permit required.

No person shall make any excavation in any street or alley within the City unless he shall first have obtained a permit in accordance with Chapter 13.12 GJMC.

(Code 1994 § 32-7; Code 1965 § 26-11)

12.16.080 Permit required for construction of sidewalks and curbing.

(a) A person shall, before commencing the work of building, reconstructing or repairing a sidewalk or curbing, make application and procure from the City Manager a permit therefor, which permit shall be issued only to such person who shall have paid a permit fee as established by resolution of the City Council and on file in the City Clerk's office for each location for which a permit is sought, and shall have filed with the City Manager a correct description of the lots, tracts or parcels of land in front of which and along which such proposed sidewalk or curbing is to be constructed, reconstructed or repaired; provided further, that no such permit shall be issued by the City Manager to construct any such sidewalk or curbing until a record grade therefor shall have been established by the City Manager.

(b) The permittee under this section shall procure and maintain, or shall cause any contractor or subcontractor of the permittee to procure and maintain, worker's compensation insurance and employer's liability insurance in conformance with applicable statutes or requirements of the State. All coverage shall be so maintained as to cover any and all employment liability, claims, demands and other obligations assumed or incurred by the permittee arising out of, or resulting from, activities entered into in furtherance of such permit.

(Code 1994 § 32-8; Code 1965 § 17-108)

12.16.090 Duty to clean sidewalks.

The owner, or his agent, or the occupant of any premises or property in the City shall maintain those sidewalks adjoining such premises or property in a condition free from snow, ice, mud, dirt, rubbish and filth. Any accumulation of snow and ice shall be removed from such sidewalk into the street within 24 hours after every snowfall.

(Code 1994 § 32-9; Code 1965 §§ 19-28, 26-6)

12.16.100 Drinking of alcoholic beverages in public ways – Use of glass containers in grassed areas prohibited.

(a) It shall be unlawful for any person to possess or drink any malt, vinous, or spirituous liquors in the City, in or on any public street, road, highway, park or public way which is either publicly or privately owned and used by the public, unless such possession and consumption is pursuant to and in accordance with a special events permit issued in accordance with § 12-48-101, C.R.S. et seq. or such place is a part of the premises designated under a valid license issued pursuant to State law and the consumption is otherwise lawful.

(b) No person shall drink from or use glass containers on the grassed areas of any public park.

(Ord. 3721, 2-16-05. Code 1994 § 32-10; Code 1965 §§ 19-29, 19-29.1)

Chapter 12.20

DRIVEWAYS

Sections:

12.20.010 Defined.
12.20.020 Permit required to construct, alter, repair.
12.20.030 Application for permit.
12.20.040 Permit fees.
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12.20.070 Length, location regulated.
12.20.080 Service driveways – Number, location, specifications.

Cross reference(s) – Buildings and building regulations, GJMC Title 15.

12.20.010 Defined.

As used in this chapter, a "driveway" is that portion of the street right-of-way between the pavement edge and the property line which is designed and used for the interchange of traffic between the public roadway pavement and the abutting property.

(Code 1994 § 32-31; Code 1965 § 26-27)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

12.20.020 Permit required to construct, alter, repair.

It shall be unlawful to construct, reconstruct, alter or repair any driveway in the City without first obtaining a permit therefor and paying the permit fee as required in this chapter; provided however, that no permit fee shall be required of a subdivider constructing driveways as a part of street and sidewalk installation within the subdivision, nor shall such fee be required when such driveway construction occurs as a part of a special improvement district.

(Code 1994 § 32-32; Code 1965 § 26-28)

12.20.030 Application for permit.

Any person desiring to obtain a permit for a driveway shall file an application therefor with the City Manager. This application shall be in writing and upon a form provided by the City and shall contain such information showing the location of the driveway, the type of construction, the length of the driveway and any other information which may be required by the City Manager.

(Code 1994 § 32-33; Code 1965 § 26-29)

12.20.040 Permit fees.

The permit fee for each driveway approved by the City Manager shall be as established by resolution of the City Council.

(Code 1994 § 32-34; Code 1965 § 26-30)

12.20.050 Authority to order alteration or repair – Failure to comply.

The City Manager may, at his discretion, order the reconstruction, alteration or repair of driveways and curbs associated therewith, presently constructed or to be constructed under the terms of this chapter, where the City Manager determines such to be an impediment to the free movement of vehicles upon the streets or the economic distribution of parking space at the curb of the aforementioned streets, or to travel or safety of pedestrians thereon. Such notice to reconstruct, alter or repair shall be given by registered or

certified mail to the owner of the premises involved, who shall commence such reconstruction, alteration or repair within 30 days thereafter. If the owner fails to so commence, the City may make such reconstruction, alteration or repair, billing the costs of the same to such owner, who shall be obligated therefor. The costs shall constitute a lien on the property served by such driveway.

(Code 1994 § 32-35; Code 1965 § 26-31)

12.20.060 Authority to order removal of abandoned driveways – Failure to comply.

When, in the opinion of the City Manager, an abandoned driveway constitutes a hazard to vehicular traffic or to pedestrians within the City, the City Manager may order the removal of such driveway, the reconstruction to be made by the owner of the premises involved, notice having been given to such owner as provided in GJMC 12.20.050. In the event of the failure of the owner to remove such driveway, restoring the curbline and sidewalk area, the City may undertake such removal and reconstruction, billing the owner for such removal and reconstruction as provided in GJMC 12.20.050, and the owner shall be obligated therefor. The costs shall constitute a lien on the property served by such driveway.

(Code 1994 § 32-36; Code 1965 § 26-32)

12.20.070 Length, location regulated.

The length of driveways and their location with respect to the right-of-way lines of public streets shall be in accordance with standards and specifications developed by the City Manager.

(Code 1994 § 32-37; Code 1965 § 26-34)

12.20.080 Service driveways – Number, location, specifications.

No more than two service driveways shall be permitted in 100 feet of frontage to allow entrance to a single business establishment. No entrance or approach shall be located or constructed so as to interfere with or prevent the proper location or functioning of any traffic regulating device.

All service driveways, curb returns and expansion joints shall be constructed according to specifications required by the City Manager.

(Code 1994 § 32-38; Code 1965 § 26-35)

Chapter 12.24

COMMERCIAL USE OF PUBLIC RIGHT-OF-WAY IN DOWNTOWN AREA

Sections:

12.24.010 Purpose.
12.24.020 Definitions.
12.24.030 Permit fees.
12.24.040 Permit requirements.
12.24.050 Review of permit application.
12.24.060 Types of permits.
12.24.070 General provisions.
12.24.080 Special rules for mobile vending carts.
12.24.090 Rules for sidewalk cafes and restaurants.
12.24.100 Special rules on special use and recurring activity permits.
12.24.110 Suspension or revocation of permit.
12.24.120 Location of news box banks.
12.24.130 Installation of news box banks.
12.24.140 News box use.
12.24.150 Obligations of users.
12.24.160 Joint use news box use agreement – Term, expiration and revocation.
12.24.170 Joint use news box priority and waiting list.
12.24.180 Inapplicability of other code sections.

Cross reference(s) – Sale, display of merchandise on public right-of-way regulated, GJMC 12.16.020.

12.24.010 Purpose.

The purposes of this chapter shall be to:

(a) Control the type and manner of activities conducted in the Downtown Shopping Park.

(b) Enhance the environment in the Downtown Shopping Park and to provide the maximum possible usage, subject to appropriate restrictions of the Downtown Shopping Park.

(Ord. 3422, 5-1-02. Code 1994 § 32-61; Code 1965 § 26-50)

12.24.020 Definitions.

As used in this chapter, the following terms have the following meanings unless the context requires otherwise:

Area wide permit is a permit which allows the permitted use within the entire Downtown Shopping Park, rather than at a specific location.

ASCAP is a national organization of artists and musicians that gives permission to use the music or art, in exchange for monetary consideration. For this chapter, use of the term "ASCAP" includes similar organizations and efforts to control the unauthorized use of copyright and similar rights.

City is the City of Grand Junction, acting through the City Council or the City Manager.

Conducting business means the act of offering to sell or selling goods, merchandise, food or services of any type whatsoever.

DDA is the Downtown Development Authority of Grand Junction, Colorado, acting through its Board of Directors. The Board may delegate to its employee, the Executive Director. The State statute authorizing development authorities refers to the Executive Director as the Director.

DDA plan of development means the plan adopted by the Grand Junction City Council for the development and preservation of the properties within the DDA, as amended from time to time.

Director means the Executive Director of the Grand Junction Downtown Development Authority (DDA) or his designee.

Downtown commercial area means the area within the DDA boundary bounded on the north by Grand Avenue, including locations on the north side of Grand Avenue, on the south by Pitkin Avenue, on the west by First Street and on the East by Eighth Street.

Downtown Shopping Park or *Downtown Park* means that portion of the City right-of-way of:

(1) Main Street bounded on the west by the east intersection line of Second Street; on the east to and including Eighth Street;

(2) Colorado Avenue bounded on the west by the east intersection line of Second Street; on the east to and including Seventh Street; and

(3) Seventh Street bounded on the north by the south intersection line of White Avenue and bounded south through and including Colorado Avenue.

Kiosks are small, relatively light structures that are stationary, may be permanent or seasonal in nature, and are constructed in accordance with guidelines for design as determined by the DDA.

Location means that particular portion of the Downtown Park for which a general, specific or special use permit has been issued and which is stated upon the permit.

Mobile vending cart is a structure with at least two operational wheels that is easily moved and is used for vending.

News box bank or *bank* means a structure, the location of which is determined by the Director, consisting of multiple single user news boxes and joint use news boxes installed on a news box bank pedestal. The approved color for news box banks is Chicago Blue, and the approved model is the Boulevard model as shown on the last page of Appendix A[1]. The approved color and model of news box banks may be changed by the Director at his discretion in the event that Chicago Blue or the Boulevard model is/are unavailable or is/are deemed inappropriate for use.

News box bank pedestal or *pedestal* means the leg(s) and/or base upon which single user news boxes and joint use news boxes may be installed, which is owned by the DDA and affixed to the ground.

Parade permit means a permit that allows the use of Main Street between First Street and Seventh Street for a procession or march for ceremony or display.

Pedestrian vendor is an individual operating without the use of a mobile vending cart or kiosk and with a minimum of equipment (e.g., balloons, portrait artist, shoeshine).

Permit means the City or DDA issued document that allows the use of right-of-way of the Downtown Park for the permittee's tables, chairs, clothing rack, bicycle rack, or other items of a moveable nature which are not included in any other permit category. If all other necessary permits are obtained and all State and local laws are met, the City may issue a permit for the use of the specific portion of the Downtown Park.

Publication means a periodical which:

(1) Is published in different issues with sufficiently different content or format so that each issue can be readily distinguished from previous or subsequent issues; and

(2) Is formed of printed sheets. The sheets may be die cut or deckle-edged, and may be made of paper, cellophane, foil or other similar materials.

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1. **Code reviser's note:** Appendix A is attached to Ordinance 3720 and is available in the office of the City Clerk for public examination.

The requirements in this part of the definition are drawn from the United States Postal Service manual part of regulations which distinguish publications which are eligible for special mailing rates from those which are not. A deckle edge is a rough, untrimmed edge.

(3) *Daily publication* means a publication which is published at least 100 times per calendar year.

(4) *Monthly publication* means a publication which is published between 12 and 49 times per calendar year.

(5) *Weekly publication* means a publication which is published between 50 and 99 times per calendar year.

Publication distribution machine means a machine used to distribute publications which is placed or maintained on the public right-of-way within the downtown commercial area as described above by a person other than the Director. Where prohibited, the term refers to the machine without regard for whether the publication contained in the machine is a "publication" within the meaning of this section or even whether there is any printed or other material within the machine, or the cost, if any, of any printed or other material within the machine.

Publisher means the person who pays to have a publication printed or otherwise causes a publication to be printed or otherwise reproduced.

Recurring activity permit means a permit that allows a unique and/or charitable use of the Downtown Park on a recurring basis throughout the year. A recurring activity permit may be granted to the sponsor or agency coordinating the event rather than specific, participating individuals.

Right-of-way means a public street from property line to property line and includes public alleys, paths and/or breezeways. It also includes an easement or other right which the City has acquired from the property owner for the purpose of locating news box banks.

Sidewalk cafe means the extension of the food and beverage service area of a restaurant or a cafe, located in the Downtown Park.

Sidewalk restaurant means the extension of the food and alcohol beverage service of a restaurant in the Downtown Park.

Space means the area of a news box bank in which a single user news box is placed.

Special use permit means a permit issued by the DDA or City for three or fewer days for unique or charitable uses of the Downtown Park for which no other permit is appropriate. A special use permit may be granted to the sponsor of an activity rather than the specific individuals conducting business within the Downtown Park.

Tent sale/sidewalk sale permit means a permit that allows existing Main Street merchants to sell merchandise or service from an area in the public right-of-way.

Use agreement means the written agreement between the DDA or its designee and a publisher for the use of a slot, if available, in a joint use news box.

Every news box placed in a news box bank shall be either a joint use news box or single user news box. The approved color for news boxes is Chicago Blue as shown on the last page of Appendix A[1]. The approved color for news boxes may be changed by the Director at his discretion in the event that Chicago Blue becomes unavailable or is deemed inappropriate for use.

(1) *Joint use news box* means a box which is owned by the DDA or its designee and installed in a news box bank, and is comprised of a box divided into multiple slots, which slots will allow the placement of multiple issues of a single publication in each slot and will protect the publications from the elements. The publications may be obtained by opening a door without pay-

1. **Code reviser's note:** Appendix A is attached to Ordinance 3720 and is available in the office of the City Clerk for public examination.

ment by the customer for the publication. Slots in joint use news boxes must be used by monthly publications and may be used by weekly publications which have not installed a single user news box for the location where the publisher wishes to distribute its publication. It is anticipated that the slots in joint use news boxes will not allow for the face-up or face-out display of publications. The Director shall provide information in the window of each joint use news box which informs interested parties of the publications distributed in the slots of each joint use news box. Users of joint use news boxes shall be charged fees as hereinafter described.

(2) *Single user news box* means one unit in a news box bank, which unit is owned by a publisher and installed in a space in a news box bank with the permission of the Director. The model of a single user news box shall be as determined by the Director. A single user news box is designed to hold a publication and protect it from the elements, which publication may be obtained by opening a door, whether after depositing money in a device which unlocks the door or without payment by the customer, if any, for the publication.

(Ord. 4120 § 1, 10-3-07; Ord. 3720, 2-16-05; Ord. 3650 § 1, 7-7-04; Ord. 3609, 3-3-04; Ord. 3422, 5-1-02. Code 1994 § 32-62; Code 1965 § 26-51)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

12.24.030 Permit fees.

(a) Fees for Permits. The DDA may charge for the permits, leases and approval authorized by this chapter as follows. The City Council may amend such fees and charges by resolution.

(1) Each sidewalk cafe or restaurant: $10.00 per seat/$150.00 maximum.

(2) Mobile vending cart or kiosk: $100.00.

(3) Recurring activity permit: $200.00.

(4) Special use permits: $100.00.

(5) Pedestrian vendor: $25.00/month or $100.00 annually.

(6) Parade permit: $10.00.

(7) Tent sale/sidewalk sale: $25.00.

(b) All fees collected by the DDA or its employees or agents pursuant to this chapter shall be deposited with the City on account of the DDA.

(c) If the DDA desires to waive the fee or all or a portion of one or more permit terms for charitable and eleemosynary activities, it shall only do so pursuant to adopted written rules and policies, consistent with the provisions of this chapter and other City rules and requirements. Any such waiver shall only be valid if decided by the DDA Board in a meeting that complies with the Colorado Open Meetings Act. Such DDA regulations shall provide that each such waiver shall be requested in writing and shall be accompanied by proof that the proceeds from the permitted commercial activity will be used for a charitable or equivalent entity that has tax exempt status under the Internal Revenue Code, as amended from time to time.

(d) For the purposes of this section, a permit fee, as otherwise provided, established or required in Chapters 12.16 and 12.20 GJMC shall not be applicable to single user news box. Fees for joint use news boxes shall be set to cover the DDA's administrative, capital and installation and maintenance costs.

(e) Fees shall be payable in accordance with the terms of this chapter prior to installation and use of joint use news boxes. Fees may be decreased or increased by the DDA Board to cover the DDA's administrative costs, the capital costs and installation cost for the joint use news boxes and the annual maintenance cost.

(f) The capital and installation costs are determined on the basis of an amortization schedule determined by the Director and may be adjusted, based on replacement cost and to accrue a fund therefor and to reflect actual installation costs.

(g) The maintenance cost will be based on the DDA's experience with commercial activity permit administration and may be adjusted in future years.

(h) Fees shall be set by a resolution of the DDA Board and will remain in effect until amended. Fees must be submitted, if applicable, with the application for or renewal of a use agreement.

(Ord. 3720, 2-16-05; Ord. 3650 § 2, 7-7-04; Ord. 3609, 3-3-04; Ord. 3422, 5-1-02. Code 1994 § 32-63; Code 1965 § 26-52)

12.24.040 Permit requirements.

(a) Length of Permits. Permits issued pursuant to this chapter are valid for no longer than the following lengths of time. Renewal permits may be granted as set forth below.

(1) Pedestrian vendor permits: 30 days.

(2) Sidewalk cafe/restaurant: one year.

(3) Mobile vending carts/kiosks: six months.

(4) Recurring activity permit: one year.

(5) Special use permits: three days.

(6) Parade permit: one day.

(7) Tent sale/sidewalk sale permits: three days.

(8) All other permits: one year.

(b) Applications for Permits. All permit applications, including renewals, shall be made to the DDA on a DDA form on which the applicant provides at least the following:

(1) Name, address and phone number(s) of applicant.

(2) Name, addresses and emergency telephone number of at least two persons who will be available during the activity or event, so that the DDA or the City may quickly contact a person with authority.

(3) Names, addresses, telephone numbers and e-mail addresses of each sponsor of the applicant.

(4) Type of business/commercial activity to be conducted, including a description of the merchandise to be sold or displayed.

(5) Copy of current City sales tax license if required by the City's sales tax code.

(6) The applicant's signed statement that the applicant has the authority to and does bind the permittee to hold harmless and indemnify: the City of Grand Junction and the DDA (and the officers, officials and employees of each); with respect to and relating to any claim(s) or charge for damage to persons and/or property or injury to persons which were, or were alleged, to be occasioned by the permit (including permittee action or inaction).

(7) (i) Permittee shall furnish and maintain such public liability, food products' liability, products' liability and other insurance as will protect permittee, the City and the DDA (and the officers, officials and employees of the City and the DDA), from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith.

(ii) Such insurance shall provide coverage that is consistent with the City's practices and/or the provisions of the Governmental Immunity Act, whichever the DDA determines from

time to time to apply or require. Until the DDA Board adopts different limits, permittee insurance shall provide coverage of not less than $150,000 for bodily injury on each person, $600,000 for each occurrence and not less than $600,000 for property damage per occurrence; be without prejudice to coverage otherwise existing and shall name as additional insureds the City, the DDA (and the officers, officials and employees of each); provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days' written notice to the DDA.

(8) Description of the building, structure, kiosk, mobile vending cart or other improvement(s) to be used in connection with conducting commercial activity including blueprints, drawings, sketches and such other information or details as the DDA shall require.

(9) The location for which the permit is requested.

(10) A description of how the business will be conducted, including hours of operations.

(11) A description of how the use or activity may enhance the Downtown Park and how the use or activity conforms with the DDA plan of development including how/to whom the net proceeds gained from the use or activity will be distributed.

(12) A list of all necessary or applicable permits that the applicant must obtain and the current status of each, before the use or activity is lawfully begun.

(13) The DDA Director may require the applicant to prepare and submit such drawings and diagrams of facilities as may be necessary to determine if the permit should be issued and/or to enforce the permit if it is issued.

(14) Description of the hours and specific locations of proposed street or sidewalk closures or traffic controls with the boundaries of the DDA. Note: The City Engineer must issue right-of-way closures for all City right-of-way including those within the Downtown Park. The DDA Director shall consult with the City Engineer regarding pedestrian/sidewalk restrictions including but not limited to those that may occur with the issuance of a sidewalk cafe/restaurant permit.

(15) Description of the activities related to any street closure(s) or other activities required to be done by the applicant or others.

(16) How the applicant will provide any required security.

(17) A listing of each sponsor for the use and/or activity.

(18) If any music, vocalization or mechanical musical presentation is to be broadcast or presented, the application shall so state. The applicant shall particularly describe the time, place, manner, means and mode of such presentation. Each applicant agrees to comply with ASCAP requirements, including the payment of fees. Each applicant and permittee, by accepting the benefits and terms of any DDA permit or consent, agrees to hold harmless and indemnify the DDA and the City (and the officials, officers and employees of each) with respect to claims or activities for which money is owed to ASCAP or consent must be obtained.

(c) Renewal. A Downtown Park permit may be renewed, if all other requirements of this chapter have been met and if:

(1) No violations of the permit restrictions or a City ordinance or requirement have occurred during the prior permit period or one calendar, whichever is longer;

(2) The permit holder did not cease to conduct business under the prior permit during the time the permit was in force;

(3) The applicant affirms in writing that all the information on the original application is correct and true, except as modified in writing at the time of the application for the renewal; and

(4) All fees are paid.

(Ord. 3609, 3-3-04; Ord. 3422, 5-1-02. Code 1994 § 32-64; Code 1965 § 26-53)

12.24.050 Review of permit application.

(a) The DDA shall promptly review each application and shall determine, in its sole discretion, if:

(1) The application is complete.

(2) All other permits, licensees or permissions have been or will be obtained prior to the beginning date of the permit.

(3) Required insurance has been obtained.

(4) It is in accordance with the goals and objectives in the plan of development.

(5) The proposed use or activity would enhance the Downtown Park according to such plan of development.

(6) More than one application is received for the same use in the same location, the complete and sufficient application which was first received by the DDA shall be issued.

(b) If the DDA finds that the application is not complete or in order, it shall deny the application and give the reasons in writing to the applicant.

(c) If the DDA finds that the application is proper and complete, and is in accordance with the DDA and City rules and requirements, the DDA shall forward its approval, with or without conditions, to the City Clerk who shall issue the permit.

(d) The City Clerk may delegate the duty to issue the permits pursuant to an intergovernmental agreement or pursuant to an administrative regulation.

(e) Questions or problems with the administration of the permit shall be referred to the DDA Executive Director. The DDA Executive Director shall have authority to interpret and apply the permit requirements to effectuate the purpose of this chapter.

(f) An applicant may appeal a decision of the Executive Director regarding a permit, the denial of a permit, a condition of a permit, or a decision of the Executive Director regarding a permit, to the DDA Board by submitting a letter to the Executive Director of the DDA or any DDA Board member within 10 calendar days of the mailing of a decision letter to the applicant/permittee. The DDA Board shall decide the appeal within 30 days of receipt of the appeal.

(Ord. 4357, 6-1-09; Ord. 3422, 5-1-02. Code 1994 § 32-65; Code 1965 § 26-54)

12.24.060 Types of permits.

The types of permits which may be issued are for:

(a) Pedestrian vendors.

(b) Sidewalk cafe/restaurant.

(c) Mobile vending carts/kiosks.

(d) Recurring activity permits.

(e) Special use permits.

(f) Parade permits.

(g) Tent sale/sidewalk sale permit.

(Ord. 3609, 3-3-04; Ord. 3422, 5-1-02. Code 1994 § 32-66; Code 1965 § 26-55)

12.24.070 General provisions.

(a) The permittee may conduct business on the public right-of-way within the Downtown Park but only subject to and in compliance with the following:

(1) Each permittee pursuant to this chapter shall pick up and properly dispose of any paper, cardboard, wood or plastic containers, wrappers and other litter which is deposited or is located on the sidewalk within 25 feet of the permittee's use, activity or location.

(2) Each permittee shall provide readily accessible container(s) and facilities for the collection of litter, debris and trash and shall properly dispose of all litter, debris and trash collected.

(3) No permittee shall sell or give any food, object or other item to any person who is located in the right-of-way, including parking areas, unless such right-of-way has been closed by the City Engineer.

(4) The permittee shall not offer to sell or sell except within the location designated by the permit.

(5) A permittee shall not leave his equipment or merchandise unattended, except for a sidewalk cafe/restaurant or kiosk and only when the cafe/restaurant or kiosk is secured.

(6) The permittee shall conduct any business, use or activity during the hours established by the permit.

(7) A permittee shall not offer to sell or sell merchandise that is not described in the application.

(8) No permittee may hold more than one permit at any one time, unless approved by the DDA Board.

(9) The permittee shall only locate tables, chairs, benches, and/or other personal property in the portion of the adjacent Main Street right-of-way to the permittee's restaurant or cafe that is within the permitted area.

The DDA Director in consultation with the City Engineer shall ensure that permittees using the sidewalk maintain an adequate unobstructed and unoccupied area of the sidewalk for the two-way movement of pedestrian traffic. An adequate unobstructed and unoccupied area shall be deemed to be no less than five feet (60 inches) wide and be no closer than two feet from the closest point on Main Street to the sidewalk activity.

The DDA Director may authorize the use of the sidewalk so long as clear space of not less than 60 inches is provided for at least 40 percent of the permitted area; the DDA Director may issue a permit notwithstanding the existence of a planter box(es), tree(s), art or some other fixture or permanent installation so long as not more than 60 percent of the permitted area is not encumbered by such fixtures.

(b) An amended permit may be issued in an expedited manner without additional fees if the permittee has remained (while all prior permits were in effect) in compliance with all applicable requirements and laws.

(c) Each permittee shall forthwith obey every lawful order of the DDA and any City official, including police officers, such as an order to move to a different location (if needed, for example, to avoid congestion or obstruction of a sidewalk) or an order to forthwith remove all personal property from the Downtown Park (in case of congestion or public safety or similar concerns).

(d) No permittee shall make unlawful noise or any continuous noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his use, business or merchandise.

(e) During a community event, as determined by the City or the DDA, each permittee shall be subject to overriding rules, requirements and even prohibitions, during the community event. For example,

a permittee for a mobile vending cart, a kiosk or a pedestrian vendor may be limited in hours, location and/or type of goods or foods.

(Ord. 4357, 6-1-09; Ord. 3609, 3-3-04; Ord. 3422, 5-1-02. Code 1994 § 32-67; Code 1965 § 26-56)

12.24.080 Special rules for mobile vending carts.

The following provisions, in addition to those rules made otherwise applicable elsewhere in this chapter, shall apply to mobile vending carts:

(a) A mobile vending device shall not: be greater than 16 square feet in area; longer than four feet in width, excluding wheels; be greater than six feet in length or depth, including any handle; be greater than five feet in height, excluding a canopy, umbrella or transparent enclosure.

(b) A permittee shall not locate a mobile vending device on a public sidewalk within the boundaries of a crosswalk, nor in a location that will restrict the flow of way designated or used for motor vehicles, unless specifically permitted as part of a use or activity for which the right-of-way is closed to motor vehicles.

(c) A permittee shall not sell from a mobile vending device that is located within three feet of any right-of-way designated or used for motor vehicles, unless specifically permitted as part of a use or activity for which the right-of-way is closed to motor vehicles.

(Ord. 4357, 6-1-09; Ord. 3422, 5-1-02. Code 1994 § 32-68)

12.24.090 Rules for sidewalk cafes and restaurants.

The following provisions shall apply to sidewalk restaurants and cafes:

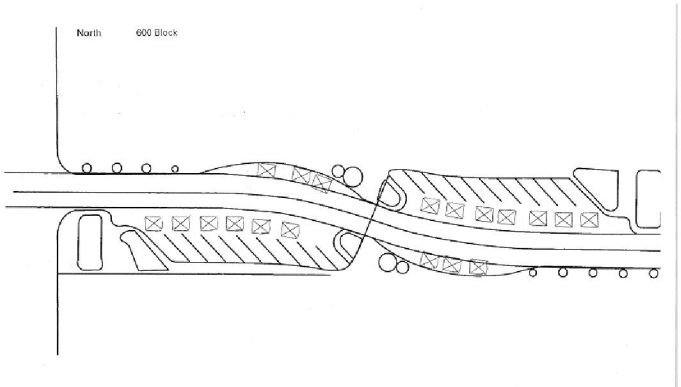
(a) Such permits shall be renewed annually no later than April 1st each year. Permits fees are nonrefundable and will not be prorated.

(b) During such times as an adjacent owner consents in writing, the permittee may also occupy an additional area in front of such consenting owner's property subject to the overriding limits regarding pedestrian clear space, proximity to Main Street and overriding regulations made applicable for community events.

(Ord. 3609, 3-3-04. Code 1994 § 32-69)

12.24.100 Special rules on special use and recurring activity permits.

(a) Layout for these activities must be approved by the Downtown Development Authority 10 days in advance of the first day of the event. Layouts for such events are encouraged to be in conformance with the following:



(b) Generators are not allowed on Main Street. Electrical outlets are available on all lampposts.

(Ord. 3609, 3-3-04. Code 1994 § 32-70)

12.24.110 Suspension or revocation of permit.

(a) The DDA or the City may summarily suspend any permit if the permittee's use or activity is the source of unreasonable or excessive noise, is in violation of any permit term, or does not comply with City and/or DDA rules and requirements.

(b) In an emergency needed to protect the public health or safety, the Executive Director of the DDA, the Director of Public Works of the City, or the City's Police or Fire Chief, may summarily suspend a permit or impose conditions needed immediately to protect the public, the City or the DDA.

(c) If a permit is summarily suspended, the applicant may request that the suspension be lifted by so stating in writing the next business day. The DDA Board shall hear the question at its next available regular meeting.

(d) The DDA may revoke any permit issued under this chapter if the DDA Board finds by a preponderance that the permittee, or its agents or employee:

(1) Has violated any of the provisions of this chapter or the permit, or has supplied inaccurate or false information to the DDA;

(2) Does not have in full effect at all times, each current required health permit and every other required license or permit;

(3) Does not have in place a insurance policy in the minimum amounts as described herein that is effective during all periods of the permit.

(e) The violation of any provision of this chapter by any permittee or other person is declared to be a public nuisance. The DDA Board or the DDA Director may request that the City Attorney prosecute and abate any such nuisance in the municipal or other court.

(Ord. 3609, 3-3-04; Ord. 3422, 5-1-02. Code 1994 § 32-71)

12.24.120 Location of news box banks.

(a) The City Council, in accordance with the authority given to the DDA for the administration of commercial activities in the downtown authorizes the Director of the DDA to survey the area within and on the periphery of the Downtown Commercial Area to determine the locations of existing publication distribution machines, the locations which are suitable for news box banks and the appropriate type of news box banks to be used, including size, model and color. The Director shall use in evaluating each location and type of news box bank, criteria which include but shall not be limited to a determination of the effect on pedestrian and emergency access on, to and from streets and sidewalks, and public transportation, required maintenance of public facility infrastructure, vehicular safety and the effect of the location, mass and bulk of news box banks on the streetscape, aesthetics of each block and specifically the Director shall consider sidewalk width, sidewalk dining, parking (parking meter) access, including access by persons with disabilities, access to bicycle parking, access to fire hydrants, access to bus stops, access to benches and trash receptacles, maintenance access to street trees, planters, utility and signal poles, access generally from the street to the sidewalk and the sidewalk to the street, blocking of views at intersections, alleys and driveways, distance from intersections and driveways and alleys, distance from buildings and the visibility of public art. The Director shall determine the appropriate location for news box banks on each block after taking into consideration the current location and number of publication distribution machines.

(b) The Council has, after holding a public hearing, considered the determinations of the Director as to the locations of news box banks and type of news box banks which shall be used. The proposed locations for news box banks are in the proximity of the following businesses or facilities:

(1) United States Post Office, Main Branch, 241 North Fourth Street;

(2) Crystal Cafe, 314 Main Street;

(3) Rockslide Brew Pub, 401 Main Street;

(4) Greyhound Bus Station, 230 South Fifth Street;

(5) Main Street Cafe, 504 Main Street;

(6) Main Street Bagels Bakery and Cafe, 559 Main Street; and

(7) Talley's BQ and Biscuit Factory, 623 Main Street.

The City Council hereby ratifies the locations and adopts this chapter, including Appendix A attached to the ordinance codified in this chapter, as reasonable place and manner regulations of news box banks.

(c) Future news box bank type(s) and location(s) may be determined by the Director.

(d) Should any news box bank require temporary or permanent removal because of construction or reconfiguration of streets, sidewalks or other portions of the right-of-way, the Director is directed to provide a replacement(s) location if the removal is reasonably expected to exceed 30 days, located as conveniently to the removed bank as is reasonably practical.

(Ord. 3720, 2-16-05. Code 1994 § 32-72)

12.24.130 Installation of news box banks.

(a) The DDA may develop a system through the issuance of a request for proposal ("RFP") for the management, ownership, installation, fees, maintenance and other activities to be performed or accomplished at the Director's discretion, associated with the administration of this chapter. For the purposes of interpreting, construing and applying this chapter, if a contract is awarded following or pursuant to an RFP, the person or entity to which an RFP is awarded is considered the designee or agent of the Director.

(b) The Director shall install news box bank pedestals as funds are appropriated so that owners of existing publication distribution machines can remove those machines. The Director shall install pedestals on a per location basis and no owner of an existing publication distribution machine within that location shall fail to remove it within 14 calendar days thereafter. Any publication distribution machine within the right-of-way after installation of news bank pedestal(s) is declared to be a public nuisance and may be summarily removed by the Director. The Director shall require full payment by the owner of the reasonable cost of removal and storage of the machine(s), plus 15 percent for administration, before releasing the machine(s).

(c) The Director shall install news box bank pedestals to accommodate publishers in the order and priority set forth in GJMC 12.24.170.

(d) Prior to installing news box bank pedestals the Director shall consult with the City Manager or his designee and shall in addition follow these standards:

(1) The banks on each side of any block of Main Street shall not exceed 10 linear feet.

(2) No bank shall be longer than 10 linear feet. The Director may, in his discretion, install two banks of less than 10 feet within 50 feet of each other which, combined, shall not exceed 10 linear feet.

(3) The front of all news box banks shall face away from the street.

(4) Except where vehicle parking or stopping is prohibited, news box banks shall not be installed within two feet of the vertical face of the curb or of any other designated parking space or loading zone. News box bank pedestals shall not be installed, and shall not overhang, any stamped, brick path embedded within a sidewalk.

(5) No bank shall be closer than five feet to a fire hydrant.

(6) No bank shall be closer than five feet to a bus stop sign and no bank shall be installed in such a way as to interfere with access to buses at designated bus stops.

(7) No bank shall be closer than five feet to a crosswalk.

(8) No bank shall be installed on or over a tree grate.

(9) No bank shall be closer than three feet to any existing structure. Planters or other public walls or facilities are not a structure for purposes of this requirement.

(10) No bank shall intrude into any intersection, alley, and driveway sight triangles.

(Ord. 3720, 2-16-05. Code 1994 § 32-73)

12.24.140 News box use.

(a) On and after May 1, 2005, no person shall mechanically (via a publication distribution machine) distribute any publication or other material on the public right-of-way within the boundaries of the Downtown Commercial Area other than in accordance with this chapter.

(b) Spaces in which single user news boxes are installed on news box bank pedestals are not proprietary and users shall not assert ownership other than as provided or allowed in this chapter; slots in joint use news boxes are not proprietary or exclusive and are available for use by use agreement as provided in this chapter.

(c) Slots in joint use news boxes, if available, must be used by publishers of monthly publications and may be used by publishers of weekly publications who do not own a single user news box for the location where the publisher wishes to distribute its publication. If a slot is not available in a joint use news box for a monthly publication, the applicant shall be placed on a waiting list or may purchase a single user news box and place it in available space. Space(s) and/or slot(s) are determined on a first-come, first-served basis. The Director may impose a waiting list fee in order to assure the bona fides of publisher(s) requesting a space(s) or slot(s).

(d) Publishers who distribute their publication(s) in a joint use news box(es) shall pay an initial user fee of $100.00 per location and a monthly fee of $20.00 per month for each slot used by that publisher in a joint use news box in each location. Monthly fees must be paid for a full year in advance on May 1st of each year.

(e) Publishers who distribute their publication(s) in single user news boxes shall be solely responsible for the entire expense of purchasing, stocking and maintaining their own single user news box for each location; however, they are not required to pay an initial or a monthly fee.

(f) Subject to the provisions of GJMC 12.24.170, a space in a news box bank may be available to any publisher of a daily publication or weekly publication that desires to place that publisher's single user news box in accordance with the terms of this chapter. Unless otherwise allowed by the Director, only one publication may be placed within a single user news box. In order to be eligible to place a single user news box in a news box bank, the applicant must be the publisher of the publication placed within a single user news box or an agent of the publisher. Where the applicant is an agent, the applicant shall so indicate and the single user news box shall be used only for the distribution of the publication(s) of such publisher and no other.

(g) Publishers shall purchase and will thereafter own their single user news boxes designed to accommodate and distribute the publisher's publication(s) from the space(s) provided by the DDA. The Director shall specify the type, location and other terms of attachment of the single user news box to the news box bank pedestal. Installation of single user news boxes shall be performed by the publishers, the Director or the Director's agent, at the Director's discretion.

(h) A publisher shall not place anything on the exterior of its single user news box other than its individual logo and the City and/or downtown partnership logo(s) or other identifying wording and/or

contact information, except that those publishers whose publications occupy "large capacity" single user news boxes (boxes which hold approximately twice as many publications as a standard box) may place rack cards on their large capacity boxes.

(i) If the single user news box allows, the user may place a copy of the publication found in the box inside the face plate so that it is visible, but the user may not place anything other than such publication in that location.

(j) The Director shall not permit the placing of any advertising (other than rack cards on large capacity single user news boxes) on the outside of the news box banks. The Director may use any side of a news box bank other than the front face (where access to the publications is gained), at no cost, for designs or graphics designed to enhance the identity of the City and/or the DDA or for other artwork approved by the Director, or as a location for a directory or map showing where public and/or private services may be found. This exception shall not be construed to permit the Director to place or permit paid advertisements nor to cause the boxes or banks to become any kind of public forum for the purposes of exercising free speech.

(Ord. 3720, 2-16-05. Code 1994 § 32-74)

12.24.150 Obligations of users.

(a) Each publisher shall maintain its own single user news boxes. A publisher may be responsible for the maintenance of multiple publishers' single user news boxes if mutually agreed to by the affected publishers. Maintenance shall include, without limitation, the maintenance in good working order of all mechanical workings of each publisher's single user news boxes, including, without limitation, the window and face plate, the coin mechanism, the coin tray and the lock, if any. All publishers shall ensure that their respective boxes or slots are kept free, both inside each box and on the exterior surface of each box, of all trash, refuse, garbage, litter, debris and graffiti.

(b) A publisher may supply and affix its logo to its single user news boxes. The identifying picture or wording shall be no larger than four inches high by 22 inches wide for a single user news box, provided the logo does not extend over the edges of the front of the news box. The identification shall be white text on a black background and shall be attached by self-stick tape on the front of the box.

(c) The Director or his agent may rescind the right to use a space(s) containing single user news box or slot(s) in a joint use news box if the news box is not stocked with the publisher's publication for a period of 30 days or if the user has failed to maintain the box or slot for 30 days or if any payment due under this chapter is delinquent. The Director shall not rescind use rights without notice to the user and an opportunity for a hearing. One seven-day opportunity to cure shall be extended in any calendar year prior to revocation.

(d) A publisher or authorized user of a single user news box, a joint use news box or a slot therein or a space in a news box bank shall indemnify, defend and hold the DDA and the City and the respective officers and employees thereof harmless for any damage(s), loss or injury, direct or consequential, arising out of the use, misuse, placement, existence, operation maintenance or letting of the same. A publisher may insure its interest therein. The City and the DDA rely on and will assert the provisions of the Colorado Governmental Immunity Act as the same now exist or may be amended. The Colorado Governmental Immunity Act does not protect a publisher and the publisher shall not assert or claim protection under or by virtue of the Act.

(Ord. 3720, 2-16-05. Code 1994 § 32-75)

12.24.160 Joint use news box use agreement – Term, expiration and revocation.

(a) A use agreement for a joint use news box is valid for one year unless prepaid for more than one year in which case the use agreement shall be valid for up to three years. A use agreement expires if not renewed before expiration. Except for emergencies, unanticipated construction, changes in the location of benches and/or transit stops and other situations in which relocation is necessary in the pub-

lic interest, locations shall not be changed by the Director during any term but with notice on or before renewal a user may be relocated during the following year.

(b) If a user surrenders a use agreement in writing, the Director shall refund the unused prepayment pro rata based on the number of whole calendar years remaining.

(c) No use agreement may be assigned or transferred except incidental to the sale of the publication from one publisher to another and no user shall be deemed to possess any equity in the use agreement, although an existing user has priority in renewing, subject to the provisions of GJMC 12.24.170. It shall be grounds for revocation of a use agreement for any user to attempt profit from any scarcity of slots in joint use news boxes. No refund shall be made if a use agreement is rescinded, revoked or expires.

(d) Subject to the provisions of GJMC 12.24.170, upon failure to renew, revocation or expiration of a use agreement, the Director may remove the joint use news box(es) or close the applicable slot(s), remove the contents thereof and may hold the same as abandoned property and issue a new use agreement(s) to another publisher(s).

(Ord. 3720, 2-16-05. Code 1994 § 32-76)

12.24.170 Joint use news box priority and waiting list.

(a) A use agreement is available on a first-come, first-served basis based on date of receipt of a written request, during normal business hours at the DDA offices. In the event of limited availability, the allocation of slot(s) shall be determined by lot.

(b) If no slot satisfactory to the applicant is available, the applicant may be placed on a waiting list and shall pay a waiting list fee. The waiting list shall be structured so that it is specific to each location. The waiting list fee does not reduce the use agreement fee.

(Ord. 3720, 2-16-05. Code 1994 § 32-77)

12.24.180 Inapplicability of other code sections.

Given the First Amendment implications of this chapter, the zoning and development code and Section 127 of the Charter concerning revocable permits shall not have applicability to the installation and administration of news boxes by the Director pursuant to this chapter, however, the right to occupy a space(s) and/or slot(s) is revocable, subject to the terms of this chapter.

(Ord. 3720, 2-16-05. Code 1994 § 32-78)

Chapter 12.28

CONSTRUCTION IN CITY RIGHTS-OF-WAY

Sections:

12.28.010 Definitions.
12.28.020 Revocable permits.
12.28.030 Work in right-of-way.
12.28.040 Notice.
12.28.050 Boring.
12.28.060 Performance/warranty guarantee for permits and insurance.
12.28.070 Provider's proposed plans – Director's review.
12.28.080 City planning meetings.
12.28.090 Infrastructure standards and "as-built" information.
12.28.100 Oversizing.
12.28.110 Joint use of provider infrastructure.
12.28.120 City costs and expenses – Provider initiated projects.
12.28.130 Provider payments to the City – Collections.
12.28.140 City required utility locates for design.
12.28.150 Suspension and/or revocation of a permit.
12.28.160 Security.
12.28.170 Construction standards/City laws.
12.28.180 Appeal.
12.28.190 Administrative regulations.
12.28.200 Severability.
12.28.210 Civil remedies.
12.28.220 Violations.

12.28.010 Definitions.

City work means capital projects of the City, or other City digging or excavating in ROW, according to the schedule adopted by the City Manager, notice of which can be obtained at the City Manager's office at City Hall.

Construction plans means the provider-supplied P.E. stamped plans and standards for all provider work in the ROW. Construction plans shall be stamped by a professional engineer if required by the Director or § 12-25-101, C.R.S. et seq.

Contact information means name, title, e-mail address, physical and mailing address and telephone number of each person to whom inquiries and requests for decisions may be directed and who has decision-making authority to bind the provider, pursuant to this chapter. If more than one person must be identified so that the City may locate a contact person at all reasonable times in response to emergencies, the provider must supply the City Manager with a prioritized list containing contact information for each person on the list.

Digging means to dig, cut, excavate, move any earth, remove any earth by any means, auger, backfill, bore, ditch, drill, grade, plow-in, pull-in, rip, scrap, trench and/or tunnel.

Dry means wires, pipes other than wet, cables, fiber optics, electrical lines.

Franchisee means any provider that is also a franchisee with terms regarding relocation of such provider's facilities at the direction of the City, namely Public Service Company of Colorado and Grand Valley Rural Power Lines, Inc.; and a political subdivision of the State of Colorado that is also a provider, such as Ute Water Conservancy District, Clifton Water District, the Grand Junction Drainage District, Orchard Mesa Sanitation District, Central Grand Valley Sanitation District, or other Title 32 districts.

Infrastructure includes the wires, pipes (of metal, plastic, PVC or otherwise), valves, connections, conduits, gas lines, water lines, sewer lines, fiber optics, irrigation pipes and canals and conveyancing devices, cable television, and the various connecting junctions and connectors. Infrastructure includes publicly and privately owned and operated facilities. Unless the City Manager finds another reasonable basis, based on an industry standard, to measure or determine a "unit" of a provider's infrastructure for purposes of determining City costs, or a duty to upgrade, or a duty to replace to meet standards, 400 feet of length of infrastructure shall constitute one unit or element of infrastructure.

Locate or *locates* means to establish and in compliance with the locate law and the terms of this chapter.

New provider means a person or entity of whatever form who has not previously given notice to the City under this chapter, or who has otherwise been made subject to the requirements of a new provider.

Overall plan means the provider's overall map or maps of the City ROW, with explanatory text, indicating which streets, alleys and other ROW the provider desires to use, and when, to place the provider's facilities. Explanatory text must describe what specific facilities are proposed and what services the provider expects to offer to what customers.

P.E. means a Colorado licensed professional engineer, pursuant to § 12-25-101, C.R.S. et seq., or a successor statute.

Pot hole means to dig or to excavate in order to locate infrastructure or other facility.

Provider means a public utility, a provider of services to the public, a governmental subdivision or another person or entity who has, or desires to have, infrastructure or other pipes in City ROW, including homeowner and similar associations, but excluding service lines for individual structures and open ditches, canals, underground pipelines and other related facilities associated with the Grand Valley Water Users Association and the Orchard Mesa Irrigation District systems.

Replace or *replacing* or *replacement* means to dig, expose, fix or reconstruct, in whole or part, upgrade, patch or similar activities performed with the goal of gaining use or reuse; except that repairs ordinary to the provider's work, and routine maintenance, is not within this definition.

Revocable permit. For this chapter only, a revocable permit may be issued by the Director for the reasons set forth in the recitals and legislative history of this chapter.

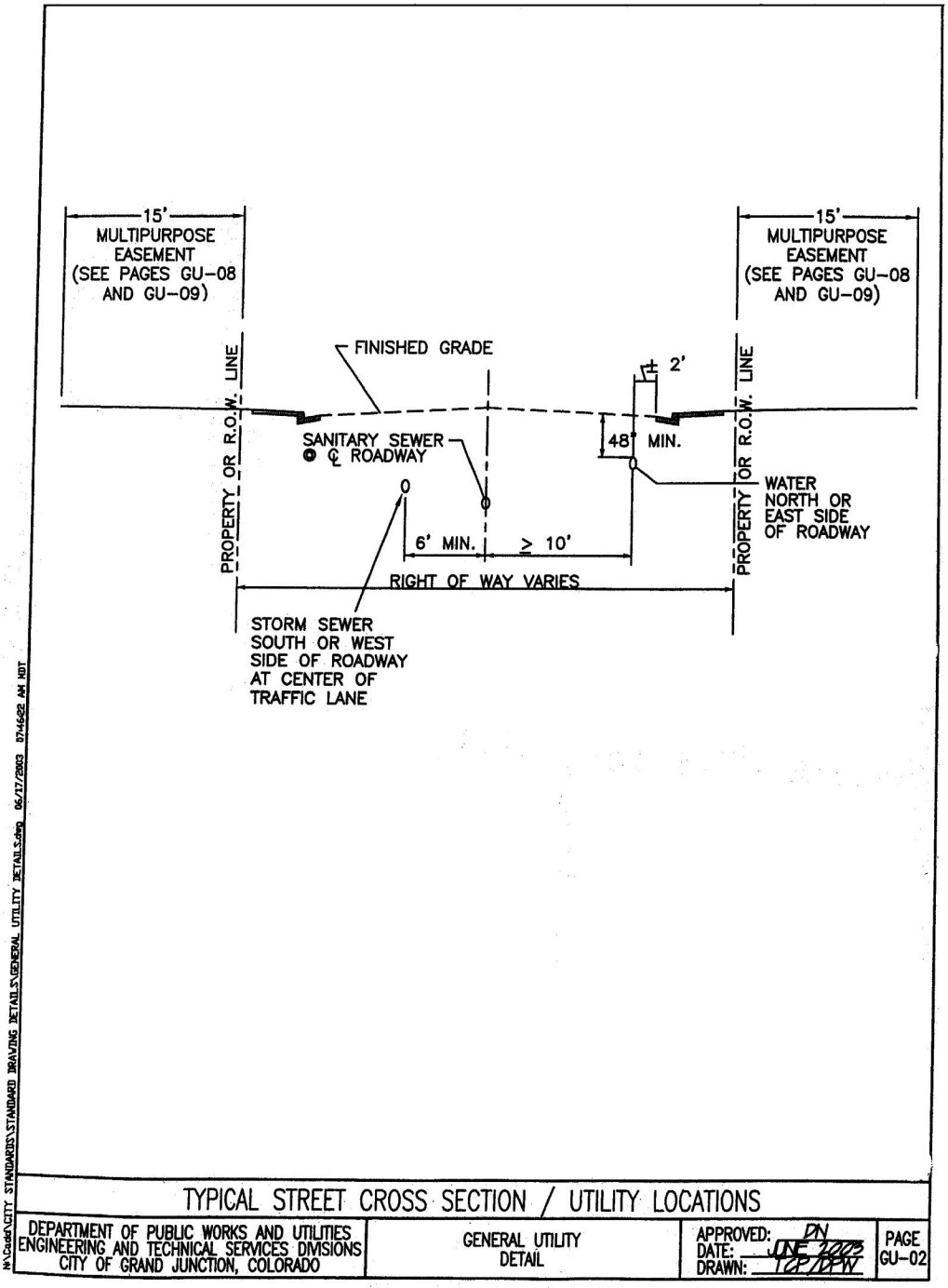
ROW means streets, alleys, highways, boulevards, avenues, roads, ROW owned or other ROW controlled or owned by the City within the limits of the City.

Service line means a water or sewer line that connects a business, residence or other structure to the provider's infrastructure or system.

Unit means a discrete segment of City ROW between intersections, or 400 feet of ROW, as determined by the Director.

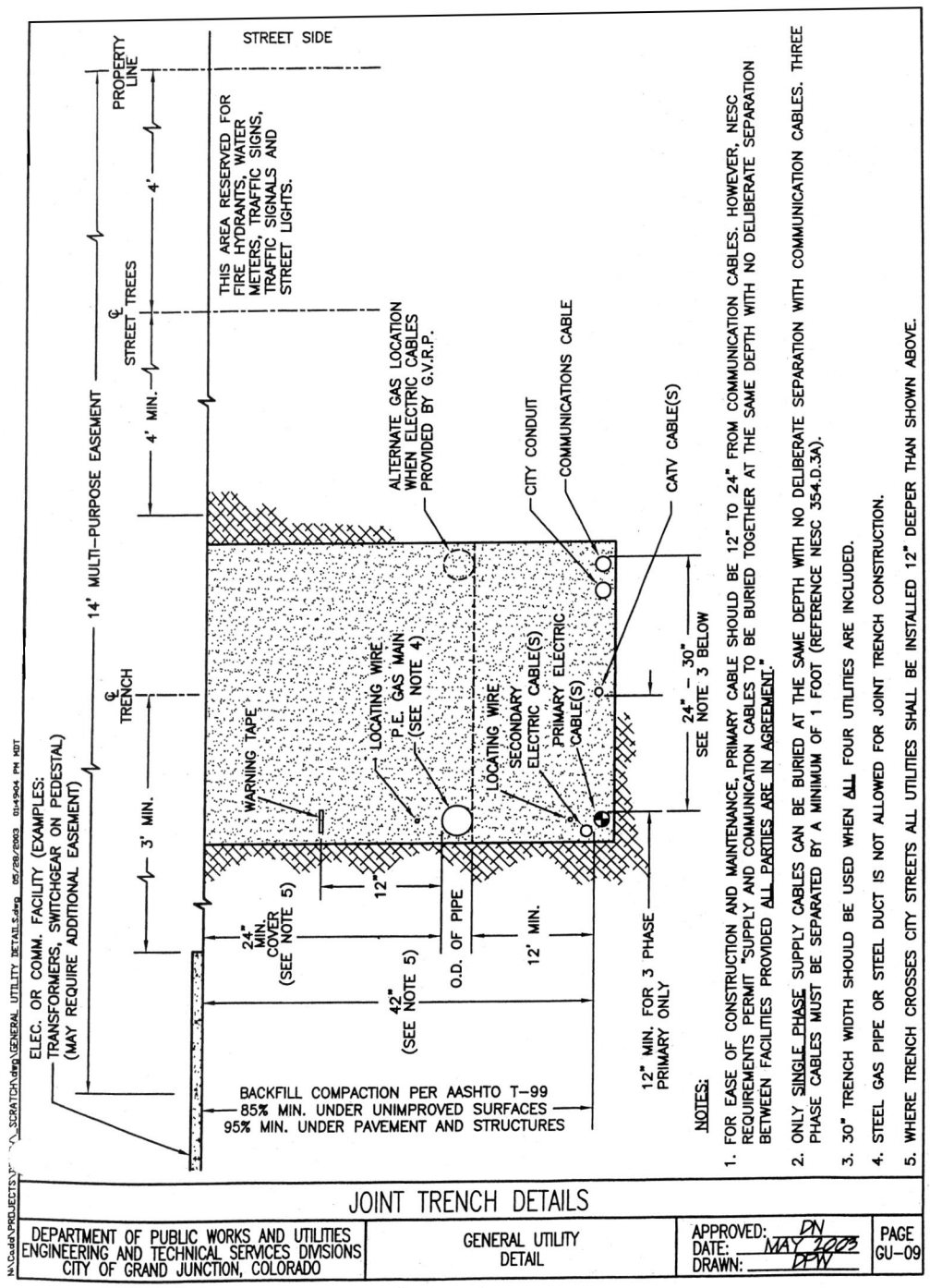
Utility locations means as indicated on Attachment A.

Attachment A



Joint trench details means as indicated on Attachment B.

Attachment B



Wet means water, sanitary sewer, storm sewer, drainage, natural gas and other fluids or gases.

Work means any change to any facility, infrastructure or portion of any ROW, including digging and excavating and replacements.

(Ord. 3715, 1-19-05. Code 1994 § 38-201)

12.28.020 Revocable permits.

(a) If the terms of a voter-approved franchise are inconsistent with or conflict with the terms of this chapter, the terms of the voter approved franchise shall control. In general, the review and permitting provided for by this chapter is to be accomplished on a project by project basis. In some circumstances a revocable permit may be required.

(b) Consistent with the requirements of the Federal Telecommunications Act of 1996, the City Council may approve variations from the terms of this chapter, as needed to implement specific technical needs of providers, in the form of a revocable permit. A revocable permit is the term used in and authorized by the City Charter, although it is recognized that the Charter language that ostensibly would allow the Council to terminate such a permit without cause on 30 days' notice has been preempted by applicable federal laws, discrimination contrary to the Telecommunications Act of 1996, or regulate the provision of telecommunications services.

(c) A revocable permit, pursuant to the City's Charter, ordinarily can only be issued by the City Council. Because the Telecommunications Act of 1996 preempts inconsistent local government provisions, and because quick administrative issuance of a permit or license to a telecommunications provider would not violate any such preemptive law, the Council determines that the extraordinary step of delegating to the Director the power and duty to issue revocable permits pursuant to this chapter is mandated by federal law and is hereby authorized.

(Ord. 3715, 1-19-05. Code 1994 § 38-202)

12.28.030 Work in right-of-way.

(a) It shall be unlawful for any provider, entity or telecommunications provider as defined by the Telecommunications Act of 1996, within, under, in, through or on any City owned or controlled ROW within the limits of the City, to replace or dig as defined herein, unless such person is a franchisee, has obtained a revocable permit as described herein, or is certified by Colorado's Public Utilities Commission and unless such replacing or digging is performed in compliance with the provisions of this chapter; and

(b) The terms of any permit, franchise and revocable permit, and generally accepted engineering standards, including construction testing and inspection, and the other provision of this chapter shall apply to each such franchisee, local government, and revocable permittee;

(c) This chapter shall not apply to irrigation systems including open ditches, canals, underground pipelines and related facilities associated with a federal water project to the extent application of the chapter is prohibited by the June 17, 1902, Federal Reclamation Act.

(Ord. 3715, 1-19-05. Code 1994 § 38-203)

12.28.040 Notice.

(a) Before beginning work, replacing, digging or making any use of any ROW, a provider shall give written notice of its proposed work at least 15 City business days before beginning any such work or digging. The notice required by this section shall be reduced to five days if a different customer service standard has been approved or is made applicable by the Colorado Public Utilities Commission.

(b) If due to workload or other considerations, 15 days is not sufficient to adequately evaluate the notice and address possible impacts on the City or other providers, the Director may lengthen the advance notice period up to a total of 45 days.

(c) Advance notice for a new provider shall be 30 days, unless extended by the Director up to a total of 60 days.

(d) For the notice to be adequate, the provider shall supply the following information:

(1) For out-of-State providers and contractors, proof of authority to do business in Colorado;

(2) Proof of Colorado worker's compensation coverage;

(3) The name and street address of the provider, including State, City and area code;

(4) Contact information for the provider;

(5) The name, address and contact information for each contractor before such person(s) does any work or digs in any ROW;

(6) The business telephone number of the president, chief executive officer or other decision-maker of each such provider and contractor. The provider or contractor may each designate another individual so long as such designee has the requisite authority to make decisions for the provider or contractor regarding the matters regulated herein, and if the contact information for such designee is provided;

(7) A proposed work plan showing:

(i) What specific locations and segments of ROW will be affected;

(ii) When each such ROW will be used and affected;

(iii) The location, depth and width of any cuts, digging or other work within the ROW;

(iv) How, if at all, the proposed work or digging will interfere with any City work and how the provider will mitigate or minimize the interference;

(v) How warranty work will be secured;

(vi) How the provider intends to repair or replace any damaged ROW, including any facilities and infrastructure located within the ROW;

(8) Traffic control plan, as necessary.

(e) The Director shall issue the construction permit. Unless all or a part is prohibited by other applicable law, the provider shall pay the cost of the permit which shall be equal to the City's reasonable estimate of the actual costs required to process, issue, review the proposed work, make inspections during the work, perform field and other tests, and generally monitor the activities pursuant to the permit. From time to time, the City Council may adopt a schedule of average actual costs, based on prior experience, which sets the cost of such permits.

(f) If a provider cannot first provide notice and obtain a construction permit due to a bona fide emergency, the provider shall take such "action as is reasonably required" and shall as soon thereafter as practical give oral notice to the Director, and thereafter comply with the requirements of this chapter.

(Ord. 3715, 1-19-05. Code 1994 § 38-204)

12.28.050 Boring.

It is the City's policy to limit cuts, trenches or excavations in the surface of any ROW. Boring is required unless the applicant can reasonably demonstrate to the Public Works Director that it is impracticable to do so because of cost, emergency, unstable soil, existing utilities or other conditions.

(Ord. 3715, 1-19-05. Code 1994 § 38-205)

12.28.060 Performance/warranty guarantee for permits and insurance.

A performance/warranty guarantee and insurance shall be required for work within the ROW under the same terms and conditions as set forth in GJMC 13.12.070 and 13.12.100 as amended herein.

(Ord. 3715, 1-19-05. Code 1994 § 38-206)

12.28.070 Provider's proposed plans – Director's review.

(a) No provider shall begin any work, nor dig within any ROW, nor make any cuts, nor occupy any City ROW unless the Director has accepted in writing the provider's construction plans which shall comply with adopted City specifications and standards or standards that are mutually agreed upon by both the provider and City. The specifications and standards of the providers may be found to comply with "adopted City specifications and standards" if substantially equivalent to City standards and if use of the provider's standards are approved in writing by the Director or pursuant to written agreements between such other provider and the Director.

(b) At the time of application for a construction permit, a provider shall deliver three sets of its proposed construction plans for use or digging in any ROW to the Director for the use of the City. Among other benefits such overall plans allow the City to coordinate its work with that of the provider and other providers. If the City's workload demands, or if the plans are complex, and if the provider has not attended and provided the necessary notice and information at the most recent City planning meeting, then the Director may extend the review by giving notice to the provider of an extended review period not to exceed a total of 60 business days. The scale of such plans shall be not less than one inch equal to 40 feet.

(c) If the plans are complete and adequate, the Director will be deemed to have accepted the plans unless the Director rejects or requests amendments to the plans within 10 City business days by giving notice thereof to the provider.

(d) If the plans are incomplete and/or inadequate, then the provider shall make such changes as the Director requires, consistent with this chapter and the City's other standards and requirements.

(e) To reject or amend the provider's plans, the Director shall give notice thereof by sending an e-mail, or facsimile, or by mailing a notice to the provider. Such notice by the Director is effective upon the earlier of sending the e-mail, facsimile or mailing the notice first class via the U.S. Postal Service, postage prepaid.

(f) If the Director rejects or amends the proposed plans, in whole or in part, the provider shall not thereafter do any work in the ROW until the provider submits plans that the Director does not reject or amend; however, the Director may approve a portion of the plans, and thereafter the provider may perform a portion of the proposed work in the locations or at such times as the Director directs.

(Ord. 3715, 1-19-05. Code 1994 § 38-207)

12.28.080 City planning meetings.

At least once per calendar year and up to four times per calendar year, the City shall give notice to each provider, who so requests, of a City sponsored and coordinated meeting among the City and providers ("City planning meeting(s)"). At the City planning meeting, each provider that provides the City with copies of proposed projects, scope of work and estimated schedules for the subsequent 12 months, and for future years as available, shall not be required to provide the information, and at the times, required by GJMC 12.28.070(b) and (c).

(Ord. 3715, 1-19-05. Code 1994 § 38-208)

12.28.090 Infrastructure standards and "as-built" information.

(a) From time to time, the Director may adopt additional or supplemental standards as administrative regulations to which each provider shall thereafter conform its infrastructure in the City ROW whenever the infrastructure is repaired or replaced.

(b) The Director shall adopt standards regulating the vertical and horizontal placement of provider infrastructure relative to the City's infrastructure, the facilities of other providers and other facilities in the ROW. The Director may solicit the public input of providers and other affected interests when considering such standards.

(c) The City's standard cross section for "wet" and "dry" infrastructure is incorporated by this reference as if fully set forth on the attached detail. All work shall conform with City standard cross section, unless the Director has approved a variation proposed by a provider in accordance with subsection (a) of this section.

(d) For all replacements and new infrastructure installed, the provider shall deliver "as-built" information as required herein to the Director within 60 days of completion of the replacement or infrastructure work.

(e) The provider shall deliver the as-built information in a format and medium specified by the Director so that the City may incorporate the information into its existing software, programs and GIS. The Director will work with the entities subject to this chapter in order to agree upon a consistent format(s) that can be accepted by the City's GIS system.

(Ord. 3715, 1-19-05. Code 1994 § 38-209)

12.28.100 Oversizing.

Whenever a provider's dry infrastructure in the City ROW is dug up, exposed or repaired, including by boring, if the provider desires to rebury, replace, or install dry infrastructure as the Director determines is reasonable, the provider shall place the additional (City provided) infrastructure and be reimbursed for any additional costs incurred from placing the additional infrastructure.

(Ord. 3715, 1-19-05. Code 1994 § 38-210)

12.28.110 Joint use of provider infrastructure.

The City may require that a provider locate and maintain one or more of its dry facilities in a common trench and/or conduit or similar facility in which the infrastructure of other providers and/or the City is also located. Until the Director adopts different standards regarding the vertical and horizontal separation of facilities, the attached standards, the Standards of the American Waterworks Association and the National Electric Safety Code and Standards shall apply.

(Ord. 3715, 1-19-05. Code 1994 § 38-211)

12.28.120 City costs and expenses – Provider initiated projects.

(a) Each provider shall pay to the City the costs and expenses incurred by the City and its officers, officials, employees and agents regarding oversight, inspection, regulation, permitting and related activities ("City costs").

(b) City costs include the actual wages, plus benefits, paid by the City for the work of each City employee and/or agent, including clerical, engineering, management, inspection, enforcement, and similar functions.

(c) City costs include the expenses and costs for computer-aided design programs, maps, data manipulation and coordination, scheduling software, surveying expenses, copying costs, computer time, and other supplies, materials or products required to implement this chapter and to regulate providers hereunder.

(d) Unless the Director requires a provider to resurface a part of a unit, portion of a City block or similar segment of ROW disturbed by the provider, City costs include the present value of the cost to replace and resurface the damaged asphalt, concrete or other ROW surface.

(e) The Director shall annually establish an average per unit cost which shall be for the calendar year in question, based on bids the City accepted for City projects in the previous one or two calendar years.

(Ord. 3715, 1-19-05. Code 1994 § 38-212)

12.28.130 Provider payments to the City – Collections.

If a provider fails to pay City costs, or any other money, fee or compensation required by a City law or regulation, in full within 30 days of the City's mailing a claim therefor, the City is entitled to, in addition to the amount of the claim, interest on all unpaid amounts at the statutory rate, or the City's return on investment, as reported in the City's then current annualized investment portfolio.

(Ord. 3715, 1-19-05. Code 1994 § 38-213)

12.28.140 City required utility locates for design.

(a) To increase the accuracy of project design and avoid conflicts encountered after construction begins, providers will locate their utilities as required pursuant to § 9-1.5-101, C.R.S. et seq. ("locate law"). The City will pothole the utilities based upon the painted locates provide by the utility owners. If the utility is not located within 18 inches of the painted locate, the utility owner shall excavate and locate the utility and notice the City who will survey the location. This section does not apply to service lines.

(b) Any provider who fails to comply with the Director's notice to comply with the locate law is responsible and liable for all consequential damages that result from either the failure to comply with the locate law or from inaccurate information regarding the vertical and/or horizontal location of such provider's infrastructure.

(c) Any provider may avoid claims for such consequential damages pursuant to this chapter if such provider "pot holes" in such locations and to such depths as such provider determines is needed to provide accurate information to the City regarding the horizontal and vertical location of such provider's infrastructure in the specified unit(s).

(d) Each provider that does not accurately locate its infrastructure shall pay the City the costs incurred by the City in changing any design, relocating City infrastructure, and delay and similar costs incurred as a result of inaccurate locates.

(e) A provider may avoid having to perform locates if it delivers to the City accurate vertical and horizontal information (pot hole data) that is compatible with the City's GIS that establishes the location of such provider's infrastructure in the unit(s) in question.

(Ord. 3715, 1-19-05. Code 1994 § 38-214)

12.28.150 Suspension and/or revocation of a permit.

A construction or revocable permit authorized under this chapter may be void if/when the permittee is not in full compliance with any provision of this chapter or other City law.

(a) A permit to dig or excavate under this chapter is void if the provider supplies materially false or deceptive information to the City at any time.

(b) If/when the permittee is in full compliance, the provider shall give the notice required by GJMC 12.28.040 and shall apply for a permit as a new provider.

(c) The City Manager may order that a provider immediately cease and desist any further use or work within the City's ROW and suspend any or all permits and previously granted City approvals, at any time based on reasonable grounds to believe that a violation of this chapter, or other City rules or specifications has occurred, and the public health, safety or welfare, or the property or rights of another provider are at substantial risk of irreparable harm.

(Ord. 3715, 1-19-05. Code 1994 § 38-215)

12.28.160 Security.

(a) If the provider has violated any provision of this chapter within the previous five years, before the provider is authorized to perform work in the ROW, the City Manager may require that a provider post a letter of credit or equivalent security in the greater of:

(1) The dollar value of any damage to the City or other provider's infrastructure that has occurred in said five-year period;

(2) The amount of increased costs or price payable to a contractor or similar entity due to the provider's violation; or

(3) The amount of gross profit the provider realized due to the violation.

(b) The City may convert such security to cash and use such cash to pay for any warranty work or to correct any injury or damage caused to the City's infrastructure or property, or other damages, by the provider's actions or failure to act or to improve the City's infrastructure.

(Ord. 3715, 1-19-05. Code 1994 § 38-216)

12.28.170 Construction standards/City laws.

(a) Each provider has the duty to see that its work, and that of its contractors, complies with this chapter, other adopted City standards and specifications, and other applicable law. Other City adopted standards and requirements include: the transportation, engineering and design standards; the City's standard contract documents as applicable; the City's ordinances, including the zoning and development code; and the City's administrative regulations.

(b) Each provider has the affirmative duty to comply with the City's construction standards, such as soil density testing of repaired ROW.

(Ord. 3715, 1-19-05. Code 1994 § 38-217)

12.28.180 Appeal.

During such appeal process, the City Manager has the discretion to allow the provider to use and/or operate within one or more units, as determined by the City Manager, with conditions as the City Manager deems reasonable, including the posting of reasonable cash or other security, such as a letter of credit.

A provider may appeal any City or City Manager decision pursuant to this chapter to the City Council, as provided below:

Any person, including any officer or agent of the City, aggrieved or claimed to be aggrieved by a final action of the Director on an administrative development permit, may request an appeal of the action in accordance with the following:

(a) Application and Review Procedures. Requests for an appeal shall be submitted to the Director in accordance with the following:

(1) Application Materials. The appellant shall provide a written request that explains the rationale of the appeal based on the criteria provided herein.

(2) Notice to Applicant. If the appellant is not the applicant, the Director, within five working days of receipt of the request for appeal, shall notify the applicant of the request and the applicant shall have 10 working days to provide a written response.

(3) Preparation of the Record. The Director shall compile all material made a part of the record of the Director's action. As may be requested by the City Council, the Director also may provide a written report.

(4) Notice. No notice of the appeal is required.

(5) Conduct of Hearing. The City Council shall hold an evidentiary hearing to determine whether the Director's action is in accordance with the criteria provided stated in subsection (b) of this section, Approval Criteria. The City Council may limit testimony and other evidence to that contained in the record at the time the Director took final action or place other limits on testimony and evidence as it deems appropriate.

(b) Approval Criteria. In granting an appeal of an administrative development permit, the City Council shall find that the Director:

(1) Acted in a manner inconsistent with the provisions of this code or other applicable local, State of federal law; or

(2) Made erroneous findings of fact based on the evidence in the record; or

(3) Failed to fully consider mitigating measures or revisions offered by the applicant; or

(4) Acted arbitrarily, acted capriciously and/or abused his discretion.

(Ord. 3715, 1-19-05. Code 1994 § 38-218)

12.28.190 Administrative regulations.

The City Manager may implement this chapter by adopting administrative regulations. An implementing administrative regulation may be appealed to the City Council, as provided in GJMC 21.08.260(c)(3).

(Ord. 3715, 1-19-05. Code 1994 § 38-219)

12.28.200 Severability.

If a court of competent jurisdiction declares one or more provision(s) or terms of this chapter to be unenforceable or unconstitutional, the rest of the provisions and terms shall be severed therefor and shall remain enforceable.

(Ord. 3715, 1-19-05. Code 1994 § 38-220)

12.28.210 Civil remedies.

If any person or provider violates any order of the Director, a hearing board or the Council, or otherwise fails to comply with the provisions of this chapter, the provisions and remedies provided for in GJMC 13.04.440(b) shall apply and shall be available to the City.

(Ord. 3715, 1-19-05. Code 1994 § 38-221)

12.28.220 Violations.

(a) The provisions of Chapter 1.04 GJMC apply to any violation hereof.

(b) It is a violation of this chapter if a provider misrepresents any fact in any information provided to the City, to the City Manager, or the Director's employees or agents.

(c) A provider violates this chapter if the contact person of such provider, or the provider, fails to amend or update the information and documentation supplied to the City pursuant to this chapter within 60 days of any change, error, mistake or misstatement.

(Ord. 3715, 1-19-05. Code 1994 § 38-222)

Chapter 12.32

CITY PUBLIC WORKS AND UTILITY PROJECTS BIDDING PROCEDURES

Sections:

12.32.010 Purpose and organization.
12.32.020 Pre-qualification process.
12.32.030 Suspension or revocation.

12.32.010 Purpose and organization.

(a) Purpose. These rules and procedures ("rules") are to be followed by the Public Works and Utilities Department ("Department") to pre-qualify a contractor who desires to submit a bid as a prime contractor for construction of a Department project, and to describe how the pre-qualification can be suspended or revoked.

(b) Pre-Qualification Committee. The Pre-Qualification Committee will administer these rules.

The Pre-Qualification Committee ("Committee") consists of the City Engineer, the Utility Engineer, the Construction Supervisor and the City Auditor, and any other person designated by the Director of Public Works and Utilities ("Director").

(Res. 127-01, 12-5-01; Res. 111-00 (Exh. 1), 11-15-00)

12.32.020 Pre-qualification process.

(a) Application for Pre-Qualification. The City will not accept a bid over $50,000 for any Department project from a contractor who is not pre-qualified as provided in these rules.

The Committee will presume that a contractor who is currently pre-qualified by the Colorado Department of Transportation ("CDOT") is pre-qualified at the equivalent financial category by the City, unless the Committee has reasonable information or basis to the contrary. If the Committee has reasonable information or basis to the contrary, the City will notify the contractor who may apply directly with the City as set forth in these rules. CDOT pre-qualification is not binding or conclusive on the City. If a contractor gives the Committee proof of current CDOT pre-qualification each year, the contractor may assume that it is pre-qualified at the equivalent financial category for that year, or until the City notifies the contractor to the contrary.

To apply to be pre-qualified by the City, a contractor should file an application with the Department. Application forms are available at the Department. The completed form can be mailed to the Department of Public Works and Utilities, 250 N. 5th Street, Grand Junction, Colorado 81501 or faxed to 970/256-4022.

During the first week of each quarter at a time and place determined by the Director, if business requires, the Committee will review pre-qualification applications and conduct other needed business.

A joint venture may apply for pre-qualification in the name of the joint venture or each member may apply for pre-qualification separately. A joint venture may be pre-qualified to the accumulated total of the individual financial levels of all members.

An application for special pre-qualification required under an invitation for bids shall be submitted and considered in accordance with the terms, conditions, procedures and time frame specified in the invitation.

The City may charge a pre-set application fee, not to exceed the cost of processing and reviewing the pre-qualification application.

(b) Application Requirements. A copy of these rules and application form are available at the Department. A contractor may supplement the required information so that the Committee has the infor-

mation it needs to decide a pre-qualification application, or other matter. At a minimum, a contractor, and each member of an applying joint venture, should provide:

(1) The name, address, phone number and type of applicant (e.g., sole proprietorship, partnership, corporation, LLC, LLP, etc.) and the name and title of each officer, partner, member, shareholder or owner of five or more percent (hereinafter collectively "owner") of the applicant;

(2) The name, address and phone number of the registered agent if the contractor is a corporation. If the corporation is not a Colorado corporation, proof of authority to do business in this state is required;

(3) The maximum contract amount and the type of work for which the contractor seeks pre-qualification, e.g., street construction, concrete curb, gutter, and sidewalk, earthwork, structures, paving, underground utilities, etc.;

(4) The contractor's experience in construction work including the number of years in each type of work, the type of work, and a list of all pertinent construction contracts performed in the past three years;

(5) Disclosure of any denial, suspension or revocation of pre-qualification or removal of the contractor, or any affiliate or subsidiary, from a bidding list within the last six years by the federal government, any agency of any state government including Colorado, and any local government or department or arm of any federal, state or local government, along with the name and address of the government, the stated basis for the denial, suspension, revocation or removal and a detailed explanation of the contractor's view and final result;

(6) Disclosure of any contract(s) that the contractor has failed to complete within the last six years, along with a written explanation of the reasons why;

(7) The name, address and title of each principal, officer, partner, member, supervisor, of the contractor along with the type and length of experience of each;

(8) The name and address of each owner of the contractor, including the name and address of each affiliate and subsidiary. If the contractor is a corporation, *each owner* means every person with a five percent or greater interest;

(9) List the equipment owned, leased or available for use by the contractor;

(10) For the financial category not to exceed $500,000, a financial statement prepared in compliance with generally accepted accounting principles (GAAP). For the financial category not to exceed $2,000,000, the statement shall include a complete report of the contractor's financial resources, liabilities, equipment and personnel, along with a statement by a licensed CPA that the statement satisfies GAAP and is in accordance with review standards published by the American Institute of Certified Public Accountants. For the financial category above $2,000,000, the statement shall include a complete report of the contractor's financial resources, liabilities, equipment and personnel, and be audited by a licensed certified public accountant;

(11) A disclosure by the chief or controlling officer, partner, member, or owner if the contractor or any company officer, member, partner, owner, subsidiary, or affiliate or officer thereof, has been convicted of a bid-related crime or violation within the past six years in any jurisdiction in the United States; as to any such conviction, the name of the crime, the date and location of the conviction, the penalty or sentence, and the current employment or ownership status of each such company or officer;

(12) A disclosure of each revocation, suspension, debarment, or notice of intent thereof regarding the contractor, any director, officer or owner, including if any owner or officer is affiliated with a person who is under notice of intent to debar or has been debarred; as to each disclosure, include the name and address of the governmental unit, department or agency, the basis for the action and the current status of any such action.

(c) Pre-Qualification Procedure. The contractor should submit the application and information to the Director. The Committee will consider the application to be complete when it has no more questions and needs no more information. The Committee will review the application once it is complete.

If the City Auditor contacts the applicant, the applicant must cooperate to make an appointment for the Auditor to review the contractor's financial records. The Auditor shall review the financial statement with the applicant or its designated representative when the contractor requests such review in writing. The contractor must retain the financial statement reviewed by the Auditor for three years from the date of being pre-qualified. If reviewed or audited financial statements are delivered to the City, they will be evaluated and held confidentially by the City Auditor.

The Committee will send a copy of a denial of an application to pre-qualify by certified mail, return receipt requested, within seven business days of the decision, along with the reason(s) in writing, and a statement that the denial may be appealed to the Director.

The contractor may appeal a denial of pre-qualification to the Director if done in writing and delivered, certified mail, return receipt requested, within 45 calendar days of the date of the denial; the appeal must identify the facts and basis that establishes why the Director should overturn the decision of the Committee.

The Director shall hear an appeal, in an informal fashion, within 45 calendar days of receipt of an appeal. The Director will give the applicant an opportunity to address the rationale of the Committee and to supply additional information, including witnesses, to give the contractor a fair opportunity to convince the Director to pre-qualify the applicant. The contractor shall bear the burden of going forward and the burden of persuasion in such appeal. The Director shall render his final decision in writing within 10 business days after hearing the appeal.

(d) Pre-Qualification Criteria.

(1) There will be four categories:

(i) Not to exceed $50,000 – Evidence of current bonding capacity (payment and performance) in the current contract amount or up to $50,000 is required. No financial information is required.

(ii) Not to exceed $500,000 – Evidence of current bonding capacity (payment and performance) in the current contract amount or up to $500,000, a demonstration of experience with projects of this size, and a financial statement (income statement and balance sheet) prepared by the company bookkeeper or owner is required. This statement does not need to be audited or reviewed.

(iii) Not to exceed $2,000,000 – Evidence of current bonding capacity (payment and performance) in the current contract amount or up to $2,000,000, a demonstration of experience with projects of this size, and a financial statement reviewed by a licensed certified public accountant is required.

(iv) Over $2,000,000 – Evidence of current bonding capacity (payment and performance) in the current contract amount or a minimum of $2,000,000, whichever is higher, a demonstration of experience with projects of this size, and a financial statement audited by a licensed certified public accountant is required.

(2) In deciding if a contractor should be pre-qualified, the Committee shall consider:

(i) If the contractor has equipment available to accomplish the type of work on which it intends to bid;

(ii) Whether the contractor has trained personnel available to perform the type of work on which it intends to bid in a safe and effective manner;

(iii) Whether the contractor has an organization and technical staff with the size, training, experience, and capability to accomplish the type of work on which it intends to bid;

(iv) Whether the contractor has the financial capability to perform the work on which it intends to bid as evidenced by financial solvency greater than or equal to the contractor's pre-qualification level. The City Auditor will use the following ratios when evaluating a contractor's financial solvency:

(A) Total current assets to total current liabilities of greater than 1.0;

(B) Cash and accounts receivable to total current liabilities of greater than 1.0;

(C) Net fixed assets to net worth of less than 2.3;

(D) Total liabilities to net worth of less than 4.0;

(v) If these ratios are not met by a contractor, the Committee may consider other factors including irrevocable lines of credit and other financial guarantees;

(vi) Whether the contractor has demonstrated experience in the type of work on which it intends to bid;

(vii) Whether the contractor has demonstrated performance on past City contracts including, but not limited to, compliance with all contract terms and specifications, satisfactory quality of workmanship, adequate safety program, and consistent on-time performance;

(viii) Whether the contractor is revoked, suspended, debarred or under notice thereof, in any jurisdiction;

(ix) Whether the contractor has made false, deceptive or fraudulent statements in the application for pre-qualification, or in any other information relied on or submitted to CDOT and/or the City; and

(x) In the case of a special prequalification for a particular project, any additional criteria which the Committee selects.

(e) Effect of Pre-Qualification. A contractor who is pre-qualified as described in these rules may submit bids on Department projects for which the contractor has the resources, personnel, equipment and experience to undertake. The low bidder on a specific project will still be independently evaluated prior to any award based on prequalification, required bid documents and other criteria determined by the City.

Department projects which are subject to these rules are those in the public rights-of-way and easements, such as road improvements, sewer and water and drainage facilities, and other projects such as regional storm water detention basins and improvements.

(f) Continuing Pre-Qualification Requirements. A contractor must apply and pre-qualify at least once every three years. A pre-qualification expires three years from the date of issue. The Committee may review a determination that a contractor is pre-qualified at any time at its own discretion and without notice to the contractor.

A contractor shall write the Director within three business days upon any significant decrease in their fiscal or workmanship qualifications, or of any action taken in any jurisdiction, or notice of a pending action, against the contractor or an affiliate of the contractor precluding its ability to bid on, perform work for or otherwise in any manner participate fully completely and competently in the Department's projects.

(Res. 127-01, 12-5-01; Res. 111-00 (Exh. 1), 11-15-00)

12.32.030 Suspension or revocation.

(a) Grounds for Suspension or Revocation. The Committee may revoke or suspend pre-qualification if it reasonably determines that:

(1) The contractor or affiliate of the contractor is declared in default on any contract and/or a judgment is entered against the contractor or affiliate by a court of competent jurisdiction;

(2) The contractor, or affiliate or owner of the contractor has made a false, deceptive or fraudulent statement on its application for pre-qualification, in any documents connected with the application or a bid, including a performance capability statement, or in any other information submitted to or relied on by the Department, or in the course of any statement disclosure, hearing or process associated with pre-qualification;

(3) The contractor has failed to report any significant decreases in capabilities or limitations on bidding or performing work in accordance with these rules;

(4) The contractor, or an affiliate or owner of the contractor, acts or fails to act such that a lack of integrity in contract-related matters is shown or may reasonably be concluded;

(5) The contractor has failed to perform work in a safe, effective and efficient manner and/or has failed to properly respond to, resolve, or address, as applicable, any City, state or federal notices, concerns or violations involving safe, effective or efficient work/working conditions; or

(6) The contractor no longer meets the criteria contained in these rules.

(b) Suspension and Revocation Procedures. The following shall guide any revocation or suspension of pre-qualification:

(1) Any person may contact the City concerning information warranting revocation of pre-qualification of a contractor as set forth in the criteria of these rules. If the Committee becomes aware of information warranting suspension or revocation of pre-qualification, notice of intent to revoke or suspend shall be sent to the contractor's last known address by certified mail, return receipt requested. The notice shall include a written statement citing general support for the intended action, and shall include the contractor's right of appeal to the Director.

(2) If the Committee has reasonable grounds to believe that the City's interests, or the public health, welfare or safety, requires suspension of pre-qualification without advance hearing or notice, the Committee may immediately suspend, upon written notice, a contractor's pre-qualification. Such suspension shall be for a temporary period of time generally not to exceed 45 days, during which time the Committee, or the Director, shall provide an opportunity to be heard and the opportunity to present pertinent and relevant information.

(3) The contractor may appeal a Committee decision to revoke pre-qualification or to suspend pre-qualification by delivering, to the Director within 30 days of the Committee decision, a written appeal stating the basis of the appeal.

(4) The Director must hear such an appeal within 45 calendar days, as provided in the rule dealing with an appeal of a denial of pre-qualification.

(c) Status During Appeal. During any appeal, the contractor shall not be deemed to be pre-qualified, unless otherwise ordered by a court of competent jurisdiction.

(d) No Basis for Liability. No person, contractor, individual or other entity may use these rules as a basis to create or establish any liability, duty or basis for estoppel, damages, costs or fees with respect to any breach or mistake of the City, its employees, officers and agents regarding the adoption, implementation or operation of these rules and actions taken pursuant to these rules. These rules are for internal operating purposes only and shall not be relied upon by any third party, contractor, or other person even though these rules were adopted as a result of a cooperative effort with third parties.

(Res. 127-01, 12-5-01; Res. 111-00 (Exh. 1), 11-15-00)

Title 13

WATER AND SEWERS

Chapters:

13.04 Wastewater System
13.08 Water System
13.12 Water and Wastewater Policy
13.16 Persigo Wastewater Treatment Plant
13.20 Delivery of Untreated Water
13.24 Cross-Connection Control
13.28 Storm Water Management
13.32 Watershed and Water Supply Standards
13.36 Water Conservation Plan

Cross reference(s) – Buildings and building regulations, GJMC Title 15.

State law reference(s) – Water and sewers, § 31-35-101, C.R.S. et seq.; sewer and water systems, § 31-35-401, C.R.S. et seq.

Chapter 13.04

WASTEWATER SYSTEM

Sections:

13.04.010 Definitions.
13.04.020 Jurisdiction.
13.04.030 Damaging or tampering with structures or equipment prohibited.
13.04.040 Authority to enter premises for purposes of inspection, observation, measurement, sampling and testing.
13.04.050 Duty to observe safety rules.
13.04.060 Authority to enter private properties through which City has easement.
13.04.070 Insanitary deposits prohibited.
13.04.080 Discharge to natural outlets.
13.04.090 Construction, maintenance of privies and septic tanks.
13.04.100 Connection mandatory where public sewer available.
13.04.110 Private disposal systems.
13.04.120 Permit required to connect to, use or alter public sewer.
13.04.130 Building sewer – Cost of connection to public sewer to be borne by owner.
13.04.140 Building sewer – Separate sewer required for each building – Exception.
13.04.150 Building sewer – Use of old building sewers.
13.04.160 Building sewer – Size, slope, materials of construction, other specifications.
13.04.170 Building sewer – Elevation.
13.04.180 Building sewer – Connection of roof downspouts, areaway drains.
13.04.190 Building sewer – Connection to public sewer to conform to code requirements, applicable rules – Deviations from prescribed procedures and materials.
13.04.200 Building sewer – Guarding of excavations – Restoration of streets.
13.04.210 Changes in direction of private sewers.
13.04.220 General construction of private sewers.
13.04.230 Connection of property lying two miles outside City.
13.04.240 Use of public sewers – Limitations on discharging certain substances, materials, waters, wastes.
13.04.250 Use of public sewers – Action of City upon discharge of waters possessing characteristics enumerated in GJMC 13.04.240.
13.04.260 Use of public sewers – Grease, oil and sand interceptors.
13.04.270 Use of public sewers – Maintenance of preliminary treatment or flow-equalizing facilities.
13.04.280 Use of public sewers – Manholes.
13.04.290 Use of public sewers – Measurements, tests and analyses.
13.04.300 Service charges – Assessed.
13.04.310 Service charges – New service fee.
13.04.320 Service charges – Charge for reconnecting after disconnection for sewer service charge delinquency – Penalty for unauthorized reconnections.
13.04.330 Service charges – Declared lien – Collection.
13.04.340 Billing procedure.
13.04.350 Billing procedure – Review.
13.04.360 Disposition, use of sewer revenues.
13.04.370 Pretreatment of industrial wastes – Purpose and policy.
13.04.380 Pretreatment of industrial wastes – Definitions.
13.04.390 Pretreatment of industrial wastes – Abbreviations.
13.04.400 Pretreatment of industrial wastes – Regulations.
13.04.410 Pretreatment of industrial wastes – Fees.
13.04.420 Pretreatment of industrial wastes – Pretreatment program administration.
13.04.430 Pretreatment of industrial wastes – Enforcement.
13.04.440 Pretreatment of industrial wastes – Actions for violation.

13.04.450 Pretreatment of industrial wastes – Pretreatment authority outside of City.
13.04.460 Plant investment fees and connection procedures – Purpose of fee.
13.04.470 Plant investment fees and connection procedures – Payment of fee.
13.04.480 Plant investment fees and connection procedures – Amount of fee.

Cross reference(s) – Improper depositing or disposal of animal or human waste declared a nuisance, GJMC 8.08.060.

13.04.010 Definitions.

Unless otherwise defined in this chapter, the following words, terms and phrases, when used in this chapter, 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 groundwater.

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 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).

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 groundwaters 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.

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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3722 § 1, 2-16-05; Ord. 3615, 4-7-04; Code 1994 § 38-26; Code 1965 § 25-14)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

13.04.020 Jurisdiction.

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

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-27)

13.04.030 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-28; Code 1965 § 25-40)

13.04.040 Authority to enter premises for purposes of inspection, observation, measurement, sampling and testing.

The City Manager and other duly authorized employees of the City shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3722 § 2, 2-16-05; Ord. 3615, 4-7-04. Code 1994 § 38-29; Code 1965 § 25-41)

13.04.050 Duty to observe safety rules.

While performing the necessary work on private properties referred to in GJMC 13.04.040, 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 GJMC 13.04.280.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-30; Code 1965 § 25-42)

13.04.060 Authority to enter private properties through which City has easement.

The City Manager and other duly authorized employees of the City 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-31; Code 1965 § 25-43)

13.04.070 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-32; Code 1965 § 25-15)

13.04.080 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 chapter.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-33; Code 1965 § 25-16)

13.04.090 Construction, maintenance of privies and septic tanks.

Except as provided in this chapter, 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-34; Code 1965 § 25-17)

13.04.100 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 chapter, 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-35; Code 1965 § 25-18)

13.04.110 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 GJMC 13.04.100, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(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 GJMC 13.04.100, a direct connection shall be made to the public sewer in compliance with this chapter 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-36; Code 1965 §§ 25-19 – 25-23)

13.04.120 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-37; Code 1965 § 25-24)

13.04.130 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-38; Code 1965 § 25-25)

13.04.140 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-39; Code 1965 § 25-26)

13.04.150 Building sewer – 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 chapter.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-40; Code 1965 § 25-27)

13.04.160 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-41; Code 1965 § 25-28)

13.04.170 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-42; Code 1965 § 25-29)

13.04.180 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-43; Code 1965 § 25-30)

13.04.190 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-44; Code 1965 § 25-31)

13.04.200 Building sewer – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-45; Code 1965 § 25-32)

13.04.210 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-46; Code 1965 § 25-52)

13.04.220 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-47; Code 1965 § 25-53)

13.04.230 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-48; Code 1965 §§ 25-45, 25-46)

13.04.240 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 discernibly 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, nonbiodegradable 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 chapter.

(14) Any storm water, surface water, groundwater, roof runoff, or 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 headworks of the WWTP. These are called maximum allowable industrial loads ("mails"):

Pollutant	***Pounds Per Day**
Arsenic	12.300
Cadmium	0.057
Chromium (T)	67.685
Chromium (VI)	2.960
Copper	41.350
Lead	14.095
Molybdenum	7.652
Mercury	0.026
Nickel	23.937
Selenium	0.278
Silver	3.015
Zinc	104.246

* Maximum 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:

(i)	Cyanide	1.2 mg/l
(ii)	Benzene	50.0 μg/l
(iii)	BTEX (aggregate parameter of benzene, ethyl benzene, toluene, and xylene)	750 μg/l
(iv)	Fats, oil and grease (animal/vegetable)	200 mg/l
(v)	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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 4122, 10-17-07; Ord. 3615, 4-7-04; Ord. 3045, 2-18-98; Ord. 2892, 2-21-96. Code 1994 § 38-49; Code 1965 § 25-33)

13.04.250 Use of public sewers – Action of City upon discharge of waters possessing characteristics enumerated in GJMC 13.04.240.

(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 GJMC 13.04.240, 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 GJMC 13.04.300.

(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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-50; Code 1965 § 25-34)

13.04.260 Use of public sewers – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-51; Code 1965 § 25-35)

13.04.270 Use of public sewers – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-52; Code 1965 § 25-36)

13.04.280 Use of public sewers – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-53; Code 1965 § 25-37)

13.04.290 Use of public sewers – Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 2892, 2-21-96. Code 1994 § 38-54; Code 1965 § 25-38)

13.04.300 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:

(i) No restaurants or kitchen, 0.36 times number of rooms;

(ii) With kitchenette, 0.43 times number of rooms;

(iii) With restaurants, use subsection (a)(3)(i) of this section then add rates from subsection (a)(4) of this section.

(4) Restaurants:

(i) Twenty-four-hour operation, 0.21 times number of seats;

(ii) Twelve-hour or less operation, 0.14 times number of seats;

(iii) Bar, no food, 0.04 times number of seats.

(5) Schools:

(i) No food or showers, 0.04 times number of student capacity;

(ii) For cafeterias, add to subsection (a)(5)(i) of this section 0.02 times number of student capacity;

(iii) For showers, add to subsection (a)(5)(i) of this section 0.02 times number of student capacity;

(iv) Boarding schools, 0.27 times number of student capacity.

(6) Service stations:

(i) Without wash rack, 1.00 EQU;

(ii) 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):

(i) Open 12 or more hours, 0.10 times number of employees;

(ii) 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 subsection (c) of this section. 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 BOD_5 per day by 0.47 pound of BOD_5. 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 chapter, 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 GJMC 13.04.240 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 GJMC 13.04.330.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-55; Code 1965 § 25-44)

13.04.310 Service charges – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-56; Code 1965 § 25-47(a))

13.04.320 Service charges – Charge for reconnecting after disconnection for sewer service charge delinquency – Penalty for unauthorized reconnections.

(a) If the sewer service is disconnected by shutting off the water supply, reconnection shall be made only upon the payment of all delinquencies plus a reconnecting charge as established by resolution of the City Council.

(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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-57; Code 1965 §§ 25-49, 25-51)

13.04.330 Service charges – Declared lien – Collection.

All sewer rental charges, including but not limited to all rates (see definition, GJMC 13.04.010), 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 fur-

ther 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 one 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-58; Code 1965 § 25-48)

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

13.04.340 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 GJMC 13.04.330.

(b) The owner of the premises, as well as the occupants thereof, shall have 30 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 30-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 chapter 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-59; Code 1965 § 25-47(b), (c))

13.04.350 Billing procedure – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-60; Code 1965 § 25-54)

13.04.360 Disposition, use of sewer revenues.

The funds received from the collection of the charges or rentals authorized by this chapter 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-61; Code 1965 § 25-50)

13.04.370 Pretreatment of industrial wastes – Purpose and policy.

(a) Purpose. GJMC 13.04.370 through 13.04.450 set forth uniform requirements for users of the WWTW and enable 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. GJMC 13.04.370 through 13.04.450 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. GJMC 13.04.370 through 13.04.450 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-62; Code 1965 § 25-57)

13.04.380 Pretreatment of industrial wastes – Definitions.

The following words, terms and phrases, when used in GJMC 13.04.370 through 13.04.450, 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 GJMC 13.04.240 or 13.04.400.

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.

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.

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.

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.

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.

Indirect discharge or *discharge* means the introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

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 GJMC 13.04.420, 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 feedlots, 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 GJMC 13.04.300(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. Section 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 Section 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 Section 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 Section 403.3(m).

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 GJMC 13.04.240; 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 Section 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:

(i) 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

(ii) 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 subsections (1) and (2) of this definition if:

(i) The authorization is made in writing by the individual described in subsection (1) or (2) of this definition;

(ii) 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

(iii) The written authorization is submitted to control authority.

(4) If an authorization under subsection (3) of this definition 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 of subsection (3) of this definition 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 five 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 90 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 45 days after the date due, a required report such as a baseline monitoring report (BMR), a 90-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 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 nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary 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 runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. For the purposes of GJMC 13.04.370 through 13.04.450, "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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 4210, 4-2-08; Ord. 3722 § 3, 2-16-05; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-63; Code 1965 § 25-58)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

13.04.390 Pretreatment of industrial wastes – Abbreviations.

The following abbreviations when used in GJMC 13.04.370 through 13.04.450 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 2892, 2-21-96. Code 1994 § 38-64; Code 1965 § 25-59)

13.04.400 Pretreatment of industrial wastes – 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 in subsection (a)(1) of this section or in GJMC 13.04.240, a user shall not introduce or discharge the following substances into the WWTW:

(i) Any wastewater containing toxic pollutants in sufficient quantity to exceed the limitation set forth in a national categorical pretreatment standard; or

(ii) 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 GJMC 13.04.240, 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;

(3) Perform the actions listed in GJMC 13.04.250, as deemed necessary; and/or

(4) Undertake an action, where appropriate, as specified in GJMC 13.04.430.

(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 chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. 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 chapter.

(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 GJMC 13.04.370.

(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 GJMC 13.04.240 or in this section, or other substances regulated by GJMC 13.04.370 through 13.04.450. 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 90 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 GJMC 13.04.370 through 13.04.450.

(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 15 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 GJMC 13.04.370 through 13.04.450 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.

(3) Bypasses and notification shall be handled in accordance with 40 CFR Section 403.17.

(4) Upsets shall be handled in accordance with 40 CFR Section 403.16.

(j) Specific Pollutant Limitations. No person shall discharge into the WWTW any wastewater containing pollutants generally prohibited by GJMC 13.04.240, 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 GJMC 13.04.370 through 13.04.450 shall be conducted in accordance with 40 CFR Part 136 and 40 CFR Section 403.12(g)(3)(4).

(l) Right of Entry.

(1) The City Manager and/or his authorized representative may:

(i) 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 GJMC 13.04.370 through 13.04.450;

(ii) 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;

(iii) Enter upon the premises to reasonably investigate any actual, suspected or potential source of uncommon water pollution, or any violation of this chapter.

(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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3722 § 4, 2-16-05; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-65; Code 1965 § 25-60)

13.04.410 Pretreatment of industrial wastes – 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 GJMC 13.04.370 through 13.04.450, 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 2892, 2-21-96. Code 1994 § 38-66; Code 1965 § 25-61)

13.04.420 Pretreatment of industrial wastes – 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 GJMC 13.04.370 through 13.04.450.

(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 GJMC 13.04.240.

(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 30 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 90 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:

(i) Unit charge or schedule of industrial user charges and fees for the wastewater to be discharged to the WWTW;

(ii) Notice of the general and specific prohibitions required under GJMC 13.04.240 and 13.04.400(j);

(iii) Prohibitions on discharge of any specific materials;

(iv) Notice of applicable national categorical standards; pretreatment standards;

(v) Limits equal to or more stringent than the specific pollutant limitations as established pursuant to GJMC 13.04.400(j) concerning average and maximum wastewater constituents, and on characteristics of either the individual industrial process wastes or combined industrial wastewater discharge;

(vi) Limits on average and maximum rate and time of discharge, or requirements for flow regulations and equalization;

(vii) Monitoring facilities as described in subsection (d) of this section;

(viii) Monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedules;

(ix) Installation, maintenance, and cleaning of any pretreatment technology necessary to achieve compliance with the requirements of this chapter, including filtration, chemical treatment, grease, oil and sand traps, and other necessary equipment;

(x) Compliance schedules and any periodic progress or compliance reports required by this chapter or by federal pretreatment regulations, including 40 CFR Section 403.12;

(xi) Submission of technical reports or discharge reports, as provided in subsection (c) of this section;

(xii) Maintenance and retention of plant records relating to wastewater discharge, as specified by the City Manager;

(xiii) 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;

(xiv) Notification of any slug or accidental discharge as per GJMC 13.04.400(i)(1);

(xv) Agreement to pay additional costs of handling or treating any industrial wastewater discharges not authorized by this chapter 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;

(xvi) 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;

(xvii) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond the applicable federal deadlines;

(xviii) 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:

(A) Description of discharge practices, including nonroutine batch discharges;

(B) Description of stored chemicals;

(C) Procedures for immediately notifying POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b) with procedures for follow-up written notification within five days;

(D) 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;

(xix) Other appropriate conditions, in the judgment of the City Manager, necessary to ensure compliance with this chapter.

(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 90 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 GJMC 13.04.400 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 30 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 90 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 appli-

cable 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)(i) 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 45 days of deadlines and/or failure to complete milestones within 90 days of deadline.

(5) Twenty-four-hour notification of violations and 30-day resampling requirements shall be conducted in accordance with 40 CFR Section 403.12(g)(2).

(6) Record keeping requirements shall be consistent with 40 CFR Section 403.12(o).

(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 90 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.

(f) Pretreatment.

(1) Industrial users shall provide whatever wastewater pretreatment is required, in the opinion of the City Manager, to comply with this chapter and shall comply with all national categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations and this chapter. 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 chapter. 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 chapter. 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 chapter.

(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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-67; Code 1965 § 25-62)

13.04.430 Pretreatment of industrial wastes – 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 chapter or by other applicable standards.

(a) Harmful Contributions or Interference with the WWTW.

(1) 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.

(2) 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.

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

(1) Failure to factually report wastewater constituents and characteristics;

(2) Failure to report significant changes in operations, or wastewater constituents and characteristics;

(3) 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 GJMC 13.04.420(e); or

(4) Violation of conditions of the industrial discharge permit.

(c) Notification of Violation. Whenever the City finds that any user has violated or is violating this chapter, 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 chapter. Unless required earlier by another provision of this chapter, within 30 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.

(d) Administrative Orders. Whenever the City Manager finds that any user has violated or is violating this chapter, 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 chapter.

(e) 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 deter-

mination made and issued by the City Manager in interpreting, enforcing or implementing the provisions of this chapter, or the provision of any permit or administrative order issued under this chapter, shall file with the City Manager a written request for reconsideration within 10 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 10 working days of such request. All requests for reconsideration shall be heard by the City Manager within 10 working days from the date of the hearing. The decision, action, administrative order or determination shall remain in effect during the reconsideration period.

(f) Appeal of Order of City Manager.

(1) 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 10 days from the date of the City Manager's determination or order. The appeal shall contain the following items:

(i) 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";

(ii) A caption reading "Appeal of _____," giving the names of all participating appellants;

(iii) A statement of the legal interest of the appellants in the affected facility, together with the name of the authorized representative thereof;

(iv) A concise statement of the action protested, together with any material facts;

(v) Verified signatures of all appellants, together with official mailing addresses and telephone numbers; and

(vi) Verification by declaration under perjury of at least one appellant as to the truth of the matters stated in the appeal.

(2) 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 10 days, but no later than 60 days, after the appeal is filed.

(g) Show Cause Hearing.

(1) 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.

(2) The notice of the hearing shall be served upon the user personally or by certified mail, return receipt requested, at least 10 days before the hearing. Service may be made on any agent or authorized representative of a corporation or partnership.

(h) Procedure for Appeal or Show Cause Hearing.

(1) 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.

(2) The Hearing Officer or Utility Hearing Board shall have the power to:

(i) Issue in the name of the City Council notices of hearings requiring the attendance and testimony of witnesses and the production of evidence.

(ii) 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.

(iii) Determine and find whether just cause exists for not taking the proposed enforcement actions, or whether the order or action appealed is unwarranted.

(iv) 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.

(i) Effect of Hearing.

(1) 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 30 days thereof, the Council may conduct its own hearing, make its own findings, and issue its own orders.

(2) 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 chapter, may be issued by the City Manager.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-68; Code 1965 § 25-62)

13.04.440 Pretreatment of industrial wastes – Actions for violation.

(a) Penalties. The City shall have the authority to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. The City shall also have the authority to assess civil penalties up to $10,000 per day for each violation and criminal penalties up to $25,000 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 chapter 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 chapter, 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 chapter 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 GJMC 13.04.370 through 13.04.450 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 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 chapter, or who falsifies, tampers with, bypasses, or knowingly renders inaccurate any monitoring device, testing method, or testing samples required under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed $10,000 or imprisonment not to exceed one year or both.

(e) Remedies Cumulative. The remedies provided for in this chapter, 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 2892, 2-21-96. Code 1994 § 38-69; Code 1965 § 25-64)

13.04.450 Pretreatment of industrial wastes – Pretreatment authority outside of City.

(a) In order to achieve and maintain compliance with the Clean Water Act, federal pretreatment standards and requirements, State regulations, sewage grant conditions, and WWTP discharge permit requirements, the City, as manager/operator of the Persigo WWTP, must possess and demonstrate a clear legal right to require compliance with pretreatment standards and requirements by any industrial user of the WWTW located outside of the City's territorial jurisdiction. To that end all governmental sewage connectors, including sanitation districts and the County, have been requested to adopt, and have adopted, by resolution, a regulatory pretreatment program either parallel to GJMC 13.04.370 through 13.04.450 or incorporating the provisions of GJMC 13.04.370 through 13.04.450, 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 the industrial discharge permit program has proved insufficient to ensure compliance with the pretreatment program.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3722 § 5, 2-16-05; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-70; Code 1965 § 25-65)

13.04.460 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-71; Code 1965 § 25-70)

13.04.470 Plant investment fees and connection procedures – 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-72; Code 1965 §§ 25-71, 25-72)

13.04.480 Plant investment fees and connection procedures – 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) x (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 dwelling above 1.00	EQU
(2)	Multiple-family dwellings, 0.72 x number of single-family units	EQU
(3)	Hotels and motels:	
	(i) No restaurants or kitchens, 0.36 x number of rooms	EQU
	(ii) With kitchenettes, 0.43 x number of rooms	EQU
	(iii) With restaurants: Use above then add restaurants from below	
(4)	Restaurants:	
	(i) Twenty-four-hour operation, 0.21 x number of seats	EQU
	(ii) Twelve-hour or less operation, 0.14 x number of seats	EQU
	(iii) Bar, no food, 0.04 x number of seats	EQU
(5)	Schools:	
	(i) No food or showers, 0.04 x number of student capacity	EQU
	(ii) Add to subsection (b)(5)(i) of this section for cafeterias, 0.02 x number of student capacity	EQU
	(iii) Add to subsection (b)(5)(i) of this section for showers, 0.02 x number of student capacity	EQU
	(iv) Boarding schools, 0.27 x number of student capacity	EQU
(6)	Service stations:	
	Without wash rack, 1.00	EQU
	With wash rack, 2.3 per rack	EQU
(7)	Shopping centers and stores, 0.35 x number of thousand square feet of store space	EQU
(8)	Travel trailer park (KOA, etc.), 0.25 x number of trailer parking spaces	EQU
(9)	Churches and assembly halls, theaters and arenas, 0.01 x number of seating capacity	EQU
(10)	Drive-in theaters, 0.02 x number of car spaces	EQU
(11)	Factories, warehouses and offices (not including industrial waste), 0.05 x number of employees	EQU

(12) Hospital, 0.89 x number of bed spaces	EQU
(13) Institution – Nursing home, 0.36 x number of residences	EQU
(14) Laundry, coin-operated, 0.90 x number of washing machines	EQU
(15) Mobile home parks, 0.67 x number of lots or spaces	EQU
(16) Car wash, 2.3 x number of bays	EQU
(17) Fast food takeout (walk-up or drive-up):	
Open 12 hours or more each day, 0.10 x number of employees	EQU
Open less than 12 hours per day, 0.06 x number of employees	EQU

(c) Where recycling of water is used or other conditions prevail which cause the above-listed nonresidential users to produce more or less average daily sewage flow than that computed by the above formula when the EQU is multiplied by 280 gallons per day, the City Manager may establish the EQU using the formula set forth in subsection (d) of this section. 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 BOD_5 per day by 0.47 pound of BOD_5. 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.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04. Code 1994 § 38-73; Code 1965 § 25-73)

Chapter 13.08

WATER SYSTEM

Sections:

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13.08.030 Kannah Creek – Contamination prohibited.
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13.08.330 Defective service pipe to be replaced or repaired.
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13.08.430 City not liable for interruption of water supply.

Cross reference(s) – Cross-connection regarding water supply system declared a nuisance, GJMC 8.08.060.

13.08.010 Kannah Creek – Territory covered.

GJMC 13.08.010 through 13.08.060 shall cover an area of all territory for five miles above the point on Kannah Creek, in Mesa County, where the water is diverted by the City from such creek, such point of

diversion being located as follows: At a point whence the southwest corner of Section 34, Township 12 South, Range 97 West, sixth principal meridian bears south 20 degrees 47 minutes, west 2,670 feet.

GJMC 13.08.010 through 13.08.060 shall also cover the area within a radius of 500 feet of the settling basin or reservoir of the City on Kannah Creek located near such point of diversion.

(Code 1994 § 38-96; Code 1965 § 31-51)

13.08.020 Kannah Creek – Police power of caretaker.

The person employed by the City as caretaker to look after the water system of the City at Kannah Creek is hereby given, within the area covered by this chapter, the power and authority held and used by a police officer of the City within its corporate limits, and such caretaker shall have the right and power to arrest any person who may violate any provisions of GJMC 13.08.010 through 13.08.060.

(Ord. 3615, 4-7-04. Code 1994 § 38-97; Code 1965 § 31-52)

13.08.030 Kannah Creek – Contamination prohibited.

(a) No person shall construct, keep or maintain a house, tent, barn, stable, cattleyard, chickenyard, feed lot, pigpen or any grounds or premises of whatever kind within the area covered by GJMC 13.08.010 through 13.08.060, the drainage from which is capable of contaminating or rendering the water injurious and unwholesome, upon Kannah Creek or upon the drainage district thereof.

(b) No person within the area covered by GJMC 13.08.010 through 13.08.060 shall allow any offensive or unwholesome or contaminating substance to remain upon the premises in such position that such substance or the drainage therefrom may be carried by natural causes into Kannah Creek.

(Code 1994 § 38-98; Code 1965 §§ 31-53, 31-54)

13.08.040 Kannah Creek – Permit to live or camp near.

The utilities department may require that persons camping or living within the area covered by GJMC 13.08.010 through 13.08.060 first obtain a permit from it or from the caretaker to do so. Such permit shall designate the camping or living place and shall be revocable for cause by the utilities department or the caretaker.

(Code 1994 § 38-99; Code 1965 § 31-55)

13.08.050 Kannah Creek – Disposal of dead animals.

The carcasses of any animals dying within the area of GJMC 13.08.010 through 13.08.060 shall be immediately burned and buried in accordance with the regulations of the United States Forest Service.

(Code 1994 § 38-100; Code 1965 § 31-56)

13.08.060 Kannah Creek – Injuring trees.

No person shall cut or otherwise injure live trees in the area covered by GJMC 13.08.010 through 13.08.060, and no person shall tie horses or other animals to trees having a soft bark which are liable to be injured by such animals.

(Code 1994 § 38-101; Code 1965 § 31-57)

13.08.070 Contractual nature of provisions.

The provisions of this chapter, so far as applicable, shall be considered as a part of the contract between the City and each property owner who is furnished with City water, and each property owner, by using

City water and allowing City water to be used, shall be presumed to express his consent to be bound by all the provisions of this chapter, and such other regulations as the City may adopt.

(Code 1994 § 38-102; Code 1965 § 31-1)

13.08.080 Application for service – Liability of owners of premises – Start of billing period.

(a) Application for water service to premises shall be in the name of the owner of the premises. Although the owner may direct that the water bill be sent to another for payment, the owner of property where water is used shall be liable for the payment of rent for all water used thereon in addition to the other utility charges appearing on the water bill. Where application is for new service, charges for water service shall begin when the City is advised that usage has commenced or 120 days after the issuance of the sewer or water permit, whichever is first, unless the applicant can show that no services are being received. Water rental charges include all rates, charges, fees and costs of inspection connected with the water system.

(b) The owner of the premises, as well as the occupant or occupants thereof, shall have 30 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 30-day notification period.

(Ord. 3615, 4-7-04. Code 1994 § 38-103; Code 1965 § 31-2)

13.08.090 Water rent payable monthly – Charges constitute lien.

All water rent shall be due and payable monthly. All water service and water service availability (see GJMC 13.08.160) charges shall constitute a lien upon any lot, land, building or premises served and if such charges shall not be paid when due, such service may be disconnected by the City without further notice, by shutting off the water supply, and 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 to defray the cost of collection and the value of attorney's fees and court costs plus interest at one percent per month or as amended 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.

(Ord. 3615, 4-7-04. Code 1994 § 38-104; Code 1965 § 31-3)

13.08.100 New service fee.

Whenever a water service account is created or is changed, a new service fee in the amount established by resolution of the City Council shall be charged for the setting up of the new account.

(Code 1994 § 38-105; Code 1965 § 31-4)

13.08.110 Payment of water rent – Discontinuing service for nonpayment – Delinquency charge.

All water rent shall be payable at the office of the City Treasurer within 45 days following the date of billing, and if not paid within that time shall become delinquent, and the water may be shut off without notice. An additional charge as established by resolution of the City Council shall be made for each notification of delinquency, accomplished by a door hanger or other notice of delinquency placed on the premises.

(Ord. 3615, 4-7-04. Code 1994 § 38-106; Code 1965 § 31-5)

13.08.120 Resumption of services after discontinuance.

Whenever the water shall have been shut off for nonpayment of water rent, or nonpayment of other utility services provided by the City, the water shall not be turned on again until the back water rentals or other utility service charges have been paid, together with an additional charge as established by resolution of

the City Council and on file in the City Clerk's office for the trouble and expense of shutting off and turning on the water for each delinquency.

(Code 1994 § 38-107; Code 1965 § 31-6)

13.08.130 Discontinuing water service at request of consumer.

(a) Any person desirous of discontinuing the use of water must give notice to the utilities department and the utilities department shall turn off the water. No credit will be given for nonusage of water unless the water service has been shut off by the utilities department.

(b) Whenever a water user notifies the utilities department of a desire to have the water shut off at his premises because of vacancy therein, the City shall cause the water to be shut off at such premises at the curb stop box, and a credit shall be given on the books of the City to such water user for such premises for the period of time water is so shut off. No credit shall be given to any water user for vacancy on his premises unless the water shall be shut off as provided in this section.

(Code 1994 § 38-108; Code 1965 § 31-7)

13.08.140 Charge for reading meters for customer turn-off and turn-on requests.

A charge as established by resolution of the City Council and on file in the City Clerk's office shall be made for the turning off or turning on of water at the request of the customer. If the City, at the request of a customer, turns such customer's water meter on or off during hours other than from 8:00 a.m. to 5:00 p.m. during a normal business day, such customer shall pay to the City, in addition to all other amounts owing to the City, a sum established by resolution of the City Council and on file in the City Clerk's office, which amount reflects the cost to the City of overtime wages and equipment costs. Such sum shall be paid in all instances except where the request for the turn-on or the turn-off is as a consequence of a leak in the domestic water service line between the water meter and the point at which the service line enters the dwelling or structure. If the request to turn on or turn off water is as a consequence of a leak or repair within the dwelling or on a sprinkler system, then the charge established by resolution of the City Council shall be imposed. Additionally, upon the third occasion when no one is present at a premises when an appointment has been made for such presence for the turning on or turning off of a water meter, a further charge as established by resolution of the City Council shall be made. The same charge shall be made for each trip to the premises after the third if appointments are not kept.

(Code 1994 § 38-109; Code 1965 § 31-8)

13.08.150 Discontinuing service for violation.

Whenever any provision of this chapter or any term of an agreement by which the City agrees to furnish water is violated by the consumer, the water shall be cut off from the building or place of such violation, although two or more parties may receive water through the same pipe, and shall not be turned on again except by order of the City Manager, and on payment of the expense of shutting it off and turning it on again, and such other terms as the City Council shall determine, and a satisfactory understanding with the party or parties that no further cause of complaint shall arise; and in case of a violation after such understanding, the City Manager shall have the right to declare any payment made for the water by the person committing such violation to be forfeited.

(Ord. 3615, 4-7-04. Code 1994 § 38-110; Code 1965 § 31-11)

13.08.160 Meter rates.

Monthly rates as established by resolution of the City Council and on file in the City Clerk's office shall apply to all water used and measured by a water meter.

(Code 1994 § 38-111; Code 1965 § 31-12)

13.08.170 Certificate of number of users required – Additional connections.

It shall be the duty of all owners and/or operators of water service lines with more than one user to certify to the utilities department the location thereof and the number of units or users thereon. No additional connections shall be made without application and notice thereof to the utilities department.

(Code 1994 § 38-112; Code 1965 § 31-14)

13.08.180 Charge when meter defective.

When a meter or indicator gets out of order and fails to register correctly, a charge shall be made according to the average quantity of water used in a similar period as shown by the meter when in order.

(Code 1994 § 38-113; Code 1965 § 31-15)

13.08.190 Charge for water sold by the tank.

Water sold by the tank by the City shall be charged for at the rates established by resolution of the City Council and on file in the City Clerk's office.

(Code 1994 § 38-114; Code 1965 § 31-16)

13.08.200 Meters required – Installation, ownership, maintenance.

(a) All water users shall be required to have a meter. All meters shall be installed, owned and maintained by the City.

(b) Owners of water meters who under previous ordinances of the City were permitted to install and own water meters which were two inches in size or more are required to regularly inspect and maintain those meters. If inspection by the City reveals that the meters are not being properly maintained, the City may cause the meters to be repaired at the expense of the owner of the meter.

(Code 1994 § 38-115; Code 1965 § 31-17)

13.08.210 Unlawfully using water, tampering with facilities.

No person shall use the water from any part of the waterworks without permission having been duly issued therefor, nor shall any person, without lawful authority, open any fire plug, stopcock or valve or other fixture appertaining to such works, nor shall any person shut off or turn on water for any service pipe without lawful authority therefor.

(Code 1994 § 38-116; Code 1965 § 31-18)

13.08.220 Permitting others to use water.

No consumer shall permit the owner or occupant of other premises to use water from the consumer's service except by special permission from the utilities department.

(Ord. 3615, 4-7-04. Code 1994 § 38-117; Code 1965 § 31-19)

13.08.230 Permits to tap street mains.

For any of the uses specified in this chapter or in the schedule of water rates established by the City Council, an application shall be made to the utilities department for a permit to have tapped the street mains forming a part of the City waterworks. If granted, such permit shall set forth the name of the person for whose benefit such permit shall be granted, the size of the stopcock for discharging the water from the main to the service pipes, and as near as may be the point at which the tapping is to be done, the place to which the water is to be conducted, the situation of the hydrants and the contemplated use of the waters thereby. The utilities department shall keep a record of all such permits in a book kept for that purpose in its office, which record shall set forth the substance of every such permit; provided, that by virtue of such permit no more water shall be used than shall be necessary at the time of placing the service pipes

and their fixtures to test the tightness of such pipes and fixtures for the flow of water; provided further, that any other legitimate use than that specified in such permit may be made of such water, the proper permit being obtained therefor.

(Code 1994 § 38-118; Code 1965 § 31-20)

13.08.240 Permits for new connections – Work, materials supplied by City – Stopcocks.

Persons wishing water in buildings and premises not connected with the water mains must get a special permit from the utilities department for each building, residence, business, etc. The utilities department shall, except as approved by the City Manager, in all cases tap the water main and put in the service pipe to a point on the inner side of the curbstone where there shall be a corporation cock and stop box; provided, that if there shall be no sidewalks where such pipes shall be extended, such stopcocks shall be in some conspicuous and accessible place near the premises so supplied with water and on some public highway to be designated by the utilities department. Such stopcocks shall be kept in good condition, so that the utilities department shall be able to shut off the water from service pipes at any time.

(Code 1994 § 38-119; Code 1965 § 31-21)

13.08.250 Requirements for service pipe.

All service pipes laid or constructed in the City for the distribution of water connected with the main in the street and extended to the stop box shall be Type K copper.

(Code 1994 § 38-120; Code 1965 § 31-22)

13.08.260 Exclusive jurisdiction of Water Department over service pipe.

The repairing, laying or construction of service pipes for the distribution of water, connected with the main in the street and extended to the stop box inside the curbline of the street in front of property to be served, shall be performed only by the utilities department of the City, except as authorized by the City Manager.

(Code 1994 § 38-121; Code 1965 § 31-23)

13.08.270 Application for service pipe – Cost of installation.

Service pipes of suitable size will be furnished upon application to the City Manager and the prepayment of the charges therefor as provided in this chapter, and the utilities department shall furnish all labor and materials necessary for such construction, including tapping of mains, installation of brass corporation cocks, brass curbcocks and connections, stop box, and such K copper pipe as may be necessary.

(Code 1994 § 38-122; Code 1965 § 31-24)

13.08.280 Calculating charges for service pipe and connections.

All charges for furnishing and laying service pipe and connections shall be calculated as if the water main were laid in the center of the street in order that a uniform charge may be made to the property abutting on the opposite side.

(Code 1994 § 38-123; Code 1965 § 31-25)

13.08.290 Rates for service pipes.

The rates to be charged for furnishing, constructing and laying service pipes by the utilities department shall be fixed and established by the City Council by resolution. Such rates shall be subject to change by resolution of the Council as it may determine. Time and materials may be charged if expenses exceed the normal charge.

(Code 1994 § 38-124; Code 1965 § 31-26)

13.08.300 Stop boxes.

(a) All stop boxes shall be placed at a point one and one-half feet back from the face of the pavement curb, or if no permanent curb is in place, then at a point one and one-half feet back from proposed location of the face of the curb, which shall be standard for all streets according to the width of such streets, as follows:

Width of street	Width of roadway between curbs
60 feet	30 feet
80 feet	36 feet
100 feet	56 feet

(b) When a street is paved a greater width than the above standard, all stop boxes shall be moved and the pipe extended to conform to the extra width of roadway, and such work shall be performed by and charged to the utilities department.

(Code 1994 § 38-125; Code 1965 § 31-27)

13.08.310 Cost of cutting streets, sidewalks.

Where it becomes necessary to cut a pavement or cement sidewalk in order to install the service pipe and connections, the cost of such cut may be charged to the property owner at cost plus 20 percent for overhead expense.

(Code 1994 § 38-126; Code 1965 § 31-28)

13.08.320 Repair, maintenance of service pipes.

The owner, lessee or agent shall maintain the service pipes from the curb stop if the meter is at the curb, or from the meter if the meter is located between the property line and the curb. It shall be the owner's duty to keep such pipes in good repair and protected from freezing, and the owner shall be responsible for all damages resulting from leaks or breaks in such service pipes.

(Ord. 3615, 4-7-04. Code 1994 § 38-127; Code 1965 § 31-29)

13.08.330 Defective service pipe to be replaced or repaired.

When the service pipe shall become defective and leak, it shall be reported to the utilities department, which shall make inspection of such pipe, and if the pipe is worn out, the utilities department shall order the service pipe replaced with new pipe. If the pipe is in a generally good condition, the department may permit a licensed plumber to repair the leak.

(Ord. 3615, 4-7-04. Code 1994 § 38-128; Code 1965 § 31-30)

13.08.340 Maintenance and repairs to service pipe.

After service pipe has been laid and constructed, the utilities department shall thereafter maintain and keep in repair all such service pipes between the main and the curbcock, and shall repair or cause to be repaired any cuts or excavations in paved or unpaved streets in laying or repairing such service connections, to the satisfaction of the City Manager.

(Code 1994 § 38-129; Code 1965 § 31-31)

13.08.350 Filling trench after laying service pipe.

After service pipes are laid, in refilling the opening, the earth must be laid in layers of not more than nine inches in depth, and each layer thoroughly tamped or puddled to prevent settlement, and this work,

together with the replacing of sidewalks, ballast and paving, must be done so as to leave the street and sidewalk in as good condition as before it was disturbed, and to the satisfaction of the utilities department, which is required to see that such work is done as stated in this section.

(Code 1994 § 38-130; Code 1965 § 31-32)

13.08.360 Time for sprinkling, irrigating.

No person shall use water from the City waterworks system for sprinkling or irrigating except between the hours and at the times which may be from time to time designated by the City Manager, and any person who shall use or cause to be used or permit to be used on their premises, or premises occupied by them, any water as provided in this section, or who shall use or cause to be used or permit to be used any water on their premises occupied by them when prohibited so to do under this section or by the City Manager shall be guilty of a misdemeanor.

(Code 1994 § 38-131; Code 1965 § 31-33)

13.08.370 Wasting water.

The owner or lessee of any premises to which any water shall be conducted from the water mains shall keep all pipes and their fixtures from the curbline to his premises and on such premises in good repair and protected from the frost, and tight, so as to prevent waste of water. Upon any waste resulting from a breakage of such pipes or fixtures, or any imperfection of such pipes or fixtures, the owner or lessee shall forthwith stop such waste of water by repairing the old work or by laying new work. It shall be unlawful to use water so that it is wasted by flowing off lawns and gardens into the street gutters.

(Code 1994 § 38-132; Code 1965 § 31-34)

13.08.380 City's right of entry – Notice – Correction of defects.

The employees of the utilities department shall be authorized to enter and have free access at all reasonable hours to premises to ascertain the location or condition of all hydrants, pipes or other fixtures attached to the waterworks, and in case they find that water is wasted on account of negligence or for want of repairs, and if such waste is not immediately remedied, the water leading to such premises shall be turned off. It shall be the duty of such employees in case they discover any defect in a private pipe between the meter pit and the structure to give notice in writing to be left at the premises, if occupied, and if not occupied, with the owner or his agent, and if the necessary repairs are not made within 24 hours thereafter the water shall be turned off, and shall not be turned on again until the repairs are made and a sum as established by resolution of the City Council and on file in the City Clerk's office has been paid to the utilities department to cover the expense of turning the water off and on. The City is responsible for repairs of services between the main pipe and the meter pit.

(Ord. 3615, 4-7-04. Code 1994 § 38-133; Code 1965 § 31-35)

13.08.390 Using water for fire protection.

If the proprietors of manufactories, lumberyards, halls, stores, elevators, warehouses, hotels or public buildings, being regular consumers of water from the waterworks, wish to lay large pipes with hydrant and hose couplings to be used only in the case of fire, they will be permitted to connect with the street mains at their own expense, upon application to the utilities department and under its direction, and will be allowed the use of water for fire purposes only, free of charge, but all such pipes must be provided with a suitable valve which must be sealed by the utilities department, and a stop and waste cock attached at the bottom or inside the building; in case the seal is broken for the extinguishment of fire, the party shall immediately give notice to the utilities department, and in case such seal shall have been broken for any other purpose or use, the party so offending shall be guilty of a misdemeanor. No standpipe will be allowed on premises where the water is taken for other than fire purposes.

(Code 1994 § 38-134; Code 1965 § 31-36)

13.08.400 Unlawfully using water – Tampering with facilities.

(a) It shall be unlawful for any person to use the water from any part of the waterworks system, to open any fire hydrant, stopcock or valve or other fixture appertaining to such waterworks, or to shut off or turn on water for any service pipe without lawful authority or permission having been issued therefor.

(b) No water shall be used from fire hydrants except by the Fire Department or Public Works Department for the purpose of extinguishing fires, street sprinkling, cleaning, washing or testing fire hose or other fire apparatus, or practice and experimental drill and exercise; provided, that the utilities department may let water therefrom whenever necessary for testing the condition of the waterworks, for purifying the water, or for repairing such works. The City will provide specialized fill hydrants separate from the fire systems for public works purposes.

(Code 1994 § 38-135; Code 1965 §§ 19-72, 31-37)

13.08.410 Tampering with, obstructing fire plugs, water facilities.

No person shall, without lawful authority, molest or in any manner tamper with any fire plug, valve or stopcock in any of the streets, alleys or avenues of this City nor in any manner obstruct the same, nor shall any person hitch a horse or other animal thereto at any time.

(Code 1994 § 38-136; Code 1965 § 31-38)

13.08.420 City may shut off water from mains.

The City Council reserves the right to cause the water to be shut off from the street mains when it deems it necessary for repairing the mains or waterworks, making connections or extensions to the mains or waterworks, or for the purpose of cleaning the mains or waterworks.

(Code 1994 § 38-137; Code 1965 § 31-39)

13.08.430 City not liable for interruption of water supply.

No claim shall be made against the City by reason of the breaking of any pipe or service cock, or for any other interruption of the water supply, or by reason of the breaking of any machinery, reservoir, ditch, flume, dam or any other appliances of and to the waterworks or stoppage for necessary repairs.

(Code 1994 § 38-138; Code 1965 § 31-40)

Chapter 13.12

WATER AND WASTEWATER POLICY

Sections:

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13.12.020 Unlawful activity.
13.12.030 Definitions.
13.12.040 Types of permits to work in the public way.
13.12.050 Application for permit.
13.12.060 Permit, inspection, and testing fees.
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13.12.410 Severability.

13.12.010 Purpose and construction of chapter.

This chapter shall be liberally construed, so as to establish the policy of the City for the construction of waterworks and wastewater systems; to provide for the upgrading of water lines to provide adequate fire protection within the City; to provide for the relocation of water and sewer lines without compensation

to their owners when required by the public health, safety and welfare; to protect and preserve the public ways of the City for the users thereof; to protect the people of the City and all the persons using or relying upon the public ways of the City; and to those ends, this chapter shall be applicable to all public ways and waterworks and wastewater systems and all pipelines connected therewith within the City.

(Code 1994 § 38-161; Code 1965 § 31-61)

13.12.020 Unlawful activity.

It shall be unlawful for any person to make, construct, reconstruct, or alter any opening, excavation, tunnel, sidewalk, curb, gutter, driveway, street or to perform any other work of any kind within the public way which will result in physical alteration thereof unless such person shall have first obtained a permit for the performance of such work, and unless such work shall be performed in conformity with: the terms and provisions of this chapter; any permits or franchises issued under this chapter; and the engineering regulations, design standards and construction testing and inspection specifications adopted by the City.

(Ord. 2926, 6-5-96. Code 1994 § 38-162; Code 1965 § 31-62)

13.12.030 Definitions.

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

City Manager means the City Manager or his authorized representative.

District means any metropolitan, water, and/or sanitation district formed under Title 32, Article 1, C.R.S., as amended, and any conservancy district formed under Title 37, Article 45, C.R.S., as amended.

Permittee means the holder of a valid permit.

Person means any person, firm, partnership, district, corporation, municipal department, company or organization of any kind.

Public way means any public street, way, place, alley, sidewalk, easement, park, square, plaza and any City-owned right-of-way or any other public property owned or controlled by the City and dedicated to public use, including without limitation easements, dedicated solely for utility purposes.

Service provider means any person other than the City providing potable water or sewer services.

Specifications mean the engineering regulations, design standards, construction specifications and construction testing and inspection specifications adopted by the City by resolution.

Utility means waterworks, wastewater systems, pipelines, gas lines, electrical lines, telephone and telegraph lines, transportation systems, cable television and fiber optics systems, and any district or person providing the same for public use.

Work in the public way means, without limitation, construction, reconstruction, repair, alteration of openings, excavation, tunneling, or any other work within or under public ways, including construction, maintenance, and repair of all underground structures such as pipes, conduits, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below the surface of any public way, and installation of overhead poles used for any purpose.

(Ord. 2892, 2-21-96. Code 1994 § 38-163; Code 1965 § 31-63)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

13.12.040 Types of permits to work in the public way.

There shall be required a permit to work in the public way.

(Ord. 2926, 6-5-96. Code 1994 § 38-164; Code 1965 § 31-64)

13.12.050 Application for permit.

A separate written application for the work to be done under a permit shall be submitted to the City Manager on a form available from the City. The application shall be submitted no later than five days prior to the planned start of work in the public way. Permittees may be required to increase this time up to 14 days when the work consists of more than a single spot excavation. The City Manager may require submission of plans and specifications. No work shall be started until the City Manager has approved the plans and specifications and permit application. The application when approved shall constitute a permit.

(Ord. 3615, 4-7-04; Ord. 2926, 6-5-96; Ord. 2892, 2-21-96. Code 1994 § 38-165; Code 1965 § 31-65)

13.12.060 Permit, inspection, and testing fees.

(a) Permit Fee. A fee, as established by resolution of the City Council and on file in the City Clerk's office, shall be required to obtain each permit.

(b) Inspection and Testing Fees. An hourly fee as established by resolution of the City Council and on file in the City Clerk's office shall be required for inspection and testing.

(c) Amendment of Fees. The fees established by this section may be amended by City Council resolution.

(d) Exemption. A water conservancy district shall not be required to pay any permit fees under this section.

(Ord. 2926, 6-5-96. Code 1994 § 38-166; Code 1965 § 31-66)

13.12.070 Performance/warranty guarantee for permits.

Each permittee, before being issued a permit under this chapter, shall provide the City, at the permittee's expense, a performance warranty/guarantee in accordance with one of the following:

(a) The guarantee may be in the form of cash, a letter of credit or a license and permit bond, acceptable in form and content to the City, in an amount equal to 100 percent of the City Manager's estimate of the cost of restoration. The cost of restoration shall include the removal of defective material, recompaction of subgrade and base material and construction of surface improvements. The license and permit bond or letter of credit shall run for a period of time at least one year beyond the anticipated acceptance date of any work done under the right-of-way permit(s). Such guarantee(s) shall be extended if requested by the City Manager.

(b) The guarantee may be in the form of cash, a letter of credit or a license and permit bond, acceptable to the City in form and content, in the principal sum of $10,000 payable to the City of Grand Junction upon failure of the permittee to restore all of the right-of-way to a condition comparable to that which existed at any location at which work is performed by the permittee under one or more permits issued to the permittee. The cost of restoration shall include the removal of defective material, recompaction of subgrade and base material and construction of surface improvements.

(c) If no written refund request of a cash deposit is received, the deposit shall be carried forward and applied as the performance/warranty guarantee (in whole or in part as the fee may be established by the City Council) for the following year.

(d) Other Guarantees. In lieu of the requirements of subsections (a) and (b) of this section, any public utility regulated by the State's Public Utilities Commission, any person holding a franchise from the City, a mutual water district, any governmental agency or any metropolitan water and/or sanitation district or conservancy district may provide the City with an annual letter signed by an appropriate officer guaranteeing:

(1) Complete performance of the work acceptable to the City; and

(2) The correction of any defect in the work which the City discovers and for which the City gives written notice to the permittee within one year after the date when the City initially accepts the work.

(e) If the City Manager determines that any permittee fails to perform promptly under the conditions of subsection (d) of this section, that permittee shall be required to post a performance/warranty guarantee meeting the requirements of subsection (b) of this section. If the City Manager determines that the permittee then satisfactorily complies with this chapter for a one-year period while operating under the provisions of subsection (b) of this section, the permittee shall again be eligible to operate with the annual letter guarantee provided in subsection (d) of this section. Notwithstanding anything to the contrary contained in this section, any contractor performing work pursuant to a contract with the City shall adhere to the performance and payment requirements set forth in the contract documents.

(Ord. 3615, 4-7-04; Ord. 2926, 6-5-96; Ord. 2892, 2-21-96. Code 1994 § 38-167; Code 1965 § 31-67)

13.12.080 Purpose of performance/warranty guarantee.

(a) Any guarantee made under this chapter shall serve as security for the performance of work necessary to repair the public way if the permittee fails to make the necessary repairs or to complete the work under the permit.

(b) The permittee, by acceptance of the permit, expressly guarantees complete performance of the work acceptable to the City under this chapter and guarantees all work done by him for a period of one year after the date of acceptance, and agrees upon demand to maintain and to make all necessary repairs during the one-year period. This guarantee shall include all repairs and actions needed as a result of:

(1) Defects in workmanship;

(2) Settling of fills or excavations;

(3) Any unauthorized deviations from the approved plans and specifications;

(4) Failure to barricade;

(5) Failure to clean up during and after performance of the work;

(6) Any other violation of this chapter.

(c) The requirement for a performance/warranty guarantee may be waived by the City Manager if, in his opinion, the cost of restoration on any single project is less than $1,000 and the work is being performed by a contractor licensed by the City to perform work within the City. The waiver shall be made only on the requirement for a performance/warranty guarantee and does not relieve the contractor of any other requirement(s) stated in GJMC 13.12.070 or other applicable sections of this chapter.

(Code 1994 § 38-168; Code 1965 § 31-68)

13.12.090 Inspection and testing fees and procedures.

At the time of permit application and at such other intervals as may be established by the City Manager, all permittees under this chapter shall pay for the costs of inspection and testing. Costs of inspection and testing shall be in accordance with this chapter and the schedule of charges adopted by City Council resolution.

(a) Process. An initial site inspection may be conducted by the City following submittal of an application. Following issuance of a permit, inspection of the work shall be performed as determined necessary by the City to assure that the work is performed in accordance with and pursuant to the permit and any and all applicable standards and specifications.

(b) Permitted Work. The permittee shall notify the City immediately after completion of work and acceptance will be made if all work meets City and permit standards. Approximately 30 days prior to expiration of the one-year guarantee, the City may perform an inspection of the completed work. If the work is intact and otherwise satisfactory, the guarantee shall be returned and released less any amounts needed to complete work not performed by the permittee. A guarantee may be carried forward for future projects. At any time prior to completion of the one-year warranty, the City may notify the permittee of required repairs. The permittee shall complete such repairs within 24 hours or less if required by the City Manager, if the defects are determined by the City to be an imminent danger to public health, safety or welfare. The permittee shall complete all other repairs within 30 days after notice to the permittee.

(c) Random Inspections. The City may perform random inspections of the work described and/or permitted in or by this chapter and the permittee shall correct its work or procedures if ordered to do so as provided above. Failure to timely correct any work or procedure may result in revocation of the permit.

(d) Testing. Material(s) testing shall be performed as indicated on the permit or as otherwise required by the City Manager. All testing shall be performed by a certified, independent testing laboratory at the sole and absolute expense of permittee.

(Ord. 3615, 4-7-04; Ord. 2926, 6-5-96; Ord. 2892, 2-21-96. Code 1994 § 38-169; Code 1965 § 31-69)

13.12.100 Time for completion.

All work covered by the permit under this chapter shall be completed by the date stated on the application. Permits shall be void if work has not commenced six months after issuance.

Letters of credit or cash deposited as a performance/warranty guarantee for individual permits will be returned after voiding of the permit.

(Code 1994 § 38-170; Code 1965 § 31-70)

13.12.110 Insurance.

Before a public way permit is issued, the applicant shall submit to the City Manager a certificate of insurance in an amount set by City Council resolution. The certificate of insurance shall list the City and its officers and employees as additional named insureds. City departments, any public utility regulated by the State's Public Utilities Commission, mutual water companies, persons holding a franchise in the City, any governmental agency, and any metropolitan, water and/or sanitation district, or conservancy district shall be relieved of the obligation of submitting a certificate of insurance if the applicant carries insurance equal to an amount set by City Council resolution. Upon request, the applicant shall submit a letter certifying such coverage or self-insurance. If a person other than those named above signs the permit, a certificate of insurance shall be provided.

(Ord. 2892, 2-21-96. Code 1994 § 38-171; Code 1965 § 31-71)

13.12.120 Traffic control.

(a) No permittee under this chapter shall interrupt access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless permission is obtained from the owner of that facility. If a street closing is required, the applicant shall submit a traffic control plan and obtain approval of the City Manager. It shall be the responsibility of the permittee to notify and coordinate all work in the public way with police, fire, ambulance, and transit departments.

(b) When necessary for public safety, the permittee under this chapter shall employ flag persons whose duties shall be to control traffic around or through the construction site. The use of flag persons may be required by the City Manager.

(c) Unless approved by the City Manager, the permittee under this chapter shall not impede rush hour traffic on arterial or collector streets during the morning or evening rush hours. No construction shall be performed nor shall any traffic lane be closed to traffic during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:00 p.m. without the approval of the City Manager. When it is necessary to obstruct traffic during the rush hours, a detour plan shall be submitted to the City Manager prior to starting construction. No permit will be issued until the plan is approved by the City Manager.

(d) Unless provided otherwise by this section, the City Manager shall enforce the provisions of the American Traffic Safety Services Association (Second Edition, 1984) and the Federal Highway Administrator's Manual on Uniform Traffic Control Devices (1988), as they may be amended.

(Ord. 2892, 2-21-96. Code 1994 § 38-172; Code 1965 § 31-72)

13.12.130 Construction standards and responsibility for all public improvements.

The permittee under this chapter shall be fully responsible for the cost and actual performance of all work in the public way. The permittee shall do all work in conformance with the engineering regulations, construction specifications, and design standards adopted by the City. These standards shall apply to all work in the public way.

(Code 1994 § 38-173; Code 1965 § 31-73)

13.12.140 Protection of paved surfaces from equipment damage.

Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles are not permitted on paved surface unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage caused to existing pavement by the operation of such equipment and, upon order of the City Manager, shall repair such surfaces. Failure to do so will result in the use of the permittee's performance/warranty guarantee by the City to repair the damage.

(Code 1994 § 38-174; Code 1965 § 31-74)

13.12.150 Protection of property.

The permittee under this chapter shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way.

(Code 1994 § 38-175; Code 1965 § 31-75)

13.12.160 Relocation and protection of utilities.

Before any permittee under this chapter begins excavation in any public way, he shall make inquiries of all irrigation companies, utility companies, districts, municipal departments and all other agencies which might have facilities in the area of work to determine possible conflicts. The permittee shall request field locations of all facilities in the area at least 48 hours in advance of work. The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the work from damage during construction or settlement of trenches subsequent to construction.

(Ord. 3615, 4-7-04. Code 1994 § 38-176; Code 1965 § 31-76)

13.12.170 Noise, dust, debris, hours of work.

Each permittee under this chapter shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No

work shall be done between the hours of 10:00 p.m. and 7:00 a.m., nor at any time on Sunday, except with the written permission of the City Manager, or in case of an emergency.

(Code 1994 § 38-177; Code 1965 § 31-77)

13.12.180 Cleanup.

As the work under this chapter progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All cleanup operations shall be done at the expense of the permittee.

(Code 1994 § 38-178; Code 1965 § 31-78)

13.12.190 Emergency work.

Any person maintaining facilities in the public way may proceed with repairs upon existing facilities without a permit when emergency circumstances demand that the work be done immediately. "Emergency work" is defined to mean any work necessary to restore water and sewer. The person doing the work shall apply to the City Manager for a permit on the first working day after such work has commenced. All emergency work shall require prior telephone notification to the City Manager.

(Ord. 2892, 2-21-96. Code 1994 § 38-179; Code 1965 § 31-79)

13.12.200 Preservation of monuments.

The permittee under this chapter shall not disturb any surface monuments or survey hubs and points found on the line of work unless approval is obtained from the City Manager. Any points disturbed will be replaced at the permittee's expense.

(Ord. 2892, 2-21-96. Code 1994 § 38-180; Code 1965 § 31-80)

13.12.210 Boring.

Boring or other methods to prevent cutting of the pavement will be required upon request of the City Manager. It is the City's intent to require boring only when necessary on arterial and major and minor collector streets with high volumes of traffic and/or serious accident potential.

(Ord. 2892, 2-21-96. Code 1994 § 38-181; Code 1965 § 31-81)

13.12.220 Suspension or revocation of permits and stop work orders.

(a) Any permit issued under this chapter may be revoked or suspended by the City Manager, after notice to the permittee for:

(1) Violation of any condition of the permit or of any provision of this chapter;

(2) Violation of any provision of any other ordinance of the City or State law relating to the work;

(3) Existence of any condition or the doing of any act which does constitute or cause a condition endangering life or serious damage to property.

(b) A suspension or revocation by the City Manager of the permit issued under this chapter, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way.

(c) A stop work order may be issued by the City Manager to any person doing or causing any work to be done in the public way without a permit, or in violation of any provision of this chapter, or any other ordinance of the City.

(d) Any suspension or revocation of permit or stop work order may be appealed by the permittee under this chapter to the City Manager by filing a written notice of appeal within 10 days of the action.

(Ord. 2892, 2-21-96. Code 1994 § 38-182; Code 1965 § 31-82)

13.12.230 Appeals procedure.

Any decision rendered by the City Manager under this chapter may be appealed within 10 days by the permittee to the Utility Hearing Board in accordance with the rules and procedures established by GJMC 13.04.440.

(Ord. 2892, 2-21-96. Code 1994 § 38-183; Code 1965 § 31-83)

13.12.240 Penalty for violation of chapter.

If any person, officers and agents of a corporation or district responsible for its actions or inaction, and the partners or a partnership, firm or joint venture, shall violate or cause the violation of any of the provisions of this chapter, they shall be guilty of a separate offense for each and every day or portion thereof during which a violation is committed, continues or is permitted and, upon conviction of any such violation, such person, firm or corporation, including but not limited to its partners or officers or agents, shall be punished pursuant to GJMC 1.04.090.

(Code 1994 § 38-184; Code 1965 § 31-84)

13.12.250 Actions for violation of chapter.

If any person violates any order of the City Manager, or otherwise fails to comply with any provisions of this chapter or the orders, rules, regulations and permits issued under this chapter, 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.

(Ord. 2892, 2-21-96. Code 1994 § 38-185; Code 1965 § 31-85)

13.12.260 Relocation of water and sewer facilities – Projects coordination.

All providers of water and sewer services and the City shall, as far in advance as possible when working in public streets and drainageways, coordinate through the City Manager all projects, each with the other, to minimize current and future anticipated conflicts between public ways and waterworks and wastewater facilities.

(Ord. 2892, 2-21-96. Code 1994 § 38-186; Code 1965 § 31-86)

13.12.270 Relocation of water and sewer facilities – Future alteration minimization.

Project planning and engineering conducted by the City and providers of water and sewer services shall consider present and future plans in order to avoid or minimize future alterations in such improvements and facility locations. In cooperation with the provider of water and sewer service, the City Manager may indicate general location restrictions that would avoid future conflicts.

(Ord. 2892, 2-21-96. Code 1994 § 38-187; Code 1965 § 31-87)

13.12.280 Relocation of water and sewer facilities – Relocation cost liabilities.

When waterworks, wastewater systems, pipelines connected therewith, and utilities require relocation due to improvement, changes, or alteration of streets or drainageways, redevelopment of urban areas, construction of mass transit systems, installation of City-owned waterworks and sewer protection of the public health, safety and welfare, all costs associated with waterworks and wastewater systems relocation

and restoration to the equivalent of their preimprovement condition will be included and considered as part of the total public way improvement cost, and shall be paid by the service provider.

(Code 1994 § 38-188; Code 1965 § 31-88)

13.12.290 Relocation of water and sewer facilities – Adjustment cost liabilities.

The costs of adjusting manholes and valve boxes within the public right-of-way, when such work is necessitated by pavement repair or street resurfacing, will be borne by the City's Street Division. The costs of adjusting manholes and valve boxes not within the public right-of-way, when such work is requested by the property owner or is necessitated by repair, reconstruction or redesign by the property owner or required by the service provider, shall be borne by the property owner. All adjustments, repairs and reconstruction of manholes and valve boxes shall be performed in accordance with City standards. The City shall provide billings for such work.

(Code 1994 § 38-189; Code 1965 § 31-89)

13.12.300 Relocation of water and sewer facilities – Permit application review.

To the extent that work in the public way is regulated by other City ordinances which require that such work be done under a permit from the City, the City Manager shall have the prerogative to review such permit applications for work in the public way for the purpose of requiring relocation of the proposed facility in the public way, and compliance with construction standards of the City for work in the public way.

(Code 1994 § 38-190; Code 1965 § 31-90)

13.12.310 Relocation of water and sewer facilities – Work resulting from permit noncompliance cost liability.

Should work be performed within the public right-of-way without coordinating the project with the City or work be performed without observing proper permit procedures and/or conditions any and all general penalties provided for in this code shall apply. In addition, the person or entity performing the work shall be liable for the cost of any relocations, reconstruction or repair which would not have been required if coordination had occurred, including coordination attendant to securing a permit, or had permit conditions been observed. Penalties provided for in this section are not exclusive. The City expressly reserves the right to file an action in law or equity and/or otherwise utilize any and all remedies provided by law.

(Code 1994 § 38-191; Code 1965 § 31-91)

13.12.320 Relocation of water and sewer facilities – Permit grant or denial.

The City Manager shall timely respond to permit applications, approving or denying the application as submitted or conditioned upon specific requirements.

(Code 1994 § 38-192; Code 1965 § 31-92)

13.12.330 Relocation of water and sewer facilities – City Council determination.

The City Council may require the relocation, without compensation, of any waterworks, sewer system or pipelines connected therewith by ordinance declaring that the public health, safety and welfare requires such relocation.

(Code 1994 § 38-193; Code 1965 § 31-93)

13.12.340 Development – Upgrades of existing water lines and facilities.

(a) To ensure fire protection to users, owners, and the City, for new construction, replacements, and development which occurs after the effective date hereof, all development and water service providers in the City shall meet the following minimum standards:

(1) Water shall be supplied at a residual hydrostatic pressure of not less than 20 pounds per square inch, nor more than 125 pounds per square inch;

(2) Hydrants shall be placed in the public right-of-way and shall not be spaced more than 500 feet from each other. In no case shall there be more than 250 feet from the nearest hydrant to the closest portion of the property. See Appendix C, International Fire Code, which has additional requirements for the placement of hydrants;

(3) Hydrants shall provide the required flow as specified in the adopted fire code;

(4) Hydrants shall be directly supplied by a line at least six inches in diameter. The Fire Chief may require a line or pipe larger than as described herein based on standards adopted in this section, regulations promulgated pursuant to this section or in accordance with law otherwise applicable to water service providers. Any decision of the City Manager or the Fire Chief which requires a line of greater than six inches in diameter may be appealed if a written notice of appeal is delivered to the City Clerk within 10 days. If timely filed, the appeal shall be heard by the Utility Hearing Board in accordance with the rules and procedures established by GJMC 13.04.430. At an appeal hearing convened under that section, the appellant shall have the burden of proof by clear and convincing evidence.

(b) To ensure adequate fire protection to users, owners, and the City, all existing water facilities, hydrants and lines in the City, existing as of the effective date hereof, shall also meet the minimum standards set forth in subsections (a)(1) through (a)(4) of this section.

(c) The City Manager may promulgate and enforce regulations which are more restrictive than the provisions of this section if the City Manager finds such regulations to be necessary to protect the health, safety and general welfare of the citizens of the City.

(d) To the extent permitted by law, the provisions of this section shall apply to areas outside of existing City limits. To the extent that applicable law does not permit such extraterritorial application, the provisions of this section shall be limited to the limits of the City.

(e) The provisions of the adopted fire code shall supersede any inconsistent provisions of this section.

(f) In order to bring existing water facilities, hydrants and lines that do not currently meet subsections (a)(1) through (a)(4) of this section into compliance with those sections, the following shall apply:

(1) When water service providers or water districts upgrade, repair or replace existing water transmission or water distribution lines or facilities, such provider or district shall, at that time, upgrade the existing facilities to meet the minimum line size standards outlined in subsections (a)(1) through (a)(4) of this section.

(2) When water service providers or water districts upgrade, repair or replace existing fire hydrants or facilities, such provider or district shall also, at that time, upgrade the existing hydrant and facilities to meet the standards in subsections (a)(2) through (a)(4) of this section.

(3) With respect to water lines, hydrants and facilities which do not meet the standards outlined in subsection (b) of this section, at least once each five years each water provider and district shall provide written notice to each affected property owner and the City of such deficiency. Such water provider and district shall obtain the prior approval of the City of the form and content of such notice. Such water provider and district shall provide the City Manager with a detailed list of the water, hydrants and facilities which do not meet the standards hereof, along with a list of the property owners to which the written notice was provided.

(4) When a petition, signed by more than 50 percent of the property owners in an area supplied by or adjacent to water lines and/or hydrants which do not meet the standards outlined in subsection (b) of this section is submitted to a water provider or water district requesting the water provider or water district to upgrade existing facilities to meet the minimum standards in subsection (a) of this section, such water provider or water district shall complete the requested improvements within three years of the delivery of such petition. The City may, pursuant to

an agreement then negotiated with the water provider or district, agree to pay a portion of the costs of such improvements.

(Ord. 3615, 4-7-04; Ord. 3141, 5-5-99; Ord. 2942, 9-4-96. Code 1994 § 38-194; Code 1965 § 31-94)

13.12.350 Development – City Council determination.

To ensure adequate fire protection to users, owners and the City, the City Council shall be empowered to declare by ordinance the necessity that water lines shall be upgraded for the health, safety and welfare of the parties to meet the requirements of GJMC 13.12.340 and the specifications of the City. The cost of upgrading water lines to meet the requirements of this section shall be the obligation of the service provider.

(Code 1994 § 38-195; Code 1965 § 31-95)

13.12.360 Franchises – Generally.

No franchise giving or granting to any person the right or privilege to erect, construct, operate or maintain or use any waterworks, wastewater system or pipelines connected therewith to provide water or wastewater service to any user or consumer within the City; or to use the public ways of the City for any purpose; or to interconnect any building, structure or facility of any kind to any waterworks, wastewater system or pipelines connected therewith other than to the waterworks and wastewater systems of the City shall be given or granted unless such franchise shall be given or granted by ordinance. No such ordinance shall be considered, except for waterworks and pipelines connected therewith, until after the question of the granting of any franchise necessary for such purpose and required by law shall be submitted to and approved by a majority of the qualified, taxpaying electors of the City at an election held for such purpose at the expense of the applicant for such franchise.

(Code 1994 § 38-196; Code 1965 § 31-96)

Cross reference(s) – Franchises, Appendix A.

13.12.370 Franchises – Unlawful acts.

Unless a franchise has been given or granted under the provisions of GJMC 13.12.360, it shall be unlawful for any person to erect, construct, operate or maintain or use any waterworks or wastewater system or pipelines connected therewith within the City in order to provide water or wastewater service to any user or consumer within the City; or to use the public ways of the City for such purposes; or to interconnect any building, structure or facility of any kind to any waterworks or wastewater system or pipelines connected therewith other than to the waterworks and wastewater system of the City.

(Code 1994 § 38-197; Code 1965 § 31-97)

13.12.380 Franchises – Exempted service providers.

Service providers who are providing service pursuant to agreements with the City shall not be subject to the provisions of GJMC 13.12.360 and 13.12.370.

(Code 1994 § 38-198; Code 1965 § 31-98)

13.12.390 Franchises – Condemnation and appropriation of public and private waterworks and wastewater systems.

To provide municipal water and sewer services to its users and residents, the City shall have the right and power to condemn and appropriate as much public and private property as is necessary for the construction and operation of waterworks, wastewater systems and pipelines connected therewith in such manner as may be prescribed by law; and to condemn and appropriate any publicly or privately owned water-

works, wastewater systems and pipelines connected therewith not owned by the City in such manner as may be prescribed by law for the condemnation of real estate.

(Code 1994 § 38-199; Code 1965 § 31-99)

13.12.400 Liability for expense, loss, damage – Jurisdiction of Court.

Any person violating any of the provisions of Chapters 13.04, 13.08 and 13.12 GJMC shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation. The Municipal Court shall have concurrent jurisdiction in all causes arising under Chapters 13.04, 13.08 and 13.12 GJMC.

(Code 1994 § 38-1; Code 1965 § 25-3)

13.12.410 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter or the code provisions reenacted hereby should be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this chapter or code provisions, which shall remain in full force and effect.

(Code 1994 § 38-200; Code 1965 § 31-100)

Chapter 13.16

PERSIGO WASTEWATER TREATMENT PLANT

Sections:

13.16.010 Purpose, adoption and amendment.
13.16.020 Definitions.
13.16.030 Financial requirements and accounting.
13.16.040 System expansion – Policies and rules for system expansion and financing.
13.16.050 Sewer capacity and availability.
13.16.060 Types of system expansion.
13.16.070 Development and infrastructure standards.
13.16.080 Sewer service outside the 201 service area.
13.16.090 Limits of the 201 area.
13.16.100 Utility agreements.
13.16.110 Plant investment fee.
13.16.120 Reserved.
13.16.130 Collection system operations and treatment service operations.

Cross reference – Persigo Sewer System Intergovernmental Agreement, Chapter 45.08 GJMC.

13.16.010 Purpose, adoption and amendment.

(a) Purpose. The purpose of these regulations is to:

(1) Establish standards for operations and maintenance of the Persigo Wastewater Treatment Plant, and appurtenant facilities including interceptors, trunk lines, collectors, lift stations, and other connecting pipes, easements and rights-of-way therefor, and interconnecting systems and pipes whether or not owned or controlled by the City or the County ("the system").

(2) Implement the agreements between Mesa County and the City of Grand Junction, i.e., the October 17, 1979 agreement, the May 1, 1980 agreement (which together constitute "the agreement"). Since the agreement does not address many issues concerning the system, its use or operation, conditions and requirements for connection, and others, the City adopts these regulations to direct and allow the Manager to exercise, to the fullest extent possible, its discretion and power, except to the extent limited by applicable law.

(3) Establish financial planning requirements, describe types and restrictions on the use of the funds of the system, and adopt the accounting and reporting standards applicable to the revenues and expenditures of the system. Through such implementation, and pursuant to the general grant of both power and duty to the Utility Director, acting as the Manager of the system, and the City Council operate, plan for, extend, and maintain the system in the manner deemed appropriate by such Manager so long as not contrary to the terms of the agreement, with regard to the assets and resources of the system:

(i) Accounting and financial guidelines;

(ii) Establishment of fund balance requirements;

(iii) Lending rules, limitations and procedures;

(iv) Ten-year capital and operating plans based on assumptions and projections deemed reasonable by the Manager;

(v) Billing and collection rules and rates;

(vi) Pay scales and positions for employees of the system;

(vii) Administrative overhead services provided to the system by the Manager and charges and expenses for such services rendered;

(viii) Surcharges to residents within special districts which provide sanitation services, unless prohibited by federal law or the terms of any EPA grants; and

(ix) Allocation of revenues received by system customers to the various capital reserve accounts.

(4) Facilitate the implementation of the annexation policies of the City.

(5) Control and plan any system expansion in the 201 planning area and expansion of the 201 area.

(6) Not by way of limitation, these regulations are intended to provide for the fullest exercise of: a home rule city's powers, acting through the Manager, derived from Colorado's Constitution, Article XX, Section 6; the authority obtained by virtue of the County's delegation pursuant to § 29-1-203, C.R.S., the powers stated or implied in § 31-35-101, C.R.S., et seq.; and other applicable law.

(7) To provide a written resource to guide not only the Manager over time, but also the County as a co-owner of the plant and other interested parties.

(b) Process to Adopt Existing and New Regulations. The regulations adopted this date [December 1, 1993] describe, in part, existing procedures and rules, i.e., administrative and not legislative which apply to the system and which have been implemented by the Manager since May of 1980. From time to time, the Manager may propose to the City Council supplements or changes to these administrative procedures and rules with additional existing administrative procedures, rules, and policies which have been implemented by the Manager since May of 1980.

From time to time, the Manager may propose changes to existing procedures, rules and policies which are legislative in nature. With respect to such new or additional changes to existing legislative procedures, rules, and policies, the following process should be followed:

(1) The Manager shall publish, in a newspaper of general circulation in the City, the text of the proposed amendment and notice of a meeting at which the text shall be considered for adoption by the City Council. The City Council shall, at such meeting provide an opportunity to interested parties to make comment and to suggest changes. The City Council shall determine whether the text is adopted or is changed in whole or in part.

(2) The Manager may immediately implement a new or modified procedure, rule or decision concerning administrative matters if the Manager determines such change to be in the best interests of the system or the Manager may delay the implementation of any such new administrative procedure, rule or decision until after an appropriate comment period.

(Res. 80-95 § 2, 9-20-95. Code 1994 App. D § 1)

13.16.020 Definitions.

In the construction of these regulations, unless the context otherwise requires, the following terms and phrases shall have the meanings set forth:

Agreement. Joint Sewerage Service Agreement dated October 17, 1979, between the City of Grand Junction and Mesa County, as amended and the May 1, 1980, agreement between the City and Mesa County.

ARIX Study. A study done by ARIX Engineering in 1985 entitled, "Grand Junction/Mesa County 201 Wastewater Facility Planning Update." The study deals with areas within the 201 planning area that are not practical to serve with the present facilities.

Backbone system. The plant and its appurtenances and all of the principal sewer lines including interceptor sewer lines and trunk sewer lines as shown on City of Grand Junction drawing No. 02-826,

dated December 15, 1993. The drawing, as amended from time to time, is on file with the City of Grand Junction Public Works and Utilities Department.

Banner study. A report done by Banner Associates, Inc., in 1987 entitled, "Report on Preliminary Study of Sanitary Sewer Line Extensions Within 201 Planning Area for City of Grand Junction, Colorado." The report investigates the cost and engineering feasibility of extending sanitary sewer service to some areas in the 201 planning area.

Basin study. A study done by HDR Engineering, Inc., in 1993 entitled, "Comprehensive Wastewater Basin Study." The study analyzes and predicts current and future sewer flows in the 201 Planning Area, delineates drainage basins requiring future trunk extensions and provides cost estimates for the future extensions.

Board. The Board of County Commissioners of Mesa County or, as the context may require, the Utility Director or the City Council of the City pursuant to the agreement.

Bonds. Securities issued by the City and the County entitled, "Mesa County, Colorado, Sewer Refunding Revenues Bonds, Series 1992." The bonds were issued for the purpose of refunding outstanding "County Sewer Improvement Revenue Bonds, Series 1980A" and "County Sewer Refunding Revenue Bonds, Series 1980B."

CH2M-Hill study. A rate study done by CH2M-Hill in 1992 entitled "Wastewater Utility Rate and Cost Allocation Study." The study reviews the financing of the sewer system. A methodology is presented which results in rates for sewer service that are adequate to meet the financial needs of the utility and are equitable among the various users of the system.

City. The City of Grand Junction, a home rule city.

Code. The City Code of Ordinances, as amended from time to time.

Collection sewer lines or *collection lines*. All sewer lines, with the exception of private service lines, which collect sewage from residences, businesses, and other uses, and convey sewage to a trunk or interceptor sewer line.

Collection system. All collection lines, trunk lines, pump stations and other appurtenances, which collect and convey sewage from private service lines to an interceptor sewer line.

Combined sewer. A sewer intended to receive and convey wastewater and storm or surface water.

Council. The City Council of the City of Grand Junction. The City Council is the governing body of the City for purposes of § 31-35-701, C.R.S. et seq. and has legislative and other powers.

County. The County of Mesa, a statutorily created body politic of the State of Colorado.

District. A body politic which obtains sewage conveyance and treatment service pursuant to a contract with the City. Each district is authorized by and acts pursuant to Title 32 C.R.S.

EQU. An "equivalent residential unit" as defined in GJMC 13.04.010.

Facilities plan or *201 facilities plan*. The "Facilities Plan, City of Grand Junction." Prepared by NHPQ, September 2, 1975, as amended in the "Summary Update of 201 Facilities Plan and Predesign" report prepared by HDR, June 28, 1977, and by ARIX in the "201 Wastewater Facility Planning Update," May, 1985, and by HDR in the "Comprehensive Wastewater Basin Study," February 4, 1993.

Fund. City of Grand Junction/Mesa County joint sewer system fund.

HDR predesign study. A report done by Henningson, Durham and Richardson, Inc., of Colorado in 1977 entitled, "Predesign Report for Wastewater Treatment Facilities and Interceptor Sewers." The report updated the 201 facility plan for interceptor sewers and wastewater treatment facilities serving the designated Grand Junction and Mesa County planning area. The report provides a recommended plan and an evaluation of several wastewater management techniques.

Improvement district. An assessment district established pursuant to Chapter 12.12 GJMC or applicable State statute.

Industrial pretreatment. "Pretreatment" as defined in GJMC 13.04.380.

Industrial pretreatment program. Administration of uniform requirements to prevent the introduction of pollutants into the system pursuant to GJMC 13.04.370 through 13.04.450.

Infiltration. The total extraneous flow entering a sewer system, or portions thereof, excluding sanitary sewage, because of poor construction, corrosion of the pipe from the inside or outside, ground movement or structural failure through joints, porous walls or breaks.

Inflow. The extraneous flow which enters a sanitary sewer from sources other than infiltration, such as roof leaders, basement drains, land drains, and manhole covers.

Interceptor sewer lines or *interceptor lines*. The principal sewer lines which collect and convey sewage from trunk sewer lines and collection sewer lines to the Persigo Wash Wastewater Treatment Plant. Interceptor sewer lines are shown on Figure 2-3 of the basin study.

Manager. Public Works and Utility Director of the City or the City Manager or the City Council, as the context may require.

Permit. "National Pollutant Discharge Elimination System Permit" (NPDES permit CO-0040053), issued pursuant to Section 402 of the Federal Water Pollution Control Act, also known as the Clean Water Act, allowing discharge of pollutants into navigable waters of the United States or waters of the State of Colorado.

Persigo Wash Wastewater Treatment Plant or *plant*. The facility described in the current NPDES permit numbered CO-0040053.

Plant investment fee. A fee paid to the City to recover costs of construction of the system as outlined in GJMC 13.04.460 through 13.04.480, which sections describes payment, amount, and formula for computing the fee.

Sanitary sewer. A pipeline (also "line") that conveys liquid and waterborne wastes from residences, commercial and other buildings, industrial plants and institutions, and other uses, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

Series 1980A bonds. "Mesa County, Colorado Sewer Improvement Revenues Bonds" originally issued by the City and County in the aggregate principal amount of $7,420,000.

Series 1980B bonds. "Mesa County, Colorado Sewer Refunding Revenue Bonds" originally issued by the City and County in the aggregate amount of $805,000.

Service charge. Monthly sewer service charge or rental on each lot, parcel of land, building or premises having any connection to the system as set forth in GJMC 13.04.300 through 13.04.360, which sections describes such charges, their computation, and administration.

Service line. The line from the building drain to the sanitary sewer.

System or *sewer system*. City of Grand Junction/Mesa County, Colorado, joint sewer system including all real, personal, mixed and other property, now a part of or hereafter acquired by the system through purchase, construction or otherwise and used in connection with the system. "System" includes the plant including interceptor lines, trunk lines, collection lines, lift stations, and other connecting pipes, easements and rights-of-way therefor, and interconnecting systems, lines, and pipes whether or not owned or controlled by the City or the County, and used in connection with the system. Ownership of the system is determined by the agreement.

Trunk sewer lines. Sewer lines that serve a specific drainage basin which collect sewage from tributary sewer collection lines and convey sewage to an interceptor sewer. Trunk sewer lines are shown on City of Grand Junction Drawing No. 02-826, dated December 15, 1993, which drawing is on file with the City of Grand Junction Public Works and Utilities Department.

201 planning area. The 201 planning area boundary described in the "Comprehensive Wastewater Basin Study" prepared by HDR, February 3, 1993.

208 plan. Region 11 Water Quality Management Plan, adopted by the Colorado Water Quality Control Commission in December 1980, assessing water quality, identifying treatment works, prioritizing water quality problems, and identifying agencies to implement recommendations outlined in the plan.

Utility coordinating committee. A committee consisting of representatives of service providers within the 201 area, e.g., City, County, Ute Water Conservancy District, Public Service Company of Colorado, which meets regularly to review development submittals and coordinate regulation of construction activities.

Wastewater. Spent or used water which contains dissolved and suspended matter, as defined in GJMC 13.04.010.

(Res. 80-95 § 2, 9-29-95. Code 1994 App. D § 2)

13.16.030 Financial requirements and accounting.

(a) Report of Independent Certified Public Accountants (Audit). An audit of the system's financial statements shall be completed once each year. Each audit shall be conducted by independent certified public accountants who shall deliver a copy of the audit to both the City and to the County. The auditor will express an opinion as to the financial position and results of operation of the system and whether or not the Manager is operating the system in conformity with generally accepted accounting principles. The auditors will, from time to time, provide additional opinions upon instruction from the Manager and will annually certify in the audit as to compliance with sewer revenue bond requirements. The Manager shall select the auditor. The auditor for the system may be the same auditor who audits for the City.

(b) Basis of Accounting. The system shall be accounted for as a proprietary enterprise fund. The name of the fund shall be the "joint sewer system fund." The financial statements shall be prepared on the accrual basis of accounting. A summary of significant accounting policies shall be outlined in the footnotes of each audit.

All of the funds and accounts described infra shall be maintained as book accounts in the "joint sewer system fund," shall be kept separate from all other funds of the City, and shall be accounted for and used solely for system purposes.

(c) Budget and 10-Year Financial Plan. A two-year budget of the joint sewer system fund (hereinafter "fund") shall be used. Such a budgeting and accounting system complies with the requirements outlined in the County resolution MCM 92-160. County resolution MCM 92-160 authorizes the sale of sewer refunding revenue bonds dated January 21, 1993. County resolution MCM 92-190 replaced County resolution MCM 80-179 which authorized the sale of sewer revenue bonds dated November 1, 1980. To effectuate the sale of the bonds, the City adopted analogous ordinances numbered 2626 and 1922.

The Manager shall continue to prepare a 10-year operating and capital financial plan for the fund, which includes the two-year budget. The 10-year plan shall be a rolling 10-year plan which is reviewed and changed annually, by the Manager, to reflect changing operational and capital needs and economic conditions of the fund.

The 10-year financial plan shall be based on the Manager's estimates of system revenues, operation and maintenance expenses, debt service requirements, bond fund reserves, operation and maintenance expense reserves, minimum working capital reserves, planned capital improvements, and capital improvement reserves.

The 10-year plan shall incorporate bond covenant revenue requirement ratios, current-expense-to-current-revenue ratios, and the Manager's anticipated rate changes during the 10-year period to

insure that all requirements of the bond covenants, and the requirements of the Manager, are met and balanced over each "rolling" 10-year period.

(d) Budget Submittal. Prior to October 1st of each year, the Manager shall submit to the County and to the City Council its anticipated budget for the following year, including the Manager's recommended user charges, tap fees, and plant investment fees. The County shall adopt such user charges, tap fees, and plant investment fees.

It is the practice of the Manager to begin preparation of the fund budget well in advance of October 1st. Submission of each draft budget in late September typically reflects all changes to date. Additional review and changes occur after October 1st. Such a process is approved. The Manager shall endeavor to communicate all changes in a timely fashion to the City Council and County.

Review and final adoption of the budget and proposed rates may occur in the following sequence:

(1) Submission of the proposed budget and proposed rates to the City Council and the County Commissioners.

(2) Resolution of the City Council adopting the rates. The practice of the Manager is to adopt rates to be effective January 1st of the following year. To this end any rate change may be adopted separately from an appropriation ordinance.

(3) Resolution of the County Commissioners adopting the rates.

(e) System Revenue Funds. The Manager shall continue to establish and maintain revenue accounts within the fund, coded by number, for each type of system revenue. A current copy of the account description and account numbers will be available for inspection at the Administrative Services Department of the City. From time to time, as system revenues are received, the Manager shall credit them to the appropriate accounts. The Manager shall maintain a summary of each revenue account within the fund. As revenue types change, the Manager may create, modify or delete appropriate accounts.

The Manager shall, as a part of the biennial budget process, estimate system revenues by account. Such estimates will be submitted to and reviewed by the City Council and submitted to the County.

(f) System Facilities Operation and Maintenance Expenditures. The Manager shall continue its practice of creation and setting aside, in separate accounts, funds sufficient to pay operations and maintenance expenses as they become due and payable. Such funds shall be the first charge against system revenues. These accounts will be known as the "sewer system facilities operation and maintenance funds."

The Manager shall provide, within the fund, separate expenditure accounts for all system operations and maintenance expenses.

A description of system operation and maintenance expenditure accounts will be kept on file in the Administrative Services Department of the City. From time to time as expenses are paid, these shall be charged to the appropriate expense accounts. Summaries will be maintained on each expenditure account within the fund accounting system.

The Manager shall make annual estimates of system operation and maintenance expenditures by account as a part of the preparation of the biennial fund budget. These estimates will be submitted to and reviewed by the City Council and submitted to the County Commissioners.

(g) Bond Retirement. On January 21, 1993, the outstanding bonds of the system were advance refunded by the issuance of $8,200,000 of Mesa County, Colorado, Sewer Refunding Bonds, Series 1992, issued by the City and the County.

The bonds and interest on the refunded bonds are payable solely from net system revenues, after payment of the costs of facility operation and maintenance.

The Manager shall, as a part of the biennial budget process, provide for bond payments and expenses, in a separate account within the fund in a manner consistent with generally accepted accounting principles and in a manner that meets applicable requirements of the bond covenants.

The bonds require that gross revenues of the system be sufficient to "pay the annual operation and maintenance expenses and an amount equal to 120 percent of both the principal of and interest on the refunded bonds payable." This calculation will be made as part of the annual audit and will be described in the audit footnotes as to the sufficiency of gross revenues.

(h) Bond Reserve Fund. The bond reserve fund was created in 1980 and partially funded from the reserve fund moneys on hand deposited in connection with the 1978 sewer bonds of the City and from proceeds of the Series 1980A bonds. Subsequent required deposits have been made semiannually from system revenues.

The 1992 bond documents require a bond reserve of "... not less than the average annual principal and interest requirements." This reserve was established at the issuance of the 1992 bonds from the prior bond reserve fund as a reservation of cash and investments, and as a reservation of fund balance within the fund.

Each audit will provide the auditor's opinion concerning the sufficiency of the bond reserve fund and whether bond reserve requirements have been met.

(i) Capital Reserve Accounts. The Manager shall continue to maintain expenditure accounts within the fund for system capital improvements. These expenditures will be budgeted and made after operation and maintenance expenditures, debt retirement, and required reserve fund deposits are made. These capital expenditures are designated as "backbone capital" and "collection system capital."

System customers, as part of their monthly service fees, pay for specific sewer services. These services are described as "backbone operation and maintenance," "backbone capital," "collection system operation and maintenance," and "collection system capital." Such terms are defined in the definitions section of these regulations. The monthly service fees shall continue to be calculated based on the various service fee components provided to each customer. The components of the monthly service fee collected for backbone capital and for collection system capital shall continue to be credited as revenues to special reserve accounts set aside for planned capital expenditures in these areas.

The establishment of these capital reserve accounts was ratified by Resolution 98-92 of the City Council on December 16, 1992, which directs that the Manager reserve all current and future fund balances of the fund, after all required credits are made and reserves funded, for future capital improvements and system replacements.

(j) Operation and Maintenance Expense Reserve. The Manager shall continue, within the fund, an "unallocated fund balance" the amount of which the Manager shall determine each year as part of the two-year budget process. This unallocated fund balance, which shall be considered in the 10-year plan, represents the amount of money remaining in the fund after all expenditures and designations for operations and maintenance, debt retirement, current capital, bond reserves, and future capital reserves are made. The unallocated fund balance is and shall continue to be designated as the "operation and maintenance expense reserve."

The Manager shall continue the established minimum balance to be maintained in the operation and maintenance expense reserve. This minimum balance is, and shall be, known as "minimum working capital."

The Manager may use such reserve to pay for or offset any deficiencies in system revenues required to defray operating and maintenance expenses, bond retirement expenses, or bond reserve fund shortfalls.

(k) Rate Setting. The Manager shall establish rates, fees, and charges sufficient to generate annual revenues to meet the requirements of the bonds and to fulfill the policies and decisions as evidenced in

the 10-year plan. The Manager will submit to the City Council for its review, approval, modification or denial, and shall submit to the County Commissioners, its recommended user charges, tap and plant investment fees to be charged within the system. The user charges and fees will be uniform for those similarly situated within the system as determined by the City Council.

The amount of plant investment fees is intended to recover the cost of construction of interceptor lines and sewage treatment works as described in the Grand Junction and Mesa County predesign report for wastewater treatment facilities and interceptor sewers dated August 1977 (GJMC 13.04.460).

Rates and fees sufficient to meet the obligations and financial requirements of the bonds and capital improvement needs of the system are projected in the 10-year plan. Rates shall be amended from time to time as deemed necessary by the Manager having considered the policy that annual incremental rate increases are preferred over larger increases implemented less frequently.[1]

The Manager shall, in addition to the independent periodic rate analyses outlined below, annually review and recommend rates to meet system and bond requirements.

As outlined in Mesa County Resolution MCM 92-160, if the City or the County deem necessary, the Manager, not less than once every five years, will cause an independent professional engineer to prepare an analysis of the rates and fees. A rate analysis was completed in June of 1985 by ARIX Engineering. In May of 1991 another was completed by CH2M-Hill Engineers.

Sewer use charges and plant investment fees shall be charged on the basis of EQUs. An EQU is an "equivalent residential unit" as defined in the City Code.

GJMC 13.04.300 and 13.04.460 et seq. shall govern rate administration.

(l) Interfund Transfers. The agreement, section (a)(2), paragraph 2, allows the Manager to include in its anticipated budget a line item specifying the amount of money needed to reimburse the City for expenses incurred by the Manager and other departments of the City for services provided to the system.

Each budget shall include such a line item, which may be amended from time to time.

(m) Utility Billing. The Manager, unless specifically prohibited by contract, shall bill all sewer customers for services received whether those customers are served directly by the system or another entity, including a special district. The existing arrangement is approved whereby Fruitvale Sanitation District bills customers who are not in the City limits.[2]

There shall be included on each bill, and identified as such, any additional charges made to a customer by any other entity which provides sewer service.

(Amended during 2009 recodification; Res. 80-95 § 1, 9-20-95. Code 1994 App. D § 3)

13.16.040 System expansion – Policies and rules for system expansion and financing.

The City has a duty, as the Manager of the system and a co-owner, to plan for, control and restrict, if necessary, future users of the system so that the needs of the system, including capital, are met.

The Manager's policy is to require that all development within the 201 is served by and connected with the system. This policy promotes the public health, welfare and safety by facilitating the annexation of

1. **Editor's note –** In 1987 it was the policy of the City and the County to schedule rate adjustments once every three years. Rates were amended in 1987. In 1990 rates were amended. The scheduled rate increase for 1993 was postponed until 1994 as a result of the better than projected financial condition of the fund.
2. **Editor's note –** The Manager bills Fruitvale customers who are then located in the City.

urban and urbanizing lands to the City and by reducing the use of septic systems, package plants and other treatment systems and by, overall, reducing the costs of sanitary sewer.

(Res. 83-03, 9-3-03; Res. 80-95 § 2, 9-20-95; Res. 62-94, 7-20-94; Res. 41-94, 6-1-94. Code 1994 App. D § 4)

13.16.050 Sewer capacity and availability.

There is a finite limit to the capacity of the system. Such capacity was established in the original planning efforts. When the 201 plan was adopted it determined what capacity was needed. Persigo was sized to meet that need. The capacity was calculated based on land use assumptions for a defined area. That area is called the 201 service area. Requests for service outside the 201 service area have occurred. These regulations establish policies and rules to decide such requests for service inside and outside of the 201 service area. Rules may or may not be designated as such.

(a) Facts.

(1) The design capacity of the plant is 25,000,000 gallons per day. Source: Predesign Report for Wastewater Treatment Facilities, HDR, 1977.

(2) The adopted per dwelling use per day is 263 gallons. Source: Basin Study, 1993.

(3) The total population equivalent which can be served by the ultimate design capacity of the Persigo plant per day is 237,650.

(4) The total population equivalent which is presently being served by the Persigo plant per day is 72,337.

(5) Based on present land use approvals and zoning, the total population equivalent which are "approved" (this includes all potential future development) is 260,380. Source Basin Study, 1993.

(b) Policy. The Manager finds it to be in the best interests of the citizens of the community, and in the interest of the public health and welfare of the public in the City and in the 201 service area, that growth be directed, both in the City limits and in the other areas of the 201 service area. As indicated in the adopted annexation plans of the City, it is expected that, over time, the City's limits will be coterminous with the boundaries of the 201 service area.

To meet those goals, sewer availability shall be managed, controlled and allocated throughout the 201 service area. The method selected to allocate such availability (which means the plant capacity) as to a particular parcel or lot is described in the basin study completed in 1993.

(c) Rule 4.1. Upon adoption of this regulation, no development shall be approved which requires sewer service within the 201 service area until the Manager finds that the proposed development (as that term is defined in the zoning and development code of the City) can be served by the existing infrastructure, after having duly considered the residual capacity of the existing lines, the Persigo plant and the system. To determine if the development can be served by the existing infrastructure, the Manager shall examine the sub-basin (as defined in the basin study) within which the development is located.

(d) Rule 4.2. The Manager shall maintain a compilation of the allocated sewer approvals which have been given. At such time as the calculated allocation of the plant's ultimate design capacity has reached 55 percent, and each fifth percentile thereafter, the Manager may give notice of such calculation to the public.

(e) Rule 4.3. If any person requests that the Manager modify the boundary of one or more sub-basins which have been established (in the 1993 basin study), or the allocations of density that have been established for each such sub-basin, such person shall deliver such data and studies as the Manager may require in order to decide such a request. The Manager may require that such person pay a fee

calculated to reimburse the Manager for the costs and expenses, including personnel costs, incurred in such review.

(f) Rule 4.4. The Manager may modify the capacity allocated to any sub-basin based on other available infrastructure (such as water, streets, schools, and the like) and based on the Council's willingness to provide urban level of services.

(g) Rule 4.5. The principle of "first come, first served" shall apply when determining if capacity is available.

(Res. 83-03, 9-3-03; Res. 80-95 § 2, 9-20-95; Res. 62-94, 7-20-94; Res. 41-94, 6-1-94. Code 1994 App. D § 4(a))

13.16.060 Types of system expansion.

System expansion can occur by providing sewer service to developing areas, sub-basins, and basins and to developed, unsewered areas, sub-basins, and basins. Each requires different rules and considerations, and financing mechanisms or charges.

(a) (1) Developing Areas. Typically, system expansion in developing areas occurs at the time of subdivision or development approval: the developer pays the costs needed to extend/expand the system to serve the subdivision or development. This system expansion occurs when lines are installed within a development or through trunk lines extensions to a development. The latter circumstance is outlined in Rule 4.8.

(2) Sewer Reimbursement Policy. The Manager determines that if a developer extends the system to the benefit of other property near or adjacent to the extension, the developer should be allowed to recoup some of the costs of system expansion from the benefited property when that property receives the benefit of the expanded system. Additional system expansion which further extends an extension will not be required to reimburse for the costs of a previous extension. The extent of property benefited by the system expansion shall be determined by the Manager.

(3) Rule 4.6. The Manager, at present, chooses the method of sewer reimbursement agreement to provide a mechanism to allow a developer to recoup some of the costs described above. A copy of a standard form sewer reimbursement agreement is on file in the City Clerk's office. The Manager may negotiate different terms as circumstances may require.

The term of such agreements shall not exceed 10 years. The rate at which interest shall accrue on the developer's costs of extension shall be established by the Manager based on then current conditions.

(b) Developed Areas.

(1) Policy – Provide Sewer. Some areas have already developed as individual lots and uses without sewer service, however, it is the policy of the Manager as confirmed by the Persigo agreement that sewer should be provided whenever and wherever practicable. Specific circumstances when sewer must be provided to such individual lots and uses include:

(i) A residential unit served by an ISDS (individual septic disposal system) which fails and the property is within 400 feet of a sewer; and/or

(ii) The expansion or subdivision of an existing residential or nonresidential use or property.

The property owners in both of these circumstances must pay the cost of sewer extension and appurtenant sewer service facilities. The Manager finds that the system should not pay for such costs, except as provided for herein.

The costs of retrofitting an area for sewer service is typically much higher than if sewer is connected/constructed at the time of development and many times construction/connection after the fact means that the costs attributable to each lot, especially residential lots or parcels, is

high. The Manager finds that some form of financing may be required, under certain circumstances, to promote providing sewer service and thereby protecting the public health.

(iii) An improvement district is a useful financing tool which allows for payments over time of the costs of retrofitting an area. The Manager endorses and approves the use of improvement district(s).

Typically, an improvement district is used when a neighborhood or other identifiable area needs sewer service and the owners in the area can garner sufficient owner consent to form a district. For areas within the City limits, the City improvement district process is available. For areas not wholly within the City limits, other improvement districts, requiring the oversight and consent of the County Commissioners, may be available.

(iv) In an area where insufficient owners consent to form a district, other mechanisms are needed to allow the continuing use of a property which does not have sewer service available, but for which sewer service is required. Such a situation may arise in an area generally served by ISDS where one septic system fails or does not meet current standards.

(c) Rule 4.7.

(1) In the case of subsection (b)(1)(i) of this section (a residential unit served by an ISDS (individual septic disposal system) which fails and the unit is within 400 feet of a sewer) if a property owner demonstrates to the satisfaction of the Manager that the following two conditions exist:

(i) The construction of a sewer line is impracticable; and

(ii) Adequate disposal and treatment facilities exist as defined by current regulations (generally by the repair/reconstruction of a failed ISDS);

Then the Manager may authorize the continued use of an ISDS.

That approval/permit shall be issued on the following terms and conditions, which shall be specifically agreed upon by the property owner pursuant to a written agreement in advance of repair/reconstruction of an ISDS.

(2) Examples of when sewer construction may be "impracticable" include but are not limited to:

(i) There is a low likelihood of a local sewer improvement district being formed in the near future based on the Manager's discussions of the formation of the same with the benefiting owners, and the number and location of POAs to form a district is insufficient to create the same; or

(ii) The sewer line, to be constructed by the property owner, is in a location or with grades such that few if any other nearby properties can be efficiently served by the new line; or

(iii) The location of the closest (within 400 feet) sewer line is in a different drainage basin or is across a major street, waterway or similar impediment to the construction of a line such that the expense of the new line is wholly out of proportion to the average cost of extending residential service; or

(iv) To construct pumping facilities and a force main would be too great an expense compared to participation in a future local improvement district.

Adequate disposal and treatment facilities means that a local package treatment plant is or will be made available and functioning or that the ISDS may be regularly pumped and disposed of at the plant.

Repair/reconstruction of a failed ISDS means that the property owner meets all State and County Health Department regulations for ISDS repair or replacement.

(3) Terms and Conditions of the Written Agreement.

(i) The property owner shall deliver an executed power of attorney for formation of a future sewer improvement district; and

(ii) The property owner shall pay that amount of money which the Manager calculates to be the proportionate share of the sewer line construction costs, as defined by the Manager, attributable to the development or property, plus an administrative charge of six percent of the principal amount of such proportionate share (the "payment"); and

(iii) The Manager may authorize the payment, described in Rule 4.7 (subsection (c) of this section), over a term of years, not to exceed 10, upon the execution and delivery by the developer of a promissory note and mortgage or deed of trust sufficient, in the judgment of the Manager, to reasonably ensure that the payment will be timely made; and

(iv) Interest shall accrue on the payment at a rate established by the City Council, by resolution, or in the absence of such a resolution, at a rate which is equal to the rate of return on City investments obtained by the Finance Director of the City on the City's long-term investments; and

(v) The obligation to pay the payment, in addition to the mortgage or deed of trust, shall constitute a lien upon the property and shall be equivalent to the lien provided for in the City Code establishing a water lien, presently GJMC 13.08.090. All remedies available pursuant to GJMC 13.08.090 shall equally apply to the lien described and created herein; and

(vi) In the event that an improvement district is formed and some or all of the payment has been paid, the assessment which would otherwise be payable shall be reduced by the amount of principal of the construction cost which has been paid; and

(vii) The property owner shall dedicate, at no cost to the City, such right-of-way or easements as the Manager shall deem necessary to construct, operate, and maintain the system, in accordance with City specifications and standards. In the event that insufficient information is available to determine the legal description of the required rights-of-way or easements at the time of approval or permit issuance, the developer shall promise and covenant to make such a conveyance or grant at such time in the future as the Manager shall require.

If adequate disposal and treatment facilities do not exist or a failed ISDS cannot be repaired so that such a system can adequately serve a property during an interim period before sewer lines are constructed, then the property shall be abandoned or vacated until adequate treatment or disposal is available. Adequate disposal may include regular and periodic pumping and disposal of accumulated waste at the plant.

(4) (i) In the case of subsection (b)(1)(ii) of this section (the expansion or subdivision of an existing residential or nonresidential use or property) if a property owner/developer demonstrates to the satisfaction of the Manager and the County that the following two conditions exist:

(A) The construction of a sewer line is impracticable; and

(B) Adequate disposal and treatment facilities exist as defined by current regulations (generally defined as the construction of an engineered ISDS);

Then the Manager and the County Commission may authorize expansion or subdivision of the property however that approval or permit, if any, shall be issued based on the conditions in Rule 4.7, subsections (c)(3)(i) through (vii) which shall be specifically agreed upon by the property owner/developer pursuant to a written agreement.

The Manager and the County Commissioners may deliberate and act separately but the concurrence of both is required to grant an exception to the sewer construction requirement.

Application for an exception to the requirement that sewer be constructed shall be made prior to submission of development/subdivision plans on forms provided by and with detail determined by the Manager and shall not be made for more than two lots in any subdivision or use expansion.

That approval/permit shall be issued on the following terms and conditions, which shall be specifically agreed upon by the property owner pursuant to a written agreement in advance of construction of an ISDS on any lot of for any expansion.

(ii) Examples of when sewer construction may be "impracticable" include but are not limited to:

(A) There is a low likelihood of a local sewer improvement district being formed in the near future based on the Manager's discussions of the formation of the same with the benefiting owners, and the number and location of POAs to form a district is insufficient to create the same; or

(B) The sewer line, to be constructed by the property owner, is in a location or with grades such that few if any other nearby properties can be efficiently served by the new line; or

(C) The location of the closest (within 400 feet) sewer line is in a different drainage basin or is across a major street, waterway or similar impediment to the construction of a line such that the expense of the new line is wholly out of proportion to the average cost of extending residential service; or

(D) To construct pumping facilities and a force main would be too great an expense compared to participation in a future local improvement district;

Adequate disposal and treatment facilities means that a local package treatment plant is available and functioning or that an ISDS may be constructed, regularly pumped and disposed of at the plant in accordance with all State and County Health Department regulations;

(E) Residential service; or

(F) To construct pumping facilities and a force main would be too great an expense compared to participation in a future local improvement district.

Adequate disposal and treatment facilities means that a local package treatment plant is or will be made available and functioning or that the ISDS may be regularly pumped and disposed of at the plant.

(5) Terms and Conditions of the Written Agreement.

(i) The property owner shall deliver an executed power of attorney for formation of a future sewer improvement district; and

(ii) The property owner shall pay that amount of money which the Manager calculates to be the proportionate share of the sewer line construction costs, as defined by the Manager, attributable to the development or property, plus an administrative charge of six percent of the principal amount of such proportionate share (the "payment"); and

(iii) The Manager may authorize the payment, described in Rule 4.7, subsection (c)(5)(ii) of this section, over a term of years, not to exceed 10, upon the execution and delivery by the developer of a promissory note and mortgage or deed of trust sufficient, in the judgment of the Manager, to reasonably ensure that the payment will be timely made; and

(iv) Interest shall accrue on the payment at a rate established by the City Council, by resolution, or in the absence of such a resolution, at a rate which is equal to the rate of return on City investments obtained by the Finance Director of the City on the City's long-term investments; and

(v) The obligation to pay the payment, in addition to the mortgage or deed of trust, shall constitute a lien upon the property and shall be equivalent to the lien provided for in the City Code establishing a water lien, presently GJMC 13.08.090. All remedies available pursuant to GJMC 13.08.090 shall equally apply to the lien described and created herein; and

(vi) In the event that an improvement district is formed and some or all of the payment has been paid, the assessment which would otherwise be payable shall be reduced by the amount of principal of the construction cost which has been paid; and

(vii) The property owner shall dedicate, at no cost to the City, such right-of-way or easements as the Manager shall deem necessary to construct, operate, and maintain the system, in accordance with City specifications and standards. In the event that insufficient information is available to determine the legal description of the required rights-of-way or easements at the time of approval or permit issuance, the developer shall promise and covenant to make such a conveyance or grant at such time in the future as the Manager shall require.

If adequate disposal and treatment facilities do not exist or cannot be constructed that such a system can adequately serve a property during an interim period before sewer lines are constructed, then the property shall be abandoned or vacated until adequate treatment or disposal is available. Adequate disposal may include regular and periodic pumping and disposal of accumulated waste at the plant.

(6) Rule 4.8. No development within a basin or sub-basin in the 201 service area for which inadequate or no lines exist, as determined by the Manager, shall be permitted to proceed to final plat or other final approval, whichever is earlier, until the developer thereof has paid to the Manager, for retention by it within an appropriate fund, the trunk line fee established pursuant to City Resolution 47-93. Nothing contained herein shall limit the obligation of the developer to pay for additional costs required to provide sewer service to the development, such as but not limited to the costs of collection lines.

The Manager shall collect such amount from each such developer in accordance with Resolution 47-93.

Should the developer desire to extend a trunk line before the Manager is prepared to build such trunk line, the developer may request approval from the Manager to do so at the expense of the developer. Upon completion and acceptance by the Manager of the extension, the developer may apply to the Manager to be reimbursed for the cost of the extension (less any trunk extension fees required of the developer). Any such reimbursement by the system shall apply only to a trunk extension which the Manager has planned, as approved in the current two-year budget, to construct within 24 months of the developer's completion of such work. The developer would then, with approval of the Manager, be reimbursed from the trunk line extension fund. Interest on the cost of construction would not be included as a part of the reimbursement.

(Amended during 2009 recodification; Res. 83-03, 9-3-03; Res. 80-95 § 2, 9-20-95; Res. 62-94, 7-20-94; Res. 41-94, 6-1-94. Code 1994 App. D § 4(b))

13.16.070 Development and infrastructure standards.

Those standards adopted by the Manager concerning development and infrastructure shall apply throughout the system.

(Res. 83-03, 9-3-03; Res. 80-95 § 2, 9-20-95; Res. 62-94, 7-20-94; Res. 41-94, 6-1-94. Code 1994 App. D § 4(d))

13.16.080 Sewer service outside the 201 service area.

(a) Rule 4.10. Sewer service outside the 201 service area is prohibited, unless the Manager determines, by resolution of the City Council:

(1) That the area proposed to be served is urban or urbanizing, i.e., the City is willing to provide urban services to such area, in the reasonable future; and

(2) The Manager determines that sufficient capacity to serve such area is available; and

(3) The Manager determines that other necessary infrastructure to provide urban services is reasonably available;

(4) The Manager has evaluated the probability of including the area proposed to be served pursuant to Rule 4.11 and has found that such inclusion is reasonably likely to occur in the reasonable future. The Manager shall seasonably initiate the process to cause such area to be included within the 201 service area.

(Res. 83-03, 9-3-03; Res. 80-95 § 2, 9-20-95; Res. 62-94, 7-20-94; Res. 41-94, 6-1-94. Code 1994 App. D § 4(e))

13.16.090 Limits of the 201 area.

(a) Rule 4.11. Any person desiring that the boundary of the 201 service area be modified, including a political subdivision, shall begin by making application to the Manager. The application shall include such information as the Manager shall require in order to evaluate the effect of such modification on the plant capacity, the ability of the City to serve such included area, and the ability of the City to control the infrastructure standards which shall apply, and to ensure continued compliance with applicable federal and State law.

The Manager may initiate such a modification.

Upon the determination by the Manager that the information supplied is sufficient to make an informed decision on the request for modification, the Manager shall schedule a public hearing thereon with prior notice of such hearing to be published at least twice, 10 days prior to such hearing.

The decision on the question of modification shall be made by the City Council, and if required by applicable law, shall be forwarded to other agencies whose decision is required.

The Manager may require that such person pay for the costs incurred, including personnel costs, in evaluating and deciding such a request.

(Res. 83-03, 9-3-03; Res. 80-95 § 2, 9-20-95; Res. 62-94, 7-20-94; Res. 41-94, 6-1-94. Code 1994 App. D § 4(f))

13.16.100 Utility agreements.

(a) Background and Policy. The importance of the use of the availability of sewer service to obtain annexation of properties to the City cannot be understated. The City annexes: to control the location, quality and density of development; to ensure that the development standards of the City are complied with; to control the impacts on City streets and other City infrastructure; to prevent a decaying

core City by adding to the City newly developing areas, and already developed areas which are urban or urbanizing; and to provide planning and fiscal responsibility.

For decades, the City has required powers of attorney to be delivered to the City at the time that permission to physically connect to the system has been granted. At times, this has occurred when the plant investment fee has been paid and a planning clearance issued. Where the only approval is a building permit, this method has an inherent weakness: because the annexation process requires significant lead time and procedural steps, development can occur faster than annexations can be completed. Thus, a developer can obtain permission to install infrastructure for subdivisions/developments without City inspection and without City specifications being met. Additionally, because at times in the past some County-adopted standards have been waived, the City finds that it must to protect its taxpayers from bearing the burden of upgrading deficient infrastructure upon annexation, implement a supplementary method of obtaining control over the infrastructure which is installed.

A second inherent weakness in the method used in the past is that the discretionary planning and land use decisions are made by entities other than the City for lands which the City annexes shortly thereafter. The City finds that its citizens are best served, and the public welfare is best served, if the land use review process occurs under the City's jurisdiction. Earlier acquisition of powers of attorney facilitates that important public policy decision.

The following rule will assist in promoting the City's annexation policies and is therefore adopted.

(b) Rule 4.12. The Manager requires, prior to its review or approval of construction drawings for sanitary sewer and prior to approval of sewer service related to any plat or other development approval, whichever occurs first, that the Manager receive an approved executed power of attorney (POA) for annexation. POAs shall be provided using the forms furnished by the City, and shall include a full legal description of the entire parcel(s) and property intended to be developed, or which are subject to review.

To implement Rule 4.12, the City has requested the assistance of the County Planning Department to:

(1) At the time of the County preapplication conference, make developers aware of the City POA requirement and inform them that the Manager requires an executed POA before it will review or approve any sewer construction plans, preliminary or final plat and in any event prior to connection to the system;

(2) Provide the Manager with a full legal description of the entire parcel(s) (not just the portion being final platted) at the time the County refers development proposals in the 201 service area to the Manager for review, comment and/or approval;

(3) The Manager will not begin the review of, nor approve preliminary or final sewer constructing plans, or preliminary or final plat approval or other development approval, without first having obtained a proper and completed POA. Should preliminary plans be submitted without the signed POA, the Manager may inform the property owner/developer that no further review will occur, nor approval be given, nor connection allowed, until the Manager's requirements for a signed POA are satisfied.

(Res. 83-03, 9-3-03; Res. 80-95 § 2, 9-20-95; Res. 62-94, 7-20-94; Res. 41-94, 6-1-94. Code 1994 App. D § 4(g))

13.16.110 Plant investment fee.

The plant investment fee, as adopted by resolution, is not intended to pay for the expansion of the sewer plant; rather it is intended only to pay part of the payments due on the 1992 bonds on the existing plant and infrastructure. Based on the number of current and projected users, it is insufficient to pay for completing the infrastructure that is needed to utilize the existing plant capacity and other system expansion. Source: City audits, the bond documents, et al. The Manager has analyzed the financial requirements of plant and system expansion(s).

The Manager's philosophy, which is adopted herein, is that current users should pay only for current capacity and current operations. When the capacity is used up, the system should borrow to expand the system and future users should pay for such bonds and the then current operational costs.

The City finds that it would be improper to require the present users of the system to subsidize future system expansion(s) such expansion should be paid for by those future users which necessitate such expansion. Hence, the Manager's policy, hereby adopted, is that there should not be a charge, paid by present users of the system, to be used to pay for system or plant expansion.

(Amended during 2009 recodification; Res. 83-03, 9-3-03; Res. 80-95 § 2, 9-20-95; Res. 62-94, 7-20-94; Res. 41-94, 6-1-94. Code 1994 App. D § 4(h))

13.16.120 Reserved.

(Res. 80-95 § 2, 9-20-95. Code 1994 App. D § 5)

13.16.130 Collection system operations and treatment service operations.

This section of the sewer rules and regulations describes rules and regulations for entities, organizations, special sanitation districts or homeowners associations which discharge sewage to the 201 joint sewer system. In this section, "person" includes individuals, contracting entities and permittees, unless the context requires otherwise.

(a) Application. These rules and regulations apply to and govern each person or entity who obtains treatment at the Persigo plant and/or receives any sewage services from the City, including the owners and/or operators of a collection system.

(b) Authorization. No person shall cause any sewage to be transmitted to or treated by the system unless during all times pertinent thereto:

(1) A written agreement is in effect signed by the Manager and the person ("contracting entity"); or

(2) Such person has obtained a current permit from the Manager ("permittee") which permit is issued by the Manager in compliance with these regulations.

(c) Written Approval – Descriptions of Connections.

(1) No person shall connect to the system at any point or location unless previously approved in writing by the Manager. Connections which have been previously authorized by the Manager and which exist as of the date of adoption of this section are approved.

(2) Each contracting entity and each permittee shall within 60 days of connection to the system or notice from the Manager notify the Manager of the location(s), size and type of each such connection to the system, along with a description sufficient to distinguish each connection from another and the location, size and type of all lines and facilities which constitute the collection system of such person.

(d) Confirmation of Connections – Annexation Agreement.

(1) No connection, line or facility other than described and approved as provided in subsection (c) of this section, to the system shall occur until the Manager has approved the location and specifications. Each contracting entity and permittee shall pay such costs and expenses which are required to comply with the requirements of subsection (c) of this section. Each contracting entity and permittee shall pay to the Manager the expenses, costs and charges established by the Manager to confirm connections to, or disconnections from, the system. For the purposes of this provision, "expenses, costs and charges" means the time of the Manager's employees, the fees and charges of any or other experts required, value of the use of equipment and materials, and the costs of mapping, copying and the like. All expenses of connection, or disconnection, shall be borne by the contracting entity or permittee.

(2) No connection to the system nor to any facilities connected to the system shall be made or authorized until each property served by the collector system of such person is annexed to the City or until the City has received an annexation agreement (e.g., power of attorney for annexation).

(e) Specifications – Expenses. No person shall install, or authorize to be installed, any collection sewage lines which are designed to connect to the system unless the prior written approval of the Manager is obtained; the Manager shall not grant such approval unless the improvements conform with the several requirements of the Manager, including size and technical standards for sewer construction. During the period of construction, and with regard to each enlargement, extension, or replacement, such person shall pay the expenses of the Manager's construction inspector, or other professional as is deemed necessary by the Manager, which inspector shall have complete access to the construction and the work.

(f) Maps – As-Builts. Within 30 days of any replacement, enlargement, extension or connection to the system (other than permitted pursuant to subsection (c) of this section), each contracting entity or permittee shall provide the Manager with maps, as-built drawings and other documentary information from which the Manager may determine the type, date, and specification(s) of each such replacement, enlargement, extension and individual sewer connection to the collection system of such person.

(g) Fees, Charges – Hook-Up Permit. Each applicant for connection to the collection system of any person shall pay directly to the Manager a tap fee (if applicable), the applicable plant investment fee, and shall execute a hook-up permit (including a power of attorney for annexation) at the Grand Junction City Hall. No person or entity shall issue any approval or clearance for connection to the collection system of such person or entity until, and after, the Manager has evidenced its approval by the issuance of a hook-up permit. The present form of the hook-up permit is at the end of this chapter as Exhibit 6A.

(h) Tap Permits. Prior to connection an applicant shall either (1) agree to pay the Manager for the time and materials incurred in making the connection, or (2) obtain a permit issued by the Manager to an approved contractor who shall make the connection, or (3) have agreed to pay a district which controls a collection system.

The Manager may also require all excavations in public rights-of-way or utility easements to be done by system personnel and equipment with excavation piping and valves in these areas to be provided by the Manager and paid for by the contracting entity or permittee.

(i) Building Permit. No building permit (but excluding foundation only permits and building permits for a structure not requiring sewer service) shall be issued by the Mesa County Building Department until the applicant has obtained a hook-up permit from the Manager at City Hall.

(j) Operation/Maintenance Services. The Manager will not provide operation and maintenance services, e.g., flushing or jetting of the system of a collecting entity or permittee, unless provided for by a written agreement with the Manager.

(k) Connector's Duties. Any failure of a part of the collection system of a contracting entity or permittee, such as repair or replacement of a lift station, or blockage due to slippage or cave-in, whether by reason of faulty installation, age or otherwise, which requires excavation and/or replacement of pipe materials, shall be at the sole expense of the contracting entity or permittee. If the contracting entity or permittee fails to make such repairs or replacement in a timely manner, the Manager may elect to make the repair and replacement, and in such event the contracting entity or permittee shall reimburse the Manager for labor (direct and indirect), equipment costs, materials, plus 10 percent of such labor, equipment and material costs for the costs of administration.

(l) Inspection. During the period of construction, and with regard to each extension of the contracting entity or permittee's collection system, the contracting entity or permittee shall pay the expenses of

a construction inspector, or other professional as is deemed necessary by the Manager, which inspector shall have complete access to the construction and the work.

(m) Billing. No contracting entity or permittee shall collect from, or bill, any charge or fee, including any monthly fee or charge from a permittee or other user of the system or other person connected to the system, except as may be specifically provided otherwise in an agreement with the Manager. The Manager is authorized to enter into agreements with a contracting entity or permittee to bill and collect such additional amounts as may be agreed upon, such as a district surcharge for connecting district operations and maintenance. If the Manager bills and collects the contracting entity's portion of monthly or other charges or fees, the Manager may, pursuant to such agreement, account to a contracting entity for the revenues collected upon a regular monthly basis.

(n) Written Agreements. The Manager is authorized to enter into written agreements with a contracting entity whereby the Manager collects from individual users who are connected to the contracting entity's collection system such additional tap or other fee the contracting entity shall determine. The contracting entity shall notify the Manager in writing of the amount of said additional tap or other fee(s) and shall indemnify and hold harmless the system, and the Manager and its employees and officers from any claims from any person that such fees or charges are improper or uncollectible.

(o) Property Served. Except as provided in these rules and regulations, service or connection to the system will be furnished only to persons whose property is subject to these rules and regulations.

(p) Infiltration and Inflow.

(1) No contracting entity nor permittee shall permit infiltration or inflow into the system except as provided herein. Each such contracting entity and permittee shall, at its own expense and at no expense to the City or the system, rebuild such of its lines and other facilities, and remove any illegal or improper connections according to the plans, as to specifications and the time for performance, as approved by the Manager in order to reduce excess infiltration and inflow as required. Each such contracting entity or permittee shall perform such work immediately following the giving of notice by the Manager.

(2) The total of infiltration and inflow shall not exceed a rate of more than 200 gallons per inch diameter per day per mile of line and any amounts over such rate are "excess." Inflow from existing combined sanitary and storm sewers, which the Manager has approved, shall not be considered as "excess."

(3) During any period in which any contracting entity or permittee permits excess infiltration and/or inflow, the Manager may require such entity or permittee to pay a surcharge equal to the additional costs incurred by the Manager in conveying and treating the excess infiltration. The Manager's calculation of such surcharge shall include the costs of the consumption of capacity of the system.

(4) The Manager shall calculate any infiltration/inflow rate by comparing peak flow during wet weather to peak flow during dry weather (especially summer months with irrigation activity versus winter months with no irrigation activity). Dry weather flow is measured during dry weather during the nonirrigation season (December through March). Each contracting entity and permittee shall provide the Manager with such information and data as the Manager may require to perform such calculation such as all pipe length and the size of each such pipe, age, material and conditions of all such pipe, and location of all connections and results of any infiltration and/or inflow studies and data.

(5) Infiltration and/or inflow shall be measured using calibrated equipment specifically designed to measure flow in sanitary sewers. Flow should be measured over an extended period of time (more than three months) and should be correlated to rainfall data for the drainage basin where the sanitary sewer flow is being measured. Flow from each contracting entity and permittee shall be measured at the points of connection with the City of Grand Junction sewer system.

Each contracting entity or permittee shall perform such flow measurement as the Manager deems necessary to accurately establish the infiltration and/or inflow.

(q) Charges. Each contracting entity and permittee shall timely pay all Manager adopted charges and fees within 30 days of billing by the Manager. Any such charges and fees not timely paid shall accrue interest thereon at a rate of 15 percent per annum.

(r) Pretreatment. Each contracting entity and permittee shall comply with the requirements of the Manager concerning industrial pretreatment, including but not limited to obtaining a permit therefor prior to discharge into or connection with the system. See Chapters 13.04 through 13.12 GJMC, which are incorporated herein by this reference.

(s) Maintenance Program. Each contracting entity and permittee shall adopt and implement a comprehensive collection system maintenance program. Such a program shall be developed to comply with the standards and methods provided in "Existing Sewer Evaluation and Rehabilitation (ESER)," published by Water Environment Federation Manual of Practice FD-6 and American Society of Civil Engineers Manuals and Reports on Engineering Practice No. 62 Second Edition, 1994, which is incorporated herein by this reference[1]. Include: routine cleaning and television inspection and replacement and repair of all portions of the collection system as required. The Manager may require additions or changes to such a program.

(t) Sewer Back-Up Policy.

(1) The City will reimburse the costs of immediate, professional cleanup service up to $750.00 (normally not to exceed $750.00, unless approved by the Wastewater Superintendent).

Claims for damages beyond the emergency cleanup shall be forwarded to the City's Risk Manager. Once any adjustments for depreciation, prior conditions and cause are made, and if the owner of the property signs the waiver form, the City will pay one-half of the actual cash value of the damage, up to a maximum City cost of $2,500. Actual cash value is defined as replacement cost less depreciation.

(2) Public Awareness. This amended policy shall be implemented with extensive public information to sewer customers that even in the best maintained sewage collection systems, blockages occur for many reasons; tree roots, grease, disposed items thrown into manholes which can cause blockages.

Because blockages may occur without anyone being "at fault," the City recommends:

(i) That every owner who is concerned about back-ups make sure their insurance policy covers sewer back-up damages; and

(ii) That the owner pay to install an approved backflow device.

The information shall be posted on the City's web site and provided through utility bill stuffers.

1. ESER may be obtained by contacting Water Environment Federation, 601 Wythe Street, Alexandria, VA 22314-1994, (703)684-2400.

EXHIBIT 6A

SEWER HOOK-UP PERMIT
CITY OF GRAND JUNCTION, COLORADO

OWNER(S):_____

ADDRESS OF PROPERTY:_____

TAX PARCEL NUMBER:_____

LEGAL DESCRIPTION OF PROPERTY:_____

IAL DISTRICT:

[ ] OMSD [ ] CGV [ ] FRUITVALE [ ] OTHER _____

[ ] OUTSIDE OF SPECIAL DISTRICTS

IN CONSIDERATION FOR BEING ALLOWED TO CONNECT TO THE CITY OF GRAND JUNCTION/MESA COUNTY JOINT SEWER SYSTEM AND TO OBTAIN SEWER TREATMENT SERVICES FROM THE CITY, THE UNDERSIGNED PROPERTY OWNER(S), BY SIGNING BELOW, AGREES TO: (1) PAY ALL APPROPRIATE TAP, PLANT INVESTMENT, HOOK-UP AND OTHER FEES AS REQUIRED BY THE CITY AND ANY APPLICABLE SPECIAL SEWER DISTRICT, (2) GRANT TO THE CITY THE FOLLOWING POWER OF ATTORNEY FOR ANNEXATION, AND (3) TIMELY PAY ALL APPLICABLE SEWER SERVICE CHARGES PURSUANT TO ALL APPLICABLE CITY ORDINANCES, RULES AND REGULATIONS. (1) AND (2), ABOVE, MUST BE PERFORMED BY THE PROPERTY OWNER(S) PRIOR TO ISSUANCE OF ANY BUILDING PERMIT ALLOWING CONNECTION TO THE SEWER SYSTEM BY THE SUBJECT PROPERTY.

AGREEMENT AND POWER OF ATTORNEY FOR ANNEXATION

BE IT KNOWN THAT:

I (We) do hereby designate and appoint the City Clerk of the City of Grand Junction as my (our) Attorney in Fact granting said City Clerk full power and authority for me (us) and in my (our) stead to: sign such documents and instruments as are necessary to cause the above described land(s) to be annexed to the City of Grand Junction; and to sign any petition(s) for annexation of the described land(s) to the City, when eligible; and to do and perform any and all acts which the said City Clerk shall deem necessary, convenient, or expedient to accomplish said annexation, as fully as I (we) might do if personally present.

The property described herein may be annexed to the City of Grand Junction in part or parts, at any time. Consent is hereby given to annex portions of tracts and parcels even if the annexation has the effect of dividing tracts or parcels into separate parts or parcels.

The authority granted by this instrument shall be a covenant running with the land(s), shall be binding upon successors in interest and shall not cease upon my (our) disability, death(s) or the dissolution of marriage, partnership, corporation or other form of association from which I (we) may hold title or claim an interest to the property described herein. This agreement for annexation is intended to comply with § 31-12-121, C.R.S., as amended.

As a further covenant to run with the land, I (we) agree that in the event a counter-petition to a proposed annexation of the land is prepared, any signature of mine (ours) on such petition purporting to affect the land herein described may be ignored as of no force and effect by the City under annexation requirements.

Further, I (we) agree that the said City Clerk may vote in my (our) behalf in any elections concerning the annexation of this property, as if I (we) were physically present.

If any clause, provision or detail of this Power of Attorney is deemed void, unlawful or unenforceable, such invalidity shall not affect any other person or provision hereof.

IN WITNESS WHEREOF, I (we) agree, for myself (ourselves) and for my (our) heirs, personal representatives, successors and assigns, to be bound by the terms of this Sewer Hook-Up Permit, including the Agreement and Power of Attorney for Annexation set forth above. Agreed to this _____ day of _____, 20_____.

OWNER(S):

STATE OF COLORADO,)
) ss;
COUNTY OF MESA.)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____.

WITNESS my hand and official seal:

_____ _____
Notary Public My commission expires:

(Res. 22-03, 3-5-03; Res. 80-95 § 1, 9-20-95. Code 1994 App. D § 6)

Chapter 13.20

DELIVERY OF UNTREATED WATER

Sections:

13.20.010 Policy – Purpose.
13.20.020 Rules applying to water providers.
13.20.030 Rules applying to individual water users.
13.20.040 Rules applying to all water providers and individual water users.
13.20.050 Schedule of authorized taps.

13.20.010 Policy – Purpose.

It has long been the policy of the City of Grand Junction to not provide untreated water from City flowlines or from City canals and ditches for domestic drinking water purposes; federal and State laws are based on the same policy considerations. Several water providers and numerous water users have been allowed to tap onto the City raw water flowlines to obtain livestock water. Such users were subsequently allowed to continue to receive untreated water when it was determined they were using the water for human consumption, but only if the raw water was properly treated. It is the policy of the City to remove users from these raw water flowlines when other treated domestic water became available.

These rules and regulations are made to regulate water providers, individual water users, and the delivery of water to individuals who receive untreated water from the City of Grand Junction's raw water flowlines or ditches. Current water providers and individual water users to whom raw water is available are listed on the attached schedule.

Entities or persons acting as water providers (collectively referred to herein as "water providers"), and/or others who provide water for drinking or other domestic use (collectively referred to herein as "individual users"), have the duty to provide clean and safe water if it is to be used for domestic purposes. Such water providers and individual users must comply with State and federal treatment requirements. The purpose of those requirements is to assure that any water delivered to any person which is intended for domestic or drinking purposes is properly treated and thus is safe for human consumption.

Historically, enforcement of such regulations and requirements has, at least in western Colorado, been less than rigorous by State and federal authorities. The State Department of Public Health and Environment ("State Health") is the agency with primary enforcement responsibility. For various reasons including staffing levels and recognition that smaller systems are frequently undercapitalized, State Health officials have extended deadlines or have not enforced applicable State and federal requirements. Such failure to rigorously enforce, however, may mean that the end-user, who likely has no knowledge of the requirements or the failure of the water provider to comply with all requirements, is at risk of receiving water for domestic consumption which may not comply with minimum treatment standards. In the absence of rigorous State or federal enforcement efforts, the City's interests, and that of the public, is promoted by requiring that any water provider or individual user receiving water from City supplies comply with applicable State and federal requirements. These rules and requirements are implemented to such ends.

In addition, the City's provision of untreated water to water providers and individual users is properly subject to business rules such as setting of rates, water meter requirements, and other standards similar, as determined applicable by the City, to those which apply to the City's municipal domestic water supply system. The City's water supply treatment and distribution system is regulated by provisions of the City Code, and regulations issued pursuant to the City Code. Rules and requirements which control the in-City water supply, treatment and distribution should apply equally to water providers and individual users, receiving water from the City except where existing code provisions, and implementing rules, clearly do not apply.

(Res. 126-96, 12-18-96. Code 1994 App. E § 1)

13.20.020 Rules applying to water providers.

Therefore, the following rules and requirements apply to all water providers receiving untreated water from the City for distribution to others. These rules and regulations shall be effective immediately upon adoption by the City Council.

(a) Each water provider shall install and maintain, in accordance with City specifications, a meter at a location designated by the City. The City will read each meter and the water provider will pay, based on such reading, monthly for the water used, based on the meter readings (including water flowing through the meter due to breaks).

(b) Each water provider shall pay to the City, in arrears, except as provided below, based on the following rate:

(1) $14.62/month minimum on the first active tap serviced for a minimum monthly usage of 3,000 gallons.

(2) $3.44/1,000 gallons for all usage over 3,000 gallons serviced/month to 10,000 gallons;

$3.32/1,000 gallons for all usage over 10,000 gallons serviced/month to 20,000 gallons; and

$3.22/1,000 gallons for all usage over 20,000 gallons serviced/month (in the aggregate for the water provider).

(3) The monthly charge will change as the minimum rate changes on existing in-City residential rates; such changes shall be effective in accordance with the City's resolutions without the need for reference or change in these regulations.

(4) All rates will change periodically; the City will notify the water provider when such changes are effective.

(5) In the event the water provider does not timely pay all amounts billed to it, the Utility Manager may require that, for all months following notice, the water provider pay in advance of water delivery, based on prior usage.

(6) All amounts not timely paid by a water provider shall accrue interest thereon at a rate of 12 percent per annum.

(c) In addition to monthly water usage charges, each water provider shall pay for any necessary maintenance on the tap and meter, as required by the City. No person shall make any changes to any tap connected with any City pipe or facility or to any meter required by these regulations without the prior consent of the City.

(d) Each water provider shall maintain in good order all of its distribution system. The City is not responsible for, or liable for, any pipeline maintenance or repairs on any water provider's lines or facilities which are on the downstream side of a tap onto any City pipe or facility.

(e) Each water provider shall restrict and limit the number of its individual taps and users to those in place as of the effective date of these rules and regulations. These limitations are listed in the attached schedule. The Utility Manager of the City shall notify each water provider of the number of individual taps which are authorized. Each water provider shall take such actions as are necessary to limit or remove additional taps, over the number authorized by the Utility Manager.

(f) No water provider shall allow any person to receive water delivered by the City to the water provider (hereafter "City water"), unless prior thereto such water provider has notified the City, in writing, and the City has, in writing, given its consent. In addition, each time a new user receives City water from a water provider, such water provider shall inform the City of each user's full name, address, and property being served. Each water provider shall, at least once each calendar year, deliver to the City's Utility Manager a map clearly showing the name and address of each water user and the property to which City water is available.

(g) At least once each calendar year, each water provider shall provide to each person receiving City water: notice concerning these rules; a summary of applicable State and federal requirements; and the status of the water provider's treatment of the water supplied to such users.

(h) Each water provider shall certify, in writing, to the City on or before April 1st of each year that the supply treatment and City water for human consumption meets all State, federal, and local requirements.

(i) Each water provider shall, on a monthly basis, provide the City copies of all water quality reports about sampling, and violations of which it is aware, including those submitted to the State of Colorado.

(j) The City may inspect the water facilities of each water provider without notice at any time during the hours of 8:00 a.m. to 5:00 p.m. on any Monday through Friday and each water provider shall cooperate in any such inspection by the City.

(k) Each water provider shall supply City water to any City property which is presently served by such water provider at the same rates and under the same conditions as such water provider supplies City water to its other users.

(Res. 126-96, 12-18-96. Code 1994 App. E § 2)

13.20.030 Rules applying to individual water users.

The following rules and requirements apply to all individual users receiving untreated water from the City. These rules and regulations shall be effective immediately upon adoption by the City Council.

(a) Each individual user shall have, in accordance with City specifications, a meter at a location designated by the City. The City will read each meter and the individual user shall pay, based on such reading, monthly for the water used, based on the meter readings (including water flowing through the meter due to breaks).

(b) Each individual user shall pay to the City, in arrears, except as provided below, based on the following rate:

(1) $24.26/month minimum on each active tap based on a minimum monthly per tap usage of 3000 gallons.

(2) $3.44/1,000 gallons for all usage over 3,000 gallons/month per active tap up to 10,000 gallons/month;

$3.31/1,000 gallons for all usage over 10,000 gallons/month per active tap up to 20,000 gallons/month;

$3.21/1,000 gallons for all usage over 20,000 gallons/month per active tap (in the aggregate for the water provider).

(3) The minimum monthly charge set forth above shall change as the minimum rate changes on existing in-City residential rates; such changes shall be effective in accordance with the City's ordinance(s) or resolution(s) without the need for reference or change in these regulations.

(4) All rates will change periodically; the City will notify the individual user when such changes are effective.

(5) In the event the individual user does not timely pay all amounts billed to it, the Utility Manager may require that, for the month following notice, the individual user pay in advance of water delivery, based on prior usage.

(6) All amounts not timely paid by an individual user shall accrue interest thereon at a rate of 12 percent per annum.

(c) The City will provide the necessary maintenance on the tap and meter, as required. No person shall make any changes to any tap connected with any City pipe or facility or to any meter required by these regulations without the prior consent of the City.

(d) Each individual user shall maintain in good order all of its service line(s). The City is not responsible for, or liable for, any pipeline maintenance or repairs on any user's lines or facilities which are on the downstream side of a tap onto any City pipe or facility.

(e) Each individual user shall be limited to the tap existing as of the effective date of these rules. These limitations are listed in the attached schedule. Each individual user shall take such actions as are necessary to limit or remove any additional taps, over the number authorized by the Utility Manager on the attached schedule, as amended from time to time.

(f) No individual user shall allow City water to be delivered to any other property (other than as shown on the approved schedule) unless prior thereto such individual user has notified the City, in writing, and the City has, in writing, given its consent.

(g) By accepting any City water each individual user agrees and understands that the City does not treat any water passing through the meter in any way and the quality of the water delivered to the user does not, and will not, meet present or future water quality standards as set by any regulatory agency for a domestic water supply. The individual user recognizes and agrees to purchase and install, per manufacturers' recommendations, State Health approved Culligan "point of use" treatment system if the water supplied by the City is to be used for domestic purposes, i.e., piped into the residence. No other system shall be used or installed.

(h) Each individual user shall upgrade or replace any treatment system, as required by the City, when such system fails to provide treated water that meets federal and State safe drinking water standards.

(i) Each individual user shall provide access to the City for purposes of water quality sampling and system maintenance, as required by State and federal regulations.

(j) System maintenance by the City shall be limited to replacing ultraviolet bulbs on a yearly basis and changing the one micron filter as needed. Other system maintenance repairs or replacement as recommended by the manufacturer shall be performed by the individual user.

(k) Each individual user shall notify the City when the one micron filter is due for replacement.

(Code 1994 App. E § 3)

13.20.040 Rules applying to all water providers and individual water users.

(a) In the event there is planned maintenance on the flowline or the delivery structures which would likely result in an interruption of flow to the water providers or individual users, the City will attempt to give at least 72 hours' notice by telephone. In the event of an emergency, as determined solely by the City, no notice will be provided. If the emergency will result in the line being out of service for a lengthy period of time, then notice will be given as soon as practicable. In any event, the City is not liable to provide notice, and these rules shall not be construed to be a basis for any claim for any loss or injury.

(b) In the event a flowline(s) is moved from its existing location, is replaced or is otherwise not available to supply water to any water provider or individual user, the City will attempt to give one year's notice thereof, unless circumstances otherwise dictate.

(c) Any water provider or individual user, or any other person who accepts City water or the delivery of City water, or allowing any physical connection to any delivery system which is connected to City water, including any tap, constitutes such water provider's, individual user's or person's irrevocable promise and warranty to hold the City, its officers, employees and agents, harmless from, and shall indemnify the City, its officers, agents, and employees with respect to, all claims, causes of action, damages, costs, losses, or injury to persons or property arising out of the providing of water, the failure to supply water or the failure to treat or properly treat water. In addition such

promise and warranty to hold harmless and indemnify shall include any claims however stated made by any person receiving City water, whether or not treated, from a water provider pursuant to these rules and regulations.

(d) Each water provider and each individual user shall take such steps as are necessary in order that City water is not available to any person for human consumption, except as provided by State or federal law and as provided herein.

(e) No lease, sale, donation, transfer, or other disposition of any City water shall be made without the prior written approval of the authorized representative of the City of Grand Junction.

(f) By accepting any City water, or delivery of any City water, or by allowing any physical connection which is directly or indirectly connected to any City water supply, each water provider and each individual user irrevocably promises, warrants and agrees that it will, at its sole cost and expense, continuously, whether required by the State or federal governments or not, meet the standards set for public water systems by the Safe Drinking Water Act, as amended, and any other applicable law or regulation.

(g) These rules and regulations may be amended from time to time by the City. Notice of any such amendment will be provided similarly to notice of the adoption of any other resolution of the City Council of the City.

(h) In the event of noncompliance with any of the foregoing regulations, the City may disconnect such water provider or individual user from all City water.

(i) By accepting any City water, or delivery of any City water, or by allowing any physical connection which is directly or indirectly connected to any City water supply, each water provider and each individual user grants and conveys, during all periods when such water provider or individual user is connected to any facility which is connected, directly or indirectly, to any City facility, or is receiving City water, the right to the City to enter upon the property of such water provider or individual user so that the City may disconnect any tap, pipe or other facility.

(j) There shall be no assignment or transfer of this tap or any rights or duties created herein.

(k) A memorandum of these rules may be recorded to provide notice hereof to the owners of affected properties.

(l) In the event the City engages an attorney, or uses its attorneys to enforce the provision(s) of these rules, with respect to a water provider or individual user, each such water provider and each individual user agrees to pay the City's reasonable attorneys' fees and costs incurred in such effort(s).

(Code 1994 App. E § 4)

13.20.050 Schedule of authorized taps.

(a) Water Providers.

Authorized Uses	Pipeline	Authorized Taps	
1. Reeder Mesa Livestock Water Co.	KC	33	33 Households
2. Cross Bar Cross Livestock Water Co.	KC	7	7 Households
3. Purdy Mesa Livestock Water Co.	KC	75	75 Households

(b) Individual Users.

Authorized Use	Pipeline	Authorized Taps	
1. Intake House (City)	KC	1	1 Household
2. Click Ranch (City)	KC	1	1 Stockwater
3. Esther Mash	KC	1	2 Households
4. Matt Dalton	KC	1	1 Household
5. Kniffen	KC	1	1 Household
6. Oscar Massey	KC	1	2 Households
7. Oscar Massey	KC	1	1 Stockwater
8. Oscar Massey	PM	1	1 Stockwater
9. Jack Murray	KC	1	1 Stockwater
10. Roy Anderson	KC	1	2 Households
11. Nina Brouse	KC	1	1 Household
12. Gene Alexander	KC	1	1 Household
13. Anderson Ranch (City)	KC	1	1 Household
14. Anderson Ranch (City)	KC	3	3 Stockwaters
15. Mike Anderson	KC	1	1 Household
16. Steve Wood	KC	1	1 Household
17. Don Snidow	KC	1	1 Household
18. Bill Blair	PM	1	1 Household
19. L. Hicks (Whiskey Flats)	PM	1	1 Household
20. J. Cooper (Whiskey Flats)	PM	1	1 Household
21. Rickard Strachan (Whiskey Flats)	PM	1	1 Household
22. John Curtis/Mary Ross (Whiskey Flats)	PM	1	1 Household
23. Mary Ross (Whiskey Flats)	PM	1	1 Household
24. Paul Kinsler	KC	1	1 Household
25. North Fork Diversion (City)	NF	1	1 Stockwater

(Res. 126-96, 12-18-96. Code 1994 App. E § 5)

Chapter 13.24

CROSS-CONNECTION CONTROL

Sections:

13.24.010 Authority.
13.24.020 References.
13.24.030 Definitions.
13.24.040 General requirements.
13.24.050 Standards for backflow prevention devices.
13.24.060 Installations.
13.24.070 Testing and maintenance.
13.24.080 Right of entry.
13.24.090 Compliance.
Exhibit A Public Works and Utilities Cross-Connection Questionnaire

13.24.010 Authority.

Authority to implement and maintain this cross-connection control program is contained in, but not limited to, the following:

(a) §§ 25-1-114 and 25-1-114.1, C.R.S. (Colorado Department of Health).

(b) Colorado Primary Drinking Water Regulations Article 14 (Hazardous Cross-Connections).

(c) Cross-Connection Control, Colorado Department of Health, October 1, 1993.

(d) Occupational Safety and Health Administration Federal Register No. 202 Part 2, page 22234, Subpart J.

(e) 2000 Edition of the International Building Code or the more recently adopted version.

(f) 2000 Edition of the Uniform Plumbing Code of the International Plumbing and Mechanical Officials or the more recently adopted version.

(Amended during 2009 recodification; Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 1)

13.24.020 References.

The following reference manuals shall constitute the City's general guidelines concerning cross-connection control:

(a) Colorado Cross-Connection Control Manual, Colorado Department of Health, Revision October 1995.

(b) "Cross-Connection Control Manual," EPA 570/9-89-007, June 1989.

(Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 2)

13.24.030 Definitions.

The following words shall have the meanings set forth:

Air gap means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, other device or vessel and the flood level rim of said vessel.

Approved means accepted by the water purveyor as meeting the applicable specification or procedures as stated or cited in this chapter.

Approved backflow prevention device (assembly) means a device listed in the latest University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research "List of Approved Backflow Prevention Assemblies."

Auxiliary water supply means any water supply on or available to the premises other than the water purveyor's approved potable water supply. These auxiliary water supplies may include, but are not limited to, water from another purveyor's potable water supply or any natural source(s) such as a well, spring, river, stream, pond, lake, etc., or "used waters" or "industrial fluids." These waters may be polluted or contaminated, or may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

Backflow means the undesirable reversal of, or the possibility thereof, the direction of flow of the water or mixtures of water and other liquid, gases, or other substances into the distribution pipes of the potable water supply from any source or sources caused by back pressure and/or back siphonage.

Backflow prevention device or *backflow preventer* means a device or means designed to prevent backflow created by back pressure, back siphonage or back pressure and back siphonage acting together.

Back pressure means backflow caused by a pump, elevated tank, boiler, or "head" in pipe, or any means that could create greater pressure within a piping system than that which exists within the potable water supply.

Back siphonage means the reverse flow of, or potential thereof, water or other liquids, mixtures, gases or substances into the distribution pipes of a potable water supply system caused by negative or subatmospheric pressure in the potable water supply system.

Certified cross-connection control technician means a person who is a Colorado certified cross-connection control technician with a license issued by the Water Distribution and Wastewater Collection Systems Council.

Check valve means a self-closing device which is designed to permit the flow of fluids in only one direction. A single check valve is not an approved backflow prevention device.

Colorado Department of Health Cross-Connection Control Manual means a manual that has been published by the State addressing cross-connection control practices which shall be used as a guidance document for the water purveyor in implementing a cross-connection control program. The October 1995 revision.

Containment. Protection by containment shall mean the installation of an approved backflow prevention device, or method, on the water service line(s) serving any premises, location, facility or area. Protection by containment shall be used when the potable water system may be contaminated or polluted by substances used or stored within a building or premises.

Contamination means an impairment of the quality of the potable water by sewage, industrial fluids or waste liquids, compounds or other materials to a degree which creates a potential hazard to the public health through a reduction in water quality or through the spread of disease or hazardous materials.

Critical level means the critical level or other regulated "C/L marking" on a backflow prevention device or vacuum breaker which is a point conforming to approved standards and established by testing laboratory, which determines the minimum elevation above the flood level rim of the fixture, highest point of usage, or receptacle served at which the device may be installed. When a backflow prevention device does not bear a critical level marking, the bottom of the vacuum breaker, combination valve, or the bottom of any such approved device shall constitute the critical level.

Cross-connection means any physical arrangement whereby a potable water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, tank, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste, liquid or gas of unknown or unsafe quality which may be capable of imparting contamination or pollution to the potable water supply as a result of backflow. Bypass arrangements, jumper connections, removable spools, swivel or changeover devices, four-way valve connections, and other temporary or permanent devices

through which, or because of which, backflow could occur are included in the definition of cross-connection.

Cross-connections, controlled means a connection made between a potable water system and a nonpotable water system with an approved backflow prevention device, properly installed and tested in accordance with this chapter, will continuously afford the protection commensurate with the degree of hazard as determined by the Director of Public Works of the City.

Double check valve assembly ("*DC*" or "*DCVA*") means an assembly of two independently operating approved check valves between two tightly closing (resilient seated) shut-off valves, plus four properly located test cocks for the testing of each check valve. The entire assembly shall be an approved backflow prevention device.

Flood level rim means the edge of the receptacle from which liquid overflows.

Hazard, degree of is the term is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system as determined by the Director of Public Works of the City.

Hazard, health means any condition, device, or practice in the water supply system and its operation which could create, or in the judgment of the water purveyor may create, a danger to the health and well-being of a water consumer. An example of a health hazard is a structural defect, including cross-connections, in a water supply system, or a direct connection of a potable water supply line to a sanitary sewer.

Hazard, plumbing means a plumbing type cross-connection in a potable water system that has not been properly protected by an air-gap separation or an approved backflow prevention device. Unprotected plumbing type cross-connections are deemed to be a health hazard.

Hazard, pollution means an actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be a threat to life or be dangerous to health as determined by the Director of Public Works of the City.

Hazard, system means an actual or potential threat of severe damage to the physical properties of the potable water system or the consumer's potable water system or of a pollution or contamination which would have a protracted effect on the quality of the potable water in the system caused by a cross-connection.

Industrial fluids system means any system containing a fluid or solution which may be chemically, biologically, radiologically, or otherwise contaminated or polluted in a form or concentration that would constitute a health, system, pollution or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to: polluted or contaminated waters; all types of process waters and "used waters" originated from the potable water system which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis: circulated cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters such as from wells, springs, streams, rivers, lakes, dams, ponds, retention pits, irrigation canals or system, etc.; oils, gases, glycerin, glycols, paraffins, caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for fire-fighting purposes.

Isolation means the control of cross-connections within a building's plumbing system by the installation of approved backflow prevention devices or methods at or mean the potential sources of pollution or contamination.

Nonpotable water means water that is not safe for human consumption or that does not meet the requirements set forth in the State of Colorado Primary Drinking Water Regulations.

Pollution means the presence of any foreign substance (organic, inorganic, radiological or biological) in the water that may degrade the water quality so as to constitute a nonhealth type hazard or impair its usefulness.

Potable water means water free from impurities in amounts sufficient to cause disease or harmful physiological effects. The bacteriological, chemical and radiological quality shall conform to State of Colorado Primary Drinking Water Regulations.

Reduced pressure principle device or *reduced pressure zone device "RPZ"* means an assembly of two independently operating approved check valves with a hydraulic automatic operating differential relief valve between the two check valves. The assembly shall be located between two tightly closing (resilient seated) shut-off valves and have four properly located test cocks for the testing of the check and relief valves. The entire assembly shall be an approved backflow prevention device.

Submerged inlet means a water pipe or extension thereof from a potable water supply terminating below the flood level rim of a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant or pollutant.

Vacuum means any pressure less than atmospheric pressure.

Vacuum breaker, atmospheric nonpressure type means a vacuum breaker consisting of an air inlet opening and a nonloaded floating check disk valve designed to prevent back siphonage only. The device shall not be subjected to continuous static line pressure or back pressure or be installed where it would be under pressure for more than 12 continuous hours.

Vacuum breaker, pressure type means a vacuum breaker, designed to prevent back siphonage only, consisting of a spring-loaded check valve, a spring-loaded air inlet opening, a tightly closing shut-off valve on each side of the device and two appropriately located test cocks. The device shall not be subjected to back pressure. The entire assembly shall be an approved backflow prevention device.

Water Distribution and Wastewater Collection Systems Certification Council means the group, which has been designated by the Colorado Department Health to administer and maintain the cross-connection, control technician certification program.

Water purveyor or *water supplier* means any person or group owning and/or operating a public potable water supply.

Water service connection means the terminal end of the water purveyor's service connection from the potable water distribution system; i.e., where the water purveyor loses jurisdiction and sanitary control over the water as its point of delivery to the customer's stop box or shut-off valve or meter, whichever comes first from the water main. If a meter is installed at the end of the service connection, the service connection shall mean the downstream end of the meter. There shall be no unprotected takeoffs from the service line ahead of any meter or backflow prevention device located at the point of delivery to the customer's water system. This shall include irrigation systems and fire sprinkler systems. Service connection shall also include water service connection from a hydrant and all other temporary or emergency water service connections from the potable water system. For customers outside the water purveyor limits, "water service connection" shall mean the terminal end of the water purveyor's service connection from the potable water system to the customer's corporation stop.

(Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 3)

13.24.040 General requirements.

All building plans must be submitted to the City of Grand Junction Water Services Division for approval prior to the issuance of water service. Building plans must show:

(a) Water service type, size and location;

(b) Meter size and location;

(c) Backflow prevention device size, type and location; and

(d) Fire sprinkling system(s) service line, size and type of backflow prevention device, if applicable.

(Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 4)

13.24.050 Standards for backflow prevention devices.

(a) Any backflow prevention device required herein shall be of a model and size approved by the City of Grand Junction. The term "approved backflow prevention device" shall mean a device that has been manufactured in full conformance with the standards established by the Colorado Department of Health Cross-Connection Manual and by the City of Grand Junction. The customer shall have 45 days to respond to the City's request for information on the "Cross-Connection Questionnaire" (Exhibit A) and one year from date of notification by the City to come into compliance if a backflow device is required.

(b) Applicability:

(1) No grandfathering exists or shall be asserted. All laws and regulations apply as of the adoption hereof regardless of the age of the water service and/or the age of the building, home, facility or structure.

(2) All fire sprinkler systems shall conform to the National Fire Protection Association (NFPA) pamphlets Nos. 13 and 24.

(i) All fire sprinkling lines shall have a minimum protection of an approved double check valve for containment of the system.

(ii) Backflow devices used on fire lines shall have O.S. and Y. (outside stem and yoke) valves and be listed by the National Fire Protection Association.

(iii) All glycol (ethylene or propylene) or anti-freeze fire suppression systems shall have an approved reduced pressure zone device for containment.

(iv) Dry fire systems shall have an approved double check valve installed upstream of the air pressure valve.

(v) Single-family residence with a fire sprinkler system and domestic water combined shall have a double check valve when no chemicals are used.

(3) Only approved backflow prevention devices shall be used. The latest University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (FCCCHR) "Approved Device List" shall constitute the approved backflow devices for use in Grand Junction.

(4) Backflow preventers currently installed that are not approved shall be replaced with an approved device at the time the device fails an operational test specified by the City.

(Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 5)

13.24.060 Installations.

(a) Backflow prevention devices shall be installed in accordance with instructions and approved designs.

(b) Backflow prevention device installations shall be inspected and approved prior to use by the City of Grand Junction Water Services Division.

(c) All backflow devices shall be installed in the horizontal position. Devices manufactured and identified for other alignments may be installed if in accordance with the design and FCCCHR approval.

(d) A vacuum breaker pressure type shall be used where the device will not be subjected to back pressure and installed a minimum of 12 inches above the highest piping or outlet downstream of the device in a manner to preclude back pressure, but no higher than 60 inches above ground level.

(e) A vacuum breaker, atmospheric nonpressure type, shall be used only where the device is:

(1) Never subjected to more than 12 hours continuous pressure; and

(2) Installed with the air inlet in a level position and a minimum of six inches above the highest piping or outlet it is protecting;

(3) No valves shall be installed downstream of atmospheric vacuum breaker.

(f) The single check valve shall not be considered to be a backflow prevention device.

(g) Double check valve assemblies may be installed in below grade vaults when these vaults are property constructed, in accordance with approved plans and insulated to prevent freezing.

(h) A reduced pressure backflow preventer shall be used only if:

(1) The reduced pressure assembly will not be submerged under water.

(i) There is a drain twice the diameter of the assembly to daylight.

(ii) It is installed in a vertical position unless the device is approved by the FCCCHR for another installation.

(iii) It is installed a minimum of 12 inches and a maximum of 36 inches from the floor.

(2) Basement Installations.

(i) A drain large enough to allow the maximum flow of water the size of the reduced pressure backflow preventer is capable of discharging under twice the normal static pressure for the system. See flow chart in Colorado Cross-Connection Control Manual Appendix 3.

(ii) An acceptable high water alarm system is installed.

(3) There are no electrical components in the general area of the assembly.

(4) Only factory-supplied funnels shall be used to remove the periodic discharge from the assembly and the piping system must have adequate air gate at the termination of the run.

(5) The reduced pressure backflow preventer shall be kept from freezing.

(6) All assemblies installed within a confined area must allow enough room for testing and maintenance.

(7) Device must be tested and approved by the City of Grand Junction Water Services Division when installed.

(8) In no case is it permissible to connect the relief valve discharge on the reduced pressure device to a sump, drainage ditch, etc.

(i) All backflow prevention devices shall be installed in an accessible location to facilitate maintenance, testing and repair.

(j) All backflow prevention devices shall be installed downstream of the water meter.

(k) Before installing a backflow prevention device, pipelines should be thoroughly flushed to remove foreign material.

(l) Backflow prevention valves are not to be used as the inlet or outlet valve of the water meter. Test cocks are not to be used as supply connections.

(m) In order to ensure that backflow prevention devices continue to operate satisfactorily, it will be necessary that the device(s) be tested at the time of installation and on an annual schedule thereafter. Such test(s) shall be conducted in accordance with ASSE field test procedures, as directed by the Colorado Department of Health, to ASSE performance standards.

(n) The City of Grand Junction Water Service Division shall inspect all installations.

(o) All costs for design, installation, maintenance, repair and testing are to be borne by the customer.

(Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 6)

13.24.070 Testing and maintenance.

(a) At least once per year, each customer/user at any home, building, facility or structure where any backflow prevention device(s) is (are) installed shall have a certified test made of the device(s) and deliver to the City a copy of the test results. In those specific instances where the director of Public Works of the City deems the hazard to be great enough, certified inspections and/or tests may be required more often. Any and all tests shall be at the expense of the water user and shall be performed by a State of Colorado certified technician. An inspection of the device may be performed at any time. Inspections shall comply with GJMC 13.24.080.

(b) As necessary or required, the device(s) shall be repaired or replaced at the expense of the customer/user whenever the device(s) is/are found to be defective. Records of all such tests, repairs or replacement shall be kept by customer/user, a copy of which shall be submitted to the City of Grand Junction Water Services Cross-Connection Control Coordinator.

(c) All testing gauges used in the City water system shall be checked yearly for accuracy. Testing shall be with a water column yearly, or more often, and the City of Grand Junction Water Services Division shall maintain proof of compliance.

(d) The City retains the right to test or otherwise check the installation and operation of any device(s) at any time to assure proper operation.

(Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 7)

13.24.080 Right of entry.

Representatives of the City shall carry proper identification of his/her office. By previously arranged appointment and upon presentation of proper identification, the City representative shall have the right of entry to inspect any and all buildings and premises for cross-connections and possible water contamination hazards. This right of entry shall be a condition of water service in order to protect the health, safety and welfare of the people throughout the City distribution system. Where building security is required, the backflow device(s) shall be located in an area not subject to security. Questions regarding proper credentials should be directed to the City Director of Public Works and/or the City Attorney.

(Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 8)

13.24.090 Compliance.

(a) Failure of the customer to cooperate in the installation, maintenance, testing or inspection of backflow prevention devices required by this chapter shall be grounds for the discontinuance of water service to the premises and/or the requirement for an air-gap separation from the public potable water system.

(b) Service of water to any premises may be discontinued by the City if cross-connections exist on the premises. When any defect is found in an installed backflow prevention device, or if a backflow prevention device has been removed or bypassed, the service may be discontinued. Service shall not be restored until such condition(s) or defect(s) are corrected.

(c) Discontinuance of service may be summary, immediate and without written notice whenever, in the judgment of the City, such action is necessary to protect the purity of the public potable water supply or the safety of the water system.

(Res. 89-99, 8-4-99; Res. 92-94, 10-19-94. Code 1994 App. F § 9)

Exhibit A

Public Works and Utilities Cross-Connection Questionnaire

Name of Facility _____ Date _____

Address _____ Owner _____

Contact Person _____ Phone _____

Business Activity (Retail, Office, Restaurant, etc.) _____

1. Domestic water is used for:

A	Food Preparation	Yes ___	No ___
B	Lawn Irrigation	Yes ___	No ___
C	Cooler (Chiller)	Yes ___	No ___
D	Heater (Boiler)	Yes ___	No ___
E	Manufacturing	Yes ___	No ___
F	Chemical Mixing	Yes ___	No ___
G	Fire Sprinkler System	Yes ___	No ___
	If yes, is there antifreeze in the system?	Yes ___	No ___

2. Do you have irrigation water available at this property? Yes ___ No ___

3. Is there any water using devices/machinery at this site other than faucets and toilets? Yes ___ No ___

   If yes, please describe: _____

   _____

4. Do you have a backflow preventer on your main service line? Yes ___ No ___

   If yes, please provide: Manufacturer _____ Model # _____
   Serial # _____

If you are not sure how to answer any of these questions or if you have concerns regarding this form, please contact Mark Tornes, Cross-Connection Control Department at 256-4101.

_____ _____

Signature Title

Please return to: City of Grand Junction
Mark Tornes
Cross-Connection Control Coordinator
2553 River Road
Grand Junction, CO 81501

Chapter 13.28

STORM WATER MANAGEMENT

Sections:

13.28.010 Definitions.
13.28.020 Illicit discharges prohibited into storm drainage system.
13.28.030 Control of storm water discharges from construction and post-construction activities.
13.28.040 Enforcement.

Cross reference(s) – Duties of property owner and lessee; unlawful accumulations; inspections, GJMC 8.04.020; garbage in watercourses declared a nuisance, GJMC 8.08.060(c); unlawful deposits prohibited, GJMC 8.12.010; securing of vehicle contents to prevent spillage, GJMC 8.12.020; storage or depositing of refuse in public place or body of water prohibited, GJMC 8.28.130; discharging water and other liquids except precipitation prohibited, GJMC 12.16.040; duty to clean sidewalks, GJMC 12.16.090; unsanitary deposits prohibited, GJMC 13.04.070; discharge to natural outlets prohibited, GJMC 13.04.080; stormwater management manual, GJMC Title 26.

13.28.010 Definitions.

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

Best management practices (BMPs) means the specific management practices used to control pollutants in storm water. BMPs are of two types: "source controls" (nonstructural) and "treatment controls" (structural). Source or nonstructural controls are practices that prevent pollution by reducing potential pollutants at their source, such as proper chemical containment at municipal shops or construction sites, before they come into contact with storm water. Treatment or structural controls, such as constructed water quality detention facilities, remove pollutants already present in storm water. Best management practices can either be temporary, such as silt fence used during construction activity, or permanent detention facilities, to control pollutants in storm water.

CDPS means the Colorado Discharge Permit System.

City means the City of Grand Junction.

City Manager means the Grand Junction City Manager or his duly authorized representative.

Clean Water Act (CWA) means the Clean Water Act, also known as the Federal Water Pollution Control Act, and including amendments thereto by the Clean Water Act of 1977, 33 U.S.C. Section 466 et seq. as amended.

Colorado Water Quality Control Act means Title 25, Article 8, C.R.S.

Commercial means any business, trade, industry or other activity engaged in for profit.

Construction means to make or form by combining or arranging building parts or building elements, to include but not limited to examples such as road construction, commercial shopping center, residential development or parks development, and including the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities (e.g., stockpiling of fill material).

Construction site means any location where construction or construction-related activity occurs.

Construction storm water management plan (SWMP) means a specific individual construction plan that describes the best management practices (BMPs), as found in the current SWMM, to be implemented at a site to prevent or reduce the discharge of pollutants. The purpose of a SWMP is to identify possible pollutant sources to storm water and to set out BMPs that, when implemented, will reduce or eliminate any possible water quality impacts.

Contaminated means containing harmful quantities of pollutants that exceed State or federal guidelines.

Contractor means any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors and material suppliers delivering materials to the site.

CDPS permit means a permit issued by the State of Colorado under Part 5 of the Colorado Water Quality Control Act (Title 25, Article 8 C.R.S.) that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable to a person, group or area.

Development means any public or private construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure within the jurisdiction of the City, as well as any manmade change or alteration to the landscape, including but not limited to mining, drilling, dredging, grading, paving, excavating and/or filling.

Discharge means any addition or release of any pollutant, storm water, subsurface, groundwater or any other substance whatsoever to the storm drainage system.

Domestic animal waste means excrement and other waste from domestic animals, including household pets.

Domestic sewage means sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

Drainageway means any natural or artificial (manmade) channel which provides a course for water flowing either continuously or intermittently to downstream areas.

Environmental Protection Agency or *EPA* means the United States Environmental Protection Agency (USEPA), the regional office thereof, any federal department, agency or commission that may succeed to the authority of the USEPA and any duly authorized official of the USEPA or such successor agency.

Fertilizer means a substance or compound that contains an essential plant nutrient element in a form available to plants and used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop or a mixture of two or more fertilizers.

Fire protection means any water and any substance(s) or material(s) contained therein, used by any person to control or extinguish a fire or to inspect or test fire equipment.

Fungicide means a substance that destroys or inhibits the growth of fungi.

Garbage means putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking and consumption of food, including waste materials from markets, storage facilities and the handling and sale of produce and other food products.

Groundwater means any water residing below the surface of the ground or percolating into or out of the ground.

Harmful quantity means the amount of any substance that may cause an adverse impact to the storm drainage system and/or will contribute to the failure of the City to meet the water quality based requirements of the CDPS/NPDES permit for discharges from the municipal separate storm sewer system.

Hazardous substance means any substance listed in Table 302.4 of 40 CFR Part 302 as amended.

Hazardous waste means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR, Part 261 as amended.

Herbicides means a chemical substance used to destroy plants, especially weeds.

Illegal discharge means illicit discharge.

Illicit connection means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system. Such connection includes any physical connection to a publicly maintained storm drain system composed of non-storm water that has not been permitted by the public entity responsible for the operation and maintenance of the system.

Illicit discharge means any discharge to a storm drain system that is not composed entirely of storm water, except discharges pursuant to a CDPS/NPDES permit, discharges resulting from fire fighting activities, and discharges further exempted by this chapter.

Industrial waste means any wastes produced as a byproduct of any industrial, manufacturing, agriculture, commerce, trade or business, as distinguished from domestic or residential waste.

Mechanical fluid means any fluid used in the operation and maintenance of machinery, vehicle(s) and any other equipment. Includes, but is not limited to, mechanical fluid, lubricants, antifreeze, petroleum products, oil and fuel.

Minimum measure means a mandated part of a storm water management program that reduces the amount of pollutants entering streams, lakes and rivers as a result of runoff from residential, commercial and industrial areas during a storm event.

Mobile commercial cleaning means washing, steam cleaning and any other method of mobile cleaning of vehicles and/or exterior surfaces, engaged in for commercial purposes or related to a commercial activity.

MSDS means the Material Safety Data Sheet for hazardous chemicals.

Municipal separate storm sewer system (MS4) means a conveyance or the system of conveyances, including roads with drainage systems, municipal streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the City and designed or used for collecting or conveying storm water and is not a combined sewer or used for collecting or conveying sanitary sewage.

Notice of violation (NOV) means a formal written notice delivered, either by hand delivery, certified mail or posted on the subject property, to a person or entity who has violated any code of the Grand Junction Municipal Code. The notice shall contain the parcel number or address, name or entity to whom the notice is being delivered, section(s) of the code being violated, time frame in which to correct the violation and information regarding remedies the City may take to achieve compliance. An NOV may also be referred to as a "compliance advisory."

NPDES means the National Pollutant Discharge Elimination System under Section 402 of the Clean Water Act.

NPDES permit means a permit issued pursuant to EPA authority. An NPDES permit allows the discharge of pollutants to navigable waters of the United States or waters of the State, whether the permit is applicable on an individual, group, or area basis.

Oil means any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, vegetable or animal fat, grease, sludge, oil refuse and oil mixed with waste.

Owner means a person having dominant and/or servient interest in property, having sufficient interest to convey property, and/or having possessory interest in property. The term "owner" also includes the owner's agent.

Part of a larger common plan of development or sale means a contiguous area where multiple separate and distinct construction activities will be taking place at different times on different schedules under one plan. An example would be a commercial development with multiple separate buildings constructed over the course of multiple construction schedules.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or its legal representative(s), agent(s), or assign(s), including all federal, State and local governmental entities.

Pesticide means a substance or mixture of substances intended to prevent, destroy, repel or mitigate any pest.

Petroleum product means a product that is obtained from distilling and processing crude oil that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil and No. 1 and No. 2 diesel.

Pollutant means any substance attributable to water pollution, including but not limited to dredged spoil, solid waste, incinerator residue, filter backwash, sewage, septic waste, sewage sludge, rubbish, garbage, solid waste, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, sediment, rock, dirt, sand, mud, soil, sediment, industrial, municipal and agricultural waste, litter, debris, yard waste, pesticides, herbicides, fertilizers, domestic animal waste, mechanical fluid, oil, motor oil, used oil, grease, petroleum products, antifreeze, surfactants, solvents, detergents, cleaning agents, paint, heavy metals, toxins, household hazardous waste, small quantity generator waste, hazardous substances and hazardous waste.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property or public health, safety or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Potable water means water that has been treated to federal Safe Drinking Water Act standards and/or is safe for human consumption.

Private drainage system means all privately owned ground, surfaces, structures or systems, excluding the municipal separate storm sewer system, that contribute to or convey storm water, including but not limited to roofs, gutters, downspouts, lawns, driveways, pavement, roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins, ponds, draws, swales, streams and any ground surface.

Property owners' association is an association formed by a land owner or owners to manage and maintain property in which they own an undivided common interest. The association may be referred to as a homeowners' association (HOA) for residential developments or as a business owners' association (BOA) for commercial developments.

Qualified person means a person who possesses the required certification, license and appropriate competence, skills, and ability as demonstrated by sufficient education, training and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements and generally accepted industry standards for such activity and may, for certain duties, be required to be a professional engineer licensed in the State of Colorado or as required under § 12-25-101, C.R.S.

Receiving waters means creeks, streams, rivers, lakes, estuaries or other bodies of water into which surface water and/or treated or untreated waste are discharged, either naturally or in manmade systems.

Release means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose or otherwise introduce into the storm drainage system.

Rubbish means nonputrescible solid waste, excluding ashes that consist of: (a) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves and similar materials; and (b) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1,600 to 1,800 degrees Fahrenheit).

Sanitary sewage means the domestic sewage and/or industrial waste that is discharged into the Persigo sanitary sewer system and passes through the sanitary sewer system to the Persigo sewage treatment plant for treatment.

Sanitary sewer means the system of pipes, conduits and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the Persigo sewage treatment plant (and to which storm water, surface water and groundwater are not intentionally admitted).

Sediment means soil, mud, dirt, gravel and rocks that have been disturbed, eroded and/or transported naturally by water, wind or gravity, and/or mechanically by any person, vehicle or equipment.

Septic tank waste means any domestic sewage from holding tanks such as vessels, grease interceptors, chemical toilets, campers, trailers, septic tanks and aerated tanks.

Site means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Solid waste means any garbage, rubbish, refuse, yard waste and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, construction, mining or agricultural operations and residential, community and institutional activities.

Storm drainage system means all surfaces, structures and systems that contribute to or convey storm water, including private drainage systems, to the municipal separate storm sewer system, and any non-municipal drain or pipe, channel or other conveyance, including natural and manmade washes and ditches for conveying water, groundwater, drainage water or unpolluted water from any source, excluding sewage and industrial wastes, to waters of the State and United States.

Storm water means surface runoff resulting from precipitation and other storm events.

Stormwater Management Manual means the Stormwater Management Manual (SWMM) that contains Grand Junction and Mesa County policy and criteria pertaining to storm water runoff; federal, State and local regulations pertaining to storm water law and water quality; and grading and drainage criteria under Section 6.2.(F) of the City Zoning and Development Code, dated 1996 and as amended or replaced.

Surface water means water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channeled flow and runoff.

Toxic means a substance that is harmful or poisonous according to the MSDS standards.

Uncontaminated means not containing harmful quantities of pollutants that exceed State or federal guidelines.

Upset means an exceptional incident in which there is an unintentional and temporary noncompliance because of factors beyond reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed or inadequate treatment, lack of preventive maintenance, or careless or improper operation.

Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility or the 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.

Waters of the State means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

Waters of the United States means all waters which are currently used, used in the past or susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and the flow

of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "Waters of the United States" at 40 CFR Section 122.2; but not including any waste treatment systems, treatment ponds or lagoons designed to meet the requirements of the federal Clean Water Act.

Water quality standard means the designation of a body or segment of surface water in the State for desirable uses and the narrative and numerical criteria deemed by State or federal regulatory standards to be necessary to protect those uses.

Wetland means any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Yard waste means leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance or land clearing operations.

(Ord. 4233 § 6, 5-7-08. Ord. 3824 § 3, 9-7-05. Code 1994 § 16-141)

13.28.020 Illicit discharges prohibited into storm drainage system.

(a) Prohibitions.

(1) No person shall release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated storm water, except as allowed in subsection (b) of this section. Common storm water contaminants which cannot be released into the storm drainage system include herbicides and lawn chemicals, construction debris and wastes, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment, dirt and other toxic substances, including substances defined as "pollutants."

(2) Notwithstanding the provisions of subsection (b) of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the City Manager to be a source of pollutants to the storm drainage system.

(3) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system are prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) No person shall connect a line conveying sanitary sewage, domestic sewage or industrial waste to the storm drainage system or allow such a connection to continue. Any existing connection must be removed.

(5) No person shall maliciously damage, destroy or interfere with best management practices (BMPs) implemented pursuant to this chapter.

(b) Exemptions. Subject to GJMC 12.16.040 and 13.08.370, the following non-storm water discharges are not a violation of this chapter. Note that even if one of the following discharges is not covered under this chapter it may still require a federal and/or State-issued permit.

(1) Intermittent uncontaminated discharge from landscape irrigation, lawn watering, or irrigation return flows.

(2) Uncontaminated discharge from foundation, footing or crawl space drains and sump pumps. (Commercial air conditioning condensation and water from commercial cooler drains shall be discharged to the sanitary sewer system only.)

(3) Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs.

(4) Diverted stream flows and natural riparian habitat or wetland flows.

(5) Uncontaminated discharges from the occasional noncommercial or charity washing of vehicles or occasional not-for-profit car washing events.

(6) Dechlorinated and uncontaminated swimming pools and hot tubs may be drained to the storm drain system. Swimming pool and hot tub drainages may be drained to the sanitary sewer system without de-chlorination.

(7) Discharges approved by the City Manager as being necessary to protect property and/or public health and safety, such as flows from fire fighting.

(8) Waterline flushing and other infrequent discharges from potable water sources and waterline repair work as necessary to protect public health and safety.

(9) Street wash water after mechanical cleanup (sweeping) has taken place.

(10) City activities as determined necessary by the City Manager, such as spring cleanup and fall leaf pickup programs. The intent of these activities is to reduce pollution in the storm drainage system. For this exemption to apply, the participant(s) must comply with the directions and specified time frame determined by the City Manager.

(11) A discharge authorized by and in compliance with a CDPS or NPDES permit, other than the CDPS permit for discharges from the municipal separate storm sewer system. This type of discharge must receive advance approval by the City before the CDPS permit can be issued.

(c) Requirements Applicable to Certain Dischargers. Process waters generated from any industrial or commercial source, including carpet and rug cleaners and mobile commercial power cleaning operations, shall not discharge to the storm drainage system without a valid CDPS discharge permit. In the absence of a CDPS discharge permit, discharges from power cleaning operations shall be reclaimed via wet vacuum sweeping or other type of containment before entering the storm drainage system. (Discharge to the sanitary sewer is allowed with prior City authorization.)

(d) Release Reporting and Cleanup. Any person responsible for a known or suspected release of materials which results in, or may result in, illegal discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a material, said person shall comply with all State, federal and local laws requiring reporting, cleanup, containment and any other appropriate remedial action in response to the release. Notice shall be given to the City Manager and followed by a written report of the remedial action(s) taken.

(e) Authorization to Inspect, Adopt and Impose Best Management Practices. The City has the authority to conduct storm water inspections at commercial and industrial facilities and residential facilities under common ownership (for detention ponds owned by POAs) and to require implementation of best management practices (BMPs) where appropriate. The selection, application and maintenance of BMPs must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system. The City may adopt and impose requirements identifying specific BMPs in the stormwater management manual for any activity, operation or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation or owning or operating such facility shall implement and maintain BMPs at the person's own expense.

(Ord. 3824 § 3, 9-7-05. Code 1994 § 16-142)

13.28.030 Control of storm water discharges from construction and post-construction activities.

(a) General Requirements for Construction Sites.

(1) All proposed development as described in subsection (a)(2) of this section must provide for on-site erosion and sediment control, control of illegal discharges, and runoff collection and conveyance in accordance with the Stormwater Management Manual and applicable federal and State laws.

(2) The owner of a construction site and/or conducting construction activity, including but not limited to subdivision development, subsequent lot development, individual home and building construction, and developments as defined, that disrupt or expose soil or remove vegetation on one or more acres of land during the life of the construction project, shall be responsible for obtaining a State discharge permit and compliance with the requirements of this chapter, and to utilize specific BMPs adopted by the City and within the Stormwater Management Manual. All BMPs designed to meet the requirements of this chapter shall comply with the Stormwater Management Manual and the construction storm water management plan.

(3) Waste Disposal. Solid waste, industrial waste, yard waste, rubbish, discarded building materials, chemicals, sanitary wastes and any other pollutants or waste on any construction site shall be controlled through the use of BMPs. Waste containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste, rubbish and other pollutants or toxins that may blow, wash or otherwise be released from the site are prohibited.

(4) Ready-mixed concrete or any materials resulting from the washing or cleaning of vehicles or equipment containing or used in transporting or applying ready-mixed concrete shall be contained in a designated area on construction sites for proper disposal. All washing-out of concrete mixer truck bowls and chutes and release of these materials into storm drains is prohibited.

(5) Erosion and Sediment Control. BMPs shall be implemented to prevent the release of sediment from construction sites and development. Disturbed area(s) shall be minimized and disturbed soil, including but not limited to construction sites and entrances and exits therefrom, shall be managed to prevent tracking, blowing and fugitive emissions release. Any water used in cleaning operations shall not be disposed into the storm sewer system. Sediment, dirt and mud tracked onto public streets shall be removed immediately by sweeping, scooping and shoveling at the owner's expense. Sediment not removed within the specified time limits as stated in a notification will be removed by the City or designated contractor. Such removal costs will be billed to the property owner and, if not paid, become a lien on the property.

(6) Materials Storage. Construction materials stored on public streets or required as part of a public construction project occurring in the right-of-way will require BMPs if determined appropriate by the City Manager.

(b) Construction Sites Requiring an Approved Construction Storm Water Management Plan. Where any public or private construction, including subdivision development, will disturb or expose soil or remove vegetation on one or more acres of land during the life of the construction project, including the disturbance of less than one acre of total land that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb one or more acres, or on smaller projects as designated by the City, a construction storm water management plan for the project must be provided to the City and implemented by the construction site owner as follows:

(1) The preparation, content and implementation of the construction storm water management plan shall comply with this chapter, the Stormwater Management Manual and all applicable laws.

(2) The area included in the construction storm water management plan shall be assumed to include the entire property area, unless the applicable construction storm water management plan specifically excludes certain areas from disturbance.

(3) Construction storm water management plans must be provided for all phases of development, including sanitary sewer and storm drainage system construction, waterline, street and sidewalk construction, grading, installation of other utilities, the construction of all buildings and/or individual site development and landscaping for common areas owned and maintained by the POA.

(4) The construction storm water management plan must be provided by the owner and submitted to the City Community Development Department for approval during the development review process.

(5) The City will review the construction storm water management plans as part of the development review process and approval must be provided before commencement of construction.

(6) Construction activity, including any soil disturbance, stockpiling or transport, or removal of vegetation, shall not commence on the site until the Community Development Department has issued written approval of the construction storm water management plan acceptance.

(7) The property owner bears all legal and financial responsibility for implementation, monitoring of and for the approved construction storm water management plan, for all construction activity within the development and for notification of all contractors and utility agencies on the site regarding compliance with the same. The requirement to follow the terms of the construction storm water management plan shall be recorded as a note on the property plat. The owner shall provide a copy of the approved construction storm water management plan to all utility agencies, subcontractors and other agencies or person(s) prior to working on or within the construction site or subdivision development. If a property is sold the owner is responsible for ensuring the plan is part of the property sale and is included when a planning clearance is obtained for a building permit. The construction storm water management plan must be attached to the planning clearance to obtain a building permit.

(c) Construction Storm Water Management Plans. Preparation, content and implementation of construction storm water management plans for all public and private construction activity shall, in addition to requirements in the Stormwater Management Manual and all applicable laws:

(1) Be prepared under the direction of a qualified person, as defined in GJMC 13.28.010.

(2) Provide the name, address and phone number of the project owner for purposes of correspondence and enforcement.

(3) Specify and provide detail for all BMPs necessary to meet the requirements of this chapter, including any applicable BMPs that have been adopted and imposed by the City.

(d) Implementation of Approved Construction Storm Water Management Plans.

(1) BMPs shall be installed and maintained by a qualified person(s).

(2) The owner shall be able to provide upon request a copy of the construction storm water management plan on site during construction.

(3) The owner shall inspect all BMPs at least once every 14 days, and after any precipitation or snowmelt event that causes surface erosion. The owner must provide consent to the City for the City to inspect any BMP without advance notice or permission from the owner.

(4) Based upon inspections performed by the owner or by authorized City personnel, modifications to the construction storm water management plan shall be necessary if at any time the specified BMPs do not meet the objectives of this chapter.

(5) If major modification is required, such as addition or deletion of a sediment basin, the owner shall meet and confer with authorized City personnel to determine the nature and extent of modification(s). Minor modifications necessary to meet the objectives of this chapter may be performed without City authorization. All approved modification(s) shall be completed in a timely manner, but in no case more than seven calendar days after the inspection showing that

modification is needed. All modification(s) shall be recorded on the owner's copy of the construction storm water management plan. In the case of an emergency, the contractor shall implement conservative BMPs and follow up with City personnel the next working day.

(e) Post-Construction Requirement of Permanent BMPs.

(1) Land development that meets the requirements of subsection (b)(1) of this section shall implement storm water runoff controls through the use of permanent BMPs. All permanent BMPs shall be maintained in good working condition for the life of the development.

(2) Developments that have permanent BMPs installed shall maintain those BMPs in good working condition for the life of the development.

(3) Structural BMPs located on property shall be owned, operated, inspected and maintained by the owner(s) of the property and those persons responsible for the property on which the BMP is located. The legal responsibility to maintain the BMPs shall be included in POA incorporation articles and covenant restrictions, and development agreements for commercial sites. As a condition of approval of the BMP(s), the owner and those persons responsible for the property shall also agree to maintain the BMP to its design capacity unless or until the City shall relieve the property owner of that responsibility in writing. The obligation to maintain the BMP(s) shall be recorded on the property plat. The development agreement shall include any and all maintenance easements required to access and inspect the BMP(s) and to perform routine maintenance as necessary to ensure proper functioning of the storm water BMP. The building of any structures on such maintenance easements is prohibited. Any agreement arising out of or under this chapter shall be recorded in the office of the Grand Junction City Clerk and/or the Mesa County land records.

(4) The City will issue annual notices to POAs to ensure inspections and maintenance of permanent BMPs are performed properly.

(f) Certification of Permanent BMPs. Upon completion of a construction project and before a certificate of occupancy or clearance by the Building Department shall be granted, the City shall be provided a written certification signed by a qualified person stating that the completed project is in compliance with the approved construction storm water management plan. All applicants are required to submit "as-built" plans for any permanent BMP(s) after final construction is completed. A digital copy of the as-built plans is required in current AutoCAD format. A final inspection by the City is required before the release of any performance securities may occur.

(g) Ongoing Inspection and Maintenance of Permanent BMPs. Permanent BMPs included in a construction storm water management plan which is subject to an inspection and maintenance agreement must undergo ongoing annual inspections by a qualified person or professional engineer to document maintenance and repair needs and to ensure compliance with the requirements of the agreement, the construction storm water management plan and this chapter.

(Ord. 3824 § 3, 9-7-05. Code 1994 § 16-143)

13.28.040 Enforcement.

(a) The City Manager shall have the right to enter the premises at any time to investigate if the discharger is complying with all requirements of this chapter when there is reason to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of this chapter. Investigation may include, but is not limited to, the following: the sampling of any suspected discharge, the taking of photographs, interviewing of any person having any knowledge related to the suspected discharge or violation and access to any and all facilities or areas within the premises that may have any effect on the discharge or alleged violation. In the event that the owner or occupant refuses entry after a request to enter has been made, the City is hereby empowered to seek assistance from the City Attorney and the Municipal Court in obtaining such entry.

(b) Whenever the City finds that any person has violated any portion of this chapter, the City Manager shall serve a compliance advisory or a notice of violation (NOV). Within the time specified after the date of such notice, the person shall submit to the City Manager evidence of the satisfactory correction of the violation.

(c) Whenever the City Manager finds that any person has violated or is violating this chapter or a permit or administrative order issued hereunder, the City Manager may have served upon said person 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 Attorney from taking any other enforcement action.

(d) Upset Condition.

(1) An upset condition determination constitutes an affirmative defense to an action brought for noncompliance when the terms of this chapter are met. An owner who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the cause(s) of the upset can be identified; and

(ii) The facility or operation was at the time being properly operated; and

(iii) Notice of the upset was submitted as required in GJMC 13.28.020(d); and

(iv) Remedial measures were complied with as required.

(2) Burden of Proof. In any enforcement proceeding, the one seeking to establish the occurrence of an upset has the burden of proof.

(e) Any person wishing to appeal 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 chapter, or the provision of any administrative order issued under this chapter, shall file with the City Manager a written request for reconsideration within 10 working days of such decision, action, administrative order or determination. That written request shall set forth in detail the facts supporting the request. The City Manager shall hold a hearing within 10 working days of such request. All requests for reconsideration shall be heard by the City Manager within 10 working days from the date of the hearing. The decision, action, administrative order or determination shall remain in effect during the reconsideration period.

(f) Any person entitled to appeal an order of the City Manager pertaining to a violation of this chapter may do so by filing an appeal with the City Manager within 10 working 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 Storm Water Hearing Board of the City of Grand Junction, Colorado" or "Before the Storm Water 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.

Upon receipt of a properly filed appeal, the City Manager shall notify the City Council, and the City Manager shall convene a Storm Water Hearing Board or appoint a Hearing Officer. The hearing shall commence no sooner than 10 days, but no later than 60 days, after the appeal is filed.

(g) The City Manager is authorized to order any user who causes, makes, or allows an unauthorized direct or indirect discharge or a harmful contribution to the storm drainage system 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. The notice of the hearing shall be served upon the user personally or by certified mail, return receipt requested, at least 10 days before the hearing. Service may be made on any agent or authorized representative of a corporation or partnership.

(h) The City Manager may appoint a Hearing Officer or may instead convene a Storm Water Hearing Board to conduct the hearing or appeal. The Board may consist of a City Council member or designee, the City Manager, a 5-2-1 Drainage Authority Board member or designee and an employee of the Public Works and Utilities Department. The Hearing Officer or Storm Water 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.

(i) 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 30 days thereof, the Council may conduct its own hearing, make its own findings, and issue its own orders. 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 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 the provisions of this chapter may be issued by the City Manager.

(j) Any person who violates a prohibition or fails to meet a requirement of this chapter will be subject, without prior notice, to one or more of the enforcement actions identified herein, when attempts to contact the person have failed and the enforcement actions are necessary to stop an actual or threatened discharge, which presents or may present imminent danger to the environment, or to the health or welfare of persons or to the well being of the storm drainage system.

(k) Any person who fails to comply with a notice of violation shall be subject to any of the following:

(1) The City Manager may issue a stop work order to the owner and contractors on a construction site, by posting the order at the construction site. Unless express written exception is made,

the stop work order shall prohibit all further construction activity at the site and shall bar any further inspection or approval(s) necessary to commence or continue construction or to assume occupancy of the site. A notice of violation shall accompany the stop work order, and shall define the compliance requirements.

(2) The City Manager may order City representatives to terminate an illicit connection to the municipal separate storm sewer system. Any expense related to abatement by City or its contractor(s) or agent(s) shall be fully reimbursed by the property owner. Failure to pay may result in the property being liened as provided herein.

(3) When a property owner is not available, not able or not willing to correct a violation, the City Manager may order City personnel, contractor(s) or agent(s) to enter private property to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow City representatives to enter upon the premises for these purposes. Any expense related to such abatement by City representatives shall be fully reimbursed by the property owner. Failure to pay may result in the property being liened as provided herein.

(4) Within 30 days after abatement by City representatives, the City Manager shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. If the amount due is not paid, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment plus an administrative charge of 25 percent. The unpaid liens and charges shall be certified to the County Assessor so that the Assessor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the amount of the assessment on the bill for taxes levied against the parcel of land.

(5) Where necessary for the reasonable implementation of this chapter, the City Manager may, by written notice, order any owner of a construction site or subdivision development to post surety, in a form approved by the City Attorney, not to exceed a value determined by the City Manager to be necessary to achieve consistent compliance with this chapter. The City may deny approval of any building permit, subdivision plat, site development plan, or any other City permit or approval necessary to commence or continue construction or to assume occupancy, until such surety has been filed with the City.

(l) Any person who violates or continues to violate a prohibition or requirement of this chapter shall be subject to criminal prosecution to the fullest extent of the law and shall be subject to criminal penalties.

(m) The violation of any provision of this chapter or with any orders, rules, regulations, permits and permit conditions shall be deemed a municipal offense. Any person violating this chapter shall, upon an adjudication of guilt or a plea of guilty or no contest, be fined to a maximum of $1,000 for each violation and up to a year in jail. Each separate day on which a violation is committed or continues shall constitute a separate offense.

(1) 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 chapter or the orders, rules, regulations and permits issued hereunder, or discharges into the storm drain system or into State waters contrary to the provisions of this chapter, federal or State 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 chapter shall become liable to the City for any expense, loss, or damage to the City or to the storm drain system occasioned by such violation. The City Attor-

ney may seek a preliminary or permanent injunction or both which restrains or compels the activities on the part of the discharger.

(2) 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 chapter, or who falsifies, tampers with, bypasses, or knowingly renders inaccurate any monitoring device, testing method, or testing samples required under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed $1,000 per day for each violation and/or imprisonment not to exceed one year or both.

(3) The remedies provided for in this chapter, 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.

(Ord. 4233 § 6, 5-7-08; Ord. 3824 § 3, 9-7-05. Code 1994 § 16-144)

Chapter 13.32

WATERSHED AND WATER SUPPLY STANDARDS

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Article I. General Provisions

13.32.010 Short title.

These regulations may be cited as the "watershed protection regulations" or generally as "watershed regulations."

(Res. 115-07 § XX-1, 7-30-07)

13.32.020 Intent.

The City Council finds that the maintenance and protection of an adequate water supply of the highest quality and quantity is essential to the public health, safety and welfare of the citizens of the City, and that the City's water supply and waterworks shall be protected from pollution, impairment, injury or damage.

These regulations shall be periodically reviewed and updated to reflect new technologies and/or applicable State and federal regulations.

(Res. 115-07 § XX-2, 7-30-07)

13.32.030 Authority.

Pursuant to the Constitution, the Charter and applicable law, the City may enact ordinances and regulations for the purpose of maintaining and protecting the City's waterworks from injury and to protect the water from pollution in lands and territory occupied by such waterworks and over the streams or sources, including groundwater, from which the water is taken for five miles above the point from which it is taken, pursuant to § 31-15-707(l)(b), C.R.S.

All powers and protections stated herein are applicable to all property owned by the City contiguous to the watershed boundary.

(Res. 115-07 § XX-3, 7-30-07)

13.32.040 Severability.

If any section, subsection, paragraph, clause, phrase or provision of these regulations shall be held or adjudged to be invalid by a court of competent jurisdiction, then the validity of the balance of the watershed regulations shall not be affected in whole or in part.

(Res. 115-07 § XX-4, 7-30-07)

13.32.050 Prevailing provisions.

The City's authority over proposed activities within the watershed, not on land owned in fee simple by the City, shall be exercised concurrently with Mesa County, the United States Department of Agriculture, the United States Forest Service (USFS), the United States Department of the Interior and the United States Bureau of Land Management (BLM), consistent with and pursuant to the City's jurisdiction as authorized by law and implemented by these regulations. The City's authority shall be construed as broadly as is consistent with established principles of law. For all proposed activities on land owned in fee simple by the City, or if any federal, State or local entity defers or declines to exercise its applicable authority, if any, for any proposed activity within the watershed, the City's review authority shall occur prior to the commencement of any proposed activity subject to these regulations.

(Res. 115-07 § XX-5, 7-30-07)

13.32.060 Interpretation.

In their application and interpretation the provisions of these regulations shall be held to be minimum requirements. These regulations do not repeal, abrogate, annul or in any way impair or interfere with existing provisions of private or intergovernmental agreements. Where these regulations impose a greater restriction than that imposed by prior or existing provisions of law, contract or deed, the provisions of these regulations shall control.

(Res. 115-07 § XX-6, 7-30-07)

13.32.070 Legal action.

(a) The City Attorney is authorized to file suit against and/or to prosecute in the Municipal Court any person alleged to violate in whole or in part any provision of these regulations.

(b) Any employee(s) of the Utilities and Streets Systems Department that is so authorized by the City Manager may detain and hold for further disposition any person in violation of these regulations.

(Res. 115-07 § XX-7, 7-30-07)

13.32.080 Entry and inspection.

The City may enter and inspect any property within the watershed and under the jurisdiction of these regulations at reasonable hours for the purpose of determining if any activity is in violation of the provisions hereof and/or is in violation or noncompliance with any permit issued hereunder. In the absence of a bona fide emergency, the City will follow all regulations pertaining to motorized travel and safety procedures when doing inspection.

(Res. 115-07 § XX-8, 7-30-07)

13.32.090 Violations – Penalties.

(a) It is unlawful to engage in any activity not in compliance with these regulations or any amendment thereto and/or the permit requirements hereof. Any person, corporation or other legal entity, either as owner, lessee, permittee, occupant or otherwise, who violates any provision of these regulations and/or who engages in any activity not in compliance with these regulations shall be charged with a misdemeanor.

(b) Any person, corporation or other legal entity, upon conviction of a violation of these regulations, shall be punished by the imposition of a fine in the amount not to exceed $1,000 per day for each offense, or by imprisonment not exceeding 90 days for each offense, or both.

(c) Any person, corporation or other legal entity shall be guilty of a separate offense for each and every day during any portion of which any violation of these regulations is committed, continued or permitted.

(d) Nothing herein shall limit the City from seeking any other remedies available by law or in equity, including but not limited to injunctive relief, the recovery of damages and the payment of costs and reasonable attorneys' fees. All remedies shall be cumulative.

(Res. 115-07 § XX-9, 7-30-07)

Article II. Definitions

13.32.100 Rules of construction.

For the purposes of these regulations, the words and phrases set forth herein shall have the meanings respectively ascribed to them and, in addition, whenever appropriate with the context, words used in the present tense include the future tense, words used in the singular include the plural and vice versa, the word "shall" is always mandatory and the word "may" is permissive.

(Res. 115-07 § XX-21, 7-30-07)

13.32.110 General terms defined.

Whenever the following words or phrases are used, they are defined as follows:

Acceptable use means any activity within the watershed that is not required to provide a watershed permit, pursuant to GJMC 13.32.180.

Activity means any excavating, filling, grading, surfacing, construction or activity, other than non-commercial gardening or landscaping, which changes or enlarges the basic character or the use of the land upon which the activity occurs.

City means the City of Grand Junction and, where appropriate, an officer, employee or authorized agent of the City of Grand Junction.

City Council or *Council* means the City Council of the City of Grand Junction.

City-owned lands in fee simple means fee simple ownership of real property.

Confined animal feeding operations means an animal feeding operation (AFO) at a lot or facility where animals are stabled or confined for a total of 45 days or more in any 12-month period and crops or vegetative growth are not maintained in the normal growing season over the lot or facility.

Ditch means a small to moderate depression created to channel water.

Domestic use means the construction of a single-family residence of less than 10,000 square feet in total interior square feet construction and maintenance of driveways, landscaping and accessory barns and sheds in connection with single-family residence; the maintenance, cutting and clearing of necessary trees and vegetation to accomplish the same; and treatment of noxious weeds and fire fuels management on the single-family residential property.

Drain means the natural or artificial removal of surface and subsurface water from a given area.

Drilling or *drilling operations* means drilling for water, oil, gas, or other natural resources, and includes grading, construction, and traffic activities associated with the drilling.

Excavating means the intentional movement of earth leaving any cut bank over three feet in height or a movement of material in excess of 10 cubic yards.

Filling means the intentional movement of earth that results in any earth bank over two feet in height or filled earth over two feet deep, or artificial addition of earth above a line sloping up at a grade of one vertical unit to five horizontal units from the ground before the filling.

Grading means the intentional movement of over five cubic yards of material; movement of any earth or material that changes the natural flow of surface water, or affects or creates a drainage channel; pioneering of a road, cutting or clearing of trees and shrubbery that results in creating a roadway or drive-

way in excess of 25 feet in length; or the use of vehicles or keeping of any animals upon any land that could reasonably lead to a movement of five cubic yards of material within any five-year period.

Groundwater means any water existing in a saturated or unsaturated state in the subsurface soils and rock.

Hazardous means a condition, situation, or substance that has the potential to cause harm to humans and the ecosystem.

Hazardous substance means any material as described in 40 CFR 300.5.

Impact means any alteration or change resulting directly or indirectly from an action.

Mining means any activity that involves the exploration for or the development (excavation or extraction) of soils, rock, coal, minerals or other geologic materials.

Mitigation means processes or methods which:

(1) Avoid an impact upon the land by evaluating alternatives and redesigning an activity;

(2) Minimize an impact upon the land by substantially limiting the scope of an activity;

(3) Rectify an impact upon the land through the use of remediation, rehabilitation or restoration techniques; or

(4) Compensate for the impact upon the land by replacing or providing substitute facilities or resources.

Motorized vehicle means any vehicle which is self-propelled.

Person means any individual, corporation, association, organization, partnership, trust, estate or any other recognized legal entity.

Pipeline means a conduit made from pipes connected end-to-end for long-distance fluid transport.

Pollution means the manmade, man-induced or natural alteration of the physical, chemical, biological or radiological composition or integrity of water.

Removing vegetation means the intentional cutting, burning, grubbing, dragging, chemical killing or any other manner of removing any flora or tree; any shrubs and/or trees, or combination, covering an area of more than 100 square feet; or any grasses covering an area of more than 1,000 square feet. Notwithstanding the preceding sentence, "removing vegetation" does not include: removal of clearly diseased or dead trees for domestic uses; clearing of trees in order to construct a single-family residence; cutting of Christmas trees for noncommercial purposes; yard or garden work incidental to domestic uses; treatment of noxious weeds; fire fuel reduction on a single-family residential property; or removing vegetation incidental to a lawful use existing as of the date of approval hereof.

Seep means a wet place where a liquid, usually groundwater, has oozed from the ground to the surface.

Skid trails means a temporary travel-way for logging equipment to transport felled trees or logs to a landing.

Spring means a point where groundwater flows out of the ground, and is thus where the aquifer surface meets the ground surface.

Stream means a body of water with a current, confined within a bed and banks.

Significant degradation means to lower in grade or desirability to a significant, rather than to a minor or trifling, degree.

Substantial means material or considerable in importance, value, degree, amount or extent.

Surfacing means covering soil or prepared areas with asphalt, gravel or similar materials.

Surface intake means a place where surface water is diverted from a source for a purpose.

Surface water means water collecting on the ground or in a stream, river, lake, or wetland.

Timber harvesting means felling trees and transporting logs on skid trails to a landing where products are sorted and loaded onto trucks for transportation to a mill.

Toxic means having a poisonous effect on living organisms.

Waterbody means any surface-water feature including but not limited to streams, creeks, ponds, lakes, impoundments, catchbasins, ditches, drains, canals, springs, seeps, and channels associated with spring and seep discharge.

Watershed is the area designated in GJMC 13.32.140, including the hydrologic basins and land area encompassed by the watershed.

Watershed permit or *permit* means the written approval issued by the City for an activity within the watershed.

Waterworks means any and all naturally occurring, manmade or designed components of the City's water collection and delivery system, including but not limited to all springs, seeps, streams, surface intakes, ditches, drains, pipelines or reservoirs and all decreed points of diversion for the same, and any transmission, storage and filtration facilities which are used in the construction, maintenance and operation of the City's water collection and delivery system.

Wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include wet meadows, fens, riparian areas and similar areas.

(Res. 115-07 § XX-22, 7-30-07)

13.32.120 Other definitions.

Other words and phrases may be defined elsewhere in these regulations, which definitions shall define said words and phrases necessary for the administration and enforcement of these regulations.

(Res. 115-07 § XX-23, 7-30-07)

Article III. Watershed

13.32.130 Establishment of the watershed.

The City of Grand Junction watershed is hereby defined and established by the description in GJMC 13.32.140 and the map of the watershed defined in GJMC 13.32.150. The watershed is that area of land in which the City shall exercise its powers to maintain and protect the City's water supply and waterworks from pollution, impairment, injury or damage.

(Res. 115-07 § XX-31, 7-30-07)

13.32.140 Jurisdiction.

The jurisdiction of the watershed shall extend over all of the territory occupied by the City's waterworks, and all springs, seeps, streams, surface intakes, ditches, drains, pipelines and reservoirs used in and necessary for the construction, maintenance and operation of the same, in and including the Sink Creek, Whitewater Creek, North Fork of Kannah Creek (North Fork), and Kannah Creek basins and all water tributary thereto, and all associated surface waters, springs, seeps, groundwater flows and reservoirs, and all water sources and drainage areas tributary thereto for five miles above the points from which water is diverted for use by the City. The watershed includes all decreed points of diversion for direct flow and storage rights to numerous springs, ditches and reservoirs, all of which are located in all or part of Sections 26, 27, 28, and 31 – 35, Range 95 West, Township 11 South; Sections 31 – 36, Range 96 West,

Township 11 South; Sections 25, 26 and 32 – 36, Range 97 West, Township 11 South; Sections 3 – 9, 17 and 18, Range 95 West, Township 12 South; Sections 1 – 24 and 26 – 35, Range 96 West, Township 12 South; Sections 1 – 36, Range 97 West, Township 12 South; Sections 1, 12 – 14, 23 – 26, and 36, Range 98 West, Township 12 South; Sections 2 – 10 and 15 – 20, Range 96 West, Township 13 South; Sections 1 – 4 and 10 – 14, Range 97 West, Township 13 South, Sixth Principal Meridian; and Sections 13 and 24, Range 2 East, Township 2 South, Ute Principal Meridian, Mesa County, Colorado.

(Res. 115-07 § XX-32, 7-30-07)

13.32.150 Watershed map.

A map of the watershed showing the boundaries of the watershed, including the boundaries of the land owned in fee simple by the City, with all notations, references and other information shown thereon ("watershed map") may be adopted. The watershed map may be located at and available for viewing by the public in the office of the City Clerk, and copies are available upon request at a fee established by the City. It is also Appendix D at the end of this chapter.

(Res. 115-07 § XX-33, 7-30-07)

13.32.160 Unlawful to cause injury or damage.

It shall be unlawful for any person to cause injury or damage to the City's waterworks, including all springs, seeps, streams, surface intakes, ditches, drains, pipelines and reservoirs used in and necessary for the construction, maintenance and operation of the same.

(Res. 115-07 § XX-34, 7-30-07)

Article IV. Activity Within the Watershed

13.32.170 Applicability.

These watershed regulations shall apply as established herein.

(Res. 115-07 § XX-41, 7-30-07)

13.32.180 Permit required – Application.

(a) Permit Required. No person shall engage, commence or continue any activity, as per GJMC 13.32.190, within the watershed except in conformance with a watershed permit issued by the City.

(b) Permit Application. Applications for a permit are to be made to the City Manager or his or her designee. The applicant shall submit to the City a complete written description of the proposed activity. The application shall contain, at a minimum, all of the information required by GJMC 13.32.220 and 13.32.270, and quality of the information provided shall be such as to enable the City to review the application and make informed recommendations as set forth herein. The City reserves the right to reject all or part of an application that is not complete or does not address all of the requirements of GJMC 13.32.220 and 13.32.270 in a concise and coherent manner.

(Res. 115-07 § XX-42, 7-30-07)

13.32.190 Activities requiring a City watershed permit.

It shall be unlawful for any person, company, or publicly or privately owned organization to engage in any of the following activities without first applying for and obtaining a watershed permit under the provisions of these watershed regulations and according to the standards set forth in GJMC 13.32.270.

(a) Altering water drainage courses, surface or underground.

(b) Timber harvesting, except for the approved removal of dead trees and deadfall.

(c) Surface and subsurface mining operations, including drilling operations.

(d) Excavating, grading, filling or surfacing of surface and subsurface soils.

(e) Using, handling, storing or transmitting toxic, hazardous, radioactive or flammable or explosive materials and substances.

(f) Spraying or the use of pesticides, herbicides and fertilizers.

(g) Spraying, aerial application, or use of toxic fire retardants.

(h) Removing or altering vegetation.

(i) Construction or installation of a wastewater treatment system or sewage disposal system.

(j) Prescribed fires and fuels reduction activities, except with the approval of the City in cooperation with any federal or State land management agency which seeks to conduct a supervised prescribed burn.

(k) Confined animal feeding operations involving more than 200 animals confined to less than 100 acres.

(l) Discharge of treated or untreated process waters or wastewater.

(m) Deposit solid waste of any kind.

(Res. 115-07 § XX-43, 7-30-07)

13.32.200 Activities not requiring a City watershed permit.

Private land owners conducting normal, domestic single-family development do not require a watershed permit; however, conducting these activities does require an advance notice of intent to be submitted to the City.

The City has formalized partnerships with the United States Forest Service, United States Bureau of Land Management and Mesa County to ensure protection of the quality and quantity of the City's municipal water supply through Memorandums of Understanding (MOUs). The MOUs develop and implement a system for communication and consultation in the processes and practices of developing and implementing local, State and federal land use actions; and to ensure active involvement by each party in new and existing project planning and development within the Grand Junction watershed area.

A notice of intent to conduct an activity not requiring a City watershed permit is required from all federal, State, county and other local governments, and private land owners for the activities described in this section. The purpose of the notice is to promote a "good neighbor" policy by providing the City with proper notification of any activity such that the City can take appropriate action to manage and protect their water resources. The notice of intent may be submitted verbally or by letter addressed to the City Manager's designee describing the details of the proposed activity. Details shall include what activity is proposed, where and when the activity will take place, and the number of acres to be affected. In the case of chemical use, the chemical names and application rates should be reported. A notice of intent to conduct an activity not requiring a City watershed permit does not require completion of a watershed permit application.

The following activities when conducted by the USFS, BLM and Mesa County, which are pre-approved in accordance with applicable agency processes, do not require a City watershed permit:

(a) Application of pesticides, herbicides, and fertilizers, or other weed control activities.

(b) Thinning, disease control/eradication, deadfall and fire fuels reduction projects.

(c) Trail and road maintenance.

(d) Facility construction and maintenance including:

(1) Individual sewage disposal systems;

(2) Domestic water wells;

(3) Buildings, corrals, fences, ditches;

(4) Roads; and

(5) Farm lands,

to the extent that such activities follow County, State, and federal regulations and guidelines, and any and all existing published best management practices and guidelines protective of water resources in the watershed.

(e) Recreation including:

(1) Hiking;

(2) Horseback riding;

(3) Mountain biking;

(4) Off-highway vehicle use;

(5) Annual Lands End Hill Climb road race; and

(6) Group recreation permits.

Such activities are allowed only on established roads, trails and routes; provided, that such use does not substantially impact the watershed or waterworks. Mountain biking, hiking and horseback riding by the public is permitted on land owned by the City in fee simple within the watershed on designated routes; provided, that such use does not substantially impact the watershed or waterworks.

(Res. 115-07 § XX-44, 7-30-07)

13.32.210 Modes of travel.

The unauthorized use of motorized vehicles by the public on land owned by the City in fee simple within the watershed is prohibited unless vehicles are confined to an approved, designated USFS or BLM travel route. Motorized vehicle use on land owned by the City in fee simple within the watershed is permitted for City employees, officials and their agents, employees and officials of the federal government on official business in the watershed, and for authorized lessees of lands owned by the City of Grand Junction within the watershed.

(Res. 115-07 § XX-45, 7-30-07)

Article V. Administration and Enforcement

13.32.220 Submittal requirements.

The following information is required to be submitted in order to obtain a watershed permit for all activities in GJMC 13.32.190. To reduce preparation time of submittals, the applicant is encouraged to submit relevant information for each appropriate item that may have been prepared for other land management purposes. In any case, the submitted information must meet the minimal requirements shown below. The City may require additional information or certification deemed necessary to determine whether or not the proposed activity will comply with the standards set forth in GJMC 13.32.270.

The permit application shall contain the following information:

(a) Activity Description.

(1) Name and address of the applicant and the property owner. If the applicant and the property owner are not the same, a written authorization by the property owner is required before the applicant may appear on behalf of the property owner in regard to the proposed activity.

(2) Legal description of the property, and address if applicable to be affected by the activity.

(3) Detailed plans, specifications and sequences of the proposed activity, including the project history if any.

(4) Vicinity topographic map and other pertinent information indicating the site location, access points and proposed routes, and land survey, prepared by a licensed engineer, of the property to be affected by the activity.

(5) A list of all federal, State or local permits or approvals that are required for the proposed activity and copies of any such authorized permits or approvals when and where available.

(6) Copies of all applications and documents submitted to any federal, State or local authority concerning the proposed activity and proof of approval of such documents from the regulating authority(ies) having jurisdiction. Proof of approvals must be submitted to the City as they become available from other agency(ies).

(7) Itemization and volumes of all hazardous, toxic or explosive substances, chemical reagents, gasses and materials to be used, transported, stored or handled as a part of the proposed activity.

(8) Proposed hours of operation of all aspects of the proposed activity.

(b) Alternatives. A detailed description of any reasonable alternatives to the proposed activity which may result in less of an impact to the watershed, and why these alternatives were not selected for the preferred action.

(c) Environmental Evaluation and Mitigation Measures. An environmental evaluation and mitigation measures addressing the following:

(1) Water Resources.

(i) A map of all surface waters, springs, seeps, wetlands and groundwater potentially affected by the proposed activity.

(ii) The existing water quantity (surface discharge or flow, occurrence of groundwater) of all waters reasonably affected by the proposed activity. Sources of information for this submittal may include the City, the U.S. Geological Survey, Colorado Division of Water Resources, local organizations or residents, and other agencies. In remote areas the occurrence of groundwater may not be known. The applicant should demonstrate that a reasonable effort has been made to investigate existing literature, databases, and other sources of information.

(iii) A detailed description of the potential impacts the proposed activity will have on the quality and quantity of the City's water, waterworks, and/or primary watersheds.

(iv) A detailed description of proposed mitigation of impacts to the City's water resources.

(v) A description of the water supply for the proposed activity, including any proposed wells, water rights, diversion structures and facilities, and augmentation plan.

(vi) A detailed description of potential impacts to the watershed associated with the proposed water supply.

(vii) A detailed description of proposed mitigation of impacts to the watershed caused by the proposed water supply.

(2) Drainage.

(i) A map showing all natural drainage patterns in the area of the watershed potentially affected by the proposed activity.

(ii) A detailed description of potential impacts to natural drainage patterns in the watershed by the proposed activity.

(iii) A detailed description of proposed mitigation of impacts to natural drainage patterns.

(3) Vegetation.

(i) A map showing the type and extent of all vegetation within 300 feet of any proposed activity.

(ii) A detailed description of the potential impacts the proposed activity will have on that vegetation.

(iii) A detailed description of proposed mitigation of impacts to vegetation.

(4) Soils.

(i) A description of all soil conditions in the area potentially affected by the proposed activity, including contour maps at intervals determined by the City, which identify soil types, drainage areas, slopes, avalanche areas, debris fans, mudflows and rockslide areas.

(ii) A detailed description of potential impacts to soils by the proposed activity and potential adverse effects to the proposed activity as a result of existing or created soil conditions.

(iii) A detailed description of proposed mitigation which addresses soil conditions.

(5) Geographic Location. A description of all mitigation activities and their locations, a map and legal description of all property upon which mitigation activities may occur and written authorization, easements and any other agreements from such property owners.

(d) Plans. All plans shall present an introduction stating plan objectives and purpose, detailed descriptions of plan elements, specifications, schematics, if applicable, quality control measures, and schedules. The following plans are to be submitted:

(1) Water Quantity Monitoring Plan. The plan shall address the following elements: identification of surface water and ground water, baseline, operational, and post-operational monitoring frequencies.

(2) Spill Prevention Countermeasures and Control Plan. The plan shall describe the physical layout and a facility diagram, a contact list and phone numbers for the facility response coordinator, National Response Center, cleanup contractors, and all appropriate federal, State, and local agencies who must be contacted in case of a discharge, a prediction of the direction, rate of flow, and total quantity of spilled material that could be discharged where experience indicates a potential for equipment failure, a description of containment and/or diversionary structures or equipment to prevent discharged fluid from reaching waterbody(ies); where appropriate, a demonstration that containment and/or diversionary structures or equipment are not practical; periodic integrity and leak testing of bulk containers and associated valves and piping; spill contingency plan; and a written commitment of manpower, equipment, and materials to quickly control and remove spilled substances; operating procedures to prevent spills; control measures installed to prevent a spill from reaching surface waterbody(ies); and countermeasures to contain, clean up, and mitigate the effects of a spill that reaches a waterbody; and a complete discussion of the spill prevention and control measures applicable to the facility and/or its operations.

(3) Emergency Response Plan. The plan shall describe the potential threats or risks to the environment as a result of the development on an activity basis, contaminants of concern, development of baseline conditions, potential sources of release and release mechanisms, preventative monitoring, emergency response actions, event monitoring and verification, and reporting.

(4) Soil Erosion, Sediment, and Stormwater Pollution and Prevention Plan (SWPPP). The plan shall describe planned surface disturbance activities and detailed descriptions of best management practices and mitigation measures for soil erosion, sediment, and stormwater control. Elements of the plan shall be modeled after the USEPA's SWPPP template (http://

www.epa.gov/npdes/pubs/sw_swppp_template.doc) and include a description of the following: nature and sequence of construction activities, soils, slopes, vegetation, current drainage patterns, estimate of construction disturbance, calculation of runoff coefficients before and after construction, receiving waterbody(ies), site features and sensitive areas to be protected, potential sources of pollution, maps or drawings indicating key features, erosion and sediment control, good-housekeeping, and post-construction best management practices (BMPs), inspection and maintenance schedules, record keeping and training, amendments to the plan, final stabilization, and plan certification and notification.

(5) Grading Plan. A plan describing and showing elevations, dimensions, location and extent of all proposed excavating, filling, grading or surfacing within the watershed by the proposed activity. The plan shall include plan view and cross-section drawings showing the limits of cut and fill and areas to remain as natural or pre-existing grade. Drawings will show topographic contours of not more than two-foot elevation. The grading plan drawings will be certified by a Colorado-registered professional engineer.

(6) Reclamation Plan. The plan must describe existing pre-construction conditions on site and reclamation activities for all surface and subsurface disturbances meeting or exceeding the standards set forth in the applicable provisions of GJMC 13.32.270. The plan shall include, at a minimum, reclamation of all surface disturbances including equipment to be used, how equipment will be cleaned of weed seed prior to entering the site, regrading and recontouring, topsoil placement, native, weed-free seed mix composition and seeding/revegetation methods including planting of saplings if proposed, application of soil amendments (weed-free mulch, fertilizer, etc.), monitoring frequency and criteria for evaluating interim revegetation progress, supplemental or follow-up revegetation work, and final revegetation and reclamation approval criteria. In addition, the plan shall describe in detail the reclamation of all subsurface disturbances including but not limited to well and structure abandonment procedures, other shallow well structures (such as "rat holes" associated with oil and gas development), pipelines, tunnels, adits, shafts, or other underground workings, and piles or subsurface building foundations.

(7) Site Security Plan. The plan shall present measures to be implemented to secure the operating sites from mischievous acts, vandalism, or possible terrorist activities. Any applicable Homeland Security regulations and issues must be addressed.

(e) Waiver of Requirements. If sufficient information is available to the City concerning the information required to be within the permit application, the City in its sole discretion may waive such requirement.

(f) Additional Factors. In addition to the foregoing standards, where such review is deemed appropriate, in evaluating any request for a permit, the City may consider the following factors in making an analysis of the proposed activity set forth in the permit application:

(1) The nature and extent of the proposed activity;

(2) The proximity of the proposed activity to existing watercourses and waterworks;

(3) Drainage patterns and control measures;

(4) Soil criteria;

(5) Slope steepness and stability;

(6) Effects of denudation of vegetation;

(7) Geologic hazards, including but not limited to avalanche paths, landslide activity, floodplains, high-water tables, fault zones and similar factors;

(8) The toxicological characteristics of hazardous substances, chemicals or materials to be used or produced;

(9) Point-source effluent and emissions into the air or water;

(10) Ambient and nonpoint-source emissions into air and water;

(11) Nature, type and duration of vehicular and motorized activity associated with the proposed activity;

(12) Effects on wildlife and wildlife habitat;

(13) Fire hazard; and

(14) Emergency response training.

(Res. 115-07 § XX-51, 7-30-07)

13.32.230 Review and permitting procedures.

(a) Watershed Permit Application. A watershed permit application must be completed by the developer or person(s) proposing an activity or development within the watershed. The purpose of the application is to notify and inform the City of the proposed activity and allow the City to identify the level of potential impact to the watershed associated with the activity. A watershed permit application is not required by entities identified under GJMC 13.32.200 for the activities described under same section. However, a notice of intent to conduct the activity is required as described under GJMC 13.32.200. A copy of the watershed permit application may be found in Appendix B at the end of this chapter.

(b) City Review. The designee of the City Manager shall review the watershed permit application and determine whether it is complete and of sufficient quality and whether a site inspection is necessary within 30 days of the submittal. If the application is found to be sufficiently complete, the City Manager's designee shall review the application for compliance with these regulations. The City Manager's designee shall prepare a staff report within 30 days of finding that the application is complete and determines a finding of either a minor or major impact to the City's watershed and notify all those entities which the City has an MOU related to the watershed.

(c) Minor Impact. The City Manager's designee may classify an application as having minor impact if the proposed activity has been or will be properly permitted by applicable federal, State or local authorities and if the proposed activity clearly does not violate or present a substantial likelihood of violating any of the standards set forth in GJMC 13.32.270. At his or her discretion, the City Manager may review but is not compelled to review the written finding(s) that an application presents a minor impact. Upon reviewing a finding of minor impact the City Manager may overturn the finding of minor impact or may forward the application to the City Council for its review. Within 15 days following a finding of minor impact or a failure of the City Manger to overturn a finding of minor impact or forwarding an application to the City Council, the City shall approve the application, conditionally approve the application, or deny the application for a watershed permit.

At the discretion of the City Manager's designee, the watershed permit submittal requirements as described in GJMC 13.32.220 may be reduced or revised for a proposed activity that is determined to be of minor impact.

(d) Major Impact. If the City classifies an application for a proposed activity as a major impact or the City Manager forwards an application to the City Council, then the staff report and findings concerning the application shall be submitted to City Council for determination.

The City Manager shall make a recommendation to the Council but that recommendation is not binding on the City Council. After due consideration of the application, the City Manager's recommendation and other relevant and probative evidence, the City Council shall approve the application, conditionally approve the application, or deny the application for a watershed permit.

If because the complexity of the application and/or the proposed activity so requires, the City may unilaterally extend the deadline for the completeness review and the staff report for a period of time

not to exceed an additional 60 days. Additional extensions of time may be granted to the City or the applicant by the City Manager or City Council upon a showing of good cause not to exceed 180 days total.

(e) City Council Hearing and Notice. If an application is to be heard by City Council, a public hearing shall be scheduled within 60 days of filing of the staff report with the City Manager. Not less than 30 days prior to the hearing, and again not less than 10 days prior to the hearing, the City shall publish notice stating the date and time, place and purpose of the hearing in a newspaper in general circulation in the City.

(f) Effect of Other Approvals. If a proposed activity requires the approval of or a permit from federal, State or local authorities, and such approval or permit procedure exceeds the time requirements for City action stated in this article, the City has an additional 90 days in which to conduct a hearing and render a decision.

(g) Additional Information. If the City Council requests additional information from an applicant, then the public hearing and decision may be delayed or continued until the receipt of such additional information.

(h) Permit Decision. Within 30 days of the public hearing, the City Council shall approve, approve with conditions or deny the watershed permit. Any application for a proposed activity which fails to conform to the standards set forth in GJMC 13.32.270 shall be denied.

(i) Establishment of Vested Rights. The approval or approval with conditions of a permit for a proposed activity shall establish a vested right subject to the provisions of Article 68 of Title 24, C.R.S.

(j) Request for Extension. If during the review process the application is found to be incomplete, contain insufficient information, or otherwise not meet City requirements, the City will provide the applicant with a written response outlining permit inadequacies. The applicant must respond to the inadequacies within 30 days. If necessary, the applicant may submit a request for a time extension to respond to permit inadequacies and provide the required information.

(Res. 115-07 § XX-52, 7-30-07)

13.32.240 Permit expiration and renewal.

A watershed permit is valid for a period of five years from the date of City approval. The applicant must apply for permit renewal six months prior to the expiration date. The renewal process will be initiated by the City by transmittal of a permit renewal application form to the permit holder. The purpose of the permit renewal process is to allow for the incorporation of new City ordinances, resolutions, or policies that may affect permit content as well as amend or modify the permit in accordance with abandoned or new activities implemented by the permit holder; e.g., the permit may be downgraded from a major impact to a minor impact or vice versa. The permit renewal process may involve minimal to significant documentation depending on the degree of changes in City law and policy and activities of the permittee.

The applicant shall be assessed a permit renewal fee, in accordance with the most current City resolution, to cover the costs incurred by the City for reviewing and processing the renewal application, including the costs of publication, hearing, administration, inspection and enforcement of such requested permit.

(Res. 115-07 § XX-53, 7-30-07)

13.32.250 Permit closure and release of financial warranty.

Watershed permit holders are released from all permit responsibilities upon obtaining permit closure status. Permit closure status is attained once the City has approved of all reclamation activities, including the rehabilitation of disturbed surface acreage and post-operations monitoring of water resources, revegetation, slope or site stabilization, and other potential areas of concern. Once the City has determined that

the permittee has satisfactorily met reclamation goals, the City will prepare and submit a letter of permit closure and release of financial warranty to the permittee.

(Res. 115-07 § XX-54, 7-30-07)

13.32.260 Permit temporary cessation status.

Permittees may be granted a temporary cessation of activities for a period of 12 months from the date the permittee provides notice to the City of planned cessation. The City will require the permittee to provide notice of temporary cessation if the City finds cause for such action. The permittee must provide notice of temporary cessation within 30 days of the City's request for the notice. Failure to do so may result in the permit being revoked. After 12 months of temporary cessation status, the watershed permit expires and is no longer valid.

(Res. 115-07 § XX-55, 7-30-07)

13.32.270 Standards.

No activity shall be permitted in the watershed except in compliance with the following standards:

(a) Existing Regulations. At a minimum, all applicants and operators must comply with applicable existing regulations as promulgated, administered, and enforced by federal, State, and local governments. Applicable regulations include but are not limited to those of the U.S. Environmental Protection Agency; U.S. Bureau of Land Management; U.S. Forest Service; U.S. Army Corps of Engineers; the Colorado Department of Public Health and Environment; Colorado Oil and Gas Conservation Commission; Colorado Division of Reclamation, Mining and Safety; Colorado Division of Water Resources; and Mesa County. Stipulations in federal or State leases and rights-of-way must be adhered to. The terms and conditions of such permits and approvals shall be incorporated by reference as permit conditions of the City permit. Including the additional standards presented in this section, applicants are encouraged to utilize and implement applicable procedures in the latest editions of the following guidance documents as amended over time:

(1) Surface Operating Standards for Oil and Gas Exploration and Development "Gold Book." Prepared by U.S. Department of the Interior, U.S. Bureau of Land Management, and the U.S. Department of Agriculture, U.S. Forest Service, 4th Edition 2006.

(2) Forestry Best Management Practices in Watersheds – Watershed Academy. See:

www.epa.gov/watertrain/forestry

(3) Source Water Protection: Best Management Practices and Other Measures for Protecting Drinking Water Supplies. U.S. Environmental Protection Agency. See:

http://www.epa.gov/safewater/dwa/electronic/ematerials.html#SWP.

(4) Low Volume Roads Engineering. Best Management Practices Field Guide. G. Keller and J. Sherar. USDA Forest Service/USAID.

(5) Water-Road Interaction Technology Series Documents, United States Forest Service. See:

http://www.stream.fs.fed.us/water-road/

(6) Construction Site Storm Water Runoff Control BMP Fact Sheets. U.S. Environmental Protection Agency. See:

http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm

(7) Colorado Stormwater Fact Sheets and Regulations. See:

www.cdphe.state.co.us/wq/PermitsUnit/stormwater

(b) Damage to Waterworks Prohibited. It shall be unlawful for any person to cause impairment, injury, or damage to the City's waterworks, including all groundwater sources, springs, seeps, streams, surface intakes, ditches, drains, pipelines and reservoirs used in and necessary for the construction, maintenance and operation of the same.

(c) Increase in Pollution Prohibited. All point and nonpoint sources of pollutants caused by or associated with the proposed activity shall not result in any measurable increase in pollution over the existing water quality of any waters of any primary watershed of the City potentially affected by the proposed activity.

(d) Proof of Lack of Risk. The burden of proving the lack of substantial risk of pollution or injury, in terms of quantity and quality, to the City's water supply and/or waterworks shall be on the person proposing the activity.

(e) Construction in Waters Prohibited. Construction within any waters of the City's watershed is prohibited, excluding authorized stream bank reinforcement or repair, dam rehabilitation, water diversion placement or repair or stream crossings approved by, performed by, or on behalf of the City.

(f) Setbacks. Any activity or the placement of any structure, other than stream crossings, shall be set back a minimum of 200 feet from any stream, spring, seep, intake structure, ditch, wetland or reservoir. Fueling, and fuel and chemical storage, shall be set back a minimum of 500 feet from any stream, spring, seep, intake structure, ditch, wetland or reservoir. Drilling activities shall be set back a minimum of 1,000 feet from perennial springs or as specified by the City. The City may modify setbacks for each proposed activity.

(g) Erosion Control Requirements. Temporary (during construction) and permanent erosion and sediment control measures shall be installed and maintained pursuant to a soil erosion control plan. Such soil erosion control plan shall include a description and location of all soil erosion control measures to be installed, and shall be subject to the following additional standards:

(1) All erosion control features shall be consistent with any stormwater control plan approved by the State and any other applicable agency for the proposed activity;

(2) Dust suppression techniques shall be implemented during construction to minimize any increase in water-borne particulates;

(3) Cut and fill shall be kept to a minimum by evaluating alternate construction sites or designs that meet project objectives; final reclamation requires that all disturbed surfaces be regraded to their natural contour;

(4) Graded and filled slopes shall be kept to a 3:1 slope ratio or less, and all slopes in excess of 30 percent gradient shall be left undisturbed;

(5) Slope stabilization techniques shall be implemented where soil conditions warrant to prevent soil movement;

(6) Berms and ditches shall be constructed before any construction activity begins and shall be installed around graded areas to contain any sediment-laden runoff caused by the proposed activity;

(7) Grading and earth-moving activities shall be undertaken in a manner to avoid increased spring runoff flows;

(8) All natural vegetation shall be left as undisturbed as practicable. When grading temporary construction sites, an effort will be made to preserve root systems of shrubs and forbs;

(9) Impervious or low permeability surfaces shall be constructed as small as possible, and runoff from impervious or low permeability surfaces shall be collected in ditches, trenches or detention areas. No ditches, trenches, detention areas, or other storm runoff capture features will be allowed to directly hydraulically connect to surface water features;

(10) Any increase in runoff velocity and amount shall not be greater than those levels which occurred prior to the proposed activity; and

(11) No structures or roads shall be built in any avalanche, landslide, or other natural hazard area.

(h) Spill Prevention. Measures shall be designed and implemented in accordance with the spill prevention countermeasures and control plan to prevent spilled fuels, lubricants or other hazardous, polluting or toxic materials from entering any waters or being deposited upon any soil in the watershed during construction, implementation or operation of the proposed activity.

(i) Land Application of Chemicals. The use of pesticides, herbicides and fertilizers within the watershed must be approved by the City before use.

(j) Revegetation. All vegetated areas within the watershed disturbed by the activity shall be revegetated or restored in accordance with a submitted and approved reclamation/revegetation plan. Topsoil from all disturbed surfaces (roads included) shall be identified, removed, and stockpiled for later use in site reclamation. Topsoil stockpiles will be revegetated with certified weed free native grasses and forbs and stabilized using necessary soil erosion control measures within one year of construction. At a minimum, disturbed areas shall be successfully revegetated using a native seed mix within one year of the date of disturbance, or the date of end of use for the planned activity. The City may require modified or enhanced interim reclamation measures for drill pads, mined areas, or other disturbed surfaces.

(k) Water Quality Monitoring Plan. A water quality monitoring plan for all surface and ground waters affected by the proposed activity within the watershed and City-owned lands contiguous to the watershed shall be developed and implemented by the City for the specific activity. Portions of the City's existing watershed monitoring plan may apply. The applicant is responsible for reimbursing the City for the cost of preparing and implementing the water quality monitoring plan or otherwise collecting additional data as a result of the activity. The City has the right to hire a third party to carry out water quality sampling and analysis plans. The operator may choose to duplicate sampling at the operator's cost. Such water quality monitoring plan shall include provisions for:

(1) Sample locations and frequency of sample collection at the designated locations will be determined by the City and shall reflect the nature and extent of the proposed activity;

(2) A description of sampling and analysis techniques and procedures, an analyte list (see below), quality control measures, and detection limits;

(3) Parameters to be sampled as determined by the City, including at a minimum the field parameters of pH, temperature, specific conductance, and dissolved oxygen and the analysis of suspended and total dissolved solids and up to all parameters for which there are water quality standards in the affected waters, any potential pollutants associated with the proposed activity and nutrient and chlorophyll a for any lake or reservoir samples; see Appendix C at the end of this chapter for complete list of analytes;

(4) Baseline water quality data for at least five quarters (three-month periods) prior to the proposed activity; two of the baseline events shall be for baseflow conditions (late third quarter, early fourth quarter); one baseline water quality sampling event shall be during at least one active runoff event prior to the disturbance of any proposed site;

(5) Construction and operational water quality monitoring that coincides with any ongoing (active or inactive) operations that poses a potential risk of adverse water quality impacts in the watershed. The frequency of water quality sampling during construction and operation activities will be on a quarterly basis or in accordance with a schedule mandated by the City;

(6) Water quality monitoring for at least one year after final reclamation has met approval (relinquishment) with federal or State agencies, or other local governments. The frequency of post-reclamation monitoring will be established by the City;

(7) The provision for periodic reports of the monitoring, frequency and content as determined by the City, including all physical, chemical and biological data and a narrative describing significant findings and trends.

Water quality data must be compiled before, during, and after commercial or industrial activities.

(l) Extended Water Quality Monitoring Program. In addition to the water quality monitoring program outlined above, the applicant will also be required to complete a long-term monitoring program for any waters affected by the proposed activity. For activities that involve disturbance of the subsurface (e.g., drilling and mining), and in the case of a known release of a contaminant, water quality monitoring will be required for a period of time after the release or after the activity has ended. The applicant/operator may be asked to cooperate and assist in the sampling of water in drilled wells or mined underground workings. Water quality monitoring will be the responsibility of the City. The applicant is responsible for reimbursing the City for the cost of preparing and implementing the extended water quality monitoring plan or otherwise collecting additional data as a result of the activity. The City has the right to hire a third party to carry out water quality sampling and analysis plans. The operator may choose to duplicate sampling at the operator's cost.

The extended monitoring program may extend for a period of years after the completion of the proposed activity. The extended monitoring program will be developed by the City and include a description of environmental sampling (water, soils, or other media) procedures, a list of sample analytes, and a sampling schedule. All sampling will be completed by the City, who will propose and implement the water quality monitoring program at the expense of the applicant. At a minimum, sampling will occur during base flows once per year. Otherwise, sampling will occur as deemed necessary by the City to assess potential contamination. The applicant may choose to be present during the City's scheduled sampling events at their own expense.

(m) Wastewater Treatment. This activity is not permitted in the watershed. Generated wastewater will be transported from the watershed and treated in a permitted facility.

(n) Except for sewage disposal systems approved through Mesa County process for individual homeowners, no new sewage disposal system shall be constructed or installed within the watershed without the City's approval.

(o) Compliance with Other Permits. The proposed activity shall be constructed, implemented, operated and maintained in compliance with all other applicable federal, State or local permits or approvals at all times. The terms and conditions of such permits and approvals shall be incorporated by reference as permit conditions of the permit.

(p) Mineral Development. Mineral development activities involving development and exploration, production and maintenance, and closure and reclamation shall conform to the following additional standards:

(1) No process water pits, impoundments, or basins will be permitted unless otherwise approved by the City.

(2) No land treatment of produced, process, or mine drainage waters is allowed.

(3) No discharge of produced, process, or mine drainage waters is permitted in the watershed. All mine drainage, and other process or waste waters or fluids must be disposed of in a permitted facility located outside of the watershed boundary. All wastes are to be transported from the watershed in a timely manner, using closed transport systems. Wastes are not to be injected or discharged into wells or any type of drilled borehole.

(4) No underground injection wells for disposal of wastes of any type are permitted.

(5) Flaring, burning of waste, or welding will occur only in areas approved by the City.

(6) Waste rock that has an acid generation potential or the potential to produce other leachate that would cause degradation of water resources shall be effectively neutralized.

(q) Energy Development. Energy development activities involving development and exploration, production and maintenance, and closure and reclamation, including but not limited to oil and gas exploration, development, processing, or transmission; other forms of energy development; extraction; and utility construction (including pipelines, power lines, etc.) shall conform to Appendix A, at the end of this chapter, for the Town of Palisade and the City of Grand Junction developed in collaboration with Genesis Gas and OIL, LLC dated 2007, which is incorporated herein by this reference as if fully set forth and the following additional standards:

(1) No drilling pits of any kind will be allowed when drilling with water or other drilling fluids. Drilling with fluids must be conducted with closed systems. No process water pits, impoundments, or basins will be permitted unless otherwise approved by the City.

Drilling with air or air mist methods requires that all borehole cuttings be contained.

(2) Chemicals used in hydraulic fracturing will be fully disclosed prior to use.

(3) Well construction – cementing/casing programs will conform to the steps outlined in the "Watershed Plan for the Town of Palisade and the City of Grand Junction." In addition to these steps all surface casing drilling will be drilled with air or air mist methods.

(4) No land treatment of produced, process waters is allowed.

(5) No discharge of produced, process, drilling waters is permitted in the watershed. All drilling, produced, and other process or waste waters or fluids must be disposed of in a permitted facility located outside of the watershed boundary. All wastes are to be transported from the watershed in a timely manner, using closed transport systems. Wastes are not to be injected or discharged into wells or any type of drilled borehole.

(6) No underground injection wells for disposal of wastes of any type are permitted.

(7) Flaring, burning of waste, or welding will occur only in areas approved by the City.

(Res. 115-07 § XX-61, 7-30-07)

13.32.280 Issuance of permit – Permit conditions.

The City Council may prescribe any condition or conditions in a permit that it may deem necessary to effectuate the powers granted to the City to protect the waterworks and the City water supply from pollution, impairment, injury or damage.

(Res. 115-07 § XX-62, 7-30-07)

13.32.290 Inspectors/inspections.

The City retains the right to conduct inspections, by its own forces or by the forces of a third party, of the activity for which a watershed permit has been issued. Inspections may be made at any time with or without prior notice to the applicant. The permittee shall be assessed the reasonable cost of inspection(s).

(Res. 115-07 § XX-63, 7-30-07)

13.32.300 Enforcement.

(a) "Stop Work" or "Cease and Desist" Order. Should the City discover any activity which violates or is reasonably believed by the City to violate any provision(s) of any permit or condition thereof, or an activity is conducted without a required permit or where the information submitted in the application is found to be inaccurate, the City may suspend the activity until compliance with the permit is demonstrated. In such cases, the City Manager or his designee shall post in a conspicuous location on the site a "stop work" or "cease and desist" order. Should the City discover any construction or use of property within the watershed which is in violation of these regulations, it shall cause to be attached a "cease and desist" order to the property and attempt to deliver a copy of the same to the owner or occupant of the property. Any "stop work" order or "cease and desist" order shall be

signed by the City Manager or his or her designee and shall indicate the violations which exist or are reasonably believed to exist. The removal of a "stop work" or "cease and desist" order before the violation is corrected is prohibited and, upon conviction, a penalty shall be imposed as provided by these regulations. The continuation of any activity or use in violation of a "stop work" or "cease and desist" order is prohibited and, upon conviction, a penalty shall be imposed as provided by these regulations.

(b) Revocation of Permit. The City may revoke a permit for any violation of these watershed regulations, and/or for violation of the permit or any permit condition and/or for the provision of false or incorrect information in the permit application. Revocation shall be preceded by 15 days' written notice to the permittee that the revocation will occur unless the condition(s) which created the violation or noncompliance with the terms of the permit or permit condition is corrected. The City may, in its sole discretion and not to be construed as a waiver of any further action, enter into a corrective action plan with the permittee to correct the violation or noncompliance. Upon permit revocation, the City may require the permittee to restore the site to a condition acceptable to the City in order to prevent further injury to the watershed. The City may, in its discretion, perform or cause to be performed the necessary restoration and the permittee shall be assessed such costs of restoration.

(c) Duration of Construction. Unless otherwise specified in the permit, all construction associated with the permitted activity shall be completed within one year of the issuance of a permit. Extensions of up to six months each may be granted by the City upon a showing of good cause.

(d) Certificate of Compliance. At the completion of construction associated with an activity approved under a permit, the applicant shall apply in writing for a certificate of compliance. As soon as reasonably practicable, and not more than 20 days after such request, weather and soil conditions permitting, the City shall inspect the construction associated with the activity and shall determine if these watershed regulations, the permit and any permit conditions have been complied with, including but not limited to compliance with all plans and specifications submitted by the applicant or required as a permit condition. If the City determines that the construction associated with the activity conforms to the permit, permit conditions, plan or plans and specifications, and all other required permits or permits incorporated by reference, the City shall issue a certificate of compliance. If the City determines that the construction or other activity associated with the permitted activity does not conform to the permit, permit conditions, plan or plans and specifications, and all other required permits or permits incorporated by reference, the City shall not issue a certificate of compliance. In such case, the permittee shall be informed in writing of the reason why the construction or other activity associated with the permitted activity does not so conform, and the City shall also set forth the requirements to be met, as can be practically specified. Thereafter, the process for review for compliance and issuance or denial of a certificate of compliance shall be as set forth herein. It is a violation of these regulations for any person who is issued a permit for any activity within the watershed to conduct such activity after construction is completed without having complied with the requirement to obtain a certificate of compliance as set forth in this section.

(Res. 115-07 § XX-64, 7-30-07)

13.32.310 Permit transferability.

Permits may not be transferred from one company, individual, entity, etc., to another. Successors will need to apply for a new permit and the previous permit will be deemed null and void.

(Res. 115-07 § XX-65, 7-30-07)

13.32.320 Financial warranty.

After an application for a permit has been approved by the City, but before such permit is issued, the applicant shall file with the City, on a form prescribed and furnished by the City, a performance financial warranty payable to the City of Grand Junction. The performance financial warranty will be conditioned

upon the faithful performance of all the requirements of these regulations, the City watershed ordinance, and the permit.

The form of the financial warranty will be in a form prescribed by the City, such as cash bonds, cash escrow accounts, or certificates of deposit. Other types of financial warranties may be accepted. In the case of cash bonds, any interest accrued during the warranty period will benefit the financial warrantor, except in the case that the permit is revoked. If a permit is revoked, the interest will accrue to the City, and will be used for the performance of reclamation.

The performance financial warranty shall cover the area of land within the permit area upon which activities are to be initiated and conducted. The amount of financial warranty will be determined using an objective, qualified professional engineer using fundamental principles of engineering cost estimation. The amount of the warranty shall be sufficient to assure high water quality within the watershed if the final reclamation and/or well closure had to be performed by the City, or by independent contractors, in the event of forfeiture. The City shall hire the engineer and the permittee shall be assessed the cost for obtaining this estimate. Liability under the warranty or warranties applicable to a permit shall be for the duration of the activity and shall continue until release of the warranties as determined by the City.

The City shall release a performance financial warranty, in whole or in part, when it is satisfied that the water quality of waters covered by the warranty or portion thereof affected by the operation has been returned to its original or higher quality as tested before the activity commenced, as required by these regulations.

(Res. 115-07 § XX-66, 7-30-07)

13.32.330 Fees and review costs.

The applicant shall be assessed a fee, in accordance with the most current City Council fee resolution, to cover the costs incurred by the City for reviewing and processing the application, including the costs of publication, hearing, administration, inspection and enforcement of such requested permit.

In addition, the applicant shall also be assessed the costs of any legal and technical consultants retained or employed by the City for the purpose of evaluating the application's compliance with these watershed regulations. An initial fee deposit based on the City's reasonable estimate of the total anticipated fees, including any consultant's fees, shall be paid by the applicant to the City within 15 days of the fee being set by the City. Any balance of fees owed by the applicant to the City shall be paid prior to and shall be a condition for the issuance of any permit or, if no permit is issued, such balance of fees shall be payable within 15 days of billing by the City. Any unused fees shall be returned to the applicant timely in either event.

(Res. 115-07 § XX-67, 7-30-07)

13.32.340 Proof of insurance.

Prior to issuance of a permit, each applicant shall provide proof of complying insurance policies obtained by the applicant in satisfaction of the requirements of applicable regulating agencies, including but not limited to the City. The form of the proof of insurance shall be determined by the City. The proof of insurance must demonstrate current coverage in an amount adequate to compensate for personal injury and/or property damage as a result of the proposed activity and/or any environmental degradation that the activity may cause or reasonably be claimed to cause. The applicant shall provide proof of current pollution liability insurance policy with a single event limit of $1,000,000 for minor impact activities and $5,000,000 for major impact activities. The City shall be an additional named insured for all coverages. The required insurance shall be provided by a Colorado licensed insurance company(ies). Required insurance policies shall remain in full force and effect during the life of the permit and any renewal thereof, including completion of all activities and reclamation. The City may accept from the applicant written

evidence that the applicant has satisfied applicable State or federal self-insurance requirements. The City may accept complying State or federal self-insurance in lieu of other coverage(s).

(Res. 115-07 § XX-68, 7-30-07)

Article VI. Appeal

13.32.350 Appeal of administrative decision.

Any person, including the permittee and other persons having standing, may appeal any administrative action, determination or decision of the City Manager by filing a written appeal with the City Clerk not later than 30 days following the action, determination or decision being appealed. A timely appeal shall be heard by the City Council at the next regularly scheduled City Council meeting if practicable, but in no event shall the appeal be heard more than 60 days after the written appeal is filed. The appeal shall state with particularity the decision being appealed and the grounds for the appeal, including citations to these regulations, the watershed ordinance and/or other applicable law.

(Res. 115-07 § XX-71, 7-30-07)

13.32.360 Appeal of City Council's decision.

Any person, including the permittee and other persons having standing, may seek review of a decision of the City Council by bringing an action in Mesa County District Court in accordance with Colorado Rule of Civil Procedure 106(a)(4).

(Res. 115-07 § XX-72, 7-30-07)

Article VII. Appendices

Appendix A Watershed Plan

Appendix A

WATERSHED PLAN

FOR THE TOWN OF PALISADE AND THE CITY OF GRAND JUNCTION, COLORADO

A COLLABORATIVE DOCUMENT BETWEEN WATERSHEDS STAKEHOLDERS

Town of Palisade, Colorado
City of Grand Junction, Colorado
Mesa County, Colorado
Ute Water Conservancy District
Mesa Water and Sanitation District
Saddle Mountain Ranch
Bureau of Land Management, Grand Junction Field Office
United States Forest Service
Genesis Gas & Oil LLC

August, 2007

www.watershedplan.org

DRAFT WATERSHED PLAN FOR THE TOWN OF PALISADE AND THE CITY OF GRAND JUNCTION

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SPECIAL THANKS

The Watershed Working Group would like to cordially thank the members of the public, local elected officials, and national legislative representatives and legislative staff for participating in the Watershed Plan process. The Working Group would like to acknowledge the innumerable hours spent on producing and reviewing the document from members of the public as well as regulatory and cooperating agencies. The Working Group would like to give special thanks to the following members of the public who submitted written comments during the 45-day comment period: Seth Anderson; John M. Duggan, Colorado Department of Public Health and Environment; Jim Fritz; Bill Grant, Western Colorado Congress; John Ludlam; Jocelyn Mullen, Lorna Reed; Jim and Sharon Sample.

AGENCY CONTACT INFORMATION

Bureau of Land Management Grand Junction Field Office Watershed Plan Project Manager	970.244.3000
City of Grand Junction Public Works and Utilities Director	970.256.4076
Genesis Gas & Oil LLC Watershed Plan Coordinator	816.222.7500
Mesa County Long Range Planning Department, Watershed Coordinator	970.244.1650
Town of Palisade Public Works Director	970.464.1116

EXECUTIVE SUMMARY

In February 2006, Genesis Gas & Oil LLC ("Genesis") acquired oil and gas leases from the Bureau of Land Management ("BLM"). The Town of Palisade and the City of Grand Junction protested the proposed leases within their watersheds. Genesis voluntarily accepted an additional no-surface occupancy stipulation on 960 acres surrounding 24 sensitive areas within the Palisade Watershed. In August 2006, the BLM issued the leases with the additional no-surface occupancy stipulation. In addition, the BLM issued a one-year suspension on the leases within the watersheds to allow the Stakeholders to create a voluntary, non-binding and collaborative watershed plan. If Genesis sells or transfers its leases to another company, the BLM will expect the new lessee(s) to use the Plan as a template for operations and coordination.

The Stakeholders of this plan recognize a heightened level of commitment and responsibility is required if and when energy development occurs in a watershed. The Watershed Plan explains the commitment of the involved parties to successfully resolve community issues relating to potential energy development in the watersheds of the Town of Palisade and the City of Grand Junction, Colorado.

The goals of the draft Plan are to:

- Prepare a final Plan using public input and review;
- Maintain a working relationship with the Stakeholders and communities;
- Address and resolve issues and concerns within the watersheds; and
- Facilitate an ongoing forum for open, objective, and timely communications.

Public input was solicited and received through public meetings, newspaper articles and editorials, surveys, letters and other correspondence.

The following represents a summary of the issues identified by the public:

- Protection of the local community watersheds;
- Communication with the communities;
- Possible risks;

- Mitigation measures and Best Management Practices for potential development in the watersheds;
- Adequately define baseline conditions and monitor water data;
- Off-lease social, economic, and environmental impacts of potential energy development;
- Required permitting and approval processes and opportunities for public comment prior to the initiation of energy development activities; and
- Reclamation during and after the lease period.

Major components of the Plan to address these issues are:

- Communication and coordination with local communities:
  - Obtain input and feedback through collaborative Plans of Development well in advance of any energy development activities; and
  - Disperse information via interactive Watershed Plan web site, quarterly electronic newsletters, public meeting briefings, and other lease activity to bring about a better understanding of watershed leasing and regulatory oversight.
- Risk analysis addressing:
  - Possible surface water contamination due to:
    - Construction;
    - Sedimentation;
    - Well production and transportation; and
    - Contamination associated with spills or releases.
  - Possible groundwater contamination due to:
    - Surface spills or releases;
    - Drilling, construction and production; and
    - Subsurface release of contaminants.
- Third-party water studies and monitoring that will occur throughout the entire development process. Genesis is committed to partially funding and implementing with Stakeholders a thorough program of hydrological studies that will be designed to:
  - Characterize and understand watershed hydrologic systems;
  - Establish baseline (existing) hydrological conditions; and
  - Assess potential impacts by hydrologic monitoring.
- Commitments by Genesis that go beyond mandated requirements:
  - Voluntary no-surface occupancy on 960 acres within the Palisade watershed; and
  - The creation of a voluntary, non-binding and collaborative Watershed Plan.
- Best management practices for risk mitigation to protect watersheds:
  - Clustered Development Well Pad Spacing: Prepare minimum number of drilling pad locations to meet the needs of the resources, landowners, surface managers and Genesis;
  - Collaborative Storm Water Management Plan: Obtain Storm Water Management input and feedback from the Stakeholders in advance of potential drilling to minimize surface, water and visual impacts;

- Subcontractor Education: Design and conduct an education program to inform subcontractors, used in the watersheds, on the content and programs of the Plan;
- Emergency Response Plan; Hazardous Materials Management, Spill Prevention Control and Countermeasures, Health, and Safety: Genesis will:
  - Prepare an Emergency Response Plan for potential contaminants and how materials will be safely used;
  - Devise and conduct an emergency response education program;
  - Maintain an active Spill Prevention program including on-site emergency response kits for first responders to immediately mitigate potential spills;
  - Conduct annual emergency response systems exercises; and
  - Maintain files of substances used in the course of operations.
- Air Quality: Work with Stakeholders and surface owners to control dust that may be generated due to construction activities and vehicle travel;
- Closed Loop Drilling Systems: Reduce potential spills in the watersheds;
- Cementing/Casing Programs: Isolate the aquifer and water zones through effective cementing and casing operations;
- Green Fracturing: Use Green Frac materials in the watersheds;
- Fracture Tracing: Utilize tracers during exploration phase to ensure fracturing fluids are contained to hydrocarbon zones; and
- Produced Water: Dispose of produced water in ways other than on-site recovery pits.

- Additional best management practices for risk mitigation:
  - Visual Studies: Mitigate sensitive viewing points and areas in the watershed;
  - Subcontractor Conduct: Use subcontractors that demonstrate active drug, alcohol, and safety programs regarding hiring, training and spot-checking;
  - Fire abatement: Prevent and suppress fires within watershed lease areas;
  - Pipelines: Collaborate with watershed Stakeholders on planning of pipelines; and
  - Reclamation: Work with Stakeholders to approach interim and final reclamation.
- Regulatory agency roles, responsibilities, permitting and regulations:
  - Along with Best Management Practices, there is a considerable body of regulatory and monitoring requirements and oversight.
  - Regulatory agencies include:
    - BLM and additional federal agencies;
    - State of Colorado agencies:
      - Colorado Air Quality Control Commission; Colorado Water Quality Control Commission; Colorado Division of Wildlife; Colorado Oil and Gas Conservation Commission; Colorado Division of Water Resources;
    - Town of Palisade, City of Grand Junction, Mesa County;
  - For additional information, see the regulatory matrix in Appendix 5.

Successful achievement of the goals in the Plan will depend on honest, timely, and open communications with and among the Stakeholders, including the public. The Stakeholders believe an ongoing exchange

of information and ideas, coupled with the ability to openly express concerns and solve problems collaboratively, will have a greater impact in a shorter time with more positive results than relying on litigation as an enforcement tool. The Stakeholders are committed to resolve the issues and concerns associated with potential energy development in the watersheds.

THE VISION FOR THE WATERSHED PLAN

Of primary importance will be continued efforts to protect air, land and water resources within the Palisade and Grand Junction watersheds. In addition, the economic, social and environmental well-being of the municipalities will be given high-priority consideration in the management of the leases and the potential development of the energy resource.

All interested parties will work to properly manage potential future energy development and to maintain water-related assets. The Plan is subject to change due to new technology, equipment, and the experience gained on the ground by all concerned Stakeholders as energy resources are potentially developed. The Plan will be updated as needed to address new concerns and issues. The communication processes outlined in the Plan will, of necessity, be updated and honed in order to achieve the purposes and needs of the Plan.

ACRONYMS AND ABBREVIATIONS

BMP	Best Management Practice
BLM	Bureau of Land Management
City	City of Grand Junction, Colorado
COGCC	Colorado Oil and Gas Conservation Commission
County	Mesa County, Colorado
EA	Environmental Assessment
Genesis	Genesis Gas & Oil LLC
NEPA	National Environmental Policy Act
Plan	Watershed Plan
POD	Plan of Development
Town	Town of Palisade, Colorado
USFS	United States Forest Service

INTRODUCTION

The Piceance Basin, of northwest Colorado, is an area of immense beauty containing a wealth of natural resources. The ecosystems range from high alpine to high desert. The Grand Mesa, whose massive flat surface rises 10,000 to 11,000 feet above sea level, stands guard over the Grand Valley, home to over 100,000 people including the residents of the communities of Palisade, Grand Junction, Mesa and Fruita. The Grand Mesa provides food, water, shelter, and recreation not only to the residents of Mesa County, but also to visitors from around the state and across the country. Ranchers and farmers in the valleys have always relied on water from the Grand Mesa to water their crops and orchards.

The 6,000-square-mile Piceance Basin straddles the Colorado River and U.S. Interstate 70 in Garfield and Mesa counties, with portions extending northward into Rio Blanco County and south into Gunnison and Delta counties. The surface resources and related activities contribute to the economic base of the region and foster a unique lifestyle for the residents of the area. Under the surface,

there exist a wide range of energy resources, some having been produced for decades, other experiencing dramatic growth, and others yet to be developed. Balancing society's demand for these natural resources is a complex and contentious issue.

For decades, Mesa County and its communities have been impacted by the environmental issues and economic cycles inherent with the energy industry. Due to increased demand for energy, the area is once again the site for mineral resource development, specifically, exploration and development of natural gas. Thousands of wells are projected to be drilled in Colorado in 2007, many in the Piceance Basin. In 2005, industry representatives nominated parcels on the Grand Mesa in and around the watersheds of the Town of Palisade and the City of Grand Junction for gas exploration and development. The BLM offered these parcels for lease and Genesis purchased the parcels in February 2006.

The fact that the watersheds of both municipalities are located on the Grand Mesa, combined with the potential development of energy resources within the watersheds, created a great deal of public concern. In order to address these concerns, the BLM applied certain stipulations to the leases. In addition, Genesis offered a voluntary stipulation of no surface occupancy on 960 acres surrounding 24 sensitive areas in the Palisade watershed. At the BLM's request, Genesis agreed to a 12-month suspension of the leases within the watersheds to allow for the development of a community-based plan addressing stakeholder communication and Best Management Practices aimed at protecting water. This plan is the result of that process and represents the combined effort of Stakeholders to find mutually beneficial means for the potential development of energy resources and the protection of the critical water resources.

BACKGROUND AND DEVELOPMENT OF THE PLAN

In 1987, the BLM Grand Junction Field Office completed their overall Resource Management Plan, which provides land use direction and allocation decisions on Federal lands and minerals. The Resource Management Plan direction limited surface-disturbing activities within both watersheds to protect watersheds resources. This direction resulted in the identification of a number of lease stipulations that will be applied at the time of lease issuance to leases within the watersheds. Primary among the stipulations was a watershed protection stipulation:

- All lease operations will avoid interference with municipal watersheds located on the Genesis watershed leases. This may include the relocation of proposed roads, drilling sites and other facilities, or application of appropriate mitigation measures. The stipulation may be waived if circumstances change, or if the lessee can demonstrate operations can be conducted without causing unacceptable impacts on the concern(s) identified. Both watersheds have stipulations to protect scenic and natural values, steep slopes, deer and elk winter range, and perennial streams. The Palisade watershed leases also had stipulations to protect known cultural resources and visual resources. All oil and gas lease stipulation maps are on file at the BLM offices.

Both the Palisade and Grand Junction watersheds have been subjected to oil and gas leasing over the last 30 years. The Town of Palisade's watershed currently has two plugged wells located on the City of Grand Junction's property on top of the Grand Mesa (private surface/private minerals). The Grand Junction's watershed currently has nine gas wells located within it, five of those wells are fee wells (private surface/private minerals), two are BLM permitted wells and two wells are USFS permitted wells.

Despite the history of leasing and a small amount of development of gas resources within each watershed, there was concern raised by the public and municipalities. The gas development boom in Western Colorado has made the issue of oil and gas leasing and development a significantly different issue than it was even a decade ago. Advances in technology have allowed development to occur in many places that simply were not available or accessible in past years.

The Town of Palisade and the City of Grand Junction protested the BLM's February 2006 oil and gas lease sale, which offered leases on 10,266 acres of Palisade's watershed and 604 acres of Grand Junction's watershed.

The BLM's regulations for oil and gas leasing dictate that when a protest has been filed on a lease parcel, the BLM must work through any outstanding issues raised in the protest prior to the lease issuance being finalized. In August 2006, the BLM issued the leases with a voluntary no-surface occupancy stipulation surrounding sensitive areas within the Palisade watershed. The additional No Surface Occupancy Stipulation addresses 960 acres within Palisade's watershed on 40-acre parcels where critical springs/intakes are located within the watersheds. Genesis' agreement was a clear demonstration of Genesis' commitment to protect the watershed resources.

Concurrent with BLM's issuance of the leases, BLM suspended the leases for a year to allow for the preparation of a "community-based watershed development plan to identify the elements to be factored into how the lessee will design its potential future development activities, with the goal to minimize or eliminate community concerns."

The lands encompassing these municipal watersheds lie within the southern Piceance Basin geologic province and have a subsurface geologic framework suspected to hold significant natural gas resources. All the lands within these municipal watersheds, including the federal mineral estate, are recognized as being important to the economic, social, and environmental well-being of the country and these communities. In historic resource management, land use, and site-specific plans, BLM and USFS have incorporated numerous protective measures to prevent activities within watersheds from negatively impacting water and other resources.

Figure 1 shows the general location of the watersheds. Figure 2 shows the general land ownership within the watersheds. Figure 3 shows land ownership, administrative boundaries, watershed boundaries and Genesis' leases.

Figure 1

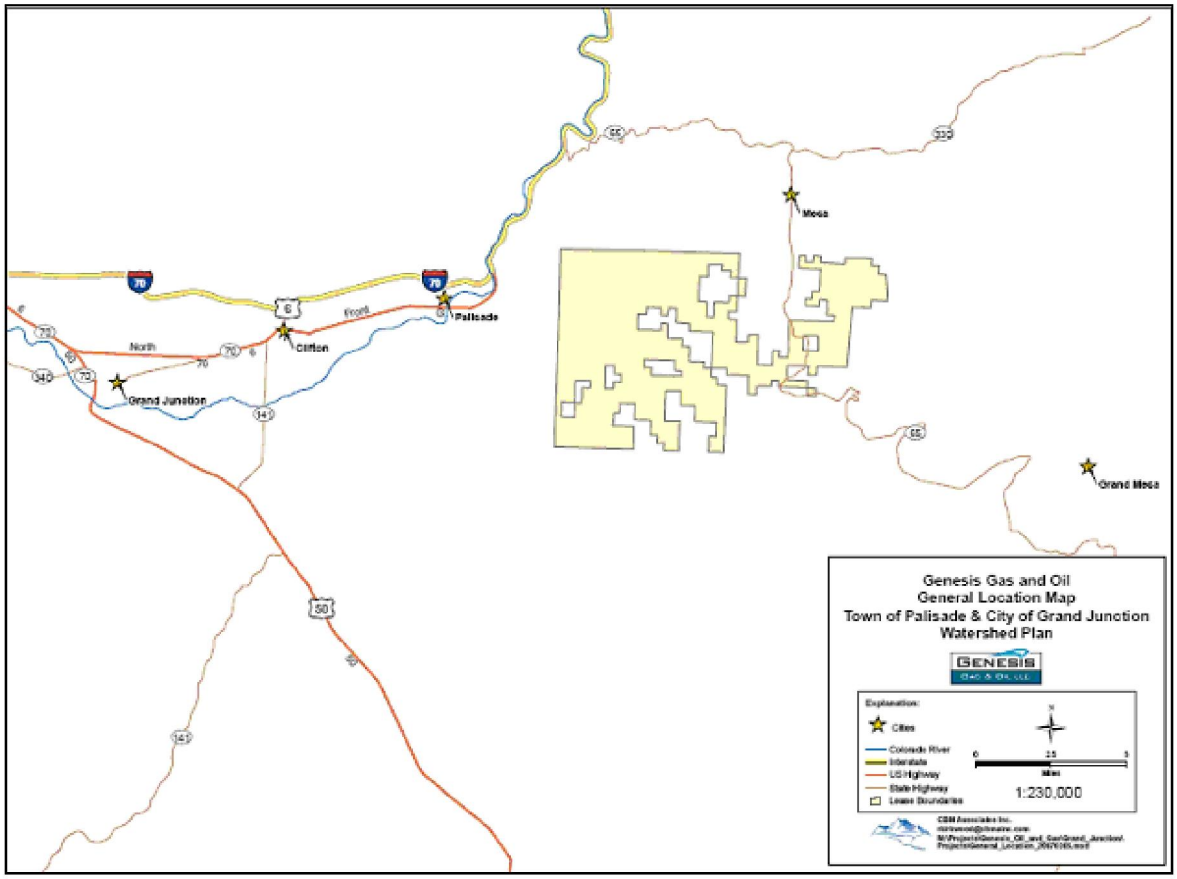

Mesa
Palisade
Clifton
Grand Junction
Grand Mesa
Genesis Gas and Oil
General Location Map
Town of Palisade & City of Grand Junction
Watershed Plan
Explanation:
Cities
Colorado River
Interstate
US Highway
State Highway
Lease Boundaries
0
15
Miles
1:230,000

Figure 2

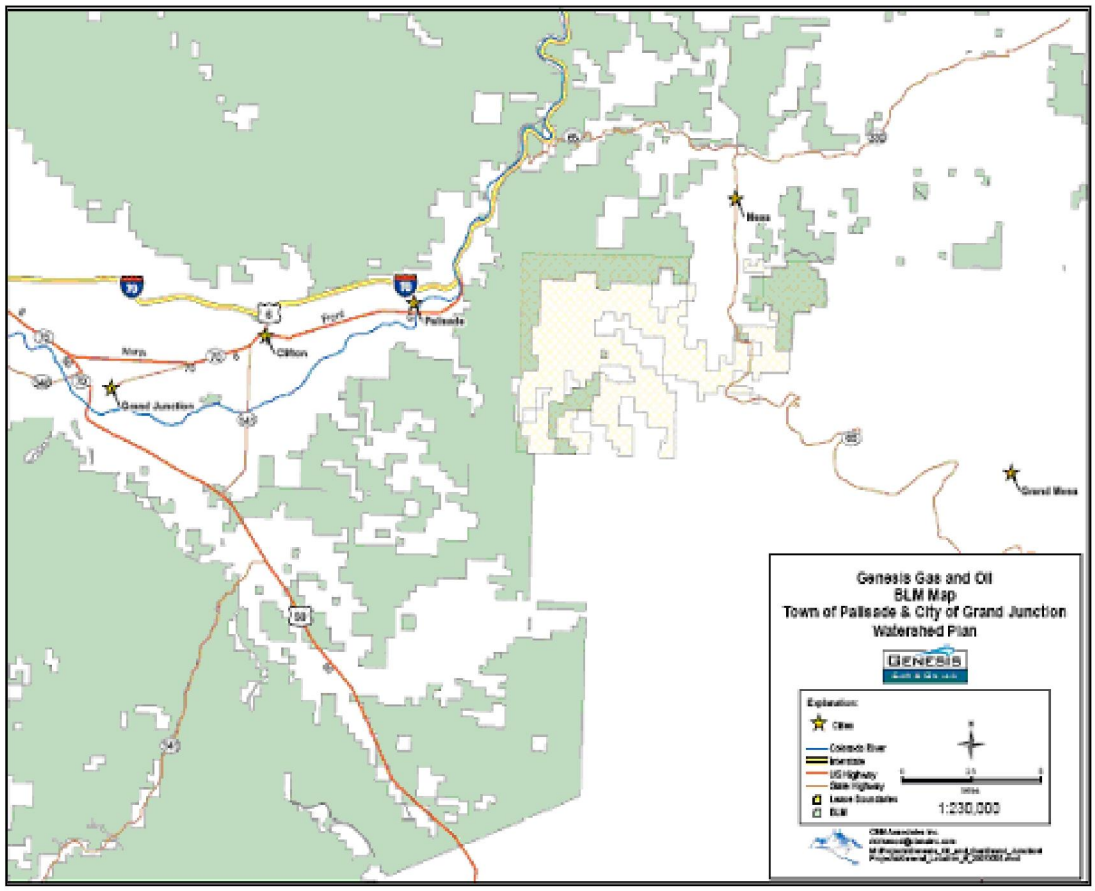


Figure 3

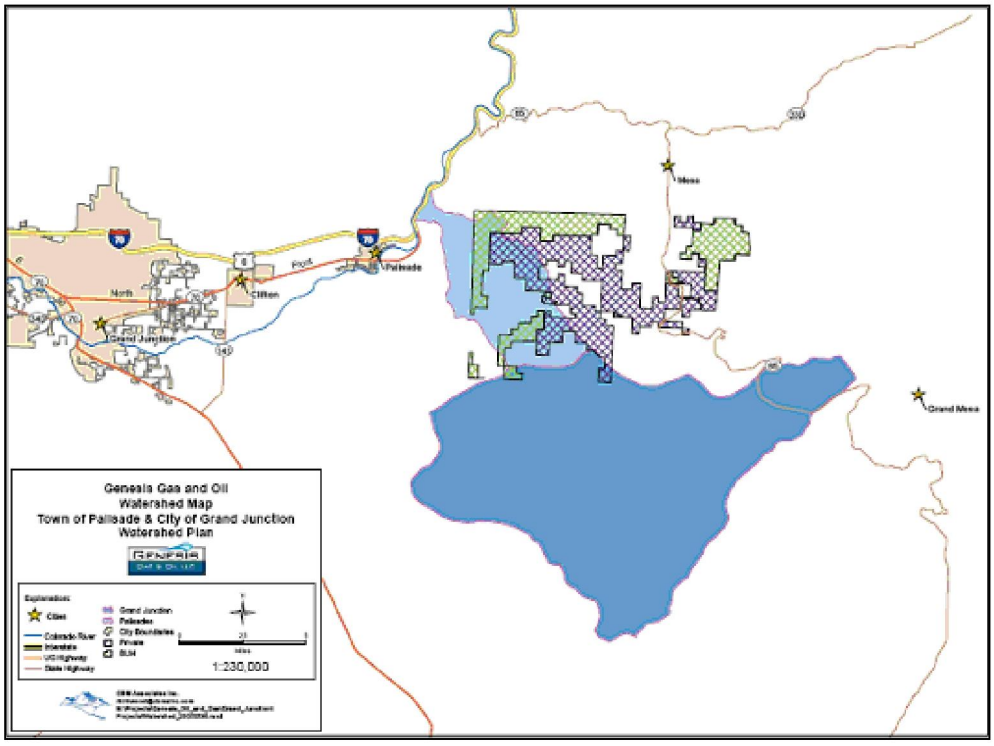


Table 1 below shows, within each watershed, the acres of surface estate owned or managed by federal agencies, private landowners, municipalities, and others if applicable. Table 1 also shows, within each watershed, the acres of federal oil and gas leased subsurface estate underlying each category of surface owner. The Palisade and Grand Junction watershed boundaries used in these calculations are the actual topographical boundary of the watersheds from information containing delineated state watersheds. These calculations also include acres within the boundaries of the BLM watershed protection stipulation. For oil and gas stipulation maps, contact the BLM.

Table 1*
GRAND JUNCTION FIELD OFFICE, TOWN OF PALISADE, AND CITY OF GRAND JUNCTION WATERSHEDS
Acres within watersheds by ownership and BLM Oil and Gas lessees

Surface Landowner or Land Mgt. Agency	Acres Within City of Grand Junction Watershed			Acres Within Town of Palisade Watershed		
	Surface owned or managed	Genesis lease tracts overlain on surface owned/mgd. by:	Lease tracts held by lessees other than Genesis on surface owned/ mgd. by:	Surface owned or managed	Genesis lease tracts overlain on surface owned/mgd. by:	Lease tracts held by lessees other than Genesis on surface owned/ mgd. by:
BLM	2,535	155	2,180	5,151	3,241	0
Private	1,043	184	0	3,701	2,808	0
Town of Palisade	0	0	0	3,032	2,847	0
City of Grand Junction	2,755	265	156	2,213	1,370	0
USFS	49,401	0	9,641	0	0	0
TOTALS	**55,734**	**604**	**11,977**	**14,097**	**10,266**	**0**

*The acres shown were supplied by BLM Grand Junction Field Office, March 9, 2007

PURPOSE AND NEED FOR THIS PLAN

The major purposes of the Plan are to document the:

- Commitments, recommendations, and guidance reached by the Stakeholders within the watersheds and the communities related to social, economic, environmental, and regulatory issues and concerns within the existing federal oil and gas leases held by Genesis, within the watersheds of Palisade and Grand Junction;
- Best Management Practices (BMPs) to be emphasized and followed to ensure that protection of the watersheds and prevention or mitigation of potential impacts continues to be of paramount importance, if Genesis leases are developed;
- Processes that will take place prior to, during, and after any oil and gas drilling occurs within the watersheds to help ensure that the guidance and recommendations in this voluntary plan are followed;

- Responsibilities of the Stakeholders and communities to help ensure the principles, guidance and recommendations in the Plan are followed; and
- Communication processes for the Stakeholders to use regarding potential Genesis energy resource development within the watersheds, and to share information regarding proposed development, and address public concerns.

The Plan is not legally binding on any stakeholder or party and will not be signed by any party. However, it is intended to supplement existing environmental regulations. It is the intent of the Stakeholders to support and follow the final Plan.

The Plan is needed to:

- Ensure concerns of Stakeholders and communities are raised and considered;
- Help ensure the outcomes of the potential development of the leases within the subject watersheds will meet, and exceed if possible, the expectations of the Stakeholders and the communities over time. This includes all required pre-drilling application and permitting processes, approval processes, and actual on-ground development activities associated with exploration, drilling, ancillary infrastructure facilities, operational activities, remediation/reclamation, and termination of lease activities, when and if these leases are developed;
- Ensure protection of land, air, and water resources from potential energy development impacts; and
- Capture and explain the commitment of the involved parties to successfully deal with and resolve, to the greatest degree possible, individual and common issues and concerns within these watersheds, when and if the subject Genesis federal oil and gas leases are developed. A key component of success will be the intergovernmental cooperation in the review and processing of proposed oil and gas development plans or related activities.

IMPLEMENTATION OF THE PLAN

As Genesis initiates activities within the watersheds, the Stakeholders agree to meet as needed to implement the Plan. The Stakeholders also agree to meet when new technology or methods warrant updating the Plan, to review Plans of Developments (POD), or develop strategies in the watersheds to address current or emerging issues. Much of what is contained in this Plan, particularly regarding the BMPs, will be incorporated into future PODs, the permitting process and surface use agreements. It is understood that the key to Plan implementation is ongoing communication and coordination with Stakeholders.

ISSUES AND CONCERNS WITHIN THE WATERSHEDS

The following issues and concerns were expressed by local, state, and federal agencies and the public in public meetings, surveys and the media. Most issues and concerns fall into the major categories listed below and are addressed in the Plan:

- Risk of natural resource or water resource degradation and the mitigation measures and BMPs that will be employed to minimize the potential for negative impacts resulting from energy development in the watersheds;
- Adequately define and monitor water quality, quantity, and facilities that can be potentially impacted by activities on or off the leases in the watersheds;
- Off-lease social, economic, and environmental impacts;
- Authorization processes for surface disturbing activities on both federal surface/minerals and split estate (federal minerals/other surface ownership);

- Plans of Development for approval process for oil and gas related activities;
- Obligations of the Stakeholders regarding the Plan;
- Enforcement and implementation of local, federal, and state regulations, policies, land use plan decisions, and laws relating to the development of the leases;
- Purchase of Genesis or the leases by another company or entity;
- Remediation during and after the activity period, including the development, operation, and termination of the leases, should they be developed; and
- Drug abuse in the workplace.

COMMUNICATION AND COORDINATION WITH LOCAL COMMUNITIES

Information Sharing with the Public

Providing information to the public within the local communities is important, beginning with the publication of this Plan for public review and comment. Genesis will participate with other Stakeholders in identifying a proper location and venue for communication purposes, and the format for a standing committee to develop strategies for ongoing communication with the public.

The following tools will be used to help inform the public about watershed lease activities, when and if they occur:

- An interactive Watershed Plan web site, for public review and comment on important activities, and for the public to identify concerns;
- Electronic quarterly newsletters;
- Briefings at public Trustee, Council, and Commissioner meetings, and at agency meetings;
- Notifications of special events, permit to drill submission, EAs and other occurrences of proposed activities in the watersheds;
- If appropriate, training sessions dealing with emergency response or other lease activity information;
- Bulletin boards posted at strategic locations to share information with the public about the watersheds and activities in the watersheds.

Handling Complaints

The handling of complaints and concerns from the public is an important part of this Plan. Contact information will be posted via the interactive web site (www.watershedplan.org) and by the regulating agency (BLM (970) 244-3000). It is the intention of Genesis to field and resolve complaints regarding day-to-day operations. Should concerns not be resolved through direct contact with Genesis, other Stakeholders will become involved.

Communicating with the Public

To ensure continuity of communication and create a mechanism for continued public involvement regarding watersheds activities, the Stakeholders group will continue to meet for the following purposes:

- Serve as a direct conduit for communications with the public and Genesis;
- Advise governmental entities;

- Accept citizen input;
- Facilitate continued information sharing with the public;
- Conduct periodic public meetings or forums as needed;
- Communicate with the public about concerns or significant events occurring (e.g., POD or permit to drill submittal, leaseholder or operator changes); and
- Meet as a group with Genesis at least twice annually.

It is the intention of the Stakeholders to resolve issues. In addition, the Stakeholders shall function to:

- Arrange for meetings to resolve disputes with the proper individuals;
- Listen to and help the public succeed in getting their problem solved, to the degree possible; and
- Keep up-to-date with Genesis/operator, and local, federal, and state agency contacts and the areas they administer.

While the Stakeholders of this plan are committed to dealing with communication concerns with the leases held by Genesis in the watersheds, the communities may favor the creation of an energy advisory board consisting of representatives of the public, stakeholder agencies and entities that collaborated in the creation of this plan. The details of the structure and management of this group cannot be prescribed in the Plan. The framework of communication in this plan can become a model for various development plans throughout Mesa County; however, the Stakeholders also recognize the working group is not the appropriate forum to address broad and ongoing county-wide energy issues.

RISK SCENARIOS

The risk of negative impact to environmental resources exists with any land development activity. Energy exploration and development in the Palisade and Grand Junction watersheds poses risk of degradation of water, air, land, vegetation, wildlife, and visual aesthetic resources in these areas. This section focuses on risk scenarios associated with the resource of primary concern, the risk of degradation of water resources. The following section, "Best Management Practices For Risk Mitigation To Protect Watersheds," discusses mitigation measures that will be implemented for water resources and other primary resources of concern.

The risk of negative impacts to water resources from energy development can be generally categorized into risks to surface water and risks to groundwater. To evaluate risk, it is important to recognize the interaction of groundwater and surface water in the watersheds. Conceptually, the general flow paths of water in the watersheds can be described through the classic hydrologic cycle or model. Precipitation falling on the watersheds runs off, is retained in lakes or reservoirs, evaporates, is consumed by vegetation, or percolates through the ground and recharges the underlying aquifers. Groundwater discharges from aquifers to the ground surface in places in the form of springs and seeps, and within streambeds. Hence, groundwater can become surface water, and in some cases surface water, may re-infiltrate and recharge aquifers.

Risk scenarios in this Plan are recognized as the most common risk activities and mechanisms that pose a potential direct threat to water resources. Other risk scenarios will be identified as energy development in the watershed progresses. It is worth noting that although BMPs are intended to mitigate risk, risk is rarely totally eliminated. For example, Genesis has committed to various BMPs such as the use of closed fluid systems, which will greatly reduce but not absolutely prevent spills or surface releases in the watersheds.

Risks to Surface Water

Risks to surface water contamination are understandably related to surface land use activities and processes. The primary activities and potential contaminant sources that present risk to surface water degradation are:

1. Construction of roads, well pads, pipelines, compressor stations, and other related energy development facilities; and
2. Well production and transport of potential contaminant sources into, within, or from the watersheds.

Risk mechanisms of surface water contamination include:

1. Sedimentation associated with:
    a. Storm runoff and soil erosion;
    b. Mass wasting of soils into drainages;
    c. Construction of roads, pipelines, or other structures across streams; and
    d. Disturbance of streambeds in open-water road crossings.
2. Contamination associated with:
    a. Spills or releases of drilling fluids, fracturing fluids, produced water, formation produced petroleum hydrocarbons, or equipment fuels, oils, and other chemical compounds transported into, within, or from the watersheds.

The contamination and incomplete remediation of surface soils from spills and releases can result in a long-term source of contamination to the watersheds as repeated runoff and shallow infiltration can continue to mobilize contaminants to surface and groundwater resources over time.

Risks to Groundwater

Risks to groundwater contamination are related to both surface and subsurface activities. The primary activities and potential contaminant sources that present risk to groundwater degradation are:

1. Surface spills and releases of associated exploration and production chemical compounds and wastes; and
2. Well drilling, construction, and production.

Risk mechanisms of groundwater contamination include:

1. Percolation of surface spills and releases through the ground and into underlying aquifers;
2. Leakage or release of drilling fluids, fracturing fluids, produced water, formation produced petroleum hydrocarbons, or other formation water from well (borehole) structures to aquifers that supply the watersheds. This may occur during drilling, fracturing, or as a result of a poor well completion (incomplete cemented casing) in which the production zone or other aquifer water is not completely hydraulically isolated from water supply aquifers.

Contamination of groundwater that supplies the watersheds through discharge to springs and streams is of vital concern as this process is not always detected in a timely manner and can lead to large contaminant plumes that may be costly to delineate and remediate.

BEST MANAGEMENT PRACTICES FOR RISK MITIGATION TO PROTECT WATERSHEDS

Genesis is committed to adopting Best Management Practices with the intent of protecting watersheds assets.

For this Plan Best Management Practice is defined as:

> An on-the-ground action to mitigate a known potential impact or a process to be followed to achieve a specific outcome. The implementation of BMPs within the watersheds will mitigate, minimize, and/or prevent adverse impacts. The list of BMPs is not all-inclusive, as differing situations on the ground will dictate the actual protection measures.

The BMPs described in the Plan are ordered based on the timeline of development through reclamation.

***The BMP titles with asterisks are BMPs specific to the watersheds. Many of the elements of the BMPs in the following section exceed what is required by regulating agencies and exceed normal construction industry BMPs.**

A. Hydrological Studies*

Baseline Studies

Genesis is committed to supporting the use of a designated third party contractor, with partial funding by Genesis, and in coordination with the Stakeholders, to prepare and conduct a baseline hydrologic study to define, prioritize, and map sensitive source water-related areas and facilities in the watersheds. The information will be used to identify areas that can be potentially impacted if leases are developed, and where BMPs will be implemented to mitigate and prevent impacts.

More specifically, Genesis is committed to supporting the creation of a thorough program of hydrological studies designed to characterize watershed hydrologic systems. Program elements include the following:

- Identify key surface discharge and storage features, such as streams, springs, lakes, and ponds as monitoring stations for the measurement of discharge and water quality parameters;
- Delineate and construct groundwater monitoring wells to characterize groundwater hydrology;
- Establish surface water and groundwater baseline (existing) hydrological conditions through sampling and analysis of the above inventoried features;
- Conduct hydrological field reconnaissance and mapping that will contribute to conceptual flow model development (recharge and discharge areas and processes); and
- Conduct special hydrochemistry studies (e.g., isotope sampling) to support watershed characterization.

On the basis of the data compiled from the above elements, a baseline report will be prepared that interprets watershed hydrology. The report will discuss the following topics:

- Conceptual description of hydrologic systems (watershed conceptual flow model) in the watershed;
- Description of geology, geologic hazards, surface hydrology, and hydrogeology in the watershed(s) including surface water distribution and groundwater occurrence, discharge and recharge areas, general flow volumes and water balance, and water quality (chemistry);
- Delineation of areas of varying hydrologic sensitivity;

- Data-gaps and recommendations for operations and post-operations monitoring programs.

Exploration, Development, and Post-Development Watershed Monitoring*

A designated third party contractor, partially funded by Genesis, and in coordination with the Stakeholders, will prepare and conduct a water quality and quantity monitoring program in the watersheds during energy exploration, development, and post-development periods.

Based on the results of the baseline hydrology study and future negotiations, Genesis will implement the following watershed-protection actions for the exploration, development, and post-development water quality and quantity monitoring plan.

- Establish surface-water monitoring stations for key water features and any feature that is suspected to have a unique source area;
- Establish groundwater monitoring wells at strategic locations in the watersheds;
- Add surface water monitoring stations or groundwater monitoring wells to accommodate specific areas or issues of concern;
- Measure flow discharge rates and develop and conduct water quality sampling of key organic and inorganic potential contaminants of concern on a schedule as determined by the baseline study;
- Conduct immediate follow-up sampling for anomalous results;
- Collect produced water samples from each well within six months of final well completion, and on an annual basis where applicable;
- Assimilate, compare, and provide professional interpretations of all data collected; and
- Review and respond to other requested hydrologic monitoring or data collection as requested by the Town.

A sampling and analysis plan (SAP) will be prepared and modeled after the hydrologic baseline study. The SAP will contain discussion on the following general topics:

- Identification of surface and groundwater sampling sites;
- Sampling procedures and protocols, and quality assurance and control measures;
- Sampling frequency and analytical schedule (parameters to be analyzed);
- Data management and assessment.

Stakeholders and others, as appropriate, will assist in preparing the SAP. The plan and data collected will be available to the public and will be referenced or included in all Plans of Development.

B. Collaborative Plans of Development (POD)*

Genesis will obtain POD input and feedback from Stakeholders and the community well in advance of potential drilling in order to minimize surface, water and visual impacts. Genesis will initiate this process and work collectively with surface owners and land managers to minimize the potential site-specific impacts of energy development for all lands within the POD. In all PODs, Genesis will plan, locate, and show all well sites and associated pipelines and compressor stations, aimed at minimizing short-term disturbance and long-term disruption of the surface resources and promoting successful reclamation.

Genesis' well site design and construction procedures will include, but not be limited to:

- Choosing the location of well sites/development pads in areas with the lowest potential for impact to water quality and visual aesthetics, using the information in the hydrological and visual studies;
- Utilizing the most level areas, avoiding narrow ridges, steep slopes, culturally significant, or environmentally or ecologically sensitive areas;
- As practicable, avoiding construction and operations within or near sensitive riparian, floodplains, wetlands, springs, seeps and other water features, and areas subject to severe erosion and or mass movement in compliance with all legislation, BLM and other stipulations, and agreements; a hydrological study already mentioned above will identify those sensitive areas to avoid;
- Implementing the actions in the approved Storm Water Management Plan;
- Segregating, stockpiling, and conserving all topsoil from well pad or road cut and fill areas for reuse during interim and final reclamation;
- Locating and protecting stockpiles so that wind and water erosion are minimized;
- Compacting all fill slopes so as to minimize the risk of slope failure and subsequent sedimentation;
- Preparing and implementing monitoring plans using third party contractors; and
- Minimize surface disturbance by using techniques such as directional drilling to limit the number of potential drilling sites, access roads, and associated facilities.

The Stakeholders understand that directional drilling may have benefits for the watersheds but may increase risk and cost to Genesis in some situations. While Genesis may be willing to bear those additional costs, risk factors associated with drilling must also be taken into consideration. These risk factors include:

- Potential loss of wells due to drilling problems caused by attempting long-reach directional drilling; and
- Potential significant increases in drilling and completion costs due to the complexity of drilling, logging and completing long-reach directional wells.

Genesis is committed to the preparation of collaborative PODs, minimizing pad size, and maximizing surface density of drilling sites on pads.

C. Clustered Development Well Pad Spacing and Well Pads*

Initially Genesis will be in an exploration phase where a limited number of wells will be drilled to assess the commercial viability of the resource. Should an exploration phase move into a development phase, Genesis agrees to use Clustered Development as the primary plan for energy development and operations in the watersheds. Using Clustered Development techniques and design, the following results can be achieved:

- Fewer roads, pipelines and drilling pads to potentially impact or disturb watershed resources, private land, and landowners;
- Ability to significantly reduce visual impacts;
- Greater flexibility to locate development activities in less sensitive parts of the watersheds;
- Reduced surface owner/manager/landowner conflicts;
- Fewer surface owner agreements to negotiate;

- Reduced expense to industry to construct pads, gathering lines, roads and other infrastructure;
- Reduced numbers of compressor stations can be required to move gas into gas transportation pipelines;
- Reduced traffic and road maintenance costs;
- Increased ability for inspection and oversight of activities; and
- Reduced need for electrical transmission lines and their construction costs.

The goals of the Plan are to define and negotiate the minimum number of drilling pad locations and prepare a POD that meets the needs of the resources, landowners, surface managers and Genesis. The surface site planning/POD development will begin with the assumption of one pad per quarter section, or per 160 acres, recognizing that in some areas, other surface spacing may be required due to surface and subsurface features, property boundaries, topography, buildings, and landowner preferences. However, the goal of clustered surface development is to minimize surface and visual impacts.

D. Collaborative Storm Water Management Plan*

Genesis will obtain Storm Water Management input and feedback from Stakeholders well in advance of potential drilling in order to minimize surface, water and visual impacts.

Soil erosion and mass movement, siltation, ground or surface water damage, hazardous or toxic material or chemical movement, well pad, drainage structure, road, and pipeline damage or disturbances are all potential consequences of storm water runoff. Construction techniques can mitigate or eliminate most concerns from this likelihood in the watersheds.

Ways to address, mitigate or eliminate most concerns with a Storm Water Management Plan:

- Recommend and require proven hydrologic and pollution control practices;
- Identify BMPs that will meet the terms and conditions of required permits and intent of this Plan;
- Identify potential sources of pollution that will be expected to affect the quality of storm water discharges associated with potential energy related construction activity;
- Describe the BMPs that will be used to reduce the pollutants in storm water discharges associated with construction activity;
- Describe how construction operations will implement the provisions of the storm water management plan;
- Explain how the required permits for storm water discharge will be adhered to;
- Show the design, locations, and appropriate storm water devices that take water from well pads or other energy facilities to minimize storm water runoff impacts;
- Correlate to the PODs, permits to drill, and other plans, and all terms of the storm water management permit obtained from the state Water Quality Control Division; and
- Genesis will conduct all energy development and operational activities in the watersheds in strict compliance with existing storm water management regulations.

Genesis will utilize some or all of the following techniques, measures, and procedures for adequate storm water management:

- Erosion and sediment structural controls (i.e., fiber rolls, earth dikes, drainage swales, gravel bag berm, straw bale barrier, silt fences, sediment traps, water velocity dissipation devices);

- Erosion and sediment nonstructural controls/soil stabilizers (i.e., preservation of existing vegetation, streambank stabilization, straw mulch, hydraulic mulch, hydroseeding, geotextiles and mats, riprap, gradient terraces, soil roughening);
- Road construction designs to mitigate storm water runoff impacts (i.e., drainage dips, ditches, road crowning, ditch relief culverts, low-water crossings, and culverts); and
- Materials handling and spill prevention, waste management and general pollution prevention (i.e., spill prevention and control, vehicle and equipment refueling, stockpile management, solid waste management, hazardous waste management, contaminated soil management, sanitary/septic waste management).

E. Subcontractor Education*

Genesis will design and conduct an extended education program for all subcontractors used in the watersheds. At a minimum, the program will include a review of this Plan, PODs or other requirements, all local and state permit and review requirements, temporary use permits conditions, right-of-way conditions and terms, Surface Owner Agreements if appropriate, Surface Use Agreements, Surface Use Plans, or Conditions of Approval associated with permits to drill. Also included will be emergency response procedures, health and safety requirement, rules of conduct. The outcome of this program will be an understanding by subcontractors of the contents of these requirements, plans, and programs, and the content of the Plan.

Genesis will also design and conduct an education program for employees, subcontractors, and others as needed regarding the proper treatment and considerations for equipment and vehicles entering and leaving the watersheds.

F. Emergency Response Plan; Hazardous Materials Management, Spill Prevention Control and Countermeasures, Health, and Safety*

Genesis' activities during the potential development of the leases in the watersheds are subject to environmental, health and safety rules, and regulations administered by federal, state and local regulatory agencies. The desired outcome of complying with these regulations and conditions is to create a working environment and appropriate attitude in the watersheds that helps result in safety conscious attitudes, safe habits, and an understanding of the necessity for these regulations.

To achieve this outcome, Genesis will:

- Prepare an Emergency Response Plan that includes appropriate information about potential contaminants, hazardous or toxic materials, or other potential pollutants and how these materials will be safely used in the watersheds. The response plan will define, in detail, the potential sources and threats from these or other materials, how the environment within the watersheds will be protected as these materials are used, and how Genesis will respond to and mitigate potential impacts from hazardous or toxic materials and contaminants, how these materials will be verified, and the required agency, media, and public reporting and communication process to be used to notify appropriate Stakeholders, the public, and other agencies as needed, in the event of an incident; and
- Devise and conduct, as frequently as is necessary, an information and education program for all subcontractor employees conducting activities in the watersheds, with the aim of explaining the importance of complying with all applicable rules and regulations, including local, state, or federal government emergency response plans for energy development, those requirements specific to working in or with potentially dangerous locations, equipment, materials, or weather or climatic situations.

Implement BMPs for addressing hazardous or toxic materials and their safety concerns that will include, but not be limited to:

- A robust and adequate communication system effectively working in the watersheds to facilitate emergency response (communication systems will be capable of sending and receiving information from local law enforcement and other emergency entities, such as for 9-1-1 calls); Spill Prevention Control and Countermeasures:
  - Genesis will have an active Spill Prevention program to prevent discharges. This program includes on-site emergency response kits for first responders to have the tools to immediately contain and mitigate potential spills;
  - Contain all hazardous and toxic materials according to requirements;

  Establish procedures for fuel transfer material storage, equipment maintenance, etc. To minimize the potential for an uncontrolled release;
  - Ensure subcontractors maintain control of hazardous material spills, cleanup, and reporting.
- Provide sanitary facilities accessible on sites at all times during drilling and construction activities. Disposal will be in accordance with State of Colorado and Mesa County rules and regulations regarding sewage treatment and disposal;
- Conduct a yearly exercise of emergency response systems;
- All refuse generated within the watersheds during construction and testing activities will be contained in an enclosed receptacle and hauled to an authorized disposal site;
- Conduct all oil and gas related work to minimize potential impacts to employee's safety and health, and the environment;
- Maintain a file in field offices containing current Material Safety Data Sheets for all chemicals, compounds, and/or substances used or proposed to be used in the course of construction and operations;
- Use no hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act, in pipeline construction operations;
- Generate no hazardous wastes, as defined by the Resource Conservation and Recovery Act, during construction operations;
- Train all employees in effective environmental health and safety practices and ensure that proper personal protective equipment is available and being used;
- Install barriers around wellheads and equipment to discourage unauthorized activity;
- Install impermeable liners or collection systems under equipment and machinery that has the potential to spill or leak fluids;
- Work with municipal representatives to review and install appropriate speed limit signs;
- Fit all condensate production tanks with back pressure valves and a low pressure gathering line to gather gas and condensate vapors and direct them to on-site incineration;
- Train employees and subcontractors to abide by all traffic rules and speed limits;
- Work with municipal road and bridge departments to obtain permits, post bonds, and address designated routes, inadequate infrastructure, dangerous areas and traffic management;
- Install at appropriate locations signs informing truck traffic of "no jake brake zones"; and
- Work with regulating agencies on a vehicular and equipment access plan for road and highway needs.

G. Air Quality*

To help aid air quality and dust suppression within watersheds lease areas, Genesis will take the following precautions at all applicable locations:

- Work with local watersheds agencies and surface owners to control dust that may be generated due to construction activities and vehicle travel;
- Utilize approved dust suppression techniques, the methods of which will depend on local features and conditions, weather, and the activity to be conducted;
- Define specific dust suppression measures in PODs;
- Will work to minimize venting and flaring during well testing.

H. Closed Loop Drilling Systems*

Closed loop drilling systems are used in lieu of mud or reserve pits and involve the use of piping and tanks to contain and manage downhole drilling fluids. The desired outcome of the use of closed loop drilling systems is to reduce the potential for spills in the watersheds. Genesis is committed to using closed loop drilling systems in the watersheds for drilling wells.

I. Well Construction – Cementing/Casing Programs*

The desired outcome in the use of cementing and casing programs is to completely isolate fresh water zones that are hydraulically connected to watershed source waters from potentially productive hydrocarbon zones.

Surface Casing

The goals of the surface casing program are:

- Isolate fresh water zones;
- Set casing to a depth determined by local geology in coordination with the depth (s) recommended by the baseline hydrological study;
- Require "cement to surface" prior to drilling deeper potentially productive oil and gas zones. The cement to surface program requires the final cured top of cement is at the ground surface;
- Conduct a visual inspection and temperature survey to ascertain complete cementing of surface pipe;
- If the aforementioned steps have not been achieved, remedial cement work will be conducted until complete cementing and isolation of fresh water zones present is achieved prior to deepening of the well;

Intermediate Casing String

Intermediate casing strings will be utilized if fresh water zones exist between the bottom of the surface casing and the anticipated gas production zone and/or if localized pockets of pressurized gas are encountered in strata above the anticipated main gas production zone:

- A Formation Integrity Test will be performed at least 50 feet below the surface casing shoe. This test shall be performed to an equivalent mud weight of 15 percent over the highest expected mud weight required to bring the well to total depth;
- If the well bore fails the Formation Integrity Test criteria, then the operator shall set an intermediate string of casing at the appropriate depth;

- If cement is not circulated to surface, a temperature survey will be run prior to drilling forward to verify cement has been lifted to a minimum of 50 feet above the bottom of the surface casing; and
- If the cement has not been lifted to above the bottom of the surface casing as specified, then remedial cement work will be conducted to accomplish this objective prior to proceeding with drilling.

Production Casing

Production casing runs the entire depth of the well and isolates the potential hydrocarbon zones. The goals of the production casing program are to:

- Lift cement 500 feet above the top-most potentially productive hydrocarbon zone;
- Verify top of cement with the use of cement bond log and temperature survey; and
- Conduct remedial cement work if the cement bond log and temperature survey determines cement coverage and zonal isolation has not been achieved.

In addition to log evaluations and interpretations conducted by Genesis, evaluations of cement bond logs, temperature surveys, and any other well integrity logs will be conducted by BLM staff.

J. Well Control

Choke pressures during well control operations shall be restricted to levels that will not cause the maximum wellbore integrity demonstrated by the Formation Integrity Test to be exceeded. As a precautionary measure, if the choke pressure exceeds the surface pressure used to determine wellbore integrity during the Formation Integrity Test, it shall be immediately reported and Genesis will submit a report of the well control event on a Sundry Notice Form 4 (COGCC form) within 24 hours. The report will include the following information:

- Date and time of the event;
- Total depth of the well at the time of the event;
- Surface casing depth, size and cementing data;
- Type of kick (gas, water, oil);
- Shut-in drill pipe pressure, shut-in casing pressure, or any other pressure measurement or information used to determine the mud weight required to control the kick;
- Initial mud weight at the time of the event;
- Pit gain volume (in this case tank gain volume);
- Mud weight required to control the kick;
- Maximum choke pressure that occurred while circulating out the kick;
- Any indication of fluids migrating outside of the surface casing (surface expression, etc.); and
- A narrative description of the well control event and current condition of the well.

K. Pressure Monitoring

"Bradenhead" pressure monitoring is conducted to monitor the pressure between the production casing and the surface casing (and intermediate casing, when used). The goal of pressure monitoring is to ensure hydrocarbon zone isolation is achieved.

After Cementing Production String

The bradenhead pressure shall be measured 72 hours after the production casing is cemented. If bradenhead pressures greater than one hundred fifty (150) psig are observed, such pressures shall be immediately reported and a remediation procedure shall be prepared.

During Completion

The bradenhead pressure shall be monitored and recorded when performing fracturing operations. If intermediate casing is set, the intermediate casing pressures shall also be monitored and recorded.

Post Completion

In addition to bradenhead pressure measurement requirements in the watersheds, the bradenhead pressure of each well on a pad shall be monitored daily until 30 days following the cementing of the production casing of the last well on the pad. Following that, the bradenhead pressures shall be monitored monthly for the following 12-month period. After the initial 12-month period following well completion, bradenhead pressure measurements will be measured at least once annually. If bradenhead pressures greater than 150 psig are observed, such procedures shall be immediately reported and a remediation procedure shall be prepared for approval. These requirements shall also apply to monitoring intermediate casing pressure if intermediate casing is required.

All relevant well-integrity construction information shall be submitted electronically via email to the Town of Palisade, and City of Grand Junction. Genesis is encouraged to copy the Town and City on submittals to COGCC, rather than reproduce information separately. Required email information to be submitted includes:

- Driller's log or equivalent summary including reference to intervals making water and estimates of yield.
- CBL with temperature survey in *.pdf format.
- Cementing job information for the all cementing work performed. This includes initial cementing volumes, secondary or subsequent volumes (cementing job and any subsequent cementing work).
- Final mud weight.
- Copies of all Sundry Notices, Form 4 or other forms submitted to the COGCC during well construction.
- Results of any downhole testing including but not limited to drill stem, mechanical integrity, formation integrity, and bradenhead pressure measurements.
- Results and logs of hydraulic fracturing work.
- A wellbore diagram with the as-built cement tops, formation tops, top of gas, casing shoes, etc.

For additional information, see Appendix 9.

L. Green Fracturing*

"Green" hydraulic fracturing procedures, processes, and materials will also be used in the watersheds. See Appendix 7 for a definition of "Green Fracturing."

The BLM's environmental analysis addressing the PODs or permits to drill will disclose the components of both drilling and fracking fluids used within the watersheds, while the specific mixture percentages will not be available as this is proprietary information.

M. Fracture Tracing*

In order to ensure fracturing fluids are contained to hydrocarbon zones, tracers will be utilized during the exploration phase. Future use will be determined based on results from the exploratory program.

N. Produced Water (Disposal)*

Genesis will not use on-site recovery pits to dispose of produced water.

ADDITONAL BEST MANAGEMENT PRACTICES FOR RISK MITIGATION

A. Collaborative Visual Studies*

Genesis will support the use of a third-party contractor who will work with Stakeholders to conduct a study to identify sensitive viewsheds in the watersheds. The BLM Visual Resource Management regulations, processes, and policies will be used to guide the mapping and categorization of the areas.

B. Subcontractor Hiring Policy

Genesis is committed to using local service and material providers when available and practical.

C. Subcontractor Conduct*

Genesis has a zero-tolerance policy regarding drug usage. All subcontractors prior to working in the watersheds will have to demonstrate active drug, alcohol, and safety programs regarding hiring, training and conducting spot-checking programs. Genesis will also have an education and compliance program to help reinforce the zero-tolerance policy.

D. Fire Abatement*

To help in the prevention and suppression of fires within watersheds lease areas, Genesis will take the following precautions at all applicable locations:

- Minimize venting to the extent possible and only use when properly permitted and supervised;
- Refrain from flaring except when necessary to avoid safety risks or greater damage to the surrounding environment and only use when properly permitted and supervised;
- Ensure that all "hotwork," such as welding is performed in approved areas posing low to no risk to starting wildfires or the generation of sparks or flames leaving work area; and
- Hire and use a third party entity to provide additional fire suppression equipment on locations should Genesis or other Stakeholders believe that weather conditions pose a higher risk of fire danger.

E. Staging Areas*

Genesis will obtain all applicable local, state and federal permits for the construction and operation of staging areas, support service yards, chemical and fuel storage yards and "laydown" yards.

F. Pipelines

Genesis will collaborate with the watersheds Stakeholders on the planning and construction of pipelines during the Plans of Development. Genesis will:

- Keep pipeline right-of-way widths to a minimum while maintaining public health and safety;
- Test pipelines and flowlines for leaks before backfilling trenches;
- Compact pipeline trenches during backfill;
- Re-grade and reclaim fill slopes to conform to the adjacent terrain;
- Prevent the blockage of dams or streams, or the relocation or changing the natural course of any stream, and bury pipelines below the stream scouring depth;
- Obtain all required and applicable local, state and federal permits;
- Identify, map, and attempt to avoid areas where ground movement potential exists and/ or monitor long term ground movement;
- Locate pipelines and flowlines in existing road corridors where practicable to minimize surface disturbance and provide better access for leak detection and repair operations; and
- Refrain from using above-ground piping within the watersheds without appropriate consultation with municipalities and regulatory agencies.

G. Interim and Final Reclamation Plans

Genesis will include in all PODs, permits to drill, Surface Use Plans, or other plans, an interim and final reclamation plan for all energy-related activities, including but not limited to roads, pipelines, well sites, other utility lines, temporary use permit sites, and other disturbed areas. The standards and guidelines in Chapter 6 of BLM's "Gold Book," fourth edition or as amended or updated, will be used to develop these reclamation plans. Rules and regulations in the Colorado Oil and Gas Conservation Act will also be followed in planning and carrying out reclamation efforts.

Genesis is committed to working with the Stakeholders to aggressively approach interim reclamation. Successful future reclamation is contingent on appropriate reclamation planning *prior* to construction. Reclamation becomes significantly more difficult, more expensive, and less effective if sufficient topsoil is not salvaged, interim reclamation is not completed, and if proper care is not taken to construct pads and roads in locations that minimize reclamation needs.

REGULATORY AGENCY ROLES, RESPONSIBILITIES, PERMITTING AND REGULATIONS

Along with BMPs, there is a considerable body of regulatory requirements and oversight. For additional information, see the regulatory matrix in Appendix 5.

The BLM and USFS have responsibilities to implement and enforce regulations, laws, policies, and land use decisions in managing the public lands in their jurisdictions. While there may be limited regulatory overlap, the Stakeholders agree that clear and timely communications will make monitoring and regulating activities in the watersheds better for the agencies and easier for the industry.

Bureau of Land Management

The BLM has the overall responsibility to administer the federal mineral leases within the watersheds. This includes the prioritization of inspection and enforcement activities involving the oil and gas activities directly, as well as that of monitoring certain lands for compliance with stipulations, lease terms, conditions of approval, or other terms.

The BLM's Onshore Oil and Gas Order #1 outlines the procedures for filing either an Application for Permit to Drill or a Notice of Staking followed by a permit to drill. For either option, oil and gas operators are required to contact and discuss with the BLM any concerns and issues regarding the proposed development.

Once a formal application has been submitted, BLM invites Stakeholders to an on-site inspection of the proposed location to discuss siting and design of facilities and BMPs to address mitigation of potential impacts. The on-site visit may result in modification of the design or siting location of proposed developments as well as identifying additional resource mitigation issues that must be addressed in the application.

The formal permit to drill application consists of two parts: A Surface Use Plan of Operations and a Drilling Plan (downhole operations). Once a complete permit to drill is accepted by the BLM, a 30-day notice is provided to the public. The BLM will provide local governments a copy of all of the non-proprietary information contained in the permit to drill.

Upon completion of the environmental analysis, it will be available for a 30-day public comment period. After the comment period, BLM will address public comments and prepare a Decision Record. Once the Decision Record is signed, it is subject to an administrative relief process outlined in BLM's oil and gas regulations and Onshore Oil and Gas Orders.

The BLM is responsible for issuing needed off-lease rights-of-way, special use permits, or other land use authorizations. In addition, BLM staff will be conducting evaluations of well completion information for all wells drilled in the watershed as mentioned in the BMP section (paragraph I) of this plan.

The BLM committed to local governments that a POD must be submitted for proposed surface disturbing activities proposed within the watersheds. The components of a POD are detailed in the POD section.

Additional lease stipulations included in the BLM regulatory process:

- Watersheds Stipulation – Development of Watershed Plan;
- Big Game Stipulations (No drilling Dec. 1st – April 30th);
- Steep Slopes Stipulations (limit surface impact on steep slopes);
- View Shed Stipulations – mitigate Scenic view impacts;
- Genesis' Voluntary No Surface Occupancy: 960 acres surrounding existing spring boxes – Highly sensitive water resource areas.

The BLM is also responsible for interim and final reclamation plans. The reclamation plan will be designed and implemented to achieve the following goals:

- Isolation and/or removal of all undesirable materials to protect the reclaimed landscape;
- Re-contouring and implementation of other soil conservation, surface manipulation and water management techniques to establish stable slopes, water courses, and drainage features to minimize erosion and sedimentation;
- Revegetation of reclaimed areas to stabilize soils and establish a vigorous, diverse, self-perpetuating plant community, which includes little undesirable vegetation and is able to support post-disturbance land uses;
- Establishment of long-term visual resource management objectives by ensuring the reclamation is compatible with agency or municipal long-term visual resource management goals;
- Short-term reclamation goals will be the immediate stabilization of disturbed areas to control erosion and provide protection for adjacent undisturbed areas from unnecessary degradation;
- Erosion controlled when water naturally infiltrates into the soil; gullying, head-cutting, or slumping is not observed; and rills are less than six inches deep;

- Long-term reclamation objective is to restore all disturbed lands to allow for the re-establishment of self-sustaining desirable vegetation. Desirable vegetation is defined as the pre-existing agricultural crop or vegetation, which stabilizes soil, prevents weed infestation and erosion, and provides forage for livestock, big game, and other wildlife;
- Protection of surface water and groundwater resources through the reconstruction of a geologically and hydrologically stable landform that will support future land uses (i.e., wildlife habitat, recreation, livestock grazing, and mineral exploration);
- Completion of reclamation by the second growing season following abandonment. If problems are encountered (e.g., surfacing of alkali), follow-up actions will be taken by Genesis to solve the problem;
- Reseeding of all areas of well pads not needed for the actual drilling as soon as a drilling pad is constructed, before the disturbed ground has a chance to crust or seal.

The long-term objective of final reclamation is to set the course for eventual ecosystem restoration, including the restoration of the natural vegetation community, hydrology, and wildlife habitats. In most cases, this means returning the land to a condition approximating or equal to that which existed prior to the disturbance.

During the life of the development, all disturbed areas not needed for active support of production operations should undergo "interim" reclamation in order to minimize the environmental impacts of development on other resources and uses. At final abandonment, well locations, production facilities, and access roads must undergo "final" reclamation so that the character and productivity of the land and water are restored.

Regulations in the Colorado Oil and Gas Conservation Act state that interim reclamation shall occur no later than three months on crop land or 12 months on non-crop land after such operations, unless the Director of the Colorado Oil and Gas Conservation Commission extends the time period because of conditions outside the control of the operator. This reclamation applies to disturbed areas affected by drilling except that reasonably needed for production operations. Final reclamation takes place when a well is no longer producing and has been plugged for abandonment. At that time, all equipment must be removed and the land re-contoured and reseeded as near to the original condition as possible.

The reclamation process involves restoring the original landform or creating a landform that approximates and blends in with the surrounding landform. It also involves salvaging and reusing all available topsoil (whatever soil is on top) in a timely manner, revegetating disturbed areas to native species, controlling erosion, controlling invasive non-native plants and noxious weeds, and monitoring results. Reclamation measures should begin as soon as possible after the disturbance and continue until successful reclamation is achieved. With proper reclamation measures and monitoring, over time local native species will become re-established on the site and the area will regain its original productive and scenic potential.

Reclamation generally can be judged successful when a self-sustaining, vigorous, diverse, native (or otherwise approved) plant community is established on the site, with a density sufficient to control erosion and non-native plant invasion and to re-establish wildlife habitat or forage production. Erosion control is generally sufficient when adequate groundcover is reestablished, water naturally infiltrates into the soil, and gullying, headcutting, slumping, and deep or excessive rilling is not observed. The site must be free of State- or county-listed noxious weeds, oil field debris, contaminated soil, and equipment. The operator should inform the surface management agency that reclamation has been completed and that the site is ready for final inspection when these requirements have been met.

The BLM will also require a Weed Management Plan. A Weed Management Plan will be included in the POD, permits to drill, and all appropriate plans prior to surface disturbance. The Weed Management Plan will, at a minimum, include:

- Methods to control, abate, and manage noxious and invasive weeds;
- Initial inventory of weed species;
- Identification of weed cleaning stations for vehicles and equipment;
- Appropriate weed control and removal methods when found;
- Implementing all necessary preventative methods to reduce the potential of invasion from a variety of causes or sources, if and when the Genesis leases are developed;
- A monitoring program for noxious weeds. Monitoring should last as long as the seed longevity for the weeds found at the site, and for a minimum of three to five years after successful vegetation is established;
- Incorporate all existing and future weed management plans and regulations of the local, county, and federal Stakeholders into on-the-ground operations, PODs, and other plans prior to surface disturbance.

As stated previously, the wildlife stipulations attached to the leases the BLM will incorporate, where practicable, the guidance in the August 2006 Colorado Wildlife Federation Guidance for Oil and Gas Development.

The BLM's permitting process also mandates lessee coordination with the Colorado Division of Wildlife. As most of these leases have wildlife stipulations attached to them, the division will be a key participant in the development and review of PODs, permits to drill, and associated environmental documents.

Additional Federal Oversight

- U.S. Army Corps of Engineers
- Bureau of Reclamation
- U.S. Forest Service
- U.S. Fish and Wildlife Service

State of Colorado

- The State of Colorado agencies below are responsible for permit approval or permit monitoring responsibilities in the watersheds:
  - Colorado Air Quality Control Commission – air quality
  - Colorado Water Quality Control Commission – Storm Water Management Plan
  - Colorado Division of Wildlife – wildlife stipulations, conditions of approval, or other agreements
  - Colorado Oil and Gas Conservation Commission – regulates drilling activity
  - Colorado Division of Water Resources – monitoring wells

The State of Colorado is also responsible for the plugging and abandonment of oil and gas wells.

With the typical producing life of a gas well between 30 and 50 years, the current lessee, Genesis, may not be the operator responsible for plugging and abandonment of wells potentially developed. The approved POD will include oil and gas well abandonment plans to be implemented. Whenever a gas or oil well site and operation is to be abandoned, the oil and gas lease stipulations, terms and conditions, and local, state and federal regulations that are current at the time of abandonment will be followed, however. This includes:

- Placement of cement plugs up and down a well bore covering all potentially productive zones; and
- Pressure testing of surface plugs prior to full abandonment of well.

Town of Palisade and City of Grand Junction

Palisade and Grand Junction are responsible for their respective municipal watershed protection ordinances on the leases.

Mesa County

Mesa County has certain responsibilities and authority within the watersheds in dealing with public safety, health, and welfare including but not limited to inspection of public roads, bridges and other county owned or managed facilities. Mesa County also requires a weed management plan and will coordinate with the BLM and Genesis regarding this issue.

For additional regulatory responsibilities, see Appendix 5.

PLANS OF DEVELOPMENT – PODs

All potential or proposed on-lease and off-lease activities, including exploration necessary for development of a lease or group of leases are covered by a Plan of Development (POD).

The POD describes the following on/off-lease potential features:

- Well sites;
- Well pad size and configuration if known;
- Drilling activities and materials to be used in the drilling;
- Extraction processes;
- Existing vehicle access and transportation routes;
- Road improvements needed; and
- Utility corridors.

Genesis will seek input and feedback from the Town of Palisade and the City of Grand Junction on the development of PODs prior to submission to the BLM.

Collaboratively prepared PODs ensure operations take place in an orderly fashion, maximize efficiency, minimize equipment activity, mitigate impacts, optimize site location, and decrease surface disturbance.

Following collaboration with the Stakeholders, Genesis will submit PODs to the BLM. The submission of the POD initiates the development of an environmental analysis, typically an Environmental Assessment, by the BLM. The environmental analysis allows for a comprehensive and cumulative analysis of the environmental consequences of implementing the POD and includes opportunity for public review and comment.

The POD's intent is to include mitigation measures to the extent possible. The environmental analysis may identify additional mitigation measures that will be included as conditions of approval for the POD.

The POD is the first step in the permitting process for the leases in the watersheds. If the environmental assessment for a POD results in a finding of no significant impact, drilling permits can be applied for and issued without additional environmental review.

SURFACE OWNER AGREEMENTS AND SPLIT ESTATE POLICY, BLM

On much of the land in Colorado, the BLM manages the subsurface mineral estate and entities other than the federal government own the surface. This is known as split estate.

If the mineral leases owned by the federal government are leased for energy development, the BLM encourages the lessee of federal oil and gas estate to certify an agreement with the surface owner known as a Surface Owner Agreement or Surface Use Agreements. The lessee must enter into good-faith negotiations with the private surface owner to reach an agreement for the protection of surface resources and reclamation of any disturbed areas, or payment in lieu thereof, to compensate the surface owner for loss of crops and damages to tangible improvements, if any.

The BLM will invite the surface owner to participate in the onsite inspection and will take into consideration the needs of the surface owner when reviewing the permit to drill.

MONITORING AND INSPECTION

Genesis will:

- Fund environmental monitoring on critical aspects of drilling procedures and ongoing operations as negotiated with Town, City, and County;
- Comply with all federal, state, local, and county regulations and laws that require resources to be monitored or evaluated for potential or actual impacts for oil and gas related activities; and
- Include necessary monitoring plans for resources, some of which are in this Watershed Plan, in all PODs, permits to drill, or other surface disturbance plans submitted for review to Stakeholders; these plans will include monitoring water quality/quantity, weeds, and other surface resources for potential or actual impacts from lease-related activities.

Regulating agencies and governments will:

- Cooperate and collaborate on the inspection processes.

REFERENCES

Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development – Gold Book, Fourth Edition, 2006 Final – Version 14 Pre-Layout, Pre-Hardcopy 02-06-06, United States Department of the Interior, United States Department of Agriculture, Bureau of Land Management, Forest Service

Guidance Document: Reasonable and Prudent Practices for Stabilization (RAPPS) of Oil and Gas Construction Sites; HJN 040027; Prepared by Horizon Environmental Services, Inc. April, 2004

STORMWATER FACT SHEET, Construction Permitting for Oil and Gas Facilities Colorado Water Quality Control Division, 2/3/2006

GENERAL PERMIT APPLICATION AND STORMWATER MANAGEMENT PLAN GUIDANCE FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY, Colorado Water Quality Control Division Updated 3/2006

http://www.epa.gov/region8/water/stormwater/downloads.html#general

Instruction Memorandum No. 2003-131, April 2, 2003 Permitting Oil and Gas on Split Estate Lands and Guidance for Onshore Oil and Gas Order No. 1, UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT,WASHINGTON, D.C. 20240

Appendix 1 – Emergency Response Plan Outline

COMPONENTS OF AN EMERGENCY RESPONSE PLAN

1.0 INTRODUCTION
- 1.1 Purpose of Plan
- 1.2 Response Plan Objectives
- 1.3 Plan Content

2.0 HYDROLOGIC SETTING
- 2.1 Surface Water
- 2.2 Groundwater

3.0 THE GENESIS GAS DEVELOPMENT PROCESS
- 3.1 Access Preparation
- 3.2 Phases of Drilling and Development
- 3.3 Operations and Maintenance
- 3.4 Post-Production

4.0 DEFINE POTENTIAL THREATS AND CONTAMINANT SOURCES
- 4.1 Potential Threats
  - Release to Water
  - Release to Soil
  - Release to Air
- 4.2 Potential Contaminate Sources
  - Transportation
  - Fixed Facilities

5.0 POTENTIAL RELEASE MECHANISMS
- 5.1 Surface Release of Operationally Derived Constituents
- 5.2 Subsurface Releases – Aquifer Contamination

6.0 CONTAMINANTS OF CONCERN
- 6.1 Petroleum Hydrocarbons
- 6.2 Drilling Additives
- 6.3 Fracturing Additives
- 6.4 Product Water
- 6.5 Natural Gas Liquids

7.0 DEVELOPMENTS OF BASELINE WATER QUALITY AND CONTAMINANT RESPONSE LEVELS
- 7.1 Baseline Water Quality
- 7.2 Development of Response Levels per Watershed Permit Requirements

8.0 RESPONSE ACTIONS
- 8.1 Operations
- 8.2 Post-Operations Monitoring

9.0 VERIFICATION PROCESS
- 9.1 Verification Components

10.0 REPORTING
- 10.1 Notification Procedures
- 10.2 Documentation
- 10.3 Hydrologic Impact Analysis and Streamlined Risk Evaluation

Appendix 2 – Storm Water Management Plan Outline

COMPONENTS OF A STORM WATER MANAGEMENT PLAN

1.0 INTRODUCTION
2.0 PROJECT DESCRIPTION
3.0 STORM WATER POTENTIAL
- 3.1 Runoff Characteristics
- 3.2 Name of Receiving Water

4.0 STORM WATER CONTROLS
- 4.1 Standard BMPs for Well Pads
- 4.2 Standard BMPs for Access Roads
- 4.3 Materials Handling and Non-Sediment Controls
- 4.4 Structural and Non-Structural Sediment and Erosion Control
- 4.5 Permanent Best Management Practices

5.0 RECLAMATION
6.0 INSPECTIONS AND MAINTENANCE
7.0 RETENTION OF REPORTS
8.0 STABILIZATION/TERMINATION
9.0 OBLIGATION/RESPONSIBLE PERSONS
10.0 CERTIFICATION

Appendix 3 – Grand Junction and Palisade Watershed Ordinances and Regulations

PALISADE WATERSHED ORDINANCE

ARTICLE I

Sec. 14-1. Short title.

This Chapter may be cited as the "Watersheds Protection District Regulations" or generally as "watersheds regulations." (Ord. 765 §1, 1997)

Sec. 14-2. Intent.

The Board of Trustees finds that the maintenance and protection of an adequate water supply of the highest quality and quantity is essential to the public health, safety and welfare of the citizens of the Town, and that the Town's water supply and waterworks shall be protected from pollution, impairment, injury or damage. (Ord. 765 §1, 1997)

Sec. 14-3. Authority.

The Town has the power to enact ordinances and regulations for the purpose of maintaining and protecting the Town's waterworks from injury and to protect the water from pollution in territory occupied by such waterworks, and over the streams or sources from which the water is taken for five (5) miles above the point from which it is taken, pursuant to Section 31-15-707(l)(b), C.R.S. (Ord. 765 §1, 1997)

Sec. 14-9. Violations; penalties.

(a) It is unlawful to engage in any activity not in compliance with this Chapter or any amendment thereof and the permit requirements herein. Any person, corporation or other legal entity, either as owner, lessee, permittee, occupant or otherwise, who violates any provision of this Chapter or who engages in any activity not in compliance with this Chapter, shall be guilty of a misdemeanor.

(b) Any person, corporation or other legal entity, upon conviction of a violation of this Chapter, shall be punished by the imposition of a fine in the amount not to exceed three hundred dollars ($300.00) per day for each offense, or by imprisonment not exceeding ninety (90) days for each offense, or both.

(c) Any person, corporation or other legal entity shall be guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed, continued or permitted.

(d) Nothing herein shall limit the Town from seeking any other remedies available by law or in equity, including but not limited to injunctive relief, the recovery of damages and the payment of costs and reasonable attorneys' fees. All remedies shall be cumulative. (Ord. 765 §1, 1997)

ARTICLE III

Sec. 14-31. Establishment of District.

The Town of Palisade Watershed Protection District is hereby established. The District is that area of land in which the Town shall exercise its powers to maintain and protect the Town's water supply and waterworks from pollution, impairment, injury or damage. (Ord. 765 §1, 1997)

Sec. 14-32. Jurisdiction.

The jurisdiction of the District shall extend over all of the territory occupied by the Town's waterworks, and all springs, seeps, streams, surface intakes, ditches, drains, pipelines and reservoirs used in and necessary for the construction, maintenance and operation of the same, in and including the Rapid Creek, Cottonwood Creek and Sink Creek basins and all water tributary thereto, and all associated surface waters, springs, seeps, groundwater flows and reservoirs, and all water sources and drainage areas tributary thereto for five (5) miles above the points from which water is diverted for use by the Town. The District includes all the land owned in fee simple by the Town within the District.

Sec. 14-34. Unlawful to cause injury or damage.

It shall be unlawful for any person to cause injury or damage to the Town's waterworks, including all springs, seeps, streams, surface intakes, ditches, drains, pipelines and reservoirs used in and necessary for the construction, maintenance and operation of the same. (Ord. 765 §1, 1997)

ARTICLE IV

Sec. 14-41. Regulated activity.

It shall be unlawful for any person to engage in any of the following activities without first applying for and obtaining a Watersheds Protection District permit under the provisions of these watersheds regulations and according to the standards set forth in Section 14-57 of this Chapter.

(1) Altering water drainage courses.

(2) Timber harvesting, except for the approved removal of dead trees and deadfall.

(3) Surface and subsurface mining operations, including drilling operations.

(4) Excavating, grading, filling or surfacing of surface and subsurface soils.

(5) Using, handling, storing or transmitting toxic, hazardous, or explosive materials and substances.

(6) Spraying or the use of pesticides, herbicides and fertilizers.

(7) Removing or altering vegetation.

(8) Construction or installation of a sewage disposal system.

(9) Prescribed fires, except with the approval of the Town and federal or state land management agency.

(10) Motorized vehicular use of land owned by the Town within the District and on Cottonwood Creek Road.

(11) Hunting, shooting, camping, fishing, trapping, livestock grazing and removal of rocks, soil or native plants on or from the land owned by the Town in fee simple in the District, including the waterworks. (Ord. 765 §1, 1997; Ord. 766 §3, 1997)

Sec. 14-42. Permitted uses.

Hiking and horseback riding by the public are permitted on land owned by the Town in fee simple within the District. Such activities are allowed on and off established roads, trails and routes, provided that such use does not substantially impact the District or waterworks. Mountain biking by the public is permitted on land owned by the Town in fee simple within the District on designated routes and the Cottonwood Creek Road only, provided that such use does not substantially impact the District or waterworks. (Ord. 765 §1, 1997)

ARTICLE V

Sec. 14-51. Applicability.

These watersheds regulations shall apply to any and all land use activity and proposed land use activity within the District, and shall also apply to all requests for entry, rights-of-way and any other access to the District which has been received but not yet been granted upon the effective date of these watersheds regulations. (Ord. 765 §1, 1997)

Sec. 14-52. Permit required; application.

(a) Permit required. No person shall engage, commence or continue any land use activity within the District except in conformance with a Watersheds Protection District permit issued by the Town.

(b) Permit application. Applications for a permit are to be made to the Town Administrator or his or her designee. The applicant shall submit to the Town a complete written description of the proposed land use activity. The application shall contain, at a minimum, all of the information required by Section 14-53 below, and quality of the information provided shall be such as to enable the Town to review the application and make informed recommendations as set forth herein. The Town reserves the right to reject all or part of an application that is not complete or does not address all of the requirements of Section 14-53 in a concise and coherent manner. (Ord. 765 §1, 1997)

Sec. 14-53. Submittal requirements.

The permit application shall contain the following information:

(1) Land use activity description.

(2) Alternatives. A detailed description of any reasonable alternative to the proposed land use activity which may result in less of an impact to the District.

(3) Environmental assessment and mitigation measures addressing the following: Revegetation, soil erosion control and water quality monitoring plan. A revegetation plan, soil erosion control plan and water quality monitoring plan meeting or exceeding the standards set forth in the applicable provisions of Section 14-57; Grading plan. A plan showing elevations, dimensions, location and extent of all proposed excavating, filling, grading or surfacing within the District by the proposed land use activity; Additional information. Any additional information or certification deemed necessary by the Town to determine whether or not the proposed land use activity will comply with the standards set forth in Section 14-57.

(7) Waiver of requirements. If sufficient information is available to the Town concerning the information required to be within the permit application, the Town in its sole discretion may waive such requirement. (Ord. 765 §1, 1997)

Sec. 14-55. Review and permitting procedures.

(a) Town review. The Town shall review the application and determine whether it is complete and of sufficient quality and whether a site inspection is necessary within thirty (30) days of the submittal. If the application is found to be sufficiently complete, the Town shall review the application for compliance with these regulations. The Town shall prepare a staff report within thirty (30) days of the acceptance of a complete application.

(b) Minor impact. The Town may classify in writing an application as having minor impact if the proposed land use activity has been or will be properly permitted by applicable federal, state or local authorities and if the proposed land use activity clearly does not present or create a violation of any of the standards set forth in Section 14-57. Within fifteen (15) days after such a written classification of a minor impact, the Town shall approve, approve with conditions or deny the Watersheds District permit.

(c) Major impact. If the Town does not classify an application for a proposed land use activity as a minor impact, it shall submit the staff report to the Board of Trustees, together with a recommendation that the Watersheds Protection District permit be approved, approved with conditions or denied. If the complexity of the application or the proposed land use activity so requires, the Town may extend the deadline for the completeness review and the staff report prepared by the Town for a period of time not to exceed an additional sixty (60) days for each deadline, unless a longer time is agreed to between the Town and the applicant.

Sec. 14-56. Activities declared to cause significant degradation of water quality.

The following activities by their very nature are declared to cause significant degradation of water quality in the District and are presumed to cause such significant degradation and to be in violation of these watersheds regulations, unless the Board of Trustees determines to its satisfaction, after consideration of the standards set forth in Section 14-57 and after notice and hearing, that the proposed land use activity can be conducted in a manner so as to conform to these Regulations.

(1) Drainage alterations. Any alteration to water drainage courses shall be prohibited which increases or decreases rates of stream flow, increases sediment load and deposition, causes erosion to stream banks, results in an increase or decrease in stream temperature, or otherwise causes injury to the aquatic environment.

(2) Timbering. Any timber harvesting, other than the removal of deadfall or diseased trees, or the removal of trees for incidental purposes which may be associated with permitted activity within the District.

(3) Mining. All surface and subsurface mining operations, including drilling operations, with the exception of reclamation activities pursuant to a state-approved reclamation plan. (Ord. 765 §1, 1997)

Sec. 14-57. Standards.

No land use activity shall be permitted in the District except in compliance with the following standards:

(1) Damage to waterworks prohibited. Any activity causing impairment, damage or injury to the waterworks shall be prohibited.

(2) Increase in pollution prohibited. All point and nonpoint sources of pollutants caused by or associated with the proposed land use activity shall not result in any measurable increase in pollution over the existing water quality of any waters affected by the proposed land use activity.

(3) Construction in waters prohibited. Construction within any waters of the District is prohibited, excluding authorized stream bank reinforcement or repair, water diversion placement or repair or stream crossings performed by or on behalf of the Town.

(4) Setbacks. Any activity, including grazing, or the placement of any structure, other than stream crossings, shall be set back a minimum of one hundred (100) feet from any stream, spring, seep, intake structure, ditch, wetlands or reservoir.

(5) Erosion control requirements. If required, temporary (during construction) and permanent erosion and sediment control measures shall be installed and maintained pursuant to a soil erosion control plan. Such soil erosion control plan shall include a description and location of all soil erosion control measures to be installed, and shall be subject to the following additional standards:

(6) Spill prevention. Measures shall be designed and implemented to prevent spilled fuels, lubricants or other hazardous or toxic materials from entering any waters or being deposited upon any soil in the District during construction, implementation or operation of the proposed land use activity.

(7) Pesticides, herbicides and fertilizers prohibited. The use of pesticides, herbicides and fertilizers within the District is prohibited.

(8) Revegetation. All vegetated areas within the District disturbed by the activity shall be revegetated or restored in accordance with a submitted and approved revegetation plan. At a minimum, disturbed areas shall be successfully revegetated within one (1) year of the date of disturbance.

(9) Water quality monitoring plan. A water quality monitoring plan for all waters affected by the proposed land use activity within the District shall be developed and implemented. Such water quality monitoring plan shall include provisions for:

(10) Wastewater treatment. All wastewater treatment and facilities necessary to serve the proposed land use activity within the District shall meet requirements established or adopted by the Town for construction, operation and maintenance of the same. No new individual sewer disposal system shall be constructed or installed within the District, and any existing individual sewer disposal system shall be operated and maintained in accordance with all applicable laws, ordinances and regulations.

Sec. 14-58. Issuance of permit; permit conditions.

The Board of Trustees may prescribe any condition or conditions in a permit that it may deem necessary to effectuate the powers granted to the Town to protect the waterworks and the Town water supply from pollution, impairment, injury or damage. (Ord. 765 §1, 1997)

Sec. 14-59. Enforcement.

(a) "Stop work" or "desist" order. Should the Town discover any activity which violates the provisions of any permit or condition thereof, or an activity is conducted without a required permit, or where the information submitted in the application is found to be inaccurate, the Town may suspend the activity until compliance with the permit is demonstrated. In such cases, a designee of the Town shall attach a "stop work" order to the construction site in a conspicuous place.

(b) Revocation of permit. The Town may revoke a permit issued under this Chapter for any violation of these watersheds regulations, for violation of the permit or any permit condition, or for the provision of false or incorrect information in the permit application. Such revocation shall be preceded by fifteen (15) days' written notice to the permittee that the revocation will occur unless the condition which created the violation or noncompliance with the terms of the permit or permit condition is corrected. The Town may, in its sole discretion and not to be construed as a waiver of any further action, enter into a corrective action plan with the permittee to correct the violation or noncompliance so noted. Upon permit revocation, the Town may require the permittee to restore the site to a condition acceptable to the Town in order

to prevent further injury to the District. The Town may, in its discretion, perform or cause to be performed the necessary restoration, and the permittee shall be assessed such costs of restoration.

(c) Duration of construction. Unless otherwise specified in the permit, all construction associated with the permitted land use activity shall be completed within one (1) year of the issuance of a permit. Extensions of up to six (6) months each may be granted by the Town upon a showing of good cause.

ARTICLE VI

Sec. 14-61. Appeal of administrative decision.

Any person, including the permittee and other persons, seeking to appeal any administrative action, determination or decision by the Town shall file a written appeal with the Board of Trustees within thirty (30) days of such administrative action, determination or decision by the Town. Such appeal shall be heard by the Board of Trustees at the next regularly scheduled Board of Trustees meeting if practicable, but in no event greater than thirty (30) days after the written appeal is filed. (Ord. 765 §1, 1997)

Sec. 14-62. Appeal of Board of Trustees' decision.

A person desiring to challenge the Board of Trustees' decision to grant a permit, to grant a permit with stated conditions or to deny a permit, or desiring to challenge the result of an appeal heard by the Board of Trustees pursuant to Section 14-61, may seek review of the Board of Trustees' decision in the Mesa County District Court in the manner provided by the Colorado Rules of Civil Procedure. (Ord. 765 §1, 1997)

Grand Junction Watershed Ordinance
Ordinance No. 3961

An Ordinance Establishing Watersheds and Water Supply Standards; Establishing Requirements for Watersheds Permits in Connection with Various Activities within Said Watersheds; Prohibiting Any Person from Polluting Said Watersheds; and Encouraging the City Council to Adopt Implementing Ordinances or Resolutions

BE IT ORDAINED BY THE VOTERS OF THE CITY OF GRAND JUNCTION that the following watersheds and water supply protection ordinance is hereby passed and adopted.

1. CITATION. This ordinance shall be known as the "Watersheds Protection Ordinance" of the City.

2. IMPLEMENTING ORDINANCE. The City Council is encouraged to adopt an additional ordinance or resolutions to further implement the provisions of this ordinance in light of the provisions and purpose hereof.

3. PURPOSE. The primary purpose for which the Watersheds Protection Ordinance is established is the fullest exercise of the powers, authorities, privileges and immunities of the City of Grand Junction in maintaining and protecting the City's water supply and waterworks from injury and water supply from pollution or from activities that may create a hazard to health or water quality or a danger of pollution to the water supply of the City. The City's authority herein shall be for the purpose of restricting any activity, or requiring changes in the way the activity or use is performed, within a watersheds which creates a substantial risk of pollution or injury to the City's water supply or waterworks and/or the lands from under, or across or through which the water flows or is gathered. This purpose and authority statement shall not, however, be construed as an attempt to interfere with federal jurisdiction over federal lands within the City's watersheds: This Ordinance should be construed to supplement and integrate with federal law and jurisdiction.

4. DESIGNATED WATERSHEDS.

   (A) The City's primary watersheds (i.e., Kannah Creek, North Fork of Kannah Creek, and Whitewater Creek) are hereby declared to extend over all the territory occupied by the City of Grand Junction's waterworks in the drainages of the City's primary watersheds and shall include but not be limited to all reservoirs, streams, trenches, pipes and drains used in and necessary for the construction, maintenance and operation of the same and over all creeks, streams, lakes, reservoirs and the City's waterworks and all water sources tributary thereto for five (5) miles up gradient (i.e., obtained or used upstream) of each point from which any water is diverted for use by the City of Grand Junction or placed into any City domestic waterworks. Any ordinance or resolution implementing this Ordinance shall address the City's water rights and waterworks that are supplied by water from either the Gunnison and/or the Colorado Rivers.

5. STANDARDS. No land use activity shall be permitted in any primary watersheds which creates a substantial risk of pollution or injury to the City's water supply or waterworks except in compliance with the provisions of this ordinance.

   In addition:

   (A) It shall be unlawful for any person to cause injury or damage to the City's waterworks, including all springs, seeps, streams, surface intakes, ditches, drains, pipelines and reservoirs used in and necessary for the construction, maintenance and operation of the same.

   (B) All point and non-point sources of pollutants caused by or associated with a proposed land use activity shall not result in any measurable increase in pollution over the existing water quality of any waters of any primary watersheds of the City potentially affected by the proposed land use or activity.

(C) The burden of proving the lack of substantial risk of pollution or injury, in terms of quantity and quality, to the City's water supply and/or waterworks shall be on the person proposing the land use or activity.

(D) Terms not defined herein shall be defined by the implementing ordinance and/or regulations. For the purposes of this ordinance, the following words shall have the following meanings.

6. HIGH RISK ACTIVITIES. Because certain activities in the City's primary watersheds pose a substantial risk of pollution or injury to the City's waterworks and/or the quality of the City's domestic water quality, it shall be unlawful for any person to engage in any of the following activities within the City's primary watersheds unless the proposed use falls under the category of a domestic use, or unless and until such person has first obtained a Watersheds Permit issued by the City:

(A) Excavating, grading, filling or surfacing 100 cubic yards or more;

(B) Removing 1000 square feet or more of vegetation;

(C) Using, handling, storing or transmitting flammable, explosive, hazardous or radioactive materials or substances; except for domestic uses and except that above-ground fuel tanks containing 350 or fewer gallons, and storage tanks that are an integral part of a vehicle, are allowed for each farm or ranch within a primary watersheds.

(D) Because timbering, mining, and confined animal feeding operations, have a potential to cause significant degradation of water quality in a primary watersheds, each such activity is prohibited unless and until the proponent of such land use or activity has obtained a City permit, based on the applicant/proponent having established that:

(I) Any alteration to water drainage courses shall not increase or decrease rates of stream flow, increase sediment load and/or deposition, cause erosion to stream banks, result in an increase or decrease in stream temperature, or otherwise cause injury to the aquatic environment. The City shall issue its permit if the applicant establishes that there is not a significant risk of pollution or injury to the City's water or waterworks;

(II) Any timber harvesting, other than the removal of deadfall or diseased trees, or the removal of trees for incidental purposes which may be associated with an activity that is not regulated by this ordinance, shall not cause degradation of water quality in a primary watersheds;

(III) Surface or subsurface mining operations, including the extraction of gas and/or oil, and the preparation of sites in anticipating of drilling, mining or quarrying shall not cause degradation of water quality in a primary watersheds. Reclamation activities pursuant to a state-approved reclamation plan are not regulated by this provision;

(IV) Confined animal feeding operations involving more than two hundred animals confined to less than 100 acres shall not cause degradation of water quality in a primary watersheds.

(E) At a minimum, the applicant for a land use or activity involving timbering, mining or confined animal feeding operations shall provide: (I) Detailed plans and specifications of the proposed land use activity; (II) Itemization of all hazardous, toxic or explosive substances or materials to be used, transported, stored or handled as a part of the proposed land use activity; (III) A detailed description of any reasonable alternative to the proposed land use activity which may result in less of an impact to the City's water works and primary watersheds; (IV) Proposed detailed mitigation measures necessary assuming that best management practices are employed to reduce all adverse impacts to the primary watersheds, and the City's water and waterworks; (V) The existing water quality in all waters reasonably affected by the proposed activity for each parameter established by the Colorado Water Quality Control Commission;

and (VI) A detailed description of the potential impacts the proposed land use activity will have on the quality and quantity of the City's water, waterworks and/or primary watersheds.

(F) Upon request of a rancher, farmer, resident of a single family dwelling or other person subject to the requirements of this ordinance, the City Manager may waive one or more of the above requirements if the City Manager determines that such information is not required in the particular circumstances to adequately evaluate risks of pollution or potential of injury to the primary watersheds, City waters or waterworks.

(G) Ongoing industrial operations (such as timbering, oil and gas drilling or confirmed animal feeding) in any primary watersheds may require the hiring of a third-party monitor selected by the City the costs of which are paid by the permittee for the duration of time the operations can cause damage to a primary watersheds, City waters and/or waterworks.

7. STANDARDS FOR ISSUANCE OF PERMIT. A Watersheds Permit shall only be issued when the City finds that the applicant has sustained its burden of proof that the proposed activity, including alternatives, mitigation and best management practices, if any, as proposed or required, does not present or create a foreseeable and substantial risk of pollution or injury to the primary watersheds, City waters or waterworks.

8. PERFORMANCE GUARANTEE INSPECTION COSTS.

(A) Before a permit authorizing a land use or activity in a primary watersheds is issued, each permittee shall provide the City, at the permittee's expense, a performance guarantee in the form of cash or a letter of credit in the amount of one hundred percent (100%) of the City Manager's estimate, based on the best available information, of the cost to ensure compliance with this ordinance and/or any implementing ordinances or regulations, including, but not limited to, the cost of maintenance, operation, re-vegetation, reclamation and other requirements of or arising out of or under the proposed activities. Such performance guarantee shall be in effect for at least one year beyond the anticipated completion and reclamation of the activity identified in the permit.

(B) Any public utility regulated by the Colorado Public Utilities Commission, any governmental agency, any mutual water company, any conservancy district or any equivalent public or quasi-public water delivery entity may provide the City with an annual letter signed by an appropriate officer of the same guaranteeing: complete performance of the conditions prescribed in the permit; and, the correction of any defect in the work which the City discovers and for which the City gives written notice to the permittee within one year after the date when the City initially approves the completed work.

(C) Each permittee shall pay for the costs of City selected inspectors and/or testers deemed necessary by the City to evaluate each permit application and ensure that compliance is had with the requirements of this ordinance and any implementing ordinances and/or regulations.

9. SEVERABILITY. If any section, subsection, paragraph, clause, phrase or provision of this Ordinance shall be adjudged invalid, unenforceable or held to be unconstitutional by a court of competent jurisdiction, the validity of the rest of this Ordinance shall not be affected in whole or in part, other than the provision adjudged to be invalid or unconstitutional.

Introduced on first reading this 16th day of August, 2006.

Adopted on second reading this 6th day of September, 2006.

/s/: James J. Doody
President of the Council

Appendix 4 – NEPA Regulations

THE NEPA PROCESS

Figure 1 – The NEPA Process

The NEPA process begins when an agency develops a proposal to address a need to take an action. The need may be something the agency identifies itself, or it may be a need to make a decision on a proposal brought to it by someone outside of the agency, for example, an applicant for a permit. Based on the need, the agency develops a proposal for action (Number 1 in Figure 1).

In most cases, the agency will enter the initial analytical approach (Number 2 in Figure 1) to determine if the agency will pursue the path of a Categorical Exclusion (CE), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS).

Categorical Exclusions (CEs) (Number 3 in Figure 1)

A CE is a category of actions that the agency has determined does not individually or cumulatively have a significant effect on the quality of the human environment. Examples include issuing administrative procedures, making minor facility renovations, and reconstruction of trails. Agencies develop a list of CEs specific to their operations when they develop or revise their NEPA implementing procedures in accordance with CEQ's NEPA regulations.

A CE is based on an agency's experience with that kind of action and its environmental effects. If a proposed action is included in a list of CEs, the agency must check to make sure that no extraordinary circumstances exist. Extraordinary circumstances are also set out in the agency NEPA procedures and typically include such matters as effects to endangered species, protected cultural sites, and wetlands (Number 4 in Figure 1). If there are no extraordinary circumstances indicating that the effects of the action may be significant, then the agency can proceed with the action.

If the proposed action is not included in the description provided in the CE, or there are extraordinary circumstances, then the agency must choose whether to withdraw the proposed action, develop a new proposal that may qualify for application of a CE, or prepare an EA or an EIS. When the agency does not know whether significant impacts are expected, the agency will prepare an EA to determine if there are significant environmental effects. An EIS is prepared when significant environmental effects are expected to result from the proposed action.

Environmental Assessments (EA) (Number 5 in Figure 1)

The purpose of an EA is to determine the significance of the environmental effects and to look at alternative means to achieve the agency's objectives. The EA is intended to be a concise document that (1) briefly provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement or finding of no significant impact (FONSI); (2) aids an agency's compliance with NEPA when no environmental impact statement is necessary; and, (3) facilitates preparation of a statement when one is necessary.

The EA will include brief discussions of the need for the proposal, of alternative courses of action for any proposal which involves unresolved conflicts concerning alternative uses of available resources, of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. Because the EA serves to evaluate the significance of a proposal for agency actions, it should focus on the context and intensity of effects that may "significantly" affect the quality of the human environment. At the conclusion of the EA, the agency will either issue a FONSI or a notice of intent (NOI) to prepare an EIS. Often the EA will identify ways in which the agency can revise the action to minimize environmental effects.

When preparing an EA, the agency has discretion as to the level of public involvement (Number 6 in Figure 1). The CEQ regulations state that the agency shall involve environmental agencies, applicants and the public, to the extent practicable, in preparing EAs. Sometimes agencies will choose to mirror the

scoping and public comment periods that are found in the EIS process. In other situations, agencies make the EA and a draft FONSI available to interested members of the public.

An EA is a public document, but its availability is not always advertised. Some agencies require that interested parties be notified of the decision to prepare an EA, and also makes the EA publicly available. Some agencies keep a notification list of parties interested in a particular kind of action or in all agency actions. Other agencies simply prepare the EA. To further understand the EA process, it is important that you read the specific implementing procedures of the proposing agency or ask the local NEPA point of contact working on the project.

A FONSI (Number 7 in Figure 1) is a document that presents the reasons why the agency concludes that there are no significant environmental impacts projected to occur upon implementation of the action. The EA is attached to the FONSI, otherwise the FONSI includes a summary of the EA.

The EA and FONSI are the documents that show how the agency complied with their NEPA obligations. CEQ regulations require agencies to make the proposed FONSI available for public review for 30 days if the type of proposed action hasn't been done before by the agency or if its something that typically will require an EIS under the agency NEPA procedures. If this is the case, the FONSI is usually published in the Federal Register, and the notice of availability of the FONSI will include information on how and where to provide your comments. If the requirement for a 30 day review is not triggered the FONSI often will not be published in the Federal Register. It may be posted on the agency's website, published in local newspapers or made available in some other manner. If you are interested in a particular action that is the subject of an EA, you should find out from the agency how it will make the FONSI available.

Environmental Impact Statements (EIS) (Number 8 in Figure 1)

While preparing the environmental assessment (EA), an agency may learn that the proposed action is expected to or will have significant environmental effects. An agency may also, based on its judgment and past experience, expect a type of proposed action to have significant environmental effects and thus will have already identified the proposed action as the type normally requiring preparation of an EIS in their agency NEPA procedures. Through NEPA, agencies are obligated to provide opportunities for meaningful public involvement.

Appendix 5 – Agency Permitting Matrix for Oil and Gas Lease Development

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
Federal						
	NEPA	BLM	3 stage NEPA; First two EA's, Programmatic and the Pilot Scale Demonstration. Final EIS based on final Mining Plan	Underway	required by law	Coordinate with BLM as lead agency
	FLPMA	BLM	BLM rights-of-way	Likely	required by law	Coordinate with BLM as lead agency
	Mineral Leasing Act	BLM		Likely	required by law	Coordinate with BLM as lead agency
	CWA Section 404	USACE	Regulates discharge of dredge and fill materials to waters of US. Can be avoided by not disrupting waters of the US. (1) Individual permits required for potentially significant impacts. (2) Regional general permits issued for minimal adverse effects. (3) Nationwide permits authorize categories of activities nationwide, allows utility line discharges without an EA or EIS. NWP #12 permits discharge for utility activities. (4) Ongoing farming and ranching activities are exempt from permits. (5) Certain gravel pits may be excluded from Corps jurisdiction.	Likely	Probably needed, but must meet with Corps to confirm project is in compliance w/ federal regulations (will the project avoid waters of the US, i.e., all jurisdictional wetlands)	(1) Confirm with USACE that certain waters and wetlands are jurisdictional.
	ESA Section 7 Compliance	FWS and any Federal permitting agency	Federal agencies must ensure that projects they operate, or for which they provide federal permits or funds, are not likely to jeopardize any T&E species or to adversely modify critical habitat.	Likely	required by law	FWS Biological Opinion
	ESA Section 9 Compliance – Colorado River depletions	FWS	Section 9 prohibits the "take" (including significant adverse habitat modification) of listed species. FWS could view project depletions as contributing to the take of Nebraska-listed species.	Possible	FWS has included take statements in previous biological opinions.	(1) Meet with FWS after meeting with USACE. Obtain FWS confirmation that Colorado River RIP, will address possible depletive impacts on Colorado River listed species. (2) If prairie dog holes present, ensure they are not occupied by T&E species prior to construction.

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
	Nest Depredation Permit	FWS	Take permit could be needed for clearing of active nest sites of all Colorado birds except European starling, house sparrow, and rock dove (pigeon). The nest or nest trees cannot be removed during the breeding season (April to July) unless a permit is obtained.	Unlikely	Conflicts can be avoided through appropriate scheduling, does not apply to construction in existing roads and developed areas.	Ensure that construction near potential nest sites is scheduled between August and March. Survey prairie dog colonies (if any) nearby; confirm no burrowing owls.
	ESA Section 10 incidental take permit – On-site species	FWS	Permit required when a non-federal party incidentally harasses or harms endangered species through their activities; Take should be avoided through coordination with FWS and avoiding documented habitat.	Unlikely	Coordination with FWS should avoid need to take T&E species.	Review Status of Federally Listed Species.
	Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR)	FEMA	Needed if the floodplain is altered as a result of the project. Only needed if you raise 100-year water surface elevations due to the construction. Underground facilities do not require a CLOMR or LOMR.	Unlikely	Floodplain will probably not be altered by the pipeline and pump stations.	Determine if any floodplains are altered by project.
	Noise Permit	OSHA	Employee exposure to noise levels above regulated levels must be mitigated with administrative or engineering controls.	Possible	OSHA issues are usually managed by construction jobsite SOPs for worker noise protection. Facilities are not expected to have high operational noise levels.	Contractor SOPs

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
	Injection Well Permits	EPA	Class I: Industrial and Municipal Wells That Inject Beneath Lowermost USDW Class II: Associated with Oil and Gas Production Class III: Associated With Mineral Recovery Class IV: Wells Injecting Hazardous Waste Into USDWs (Prohibited) Class V: Injection Wells Not Included in Other Classes (typically Shallow Disposal Systems)	Likely	Oil Shale Development will likely require drilling of a number of types of wells. Most activities will require either Class I or Class V Well permits; Class III will be required for mineral (such as Nacholite) recovery. A complete matrix of drilling activities and the types of well permits required is available from Dan Jackson, EPA Region 8.	Regulation of Class II Injection wells. Oil and Gas delegated to Colorado Oil and Gas Commission.
	Section 106 Review National Historic Preservation Act	BLM/SHPO	Required federal agencies to take into account the effects of their actions on historic properties	Required by law	Agencies must review possible impacts to listed properties	Requires federal agencies to take into account the effects of their actions on historic properties.
State						
	Mining and Reclamation Permit	Colorado Division Reclamation, Mining and Safety	Comprehensive Mining permit used to evaluate the effects of mining and reclamation	Required by law		Division of Reclamation, Mining and Safety designated lead state agency. Proponent prepares permit submittal based on permit requirements.
	Consultation	Colorado Division of Wildlife	State listed T&E species fall under the jurisdiction of CDOW. CDOW generally looks at projects on a case by case basis and makes recommendations during a public comment process.	Unlikely		Review List of Species
	Water Rights	Colorado Division of Water Resources	Developer must hold proper water right to allow for the use of surface or groundwater	Required by law	Evidenced by proper decree	Developer responsible for compliance with existing decrees or if changes needed proceed through water court for new/changed decree
	Temporary Substitute Water Supply Plans	Colorado Division of Water Resources	Allows for the implementation of water use plans, which may be based on pending water court applications	As needed	Evidenced by an approved SWSP http://www.water.state.co.us/wateradmin/wateradmin.asp	Submit application for review. Water use plans that will cause depletions for more than 5 years require prior submittal of a water court application for the same use.

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
	Well Permit	Colorado Division of Water Resources	Allows for the drilling/ construction of water wells	Required by law	Evidence of an approved permit http:// www.water.state .co.us/pubs/ forms.asp	Submit application for review. Plan for augmentation may be required.
	Monitoring and Observation Well Permit	Colorado Division of Water Resources	Allows for the drilling/ construction of monitoring wells	Required by law	Evidence of an approved permit http:// www.water.state .co.us/pubs/ forms.asp	Submit application for review.
	Approval of Plans for Reservoir; Permit to Impound Water	Colorado Division of Water Resources	Allows for the drilling/ construction of impoundment structures	Required by law	Evidence of approved plans and/or permit http:// www.water. state.co.us/ damsafety/ dams.asp	Jurisdictional Dams – Submit construction plans and specifications for review and approval: Non-jurisdictional dams – Submit notice of intent to construct.
	Construction Stormwater Discharge Permit COR-030000	Colorado Department of Public Health and Environment, Water Quality Control Division	Permit may be needed for storm water discharges associated with construction activities disturbing at least 1 acre. Can waive need for permit if site is <5 acres and R-factor (erosion potential) is less than 5. Typically can negotiate 1 permit for entire construction component.	Likely	Entire project area of construction is > 5 acres	(1) Complete a stormwater management plan (SWMP), does not need to be submitted with permit application, but must be certified complete and maintained at the construction site.
	Operational Stormwater DIscharge Permit Associated with Light Industry COR-010000	Colorado Department of Public Health and Environment, Water Quality Control Division	Permit is needed for storm water discharges associated with operational activities.	Likely		
	Individual Process Water Discharge Permit	Colorado Department of Public Health and Environment, Water Quality Control Division		Possible	Would be required if there is a process water discharge associated with the project	

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
	Air Pollutant Emission Notice/ Construction Permit Application	CDPHE Air Pollution Control Division	Air Pollutant Emission Notice (APEN) and/or Permits required as pursuant to Colorado Regulation No. 3 for the following activities and processes: 1) construction related surface disturbance and construction activities. Needed if disturbance is more than 25 acres and earth moving lasts more than 6 months. 2) Boilers rated at 5 MMBtu/hr or greater. 3) Condensate tanks with an annual throughput of 730 bbl or greater. 4) Internal Combustion Engines as detailed in Colorado Reg. 3, Part A, Section II.D.1.sss. 5) Fugitive VOC emissions. 6) H2S emissions from wastewater treatment plants. 7) Any other activities or processes meeting the criteria provided in Colorado Regulation No. 3.	Likely	Project is large enough to qualify for permit	(1) submit APEN to initiate process (2) CDPHE will respond whether or not that the permit is required prior to commencement of construction; application requires description of type of activities projected as well as air pollution control activities such as emission controls, watering, revegetation and Fugitive Dust Control Plan
	NPDES/ Colorado Discharge Permit System (CDPS)	CDPHE	Discharge permits for treatment facilities	Likely	Will be needed	Application requires: (1) map (2) facility sketch (3) obtain permission from owner(s) of storm sewers, ditches, or other conveyance into which water is discharged
	Permit to Survey State of Private Land for Archeological, Paleo, and Historic Resources	OAHP	Permit the standards and requirements to perform archeological work in Colorado (could include work if there are disturbances along State or County rights-of-way?)			
	Hazardous Materials and Solid Waste	CDPHE Hazardous Materials and Waste Management Division	Prohibit the transfer, storage or disposal (TSD) of Hazardous Waste except at permitted TSD sites			
Mesa County						
	Building Permit	Building Dept.	Needed for construction of buildings and facilities	Likely		(1) notify architect, landscaper of standards for buildings per zoning; includes landscaping, site design considerations, fencing requirements, etc. (2) submit application submittal

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
	Conditional Use Permit – Pipelines, compressor stations, outdoor storage	Board of County Commissioners	Required to ensure compatibility of proposed uses.	Likely		(1) Pre-application meeting with Planning staff required (2) Public hearing before Planning Commission and Board of County Commissioners
	Floodplain Development Permit	Planning and Economic Development Dept.	Needed for any human-made change on all lands, adjacent to any watercourse, that fall within the 100-year floodplain limits of that channel. Evaluation of the proposed projects compliance with floodplain management standards and requirements.	Likely	At stream crossings or any work within floodplains.	Provide engineering documentation, as required by the application, for work within any floodplain within county administered areas, NOT including Federal or State administered areas.
	Noise Statutes	Mesa County	Statutory limits on noise from industrial uses	Mandatory compliance	Review any complaints received	Comply with Colorado Revised Statutes 25-12-103.
	Notice of Intent to Permit an Access (NOI)	Regional Transportation Planning Office	Issuance of an NOI is required in advance of a land use application. Once an NOI is issued a "Notice to Proceed" is required prior to construction of access(es).	Likely	Site specific, but occasionally a "Notice to Proceed" is all that will be needed.	Submit Application for Review
	Site Plan – Oil and Gas Drilling	Planning and Economic Development Dept.	Typically reviewed concurrently with APDs	Likely		Submit site plan for review
	Storage and handling of toxic chemicals	Designated Emergency Response Authority: Grand Junction Fire Department	EPA required reporting to Grand Junction Fire Dept. as designated response authority	Likely	Reportable Quantity Thresholds	Submit Tier II Reports to GJFD, Local Emergency Planning Committee and Mesa County Emergency Management. Possible site review by the Fire Department.
	Subdivision	Planning and Economic Development Dept.	Required to subdivide land into parcels smaller than 35 acres	Unlikely		Multi-step process – concept plan (Public Hearings), Preliminary/Final Plan/Plat (Administrative review)
	Surface Alteration Permit	Public Works Department	Typically needed to do work in County Road or ROW	Likely		Permit application requires location or construction plan, traffic control plan, bonding may be required, etc.
	Weed Management Plan	Division of Pest Management	Submit a Noxious Weed Management Plan for approval by County Pest Inspector.	Required		Weed Plan must contain a map of weeds found in project area, discussion of control methods and timing of treatment, plans for reseeding, treatment of weeds on stockpiled topsoil and final revegetation plan. Contact Judith Sirota for more information and guidelines.

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
	Extra-Legal and Special Extra-Ordinary Use Permits for Oversize Vehicles	Public Works Department	Required for vehicles exceeding 85,000 lbs, 8'6" wide, 75' length, 13'6" in height. CDOT and County restrictions apply including but not limited to pilot cars, road closures, route plans, etc.	Required	Any vehicle exceeding limits set forth in the Mesa County Right-of-Way Use Regulations	Submit an Extra-Legal permit application for vehicles exceeding the limits to the Public Works Department. Contact 244-1765 to obtain an application and load limit map.
Municipal						
	Watershed Permit	Town of Palisade	No person shall engage, commence, or continue any land use activity within the watershed except in conformance with a Watershed Permit issued by the Town.	Very likely	See Palisade Watershed Ordinance	Submit application with the following information: (1) Land use activity description. (2) Alternatives. A detailed description of any reasonable alternative to the proposed land use activity which may result in less of an impact to the watershed. (3) Environmental assessment and mitigation measures. Environmental assessment and mitigation measures addressing the following: a. Water resources. b. Vegetation. c. Soils. d. Drainage. e. Wastewater treatment. f. Water supply. g. Geographic location. (4) A water quality monitoring plan, spill prevention countermeasures and control plan, emergency response plan, soil erosion and storm water control plan, and a revegetation plan, meeting or exceeding the standards set forth in the applicable provisions of Section XX-57. (5) Grading plan. A plan showing elevations, dimensions, location and extent of all proposed excavating, filling, grading or surfacing within the watershed by the proposed land activity.

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
	Watershed Permit	City of Grand Junction	No person shall engage, commence, or continue any activity within the watershed except in conformance with a Watershed Permit issued by the City.	Required by law	Any oil and gas development within a watershed requires a watershed permit.	Submit application with the following information: (1) Activity description. (2) Detailed project history. (3) Alternatives. A detailed description of any reasonable alternative to the proposed activity which may result in less of an impact to the watershed. (4) Environmental evaluation and mitigation measures addressing the following: a. Water resources. b. Vegetation. c. Soils. d. Drainage. e. Water supply. f. Geographic location. (5) A water quantity monitoring plan, spill prevention countermeasures and control plan, emergency response plan, soil erosion and stormwater control plan, and a revegetation plan, meeting or exceeding the standards set forth in the applicable provisions of Section XX-57. (6) Grading plan. A plan showing elevations, dimensions, location and extent of all proposed excavating, filling, grading or surfacing within the watershed by the proposed activity.
Special Districts						
	Water and sewer crossings					
Railroads						
	Permit to be on railroad property/ surveying permit			Possible		
	Permit for new pipeline crossing/ Right of occupancy			Possible		
Utilities						
	UGTV utility crossing			Possible	Site specific	

Item	Permit/ Regulatory Process Title	Agency	Description	Likelihood	Likelihood Explanation	Responsibilities/Tasks
	UGE utility crossing			Possible	Site specific	
	UGT utility crossing			Possible	Site specific	
	NGP utility crossing			Possible	Site specific	
	OHE utility crossing			Possible	Site specific	

Appendix 6 – Review of Public Comment

The Watershed Working Group held two public meetings prior to the release of the Draft April 2, 2007. The Working Group accepted comment at meetings and throughout the process. The Working Group received 31 written comments prior to the release of the Draft.

The public meetings held prior to the release of the document were held:

- December 05, 2006 at the Palisade Community Center, Palisade CO
- January 25, 2007 at the Palisade Community Center, Palisade CO

December 05, 2006 Public Meeting Attendance Breakdown

January 25, 2007 Public Meeting Attendance Breakdown

Written comments were provided by a variety of sources and responders. The majority of comments came from residents in Mesa County.

Distribution of Responses to Draft Watershed Plan

The five categories submitted on the Draft Watershed Plan included in the written comments:

1. Water Quality
2. Risk Mitigation
3. Lease Stipulations
4. Against Watersheds Development
5. Reclamation

Topic	Category	Sub-Category	Issue
Communication	Background Information	Drilling in Watersheds Area	Natural gas is important but so are the watersheds. With the thousands of acreage available, why lease the watersheds?
			What is the natural gas potential located in the Grand Mesa region?
	Watershed Plan Process	Communication on Watershed Plan Process	How can the public receive information regarding Genesis?
			How does the Watershed Working Group plan to keep the public informed?
		Watershed Plan	What types of Best Management Practices will Genesis institute for protecting the watersheds?
			If Genesis sells the leases, will the next lease holder adhere to this plan?
External Review	Federal Oversight	Federal Regulatory Protection	How will you maintain the integrity of our water?
	Local Oversight	Watersheds Ordinance	How do the Watershed Ordinances play into the Watershed Plan?
			What is the enforcement on the Watershed Ordinances?

Topic	Category	Sub-Category	Issue
Development Concerns	Surface	Subcontractors	How will Genesis keep the development area free of drug use?
			Will Genesis use local service providers?
			How will Genesis ensure its subcontractors are well qualified?
		Traffic Concerns	How will Genesis ensure the integrity of the roads used?
			How will the Stakeholders solve traffic problems associated with exploration?
		Air Quality	What will the enforcement be on air quality?
	Subsurface	Casing	When a well is drilled, how deep do you case the well from the water?
		Fracking Process	Does Genesis plan to use "green" fracking in the Palisade and GJ watersheds? Will Genesis use basically the same "green" substances as Antero is using? If not, what kinds of "green" chemicals will Genesis use? Will Genesis use "green" fracking even if it is not a BLM stipulation?
			Will Genesis make a list of fracking fluids used available?
			Is there any possibility of fracking pond on watersheds?

Appendix 7 – Green Fracturing as Defined by the Community Development Plan Between by the Rifle, Silt, and New Castle Area Residents, Antero Resources Corp. and Galaxy Energy

(January 1, 2006)

Green Fracturing Language:

Genesis Gas & Oil LLC is taking steps to assure that chemicals used in the fracturing process will be biodegradable, non-toxic neutral pH, residual free, non-corrosive, non-polluting and non-hazardous in the forms and concentrations being used. The company also reviews the material safety data sheets to assure the chemicals are not known carcinogens in the methods or concentrations being used.

As stated in the Rifle, Silt, New Castle Plan, it is important to keep in mind when reviewing the material safety data sheets that virtually any substance in the wrong concentration or wrong application can be harmful. For instance, too much water ingested or breathed can be fatal. Chlorine and Fluorine are used in our water supplies daily but are toxic if consumed in the wrong concentration. This is true of the chemicals used in the fracturing process.

Appendix 8 – Hydrological Studies

The primary concern associated with the potential development of oil and gas leases in the watersheds is source-water protection. Source waters are the waters that originate in the watershed and provide water supply to the municipalities of the Town of Palisade and the City of Grand Junction, Colorado. Genesis and the Stakeholders will implement a thorough program of hydrological studies that are designed to characterize and expand knowledge of watershed hydrologic systems through the design and implementation of baseline, operations, and post operations monitoring of hydrological conditions.

The process of hydrologic characterization will extend through the life of the project. Initial baseline efforts will focus on data compilation of previous or ongoing studies involving sampling and analysis or other hydrological evaluations conducted in the watersheds. The foundation of the baseline study will involve establishing a number of surface-water and groundwater baseline monitoring sites in the watersheds. Surface-water baseline monitoring will consist of at least six separate sampling and analysis events within a two-year period prior to any energy development activities. After sufficient surface-water data has been collected (three to four events), a number of groundwater monitoring wells will be proposed and constructed in the watersheds to characterize groundwater systems. Hydrogeological field reconnaissance and mapping are a critical part of the baseline watershed characterization work. In addition, other studies are anticipated to support characterization of the watersheds, including but not limited to special geochemical sampling and analysis programs such as isotope age-dating of surface and groundwaters. Field reconnaissance work will be conducted early to delineate source areas and their relationships to geology and geomorphology. Reconnaissance will continue as needed to fill data gaps in surface hydrogeology features. The primary goals of the baseline study are to:

- Delineate vital surface-water sources within each watershed,
- Characterize each surface-water feature by quantifying flow and collecting and analyzing water chemistry samples,
- Delineate locations for, construct, and conduct sampling and analysis of groundwater monitoring wells,
- Prepare sound hydrologic interpretations and conceptual models of hydrologic systems in the watershed,
- Delineate watershed areas of various levels of hydrologic sensitivity, and
- Define data-gaps and design follow-up monitoring programs.

Baseline sites will be monitored periodically throughout the energy exploration, development, production, and reclamation phases to assess overall water quantity and quality trends in the watersheds. The baseline inventory will include locations and measurements of water flows, courses and streams, reservoirs, springs, wells, ponds, riparian areas, water-related pipeline, transportation, and collection facilities, water recharge area locations and other critical/sensitive water, geological, or soil related data, both within and adjacent to the municipal watersheds. As the need arises, additional monitoring sites will be added to the program to monitor areas associated with specific potential impacts. Hydrogeological field reconnaissance will be conducted early in the project to assist in the development of a hydrologic conceptual flow model of the watersheds. The conceptual flow model is essential in attempting to understand the primary flow processes in the watersheds and implications for potential impact. Development of the conceptual flow model will include delineation of source areas and source aquifers and an evaluation of their relationships to geology and geomorphology. Reconnaissance will continue as needed to fill data gaps in surface hydrogeological features.

Defining, collecting, consolidating, coordinating, and properly monitoring all important and relevant hydrological and geological data within and adjacent to the watersheds will contribute to the knowledge needed to adequately evaluate, define, and mitigate potential or actual surface water and groundwater quality impacts from oil and gas development. The delineation of sensitive areas will include consideration of the potential for areas to be hydraulically connected to areas of high-quality or high quantity

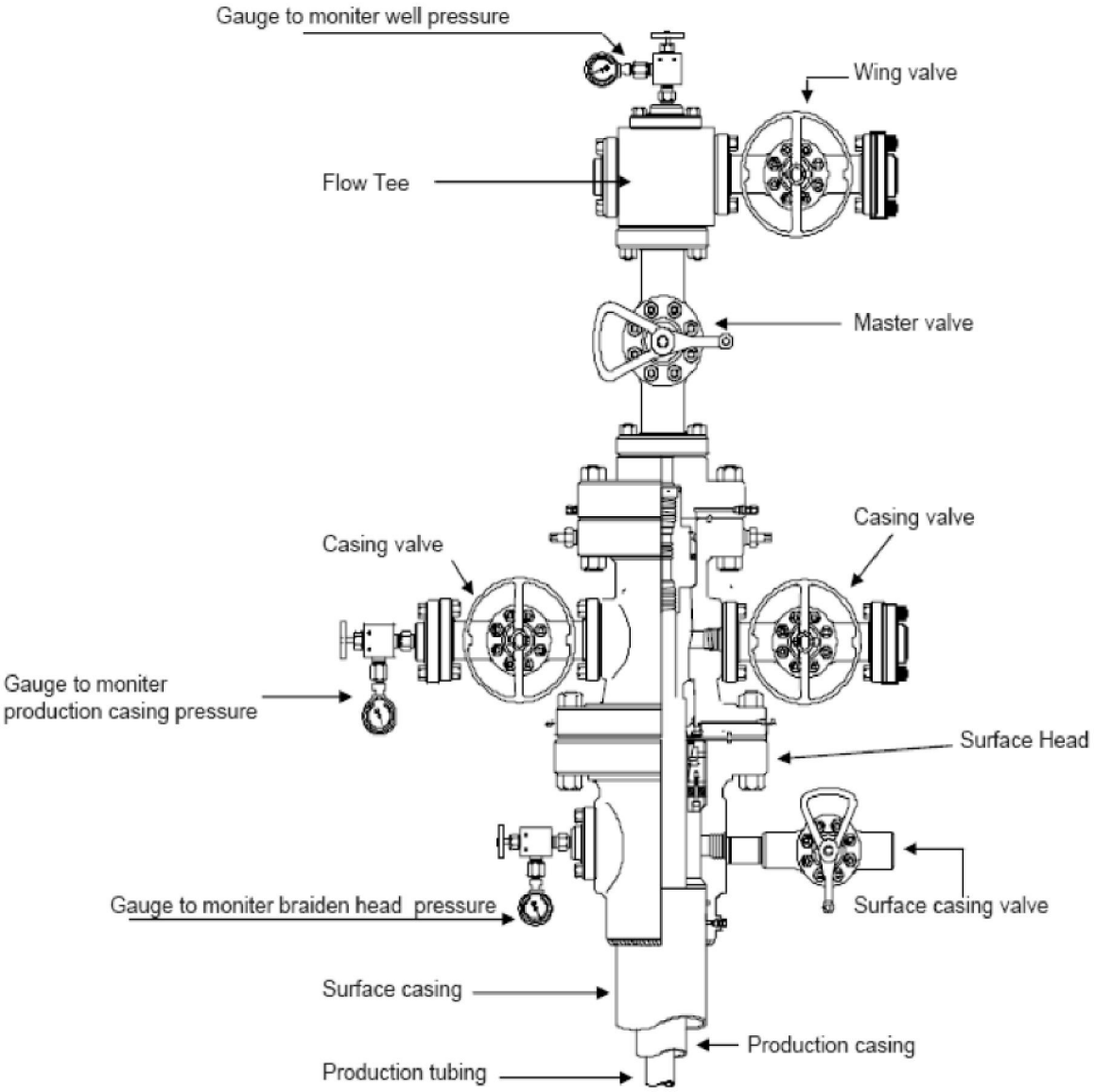
water sources, which may be related to areas of potential high fracture density, geologically young water, or zones of suspected shallow, unusually high groundwater velocities.

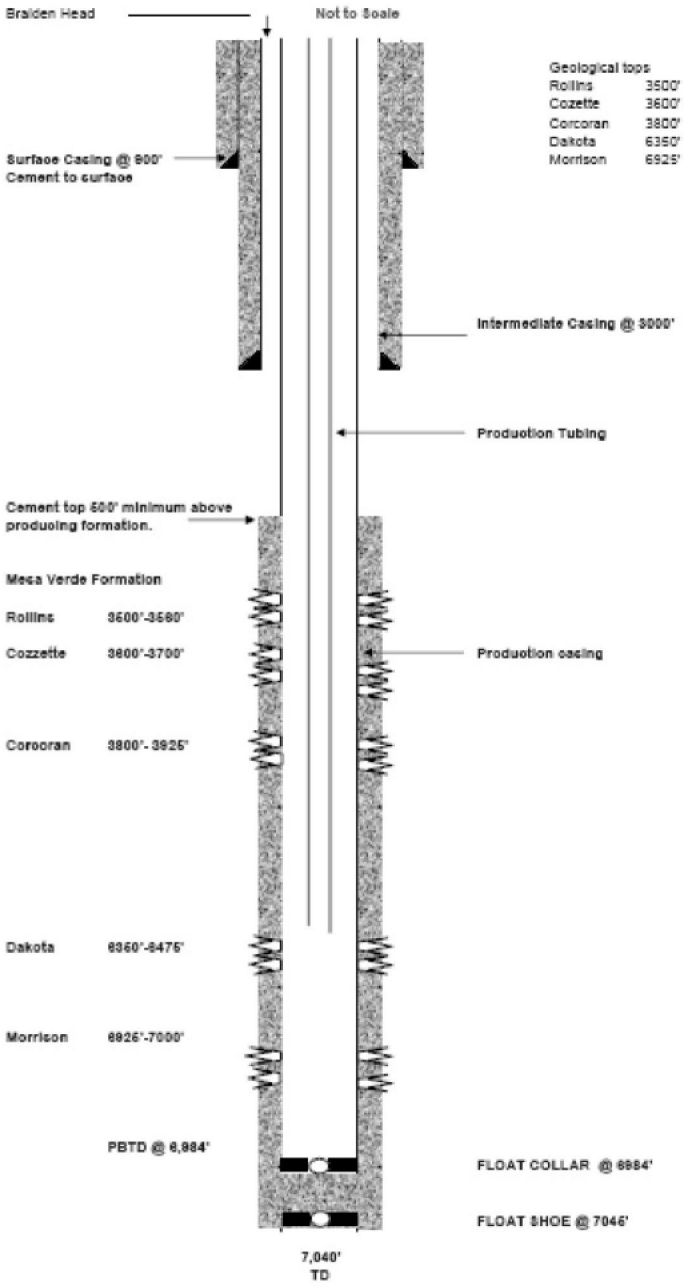
Monitoring in the watersheds will be initiated through the preparation and implementation of Watershed Monitoring Plans (WMPs). In brief, these plans summarize the physical drainage characteristics, land ownership, and land use in the watersheds, list primary (baseline) sampling sites, and describe the sampling and analysis procedures and quality assurance and control protocols needed to evaluate water quantity and quality in the watersheds. The City of Grand Junction WMP was implemented in 2003 and includes sampling of shallow aquifer wells in the lowest elevations of the watershed. Revisions have been made to the City's WMP to reflect the Genesis leases. The WMP for Palisade will be prepared; field work in the Palisade watershed will be launched in the Spring of 2007.

The results of the baseline study will provide greater assurance of assessing the potential or actual impacts to water from oil and gas related activities in the watersheds. The study results will be used to design and conduct a proper hydrologic monitoring program to be implemented during and after gas development operations within the watersheds or near other water-related features important to the municipal water supplies or quality.

Appendix 9 – WELL BORE AND WELL HEAD DIAGRAMS

GENESIS GAS & OIL LLC.





(Res. 115-07 Appx. A, 7-30-07)

Appendix B Permit Application

Appendix B

CITY OF GRAND JUNCTION WATERSHED PERMIT APPLICATION

Authority and Purpose:

In accordance with state of Colorado C.R.S. § 31-15-707(1)(b), the City of Grand Junction is authorized to restrict any activity, or require changes in the way an activity of use is performed, within a watershed which creates a substantial risk of pollution or injury to the City's water supply or waterworks and/or the lands from under, or across or through which the water flows or is gathered. Applicants are required to comply with all guidelines and restrictions set forth in the Grand Junction Watershed Ordinance Rules and Regulations (Chapter 13.32 GJMC).

This Watershed Application Permit is designed to ensure that the City of Grand Junction watershed is sufficiently protected by all individuals conducting any activity within the watershed that may endanger the present level of water quality and quantity. All attachments, statements, and assurances provided herein by the applicant, its contractors, subcontractors, leasers, or successors will be reviewed for completion by the City of Grand Junction and the applicant will be notified regarding approval within 30 days.

SECTION 1 – Applicant Information

Applicant/Project Information (fill in all that apply) (add additional sheets if necessary)

Company: Name: _____

Owner/Operator: _____ Phone: _____ Fax: _____

Address: _____

_____

_____

Individual to Contact: Name: _____ Phone: _____ Cell: _____

Address: _____

Engineer(s): Name: _____ Phone: _____ Cell: _____

Address: _____

Affected Land

Owner Name: _____ Phone: _____ Cell: _____

Authorized Representative: _____ Phone: _____ Cell: _____
(if different from owner)

Address: _____

_____

_____

Property Location/Characteristics

USGS Quarter Section Location: ***Sect.***____ ***Twnshp.***____ N S ***Range*** ____ E W ***1/4:*** NW SW NE SE

Access to Property: _____

Approximate Elevation: _____

Slope % _____

Aspect: N NE E SE S SW W NW

Nearest Drainage or Water Feature (Name, feet, Direction): _____, _____ (ft), _____

Other: _____

_____

_____

SECTION 2 – Activity Information

*Check all that apply

APPLICANT/ORGANIZATION		ACTIVITY	
Commercial/Industrial		*Road/Pad Construction*	
Oil and Gas		*Drilling*	
Mining/Mineral Exploration		*Materials/Waste Treatment, Storage, Disposal*	
Material of Interest _____		*Pipeline Construction*	
Utility		*Compressor Station*	
Land Development		*Gas Processing Facility*	
Recreation		*Mine Development and Method _____*	
		Building Construction	
Private Land Owner		*Septic Systems/Sewage Construction*	
		Livestock Facility Construction	
Government		*Timber Harvesting*	
Federal		*Road Construction*	
County		*Road Maintenance*	
Municipal		*New Facility Construction*	
		Facility Improvement	
Water Supply		*Facility Maintenance*	
Water Company		*Trail Maintenance*	
Other		*Weed Control*	
		Well Permit/Construction	
Other:		*Surface Water Diversion*	
		Fire Suppression/Fuels Reduction	
		Other:	
		Other:	
		Other:	

SECTION 3 – Permits/Regulations Applicable to Specified Activity

	Not Applicable	***Permit Type***	***In Progress***	***Completed***
Colorado Department of Public Health and Environment				
Colorado Division of Reclamation, Mining, and Safety				
Colorado Division of Water Resources				
Colorado Oil and Gas Conservation Commission				
Colorado Water Quality Control Commission				
Mesa County				
US Army Corps of Engineers				
US BLM (NEPA, right-of-way, lease)				
US Forest Service (Plan of Operations)				

SECTION 4 – Application Fee

The applicant shall be assessed a fee to cover the costs incurred by the City for reviewing and processing the application, including the costs of publication, hearing, administration, inspection and enforcement of such requested permit. The applicant shall also be assessed the costs of any legal and technical consultants retained or employed by the City for the purpose of evaluating the application's compliance with these Watershed regulations. An initial fee deposit based on the City's reasonable estimate of the total anticipated fees, including any consultant's fees, shall be paid by the applicant to the City within 15 days of the fee being set by the City. Any balance of fees owed by the applicant to the City shall be paid prior to and shall be a condition for the issuance of any permit or, if no permit is issued, such balance of fees shall be payable within 15 days of billing by the City. Any unused fees shall be returned to the applicant timely in either event. (Chapter 13.32 GJMC)

Billable Party

The Billable Party, by signing below, herby agrees to reimburse the City the actual costs to the City for engineering, surveying and legal services rendered in connected with the review of the application. The Billable Party agrees that interest shall be imposed at a rate of 1.5% per month on all balances not paid within thirty (30) days of the date of the statement. In addition to any and all remedies available to the City and in the event the City is forced to pursue collection of any amounts due and unpaid, the City shall be entitled to collect attorney's fees and costs incurred in said collection efforts in addition to the amount due to unpaid.

_____
Name (printed)

_____
Address City/Town Zip Code

_____ _____
Phone Fax

_____
Signature

_____
Type of Identification

County of _____

SS/Fed Tax ID _____

State of _____

Sworn to and subscribed before me this _____day of _____, _____.
(fill in month) (fill in year)

By _____
(name printed)

Witness my hand and official seal.

_____
Notary Public

My commission expires _____

STAFF USE ONLY

Applicant _____
Phone # _____

Fees: _____(date) _____

Application Received (date) _____

Permit Application Number: _____

(Res. 115-07 Appx. B, 7-30-07)

Appendix C Water Quality Standards

Appendix C

Water Quality Standards for the Grand Junction Watershed Area
Lower Gunnison River Basin
Established by Colorado Water Quality Control Commission

- Segment 3 (All tributaries to the Gunnison River on national forest lands) uses: Includes portions of Brandon Ditch, Whitewater Creek and North Fork Kannah Creek located on national forest lands.
  - Aquatic Life Cold Class 1
  - Recreation E
  - Water Supply
  - Agriculture
  - Ambient water quality conditions as of January 1, 2000, are not to be exceeded for any water quality standard.

- Segment 4a (All tributaries to the Gunnison River not on national forest lands) uses: Includes portions of Brandon Ditch, Whitewater Creek and North Fork Kannah Creek not located on national forest lands.
  - Use Protected
  - Aquatic Life Warm Class 2
  - Recreation N
  - Water Supply
  - Agriculture

- Segment 4b (All lakes and reservoirs that are tributary to the Gunnison River and not on national forest lands, including all tributaries to Reeder, Hollenbeck and Juniata Reservoirs) uses:
  - Use Protected
  - Aquatic Life Warm Class 2
  - Recreation E
  - Water Supply
  - Agriculture

- Segment 8 (Mainstem of Kannah Creek, including all tributaries, from the boundary of national forest lands to the point of diversion for public water supply) uses:
  - Aquatic Life Cold Class 1
  - Recreation E
  - Water Supply
  - Agriculture
  - Ambient water quality conditions as of January 1, 2000, are not to be exceeded for any water quality standard.

Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
Radionuclide Standards							
Americium 241	0.15	0.15	0.15	0.15	0.15	0.15	Picocuries per Liter
Cesium 134	80	80	80	80	80	80	Picocuries per Liter
Plutonium 239 and 240	0.15	0.15	0.15	0.15	0.15	0.15	Picocuries per Liter
Radium 226 and 228	5	5	5	5	5	5	Picocuries per Liter
Strontium 90	8	8	8	8	8	8	Picocuries per Liter
Thorium 230 and 232	60	60	60	60	60	60	Picocuries per Liter
Tritium	20,000	20,000	20,000	20,000	20,000	20,000	Picocuries per Liter
Organic Chemicals							
Acenaphthene	420	420	420	420	420	420	Micrograms per Liter
Acrolein	3.5	3.5	3.5	3.5	3.5	3.5	Micrograms per Liter
Acrylamide	0.0078	0.0078	0.0078	0.0078	0.0078	0.0078	Micrograms per Liter
Acrylonitrile	0.065	0.065	0.065	0.065	0.065	0.065	Micrograms per Liter
Alachlor	2	2	2	2	2	2	Micrograms per Liter
Aldicarb	7	7	7	7	7	7	Micrograms per Liter
Aldicarb Sulfone	7	7	7	7	7	7	Micrograms per Liter
Aldicarb Sulfoxide	7	7	7	7	7	7	Micrograms per Liter
Aldrin	***0.0021***	***0.0021***	***0.0021***	***0.0021***	***0.0021***	***0.0021***	Micrograms per Liter
Aniline	***6.1***	***6.1***	***6.1***	***6.1***	***6.1***	***6.1***	Micrograms per Liter
Anthracene (PAH)	2,100	2,100	2,100	2,100	2,100	2,100	Micrograms per Liter
Aramite	1.4	1.4	1.4	1.4	1.4	1.4	Micrograms per Liter
Atrazine	3	3	3	3	3	3	Micrograms per Liter
Azobenzene	0.32	0.32	0.32	0.32	0.32	0.32	Micrograms per Liter
Benzene	2.3 to 5	2.3 to 5	2.3 to 5	2.3 to 5	2.3 to 5	2.3 to 5	Micrograms per Liter
Benzidine	0.00015	0.00015	0.00015	0.00015	0.00015	0.00015	Micrograms per Liter

Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
Benzo(a)anthracene (PAH)	0.0048	0.0048	0.0048	0.0048	0.0048	0.0048	Micrograms per Liter
Benzo(a)pyrene (PAH)	0.0048 to 0.2	0.0048 to 0.2	0.0048 to 0.2	0.0048 to 0.2	0.0048 to 0.2	0.0048 to 0.2	Micrograms per Liter
Benzo(b)fluoranthene (PAH)	0.0048	0.0048	0.0048	0.0048	0.0048	0.0048	Micrograms per Liter
Benzo(k)fluoranthene (PAH)	0.0048	0.0048	0.0048	0.0048	0.0048	0.0048	Micrograms per Liter
Benzo(g,h,i)perylene (PAH)	0.0038	0.0038	0.0038	0.0038	0.0038	0.0038	Micrograms per Liter
Benzotrichloride	0.0027	0.0027	0.0027	0.0027	0.0027	0.0027	Micrograms per Liter
Benzyl chloride	0.21	0.21	0.21	0.21	0.21	0.21	Micrograms per Liter
Bis(chloromethyl)ether (BCME)	0.00016	0.00016	0.00016	0.00016	0.00016	0.00016	Micrograms per Liter
Bromate	0.050	0.050	0.050	0.050	0.050	0.050	Micrograms per Liter
Bromodichloromethane (HM)	11,000	11,000	11,000	11,000	11,000	11,000	Micrograms per Liter
Bromoform (HM)	4.3	4.3	4.3	4.3	4.3	4.3	Micrograms per Liter
Butyl benzyl phthalate	1,400	1,400	1,400	1,400	1,400	1,400	Micrograms per Liter
Carbofuran	35 to 40	35 to 40	35 to 40	35 to 40	35 to 40	35 to 40	Micrograms per Liter
Carbon tetrachloride	0.27 to 5	0.27 to 5	0.27 to 5	0.27 to 5	0.27 to 5	0.27 to 5	Micrograms per Liter
Chlordane	0.0043	0.0043	0.0043	0.0043	0.0043	0.0043	Micrograms per Liter
Chlorethyl ether (BIS-2)	0.032	0.032	0.032	0.032	0.032	0.032	Micrograms per Liter
Chlorobenzene	***100***	***100***	***100***	***100***	***100***	***100***	Micrograms per Liter
Chlorodibromomethane (HM)	54.0	54.0	54.0	54.0	54.0	54.0	Micrograms per Liter
Chloroform (HM)	3.4	3.4	3.4	3.4	3.4	3.4	Micrograms per Liter
Chloroisopropyl ether(BIS-2)	280	280	280	280	280	280	Micrograms per Liter
4-Chloro-3-methylphenol	30	30	30	30	30	30	Micrograms per Liter
Chloronapthalene	560	560	560	560	560	560	Micrograms per Liter
Chlorophenol,2-	35	35	35	35	35	35	Micrograms per Liter
Chlorphrifos	0.041	0.041	0.041	0.041	0.041	0.041	Micrograms per Liter
Chrysene (PAH)	0.0048	0.0048	0.0048	0.0048	0.0048	0.0048	Micrograms per Liter

Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
DDD	0.15	0.15	0.15	0.15	0.15	0.15	Micrograms per Liter
DDE	0.1	0.1	0.1	0.1	0.1	0.1	Micrograms per Liter
DDT	0.001	0.001	0.001	0.001	0.001	0.001	Micrograms per Liter
Dalapon	200	200	200	200	200	200	Micrograms per Liter
Demeton	0.1	0.1	0.1	0.1	0.1	0.1	Micrograms per Liter
Dibenzo(a,h)anthracene (PAH)	0.0048	0.0048	0.0048	0.0048	0.0048	0.0048	Micrograms per Liter
1,2 Dibromo-3-Chloropropane (DBCP)	0.2	0.2	0.2	0.2	0.2	0.2	Micrograms per Liter
Dichloroacetic acid	0.7	0.7	0.7	0.7	0.7	0.7	Micrograms per Liter
Dichlorobenzene 1,2	600	600	600	600	600	600	Micrograms per Liter
Dichlorobenzene 1,3	94	94	94	94	94	94	Micrograms per Liter
Dichlorobenzene 1,4	75	75	75	75	75	75	Micrograms per Liter
Dichlorobenzidine	0.078	0.078	0.078	0.078	0.078	0.078	Micrograms per Liter
Dichloroethane 1,2	0.38 to 5	0.38 to 5	0.38 to 5	0.38 to 5	0.38 to 5	0.38 to 5	Micrograms per Liter
Dichloroethylene 1,1	7	7	7	7	7	7	Micrograms per Liter
Dichloroethylene 1,2-cis	70	70	70	70	70	70	Micrograms per Liter
Dichloroethylene 1,2-trans	100	100	100	100	100	100	Micrograms per Liter
Dichlorophenol 2,4	21	21	21	21	21	21	Micrograms per Liter
Dichlorophenoxyacetic acid (2,4-D)	70	70	70	70	70	70	Micrograms per Liter
Dichloropropane 1,2	0.52 to 5	0.52 to 5	0.52 to 5	0.52 to 5	0.52 to 5	0.52 to 5	Micrograms per Liter
Dichloropropylene 1,3	0.35	0.35	0.35	0.35	0.35	0.35	Micrograms per Liter
Dichlorvos	0.12	0.12	0.12	0.12	0.12	0.12	Micrograms per Liter
Dieldrin	0.002	0.002	0.002	0.002	0.002	0.002	Micrograms per Liter
Diethyl phthalate	5,600	5,600	5,600	5,600	5,600	5,600	Micrograms per Liter
Diisopropylmethylphosphonate (DIMP)	8	8	8	8	8	8	Micrograms per Liter
Dimethylphenol 2,4	140	140	140	140	140	140	Micrograms per Liter

Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
Dimethyl phthalate	70,000	70,000	70,000	70,000	70,000	70,000	Micrograms per Liter
Di-n-butyl phthalate	700	700	700	700	700	700	Micrograms per Liter
Dinitrophenol 2,4	14	14	14	14	14	14	Micrograms per Liter
Dinitro-o-cresol 4,6	0.27	0.27	0.27	0.27	0.27	0.27	Micrograms per Liter
Dinitrotoluene 2,4	0.11	0.11	0.11	0.11	0.11	0.11	Micrograms per Liter
Dinitrotoluene 2,6	230	230	230	230	230	230	Micrograms per Liter
Dinoseb	7	7	7	7	7	7	Micrograms per Liter
Dioxane 1,4-	6.1 (effective through 3/21/2010)	6.1 (effective through 3/21/2010)	6.1 (effective through 3/21/2010)	6.1 (effective through 3/21/2010)	6.1 (effective through 3/21/2010)	6.1 (effective through 3/21/2010)	Micrograms per Liter
Dioxane 1,4-	3.2 (effective 3/22/2010)	3.2 (effective 3/22/2010)	3.2 (effective 3/22/2010)	3.2 (effective 3/22/2010)	3.2 (effective 3/22/2010)	3.2 (effective 3/22/2010)	Micrograms per Liter
Dioxin (2,3,7,8 TCDD)	$2.2x10^{-7}$ to $3.0x10^{-5}$	$2.2x10^{-7}$ to $3.0x10^{-5}$	$2.2x10^{-7}$ to $3.0x10^{-5}$	$2.2x10^{-7}$ to $3.0x10^{-5}$	$2.2x10^{-7}$ to $3.0x10^{-5}$	$2.2x10^{-7}$ to $3.0x10^{-5}$	Micrograms per Liter
Diphenylhydrazine 1,2	0.044	0.044	0.044	0.044	0.044	0.044	Micrograms per Liter
Di(2-ethylhexyl)adipate	400	400	400	400	400	400	Micrograms per Liter
Diquat	15 to 20	15 to 20	15 to 20	15 to 20	15 to 20	15 to 20	Micrograms per Liter
Endosulfan	0.056	0.056	0.056	0.056	0.056	0.056	Micrograms per Liter
Endosulfan, alpha	0.056	0.056	0.056	0.056	0.056	0.056	Micrograms per Liter
Endosulfan, beta	0.056	0.056	0.056	0.056	0.056	0.056	Micrograms per Liter
Endosulfan sulfate	0.056	0.056	0.056	0.056	0.056	0.056	Micrograms per Liter
Endothall	100	100	100	100	100	100	Micrograms per Liter
Endrin	0.036	0.036	0.036	0.036	0.036	0.036	Micrograms per Liter
Endrin aldehyde	2.1	2.1	2.1	2.1	2.1	2.1	Micrograms per Liter
Epichlorohydrin	3.5	3.5	3.5	3.5	3.5	3.5	Micrograms per Liter
Ethylbenzene	700	700	700	700	700	700	Micrograms per Liter

Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
Ethylene dibromide	0.00041 to 0.05	0.00041 to 0.05	0.00041 to 0.05	0.00041 to 0.05	0.00041 to 0.05	0.00041 to 0.05	Micrograms per Liter
Ethylhexyl phthalate (BIS-2)	2.5 to 6	2.5 to 6	2.5 to 6	2.5 to 6	2.5 to 6	2.5 to 6	Micrograms per Liter
Fluoranthene (PAH)	280	280	280	280	280	280	Micrograms per Liter
Fluorene (PAH)	280	280	280	280	280	280	Micrograms per Liter
Folpet	10	10	10	10	10	10	Micrograms per Liter
Furmecyclox	1.2	1.2	1.2	1.2	1.2	1.2	Micrograms per Liter
Glyphosate	700	700	700	700	700	700	Micrograms per Liter
Guthion	0.01	0.01	0.01	0.01	0.01	0.01	Micrograms per Liter
Heptachlor	0.008 to 0.4	0.008 to 0.4	0.008 to 0.4	0.008 to 0.4	0.008 to 0.4	0.008 to 0.4	Micrograms per Liter
Heptachlor epoxide	0.0038	0.0038	0.0038	0.0038	0.0038	0.0038	Micrograms per Liter
Hexachlorobenzene	0.022 to 1.0	0.022 to 1.0	0.022 to 1.0	0.022 to 1.0	0.022 to 1.0	0.022 to 1.0	Micrograms per Liter
Hexachlorobutadiene	0.45	0.45	0.45	0.45	0.45	0.45	Micrograms per Liter
Hexachlorocyclohexane, Alpha	0.0056	0.0056	0.0056	0.0056	0.0056	0.0056	Micrograms per Liter
Hexachlorocyclohexane, Beta	0.019	0.019	0.019	0.019	0.019	0.019	Micrograms per Liter
Hexachlorocyclohexane, Gamma (Lindane)	0.08	0.08	0.08	0.08	0.08	0.08	Micrograms per Liter
Hexachlorocyclohexane, Technical	0.012	0.012	0.012	0.012	0.012	0.012	Micrograms per Liter
Hexachlorocyclopentadiene (HCCPD)	5	5	5	5	5	5	Micrograms per Liter
Hexachlorodibenzo-p-dioxin (1,2,3,7,8,9-hcdd)	5.60E-06	5.60E-06	5.60E-06	5.60E-06	5.60E-06	5.60E-06	Micrograms per Liter
Hexachloroethane	0.7	0.7	0.7	0.7	0.7	0.7	Micrograms per Liter
Hydrazine/Hydrazine sulfate	0.012	0.012	0.012	0.012	0.012	0.012	Micrograms per Liter
Indeno(1,2,3-cd)pyrene (PAH)	0.0048	0.0048	0.0048	0.0048	0.0048	0.0048	Micrograms per Liter
Isophorone	140	140	140	140	140	140	Micrograms per Liter
Malathion	0.1	0.1	0.1	0.1	0.1	0.1	Micrograms per Liter
Methoxychlor	0.03	0.03	0.03	0.03	0.03	0.03	Micrograms per Liter

Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
Methyl bromide (HM)	9.8	9.8	9.8	9.8	9.8	9.8	Micrograms per Liter
Methyl chloride (HM)	5.6	5.6	5.6	5.6	5.6	5.6	Micrograms per Liter
4,4-Methylene bis (N,N'-dimethyl)aniline	0.76	0.76	0.76	0.76	0.76	0.76	Micrograms per Liter
Methylene chloride	4.7 to 5	4.7 to 5	4.7 to 5	4.7 to 5	4.7 to 5	4.7 to 5	Micrograms per Liter
Mirex	0.001	0.001	0.001	0.001	0.001	0.001	Micrograms per Liter
Naphthalene (PAH)	140	140	140	140	140	140	Micrograms per Liter
Nitrobenzene	3.5	3.5	3.5	3.5	3.5	3.5	Micrograms per Liter
Nitrophenol 4	56	56	56	56	56	56	Micrograms per Liter
Nitrosodibutylamine N	0.0065	0.0065	0.0065	0.0065	0.0065	0.0065	Micrograms per Liter
Nitrosodiethylamine N	0.00023	0.00023	0.00023	0.00023	0.00023	0.00023	Micrograms per Liter
Nitrosodimethylamine N	0.00069	0.00069	0.00069	0.00069	0.00069	0.00069	Micrograms per Liter
N-Nitrosodiethanolamine	0.013	0.013	0.013	0.013	0.013	0.013	Micrograms per Liter
Nitrosodiphenylamine N	7.1	7.1	7.1	7.1	7.1	7.1	Micrograms per Liter
N-Nitroso-N-methylethylamine	0.0016	0.0016	0.0016	0.0016	0.0016	0.0016	Micrograms per Liter
Nitrosopyrrolidine N	0.017	0.017	0.017	0.017	0.017	0.017	Micrograms per Liter
N-Nitrosodi-n-propylamine	0.005	0.005	0.005	0.005	0.005	0.005	Micrograms per Liter
Oxamyl (vydate)	175 to 200	175 to 200	175 to 200	175 to 200	175 to 200	175 to 200	Micrograms per Liter
PCBs	0.0175 to 0.5	0.0175 to 0.5	0.0175 to 0.5	0.0175 to 0.5	0.0175 to 0.5	0.0175 to 0.5	Micrograms per Liter
Parathion	0.013	0.013	0.013	0.013	0.013	0.013	Micrograms per Liter
Pentachlorobenzene	5.6	5.6	5.6	5.6	5.6	5.6	Micrograms per Liter
Pentachlorophenol	0.29 to 1.0	0.29 to 1.0	0.29 to 1.0	0.29 to 1.0	0.29 to 1.0	0.29 to 1.0	Micrograms per Liter
Phenol	2,100	2,100	2,100	2,100	2,100	2,100	Micrograms per Liter
Picloram	490	490	490	490	490	490	Micrograms per Liter
Propylene oxide	0.15	0.15	0.15	0.15	0.15	0.15	Micrograms per Liter
Pyrene (PAH)	210	210	210	210	210	210	Micrograms per Liter

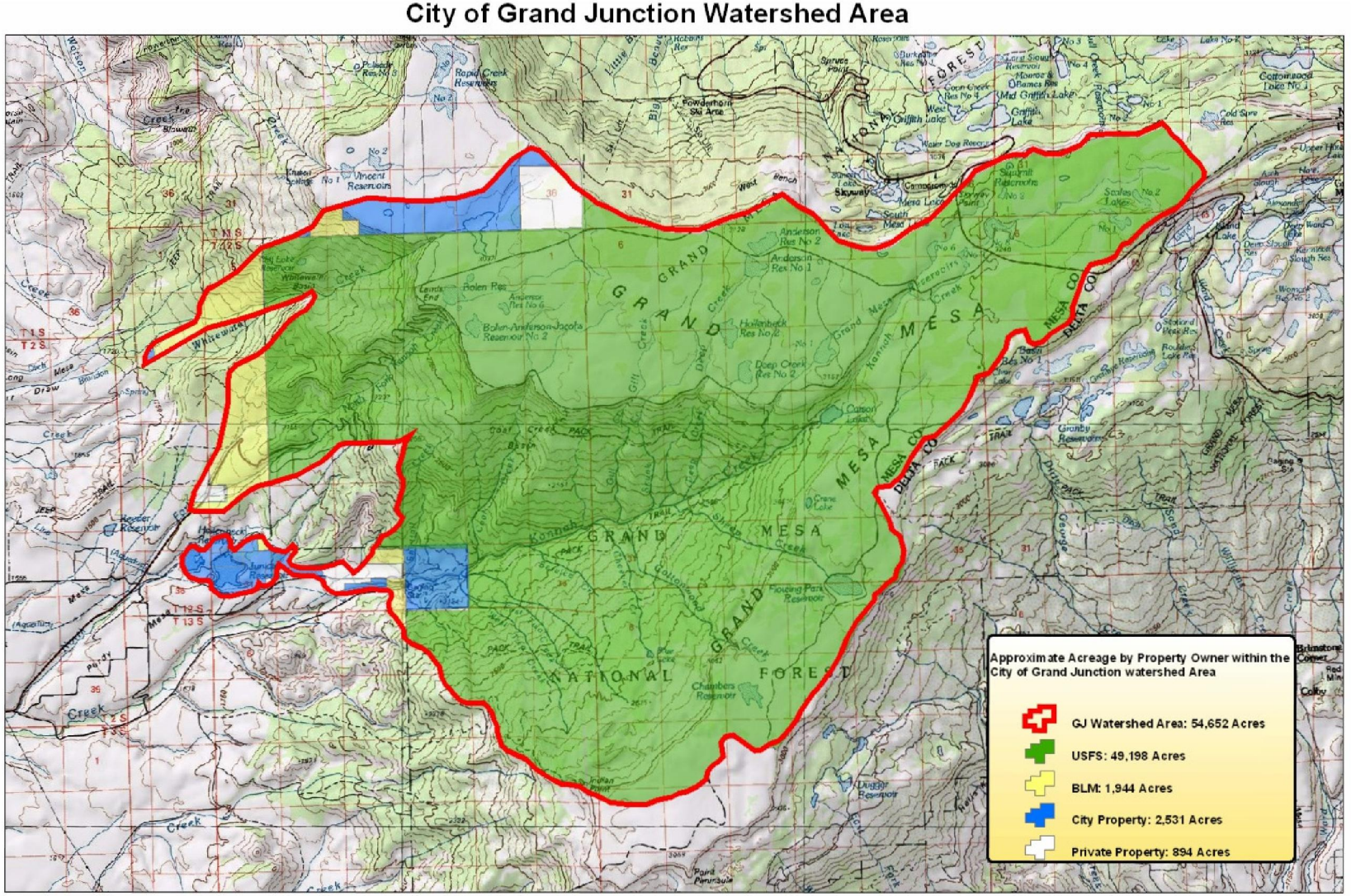
Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
Quinoline	0.012	0.012	0.012	0.012	0.012	0.012	Micrograms per Liter
Simazine	4	4	4	4	4	4	Micrograms per Liter
Styrene	100	100	100	100	100	100	Micrograms per Liter
Tetrachlorobenzene 1,2,4,5-	2.1	2.1	2.1	2.1	2.1	2.1	Micrograms per Liter
Tetrachloroethane 1,1,2,2	0.18	0.18	0.18	0.18	0.18	0.18	Micrograms per Liter
Tetrachloroethylene (PCE)	5	5	5	5	5	5	Micrograms per Liter
Toluene	1,000	1,000	1,000	1,000	1,000	1,000	Micrograms per Liter
Toxaphene	0.0002	0.0002	0.0002	0.0002	0.0002	0.0002	Micrograms per Liter
Tributyltin (TBT)	0.072	0.072	0.072	0.072	0.072	0.072	Micrograms per Liter
Trichlorobenzene 1,2,4-	50	50	50	50	50	50	Micrograms per Liter
Trichloroethane 1,1,1 (1,1,1-TCA)	200	200	200	200	200	200	Micrograms per Liter
Trichloroethane 1,1,2 (1,1,2-TCA)	2.8 to 5	2.8 to 5	2.8 to 5	2.8 to 5	2.8 to 5	2.8 to 5	Micrograms per Liter
Trichloroethylene (TCE)	5	5	5	5	5	5	Micrograms per Liter
Trichlorophenol 2,4,5	700	700	700	700	700	700	Micrograms per Liter
Trichlorophenol 2,4,6	3.2	3.2	3.2	3.2	3.2	3.2	Micrograms per Liter
Trichlorophenoxypropionic acid (2,4,5-tp)	50	50	50	50	50	50	Micrograms per Liter
Trihalomethanes	80	80	80	80	80	80	Micrograms per Liter
Vinyl Chloride	0.023 to 2	0.023 to 2	0.023 to 2	0.023 to 2	0.023 to 2	0.023 to 2	Micrograms per Liter
Xylenes (total)	1,400 to 10,000	1,400 to 10,000	1,400 to 10,000	1,400 to 10,000	1,400 to 10,000	1,400 to 10,000	Micrograms per Liter
Physical Standards							
Dissolved Oxygen	6.0, 7.0 (spawning)	5.0	6.0, 7.0 (spawning)	5.0	6.0, 7.0 (spawning)	5.0	Milligrams per Liter
pH	6.5 – 9.0	6.5 – 9.0	6.5 – 9.0	6.5 – 9.0	6.5 – 9.0	6.5 – 9.0	Standards Units
Temperature	Max 20° with 3° increase	None	Max 20° with 3° increase	None	Max 20° with 3° increase	None	Degrees Celsius

Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
Biological Standards							
E. coli	126	630	126	630	126	630	Per 100 mL
Inorganic Standards							
Ammonia, Total	3.91	0.75	3.69	0.68	3.91	0.90	Milligrams per Liter as N
Total Residual Chlorine	0.011	0.011	0.011	0.011	0.011	0.011	Milligrams per Liter
Cyanide – Free	0.005	0.005	0.005	0.005	0.005	0.005	Milligrams per Liter
Fluoride	2.0	2.0	2.0	2.0	2.0	2.0	Milligrams per Liter
Nitrate	10	10	10	10	10	10	Milligrams per Liter as N
Nitrite	0.06	0.06	0.06	0.06	0.06	0.14	Milligrams per Liter as N
Sulfide	0.002 undissociated	0.002 undissociated	0.002 undissociated	0.002 undissociated	0.002 undissociated	0.002 undissociated	Milligrams per Liter as H_2S
Boron	0.75	0.75	0.75	0.75	0.75	0.75	Milligrams per Liter
Chloride	250	250	250	250	250	250	Milligrams per Liter
Sulfate	250	250	250	250	250	250	Milligrams per Liter
Asbestos	7,000,000	7,000,000	7,000,000	7,000,000	7,000,000	7,000,000	Fibers per Liter
Metals Standards							
Aluminum	750	750	750	750	750	750	Micrograms per Liter
Antimony	6.0	6.0	6.0	6.0	6.0	6.0	Micrograms per Liter
Arsenic	0.02 – 10	0.02 – 10	0.02 – 10	0.02 – 10	0.02 – 10	0.02 – 10	Micrograms per Liter
Barium	490	490	490	490	490	490	Micrograms per Liter
Beryllium	4.0	4.0	4.0	4.0	4.0	4.0	Micrograms per Liter
Cadmium	0.15	0.25	0.15	0.34	0.15	0.58	Micrograms per Liter
Chromium III	24	42	24	50	24	50	Micrograms per Liter

Parameter	Water Quality Standard						Units
	Brandon Ditch (USFS lands)	Brandon Ditch (non-USFS lands)	North Fork Kannah Creek (USFS lands)	North Fork Kannah Creek (non-USFS lands)	Whitewater Creek (USFS lands)	Whitewater Creek (non-USFS lands)	
Chromium VI	11	11	11	11	11	11	Micrograms per Liter
Copper	2.7	5.0	2.7	7.0	2.7	13	Micrograms per Liter
Iron	300	300	300	300	300	300	Micrograms per Liter
Lead	0.5	1.2	0.5	1.8	0.5	3.9	Micrograms per Liter
Manganese	50	50	50	50	50	50	Micrograms per Liter
Mercury	1.4	1.4	1.4	1.4	1.4	1.4	Micrograms per Liter
Nickel	16	29	16	41	16	72	Micrograms per Liter
Selenium	4.6	4.6	4.6	4.6	4.6	4.6	Micrograms per Liter
Silver	0.01	0.02	0.01	0.05	0.01	0.15	Micrograms per Liter
Thallium	0.24	0.24	0.24	0.24	0.24	0.24	Micrograms per Liter
Uranium	30	30	30	30	30	30	Micrograms per Liter
Zinc	38	69	38	97	38	176	Micrograms per Liter

(Res. 115-07 Appx. C, 7-30-07)

Appendix D Watershed Map



(Res. 115-07 Appx. D, 7-30-07)

Chapter 13.36

WATER CONSERVATION PLAN

Sections:

13.36.010 Water Conservation Master Plan adopted.
13.36.020 Preface.
13.36.030 About water conservation.
13.36.040 Mission statement.
13.36.050 Service area map.
13.36.060 History of City of Grand Junction water system.
13.36.070 Water supply map.
13.36.080 Purpose.
13.36.090 Conservation goals.
13.36.100 Conservation policies.
13.36.110 Available water supplies.
13.36.120 Information and outreach.
13.36.130 Education and training.
13.36.140 Metering.
13.36.150 Leak detection.
13.36.160 Watershed management program.
13.36.170 Raw water management.
13.36.180 Residential retrofit pilot program.
13.36.190 Moderate plumbing code.
13.36.200 Future additional water conservation measures.
13.36.210 Where we want to be.
13.36.220 How we plan to get there.
13.36.230 Selection of strategies.
13.36.240 City of Grand Junction facilities.
13.36.250 Single-family residential.
13.36.260 Multifamily residential.
13.36.270 Business and institutions.
13.36.280 General applicability.
13.36.290 How we will know we have succeeded.
13.36.300 Amendments to annual plans.
13.36.310 Annual conservation action plan process.
13.36.320 Summary.
13.36.330 Glossary.
13.36.340 Appendix 1 – City of Grand Junction Residential Retrofit Project summary.

13.36.010 Water Conservation Master Plan adopted.

The Water Conservation Master Plan is adopted as the official policy of the City of Grand Junction and by its adoption the City does encourage its customers to use water efficiently as detailed in the plan and otherwise.

(Res. 49-96, 5-15-96)

13.36.020 Preface.

This conservation master plan was developed to provide a policy and a guideline for future conservation activities for the City of Grand Junction water service area. The conservation plan has a set of goals that either maintain or reduce water uses. The plan also describes, in general terms, methods to reach each goal. It establishes the criteria by which specific conservation measures will be selected as well as a pro-

cess for measuring results. The glossary in GJMC 13.36.330 defines terms which may need clarification and/or context for this master plan.

In this chapter, water conservation is defined as eliminating water waste and making beneficial water uses more efficient. This includes but is not limited to efficient use of financial resources dedicated to providing water to the people of Grand Junction. Conservation does not mean deprivation or preservation. Rather, the term encompasses the voluntary choices people make about water to ensure a sustainable future.

This plan is to be carried out through annual conservation action plans. Each action plan will list specific measures or programs to be implemented each year along with the associated costs, responsibilities and target goals. Action plans will also include an evaluation of the previous year's plan – what worked and what did not, what goals were met, what needs to be changed, and other relevant information. A summary of the current annual plan will be available upon request from the Utility Manager's Office, 250 N. 5th Street, Grand Junction, Colorado, 81501, by December of each year.

The conservation master plan is an ever-evolving document. As new ideas are developed which meet the criteria, they will be added. Existing ideas that have been fully implemented or are deemed no longer viable will be deleted. The entire master plan will be re-evaluated every five years. Major changes to the master plan shall be provided to the public in draft form and opportunity to comment on such changes shall also be provided, before adoption of such changes.

This conservation master plan was cooperatively developed by the following water utilities serving the Greater Grand Valley Area in Mesa County. However, each water provider has a specific plan to meet their own needs. The water providers are: The City of Grand Junction, Clifton Water District, and Ute Water Conservancy District.

(Res. 49-96, 5-15-96)

13.36.030 About water conservation.

(a) What It Is. Water conservation is the utilization of a set of strategies which will enable us to utilize our essential water resources in a wise and prudent manner, both through supply management, in which the City of Grand Junction maximizes the efficient delivery, treatment and use of water, and through demand management in which the customer practices the efficient use of this resource.

(b) What It Is Not. Water conservation is not a matter of reducing water use without limit. Nor is it meant to deprive our community of the benefits for which it was intended, including the essential benefits of health, nutrition, and the appealing environment we all enjoy.

(c) What Is Its Purpose. The purpose of this water conservation plan is to provide those benefits as efficiently as practicable given current knowledge, state of technology, and prudent cost considerations.

(d) Who Benefits. Water that remains in our streams and reservoirs provides many benefits which are important to our customers and our community. When water is used efficiently, more water can remain for recreation, wetlands, dilution, natural aesthetics, and habitat for fish and other wildlife. Customers benefit by extending supplies, protecting the environment, and the wise use of their money.

(e) What It Costs. Water conservation is not free and may not always be cheap. When customers use less water, City of Grand Junction's costs do not decrease proportionally. On the other hand, conservation defers the need for supply expansion, thereby deferring some water rate increases. In any case, since not everyone conserves at the same rate, those who conserve will definitely save more money than those who do not.

(f) Who Is Responsible. Water conservation is a duty of City of Grand Junction, and many of the programs contained in this plan – leak detection, billing information, education programs – place the accountability on the City. Yet much of the potential savings must come from the actions and habits of our water customers. Water conservation is many small actions that add up to a big difference. It makes sense and saves cents.

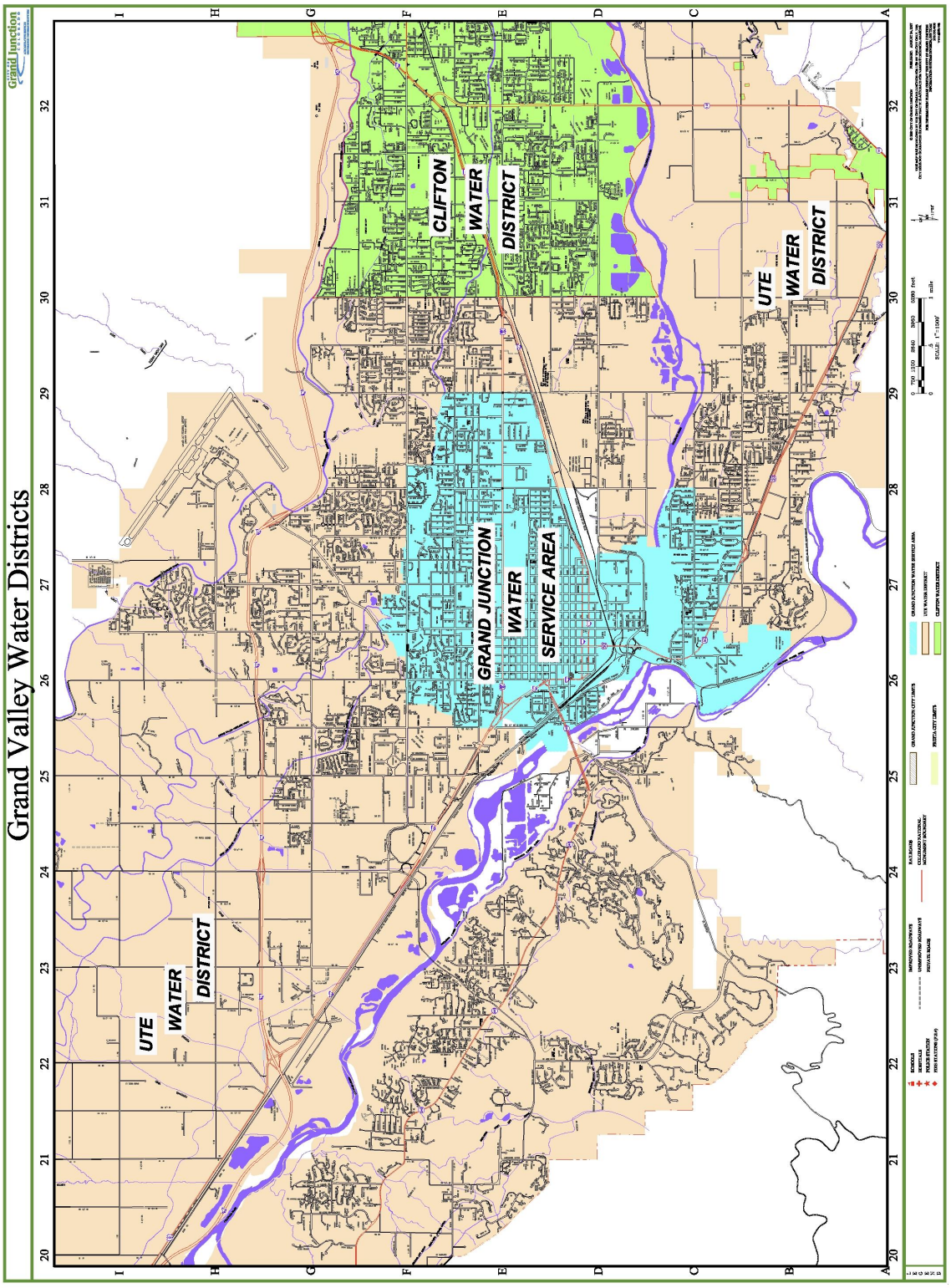
(Res. 49-96, 5-15-96)

13.36.040 Mission statement.

To promote water conservation by example, education, and innovation, when it is not intrusive upon commonly accepted lifestyles or maintenance of a pleasing environment. Conservation may also be achieved by mandatory measures in times of emergencies.

(Res. 49-96, 5-15-96)

13.36.050 Service area map.



(Res. 49-96, 5-15-96)

Article I. Introduction

13.36.060 History of City of Grand Junction water system.

When Grand Junction was founded in 1881, who would have thought that with two major rivers running through its back yard, water would become a major issue?

The development of a water supply for the City of Grand Junction was much the same as the general trend nationwide, of first being supplied, under contract, from a privately owned water company (Krusen Water Company), with a direct river source.

The first water supplied to the residents of Grand Junction in 1889 was from the Colorado River via a pumping plant located at what is currently the Fifth Street bridge. This water was not of very high quality due to being muddy in the spring and during rain storms.

In 1889, because of the poor Colorado River water quality, the City went away from the Krusen Water Company and built their own pump station on the Gunnison River, which was thought to be a better quality of water. This pump station pumped water up to a small reservoir located on "Reservoir Hill" above the present day city cemeteries. This is the present site of water treatment plant. At the same time a new distribution system was being constructed in town to take advantage of this new source.

By 1905, however, the Town residents were again complaining about water quality. The community began a search for a higher quality water and eventually settled on the Kannah Creek area of Grand Mesa. "Water ... at any price" was the direction given to the City by its residents and in Kannah Creek a quality mountain source was found.

In 1907, the effort was started to acquire the first priority water right for 300 "inches," or 7.81 cubic feet per second of flow from Kannah Creek. In 1911, the City, after condemnation proceedings, was granted this paramount water right but was ordered to pay a sum of $189,932.26 to area ranchers, as a settlement in the case.

Also in 1911, construction was started on the first flowline that would bring this new water source to town, some 20 miles away. In 1912, this newly constructed line of wood and steel started delivering up to 5,000,000 gallons per day to the citizens of Grand Junction.

Around 1938 the City built its first water treatment plant, on Reservoir Hill, that would treat up to 5,000,000 gallons per day. This plant was expanded to treat 7.13 million gallons per day in 1946.

Needing to expand and reinforce its mountain water supply, the City constructed Carson Reservoir in the Kannah Creek area in 1947 to hold 650 acre feet of water.

In 1955, the City acquired water and land rights from Mr. Hallenbeck and Mr. Anderson. This gave the City water rights in the Hallenbeck No. 1 Reservoir (now Purdy Mesa), Juniata Reservoir and Reeder Reservoir, reservoirs on Grand Mesa, and direct flow water rights to fill all. With these acquisitions the City formulated plans to build a second flowline to town. This line was of wrapped steel and increased capacity to deliver water to town to 12.5 million gallons per day.

As the City grew, so did the need for additional water. In 1957, the City acquired direct flow water rights in the Gunnison River for 120 cubic feet per second. A few years later the City added additional water rights in Raber Click and Juniata Reservoirs. Along with these rights came additional direct flow rights. The City constructed a new pump station on the Gunnison River in 1972 to use its Gunnison River water right. At this time the City also acquired Colorado River water rights of 120 cubic feet per second with an appropriation date of 1947.

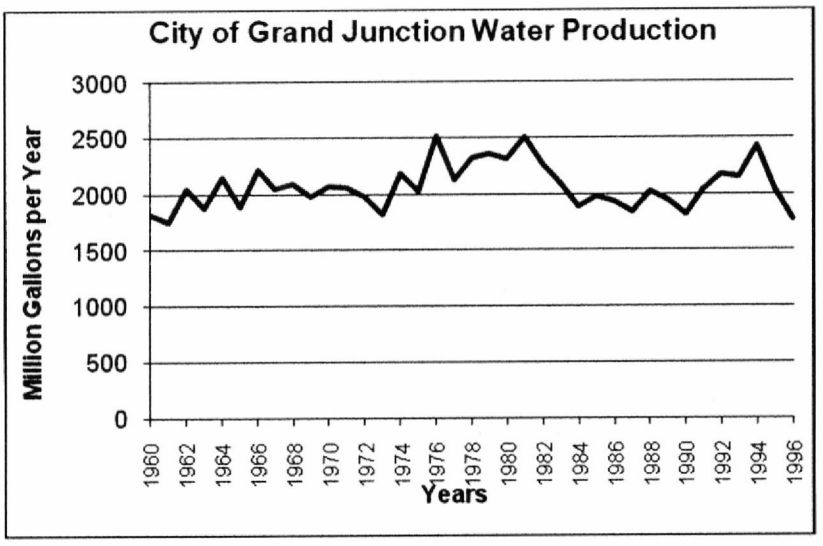
During the late 1960s a new water treatment plant was constructed to treat up to 16,000,000 gallons per day of water. This is the same plant that is still in service today providing customers high quality treated water.

A major drought swept through the area in 1976-1977 that caused City planners to come up with some new ways to avoid future water shortages. During the next couple of years, the City helped the Clifton

Water District construct a new treatment plant on the Colorado River capable of treating 8,000,000 gallons per day. With this construction, the City was assured that up to 4,000,000 gallons per day would be available for City water customers if it were needed. The City enlarged Juniata Reservoir to hold a year's supply of water, along with enlarging the pumping capabilities on the Gunnison River.

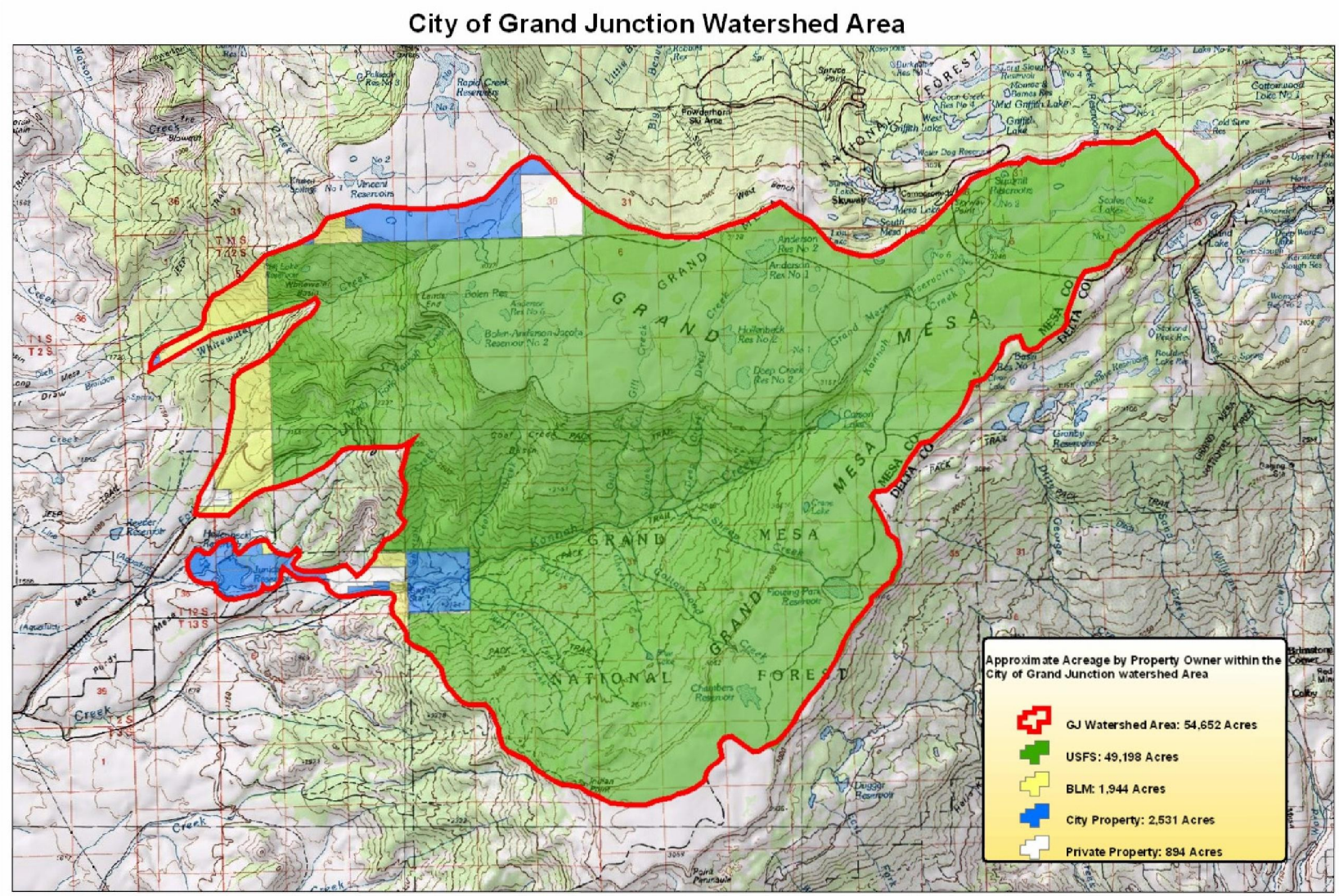
In 1989, the City took a major step by purchasing the Somerville ranch and associated water rights. These rights, added to other high quality mountain water rights, would ensure that the City of Grand Junction would have enough water to satisfy its customers during the severest drought.

Currently the City serves around 9,000 active taps and a population of 25,000 plus, but because of improved irrigation practices, advancement in plumbing fixtures, change-over of the cemeteries and the Lincoln Park golf course to an untreated water source and public awareness of water use, the City currently produces and consumes, on the average, the same amount of water it did 30 years ago. The graph represents water production through the treatment plant and shows the effects of both wet and dry years.



(Res. 49-96, 5-15-96)

13.36.070 Water supply map.



(Res. 49-96, 5-15-96)

13.36.080 Purpose.

The primary purpose of the City of Grand Junction's Water Conservation Master Plan is to promote the efficient use of water during times of plenty and to ensure a smooth transition to a reduction in demand during times of scarcity and drought.

Historically, the philosophy of the City of Grand Junction has not discouraged the use of domestic water for residential irrigation purposes.

(Res. 49-96, 5-15-96)

13.36.090 Conservation goals.

The goals for City of Grand Junction's water conservation program are:

(a) Promote awareness, through education, that the Grand Valley is situated at the edge of the upper Sonoran Desert life zone and, as such, could be seriously affected by long-term drought conditions in the future, as in the past.

(b) Encourage wise use of water for ordinary household uses and for outdoor irrigation to a reasonable degree to ensure a green and pleasant outdoor environment.

(c) Plan for times of scarcity to ensure minimum disruption and a smooth transition to reduced consumption.

(d) By wise and selective use of water for specific functions, preserve capacity in City's physical facilities, postponing costly plant/facility enlargements.

(e) Accommodate an awareness that water resources are available or ought to be available for preservation of habitat, in-stream flows for recreation or aesthetic purposes, and for use by aquatic and terrestrial wildlife.

(Res. 49-96, 5-15-96)

13.36.100 Conservation policies.

(a) Water conservation will be an integral part of water management planning for the City of Grand Junction. The value of water conservation as a component of supply or demand reduction will be evaluated on the same economic basis as the development of any other water supply.

(b) The legal and institutional conditions that may affect water use or have an impact on the conservation program will be assessed. The following factors will be considered in developing, implementing, and evaluating Grand Junction's water conservation program:

  (1) Federal agency programs and activities; federal legislation;

  (2) State statutes and administrative procedures for regulation of water supply and water use, including water rights laws, administrative regulations and procedures, environmental permits, water and energy programs, and building and plumbing codes; state legislation;

  (3) Interstate compacts, court decrees, local water agreements;

  (4) City ordinances or resolutions, agreements, and programs, including current efforts to reduce waste of water, rate structures and policies, land use planning, and building and plumbing codes.

(c) The potential benefits and problems associated with increasing water use efficiency will be considered in developing, implementing and evaluating the City of Grand Junction's water conservation program.

(d) Water Conservation Benefits.

  (1) Reduced demand of water can extend existing water supplies.

(2) Energy savings by cutting hot water use in a home.

(3) Protection of the environment by diverting less water from streams, lakes and reservoirs.

(4) Reduced utility costs because of reduced capital improvement expenditures, which may lead to reduced water rates.

(e) Water Conservation Problems.

(1) Reduced water revenues due to reduced water sales.

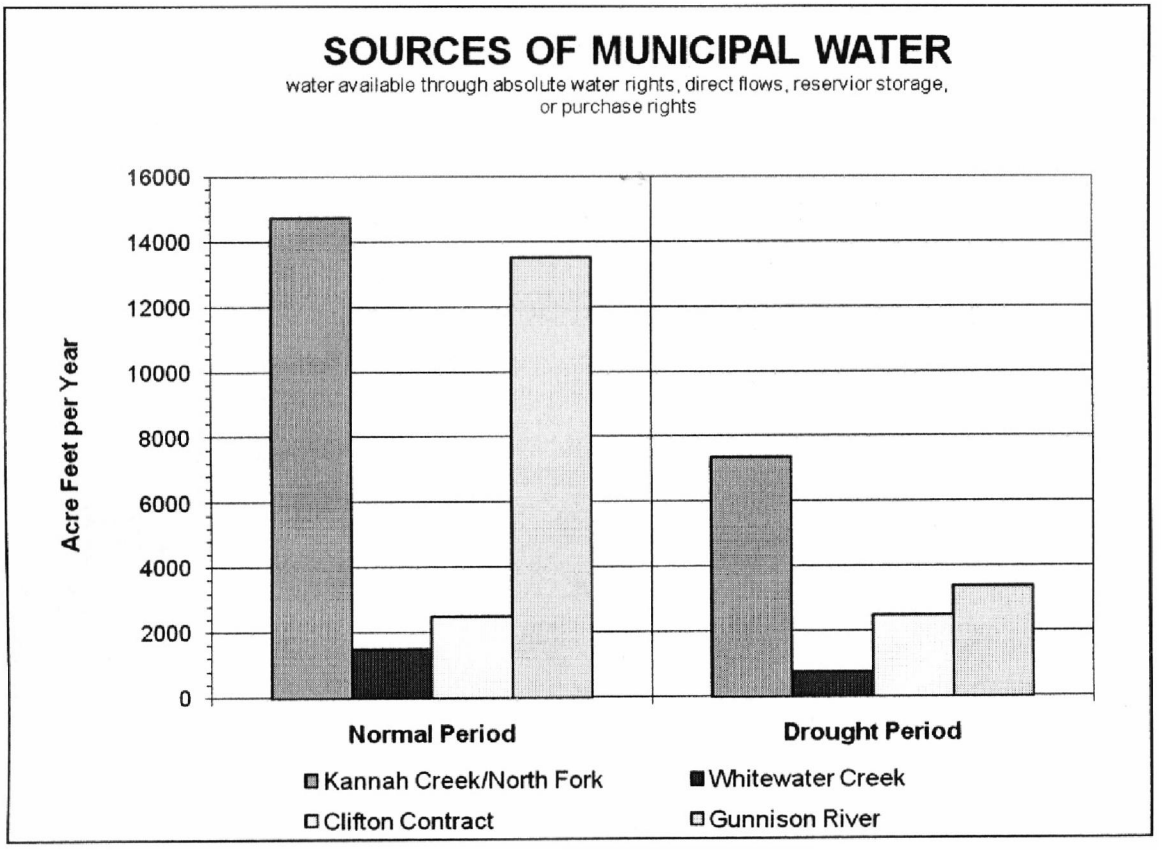
(2) Delay in construction of needed water supply projects is usually a favorable effect unless inflation increases the construction costs, affecting the utility's future ability to fund needed projects.

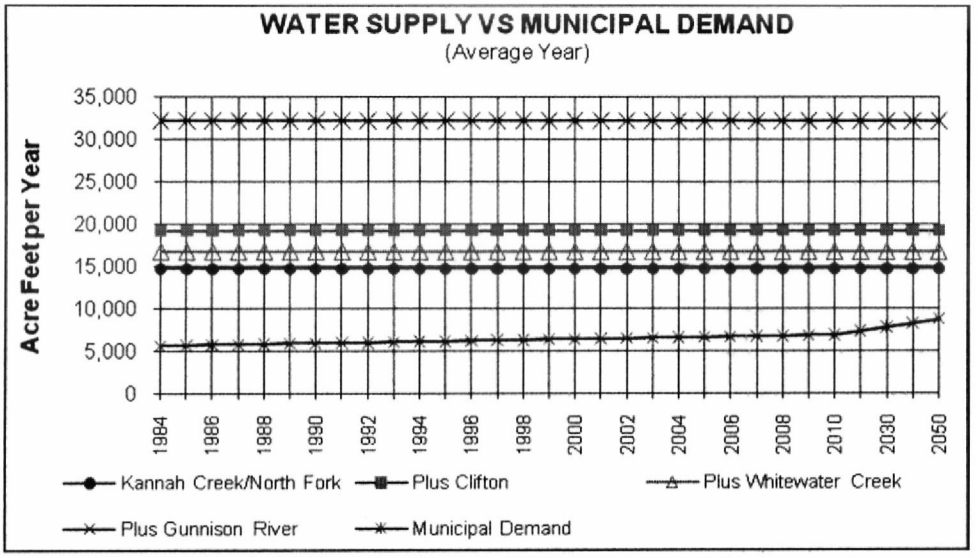
(3) Increasing water use efficiency under normal conditions may make additional savings during a drought or emergency more difficult to achieve.

(Res. 49-96, 5-15-96)

13.36.110 Available water supplies.

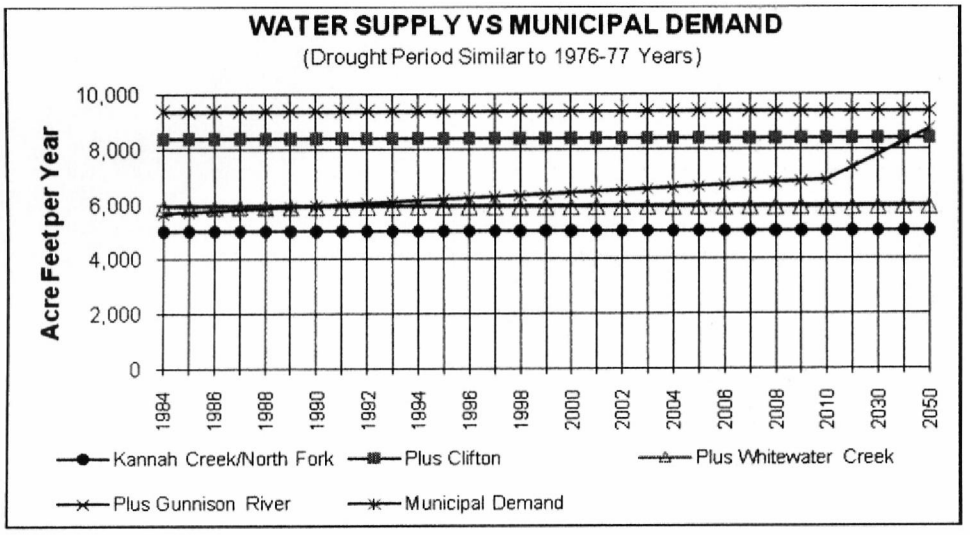
The City of Grand Junction has always tried to maintain an adequate, high quality water supply for its customers. During the last 40 years, the City has acquired numerous water rights in reservoirs, lakes and streams.





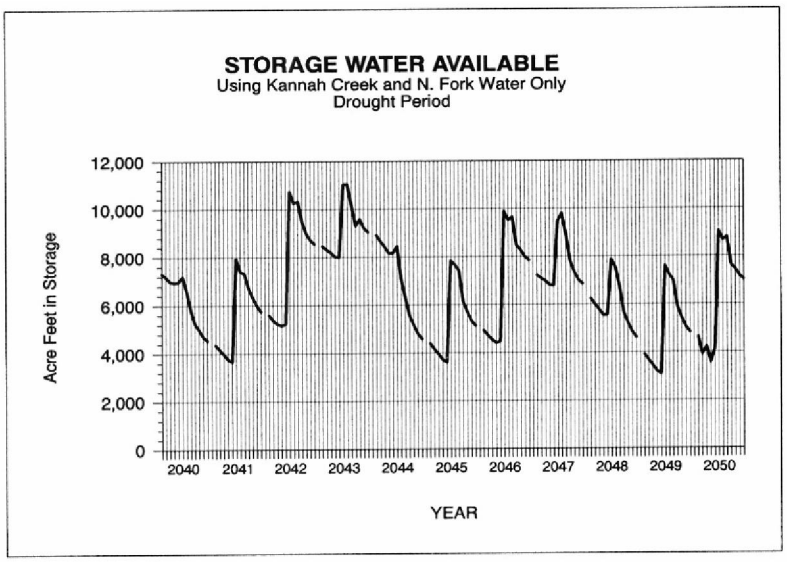
The above graph shows only absolute water rights and does not include conditional water rights on the Colorado and Gunnison Rivers. The City's Colorado River water right is shown in part, through the Clifton Contract.

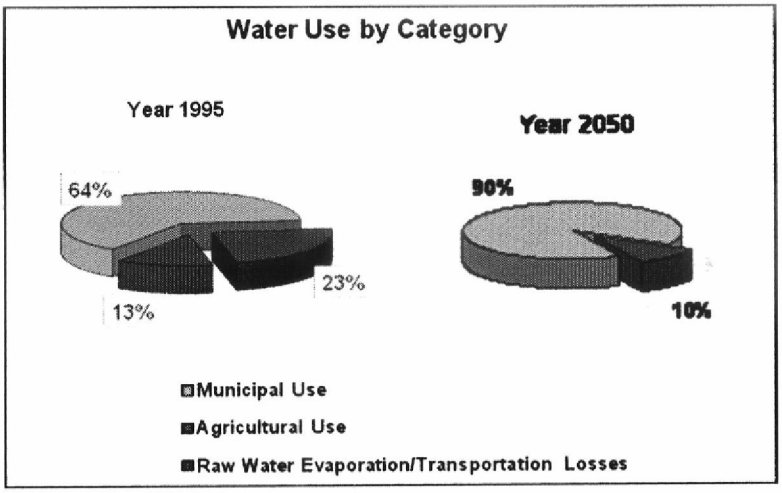
Based on projected trend analysis of future water demand and estimates of water resources available during a drought, the City will have enough water to satisfy its customers. Growth within the City of Grand Junction water system has been minimal over the last few decades and available infill is limited. The City's water system is surrounded by the Ute Water Conservancy District and expansion of our water service area is limited. Recent discussions about potential exchanges of water customers in certain areas would have little impact on overall water demand on City's system.



The graphics show "Water Supply vs. Municipal Demand" in an average year and a drought period similar to either 1976-1977 or a 1989-1990 water year. Using regression analysis and data from 1984 through 1995, the graphs project usage into the year 2050. Based on this data, our projected demand increases 0.529 percent per year for the next 55 years. The graphs show yearly projections up to year 2010; years 2010 through 2050 are shown in 10-year increments to show future years' demand.

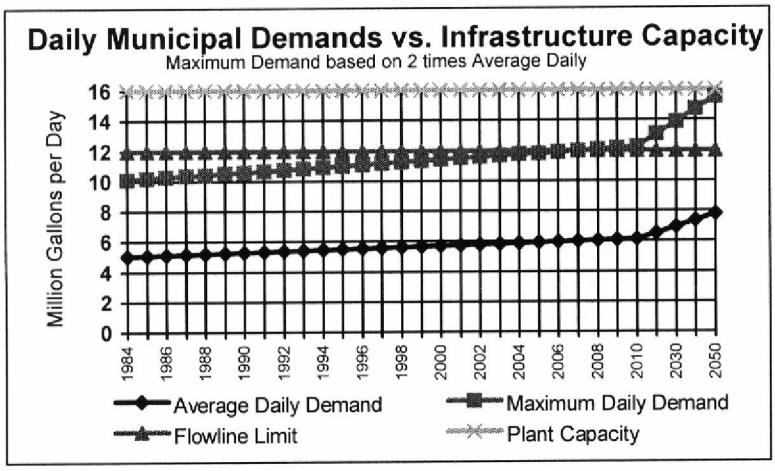
The amount of water available for use by the City will vary according to the weather. Estimated annual average yields from the City's absolute water rights, based on historical flows and diversion records from streams, lakes and rivers, shows the City has available for use 32,200 plus acre feet of water. Of this amount, 16,200 acre feet is available from the Kannah Creek, North Fork of Kannah Creek and Whitewater Creek drainage, 2,485 acre feet is available through contract with the Clifton Water District via Colorado River and 13,000 plus acre feet is available on Gunnison River. The amount of water available should not dramatically change in the next 50 years but where and how the water is used will change. In 1995, 23 percent of available water in Kannah Creek and North Fork of Kannah Creek basins was being used for agricultural purposes. In the year 2050, this percentage will drop to zero to fulfill needed municipal demands. Based on records during the drought periods of 1976-1977 and 1989-1990, projections of available water supplies can be conservatively estimated. The City's paramount water right on Kannah Creek will produce 75 percent of needed municipal water for City water customers in year 2050. The remaining 25 percent of needed water will come from other direct flow rights available or if needed from carry over reservoir storage.





The City has developed and maintained databases and records to project available storage on an annual basis and to try to predict available storage during times of drought. The graphic shows amount of storage water that should be available from 2040 through 2050 using drought period data. These databases and records will continuously be modified and updated to more correctly predict available water resources.

Based on projected water demand supplied by City of Grand Junction municipal water system, which includes sales to other water districts, major expenditures for infrastructure, such as additional treatment plant capacity or additional raw water flowline capacity, should not need to occur before year 2050. The existing treatment plant and raw water flowlines will need to be replaced, more because of age and not necessarily because of lack of capacity. The treatment plant will be 80 years old in the year 2050 and the flowlines almost 100 years old. The maximum daily demand for treated water is based on two times average daily demand for treated water into municipal system. The demand exceeds the capacity of the flowline but is made up with raw water storage located at treatment facility. This raw water storage will supply enough raw water to the treatment plant to meet all maximum daily demands above flowline capacity for a period of six days. Most time durations that exceed flowline capacity are within this six-day time frame.



(Res. 49-96, 5-15-96)

Article II. Water Conservation and Where We Are Today – Accomplishments and Current Programs

13.36.120 Information and outreach.

Currently the City has a bimonthly newsletter that is sent to all citizens. This newsletter is used to inform the citizens of Grand Junction of changes the City is planning, such as parks development, land and water use decisions, annexation policies, water conservation, upcoming programs or just general "what's happening."

City personnel are available to address various civic and service organizations, as well as school classes.

(Res. 49-96, 5-15-96)

13.36.130 Education and training.

The City offers school programs, including tours of the water treatment plant, to teachers and students in addition to our customers. These tours are a vital link to help adults and children understand the importance of conservation in their lives and the relationship of water supply and the protection of that water supply.

Teacher training workshops for recertification credits are available in cooperation with the Colorado Water Conservation Board.

Ute Water's Annual Children's Water Festival is a major activity in which conservation plays a large role. The annual average attendance is 1,500 fifth-grade students, plus teachers, during the day-long

event. City of Grand Junction and Clifton Water District participate and contribute to this event. The 1996 event will include an evening event for adults to attend and participate in festival.

(Res. 49-96, 5-15-96)

13.36.140 Metering.

(a) The City of Grand Junction is committed in its effort to provide an accurate measurement and record of water use as an aid to promote water conservation. Metering is used to make a customer more aware of how much water they are using. The Water Department has maintained an active metering program since its inception.

(b) The City has over 99 percent of its customers metered. The customers not metered are Lincoln Park, which is scheduled to become 100 percent metered by 1997, the downtown shopping park, and numerous median strips around the City. The City has an ongoing program of meter repair, replacement and recalibration. Residential meters are presently being replaced under a program that will see the whole system changed out within six years. The larger meters of one and one-half inches and greater will be completely retrofitted to externally read meters (AMRs) by end of 1997. These meters will be retested a minimum of once every five years.

(c) The City's Water Department reads all water meters monthly and sends bills to customers approximately 20 days later.

(1) The City's Water Department meters over 99 percent of the system's services. These meters are read by City's meter readers.

(2) The approximate current number of active accounts in the system is 8,500.

(3) The City currently utilizes two types of meters. On all meter installations one-and-one-half-inch and larger, an externally read meter (AMR) is used. On all residential and commercial meters one inch and smaller, a direct read meter is used.

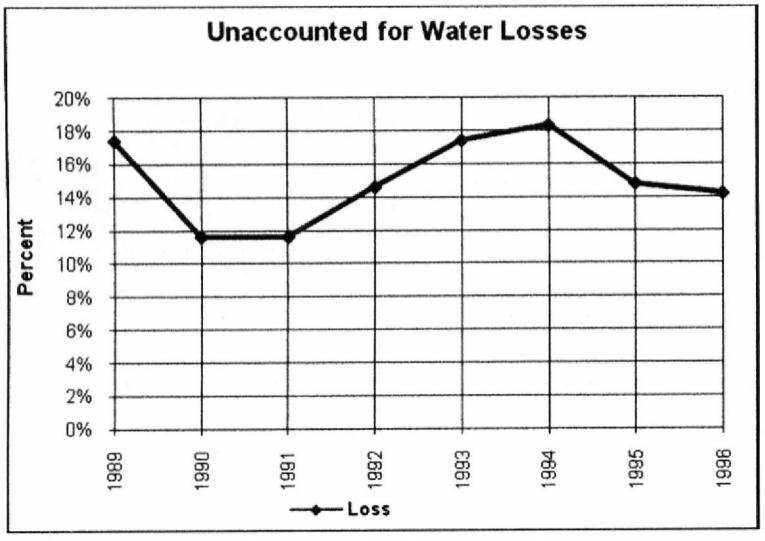
(4) The current program utilized by the City is to monitor, repair or replace meters based on manufacturer's recommendations and as follows:

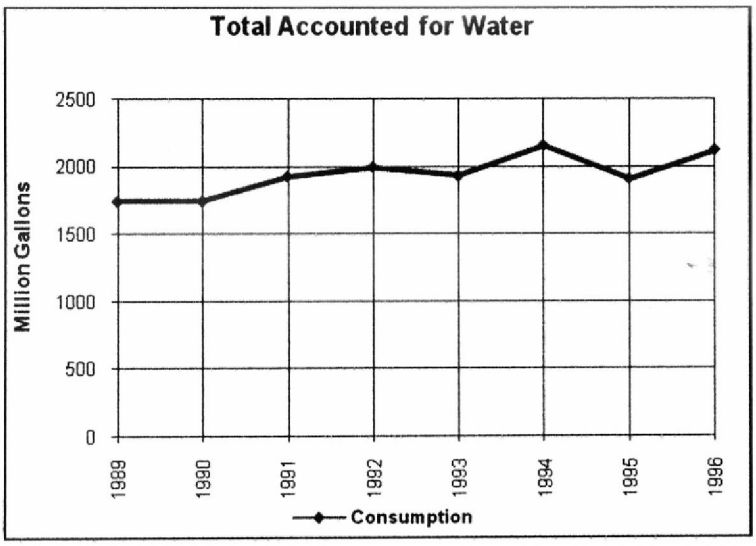
(i) Suspect readings are flagged by computerized billing system.

(ii) A physical inspection of these locations takes place.

(iii) The meter is pulled and tested to assess its operation.

(iv) The meter is replaced, if necessary.





(5) The only reference available for the City of Grand Junction to compare the effects of its current metering program is to look at annual water consumption figures from the past. The records from previous years indicate that growth rate for customers in the City's water system is fairly flat at 0.529 percent annually. A similar trend can be noted for consumption for past years. A decrease in "unaccounted-for" water in 1995 is due to large meter replacement program.

(6) The current expenditures for the City of Grand Junction's metering program are approximately as follows:

(i) Meter reading: two percent of annual budget.

(ii) Meter repair/installation: 1.4 percent of annual budget.

(iii) Meter purchases: 1.1 percent of annual budget.

(7) The long-range goals that the City has for improving the metering program are as follows:

(i) One hundred percent installation of one-and-one-half-inch and larger meters by end of 1997 with externally read meters (AMR).

(ii) One hundred percent installation of one-inch and smaller meters by year 2001 with direct read meters.

(iii) One hundred percent installation of one-inch and smaller with external read meters (AMR) on all accounts that require more time than normal to access a reading. This includes meters in basements, meter pits that require pumping monthly, etc.

(iv) Confined entry meter pit installations are almost eliminated. This reduces safety hazards and generates more accurate meter readings.

(Res. 49-96, 5-15-96)

13.36.150 Leak detection.

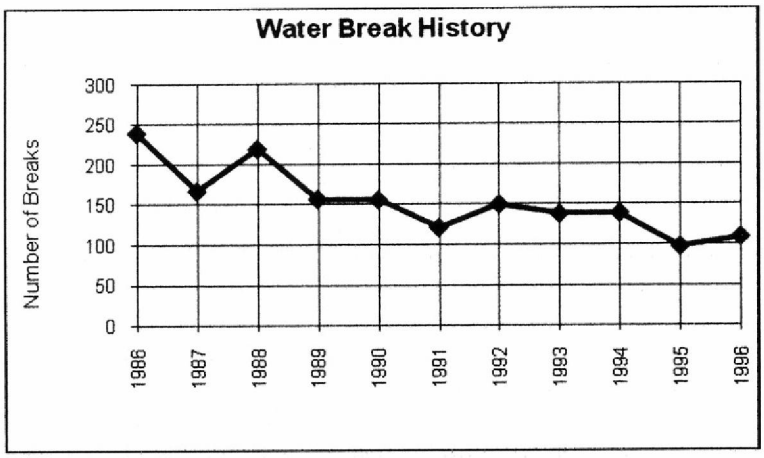
The City of Grand Junction employs a full-time maintenance crew which works eight hours daily, Monday through Friday, and has staff on call the remaining 16 hours and weekends. This crew responds as soon as possible to all leaks and breaks. Any equipment found to be substandard is replaced through a regular maintenance program. One of the most advantageous aspects of the City's water system is that almost all of the distribution system is located along public rights-of-way. This allows frequent observa-

tion of these areas by people using these areas in addition to normal maintenance checks by the City's Water Department.

The City makes every effort to reduce the amount of leakage to zero percent. The City has also funded the upgrading and replacement of older, deteriorated water mains. This is possible through the Water Department capital improvement program. During the 10-year period 1996 through 2005, $10,092,000 is expected to be spent in water system upgrades.

(a) The City's Water Department performs leaks surveys which include pressure drop surveys, the use of geophones, and the investigation of dirty water complaints.

(b) The City's maintenance crews respond as soon as possible to reports of actual or detected leaks. They assess each situation individually by making the appropriate shutoffs to isolate the leak and reduce the volume of lost water. They then weight the economic factors of scheduling the repair for normal work hours versus overtime hours. If the leak or break is substantial and would cause a large volume of lost water or create any unsafe situation in comparison to the cost of the repair, they would then repair the break or leak immediately. Otherwise, the repair would be scheduled for normal daytime work hours.



(c) The last year's efforts were as follows:

Number of leaks detected:	92 watermain breaks
	5 service leaks
Number of leaks repaired	97 total

(d) The problems associated with the City's current leak detection and system rehabilitation program are the City's current personnel occasionally have difficulty keeping up with the work load when they are busy performing their normal maintenance duties and additional incidents occur which require their attention, such as new construction, water taps, sewer maintenance work, leaks, etc.

(e) The City of Grand Junction spends approximately 22 percent of the Water Department's budget annually on system rehabilitation and leak detection.

(f) The financing for capital improvements is allowed through the annual revenues from the sale of water to the City's customers.

(g) The long-range goals that the City of Grand Junction has for its leak detection and system repair are as follows:

(1) Replacement of older mains in areas of breaks.

(2) Contract out for a more advanced leak detection program and pursue a more sophisticated leak survey on a shorter cycle time.

(h) The City is incorporating these long-range goals into their planning by replacing watermains in bad condition with new and/or larger ones. The City is also eliminating dead ends and looping water mains, where possible. The Water Department crews either perform these installations or advertise them for competitive bidding.

(Res. 49-96, 5-15-96)

13.36.160 Watershed management program.

The City of Grand Junction has been involved in a reservoir management group since 1927. This group is formally called the Grand Mesa Reservoir Pool and is made up of all of the owners of reservoirs on Grand Mesa which empty into Kannah Creek.

There are 13 reservoirs in this pool which are used for the purpose of storing irrigation and municipal waters which, during summer months, are discharged into Kannah Creek, as desired and required by owners and users thereof.

The City representative has been in control of the operation of this pool since the mid 1970s and has operated the reservoirs to maximize water quality along with minimizing evaporation losses. Even though the reservoirs sit at an elevation of roughly 10,000 feet above sea level, they have a potential for substantial evaporation losses due to the shallowness of reservoirs themselves. This shallowness not only lends itself to evaporation losses but also to proliferation of algae growth.

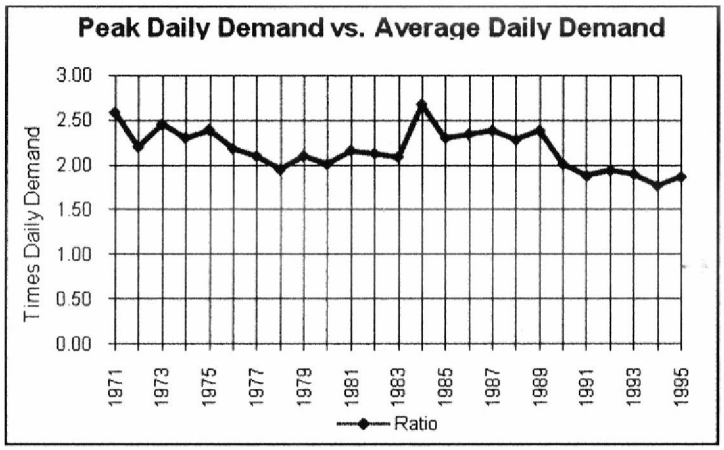
It is for both of these reasons that it is critical to time the releases out of reservoirs to maximize water quality for municipal usage and to minimize evaporation losses to get the most beneficial use from water supply.

(Res. 49-96, 5-15-96)

13.36.170 Raw water management.

Grand Junction has always tried to maintain a balance between the economics for the demand side of treated domestic water and capital costs of delivering this water. In the mid 1980s it was apparent that the demand on the treated water system was beginning to overtake the supply side. It was during this time that changes were made that would increase the supply side of treated water system by lessening the burden of supplying treated water to the Lincoln Park Golf Course and municipal cemeteries. In 1986, the municipal cemeteries were converted to a raw water source that is made up of recycled backwash water from water treatment facility. The water still comes from Kannah Creek basin and is a high quality water source, but by converting the cemeteries to raw water it reduced the impact of treating this water and eliminated the potential of certain pathogenic organisms from concentrating and being reintroduced into raw water feed to treatment plant. This change, which involved the installation of one valve and a few

feet of PVC water line, reduced the demand on treated water system by 50 million gallons per year and a peak daily demand of up to one-half million gallons per day.



The other change made to reduce demand on treated water system was converting Lincoln Park Golf Course to an untreated raw water source in 1990. A waterline was constructed from golf course to Grand Valley irrigation canal during construction of a sanitary sewer project to help reduce project costs. A lake on the golf course was lined to prevent losses and new pump system designed to maximize pressure and efficiency was installed near lake. This new pump system was tied into sprinkling system for golf course and treated water system was physically disconnected to prevent cross connection with untreated water.

This new system was designed to supply adequate water and pressure for maximum coverage and eliminate the practice of watering that was more like flood irrigation than a modern underground sprinkling system. This new system reduced treated water demand by 100,000,000 gallons per year and reduced daily peak demand by as much as 2,000,000 gallons per day.

(Res. 49-96, 5-15-96)

13.36.180 Residential retrofit pilot program.

The Grand Junction Residential Retrofit Pilot Project began in April 1991. The Colorado Office of Water Conservation managed the project with the help of the Grand Junction Utilities Department, the Office of Energy Conservation and area consultants.

Retrofit projects are not new. A few aspects of this project, however, made it unique. The project was designed to include monitoring and evaluation of both water and energy consumption. The project also set out to determine water savings potential and customer satisfaction of more sophisticated retrofit devices. The devices used in this project include the "Future Flush," a dual-flush (two option) device, and the "ShowerSpa" shower head.

Approximately 100 single-family homeowners agreed to participate in an 18-month project to help city officials determine water saving potential from plumbing retrofit devices. Homeowners were then provided with 2.0 gallons per minute flow "ShowerSpa" shower heads, faucet aerators and "Future Flush" toilet devices for all bathrooms and sinks. Free plumbing help was provided to homeowners that requested assistance in installing the devices. Water and energy consumption was collected monthly for evaluation. Surveys of participating homeowners were conducted as part of the project. An attempt was made to ensure the pilot project emulated "real life" water use.

The overall goal of the Grand Junction Residential Retrofit Project was to develop information regarding the economic impact of a retrofit program and the water utility's return on program investment. The project was designed to accomplish this goal through the following objectives:

(a) To determine changes in water and energy usage from a residential plumbing fixture retrofit;

(b) To determine the program cost effectiveness for both residents and the Grand Junction water utility;

(c) To determine long-term water savings potential from retrofit;

(d) To evaluate device acceptance levels from homeowners.

Energy consumption data was collected for an 18-month period ending in October 1992 while water consumption data continues to be monitored. The original 18-month period included one full winter water-use season which is important to isolate interior water use from exterior use and weather variables.

Based on the results outlined in this report it is difficult to determine the long-range savings in energy consumption based on any 18-month time period. Gas and electrical consumption have too many variables that do not correlate across to water consumption. We cannot say for sure if this 18-month data collection period and the previous 24-month baseline period were normal, and all variables within both time periods equivalent. The results of the water consumption data (a decrease in water consumption of nine percent to 12 percent during winter months, and overall decease of four percent to eight percent for the entire retrofit project) shows that the retrofit project does make a significant impact for residents. The impacts for our water utility and more information on this project can be found in GJMC 13.36.340, Appendix 1 and retrofit program summary.

(Res. 49-96, 5-15-96)

13.36.190 Moderate plumbing code.

The Mesa County Plumbing Code requires water saving devices for all new construction. Moderate water saving devices include low flow shower heads using a maximum of 3.0 gallons per minute, low volume flush toilets using 3.5 gallons per flush cycle, low flow faucets using a maximum of 2.75 gallons per minute, and water efficient dishwashers.

(Res. 49-96, 5-15-96)

13.36.200 Future additional water conservation measures.

(a) Public education program (expanded by developing a water festival to include an additional day and the general public).

(b) Advanced plumbing code.

(c) Xeriscape (see glossary).

(d) Evaluate current and emergency rate structures.

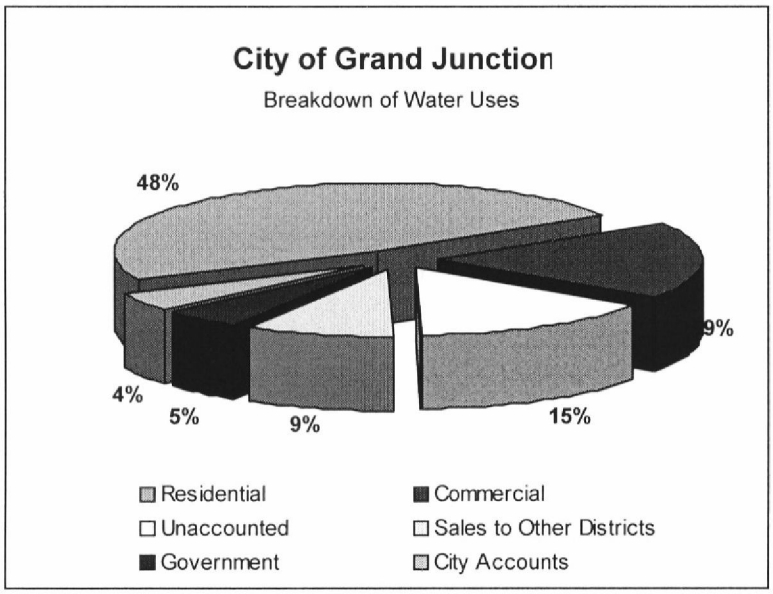
(e) Water audit services by trained staff.

(Res. 49-96, 5-15-96)

Article III. Strategies and Processes

13.36.210 Where we want to be.

City of Grand Junction would like to provide all of the water needed for the uses desired by its customers in a manner that is as efficient as current knowledge and technology will allow, tempered by reasonable cost considerations.



Water use records for 1995 indicate that in the City's service area, residential demand accounts for approximately 48.0 percent of the City's total annual water demand. Commercial customers' demand accounts for 18.7 percent, government uses 4.7 percent, City accounts (parks, buildings, cemeteries, etc.) for 4.4 percent, and 14.8 percent is unaccounted-for water. Another 9.4 percent is sold to other water districts in the Valley for their customers' benefit.

(Res. 49-96, 5-15-96)

13.36.220 How we plan to get there.

Many strategies and methods are being implemented to accomplish these goals. The water conservation strategies are arranged in the following categories:

(a) City of Grand Junction facilities.

(b) Residential: single-family.

(c) Residential: multifamily.

(d) Business/industrial.

(e) General applicability.

(Res. 49-96, 5-15-96)

13.36.230 Selection of strategies.

Strategies and methods included in this master plan have met the following criteria:

(a) Can the program be implemented?

- Are there legal considerations which may affect the program? Does the responsibility for implementing the program fall within City of Grand Junction's jurisdiction?

(b) Is the program cost effective in the long run?

- Do the projected savings justify the cost required to implement it when compared to other options? Would another approach cost less or offer greater savings?

(c) Can the success of the program be measured?

- Does it include a method for determining its success or failure?

(d) Will the program result in sustainable water savings?

- Will the program encourage long-term water conservation?

(e) The City may amend or expand these criteria as necessary.

(Res. 49-96, 5-15-96)

13.36.240 City of Grand Junction facilities.

(a) Outdoor.

(1) Develop within three years a xeriscape demonstration in cooperation with an outside agency like the Botanical Society.

(2) Develop a system that identifies potential service areas that are in need of replacement based upon break and leak frequencies.

(3) Currently the unaccounted water represents 15 percent. Expand leak detection program in coordination with meter replacement to reduce unaccounted water to 10 percent.

(b) Indoor.

(1) Perform water audits by trained City staff to assist city facility management staff to help reduce water demand.

(2) Encourage replacement of non-conserving toilets with those using 1.6 gallons or less per flush by supporting changes in building codes without offering customer incentives.

(3) Toilets using 1.6 gallons per flush or less.

(4) Showerheads using a maximum of 2.5 gpm.

(5) Kitchen, lavatory, and service faucets having a maximum flow of 2.2 gpm.

(Res. 49-96, 5-15-96)

13.36.250 Single-family residential.

(a) Outdoor.

(1) Investigate realistic incentives for xeriscape which will have permanent effective results.

(2) Encourage landscapes for both maximum water efficiency and maximum beauty.

(b) Indoor.

(1) Perform water audits by trained City staff to assist water customers to help reduce water demand.

(2) Encourage replacement of non-conserving toilets with those using 1.6 gallons or less per flush by supporting changes in building codes without offering customer incentives.

(3) Toilets using 1.6 gallons per flush or less.

(4) Showerheads using a maximum of 2.5 gpm.

(5) Kitchen, lavatory, and service faucets having a maximum flow of 2.2 gpm.

(Res. 49-96, 5-15-96)

13.36.260 Multifamily residential.

(a) Outdoor.

(1) Investigate realistic incentives for xeriscape which will have permanent effective results.

(2) Encourage landscapes for both maximum water efficiency and maximum beauty.

(3) Create an Apartment Water Efficiency Program to include analysis of potential conservation in swimming pools and decorative water features.

(b) Indoor.

(1) Perform water audits by trained City staff to assist water customers to help reduce water demand.

(2) Encourage replacement of non-conserving toilets with those using 1.6 gallons or less per flush by supporting changes in building codes without offering customer incentives.

(3) Toilets using 1.6 gallons per flush or less.

(4) Showerheads using a maximum of 2.5 gpm.

(5) Kitchen, lavatory, and service faucets having a maximum flow of 2.2 gpm.

(Res. 49-96, 5-15-96)

13.36.270 Business and institutions.

(a) Outdoor.

(1) Investigate realistic opportunities for xeriscape which will have permanent effective results.

(2) Encourage landscapes for both maximum water efficiency and maximum beauty.

(b) Indoor.

(1) Perform water audits by trained City staff to assist water customers to help reduce water demand.

(2) Encourage replacement of non-conserving toilets with those using 1.6 gallons or less per flush by supporting changes in building codes without offering customer incentives.

(3) Toilets using 1.6 gallons per flush or less.

(4) Showerheads using a maximum of 2.5 gpm.

(5) Kitchen, lavatory, and service faucets having a maximum flow of 2.2 gpm.

(Res. 49-96, 5-15-96)

13.36.280 General applicability.

(a) Information and Outreach.

(1) Develop strong marketing plans to market water conservation for each of the main customer groups.

(2) Create and distribute conservation information to elected, appointed and career public officials and their employees.

(3) Share information with others in conservation related organizations.

(4) Work closely with other area water providers on conservation plans.

(5) Distribute conservation information to senior citizens, parks personnel, nurseries, etc.

(6) Develop and implement a plan for receiving feedback (outreach) from customers.

(7) Create a collection of conservation information at the Mesa County Library.

(b) Education and Training.

(1) Offer school programs, including tours of water facilities and conservation demonstrations to all teachers and students.

(2) Offer classes for teachers' re-certification credit.

(c) Pricing, Rates, and Billing.

(1) Consider rate structure to encourage wise water use among the highest water users.

(2) Utilize the City of Grand Junction Newsletter to provide clear water use information and helpful comparisons.

(d) Statutes, Codes, and Regulations.

(1) Review City of Grand Junction Operating Rules for opportunities to specify conservation requirements and amend as necessary.

(2) Develop conservation guidelines and standards.

(3) Promote incorporation of conservation guidelines and standards into resolutions.

(4) Support implementation of water efficient building codes throughout the City of Grand Junction service area.

(e) Research.

(1) Research areas of inefficiency and identify potential for the greatest savings.

(2) Use published research data when possible.

(3) Investigate potential uses for untreated (raw) water.

(4) Make suggestions and contributions for research to the American Water Works Association Research Foundation for conservation research.

(Res. 49-96, 5-15-96)

13.36.290 How we will know we have succeeded.

(a) Monitoring and Evaluation. Implementing these conservation strategies is, by itself, not enough. Because water saved through these programs has become an important component of future water supply planning, City of Grand Junction needs to know how well these strategies are working, when they should be initiated, intensified or phased out, how they affect customers' lifestyles or businesses, how they affect the human and natural environment, whether they give rise to unforeseen problems, conflicts or legal issues, and whether they are worth their costs.

(b) Monitoring and evaluating the water efficiency gains of diverse customer groups using many conservation strategies is a complex challenge requiring a great deal of information. To be done well, it demands that City of Grand Junction prepare for it in advance and stay ahead of the information flow. To accomplish this, City of Grand Junction will undertake an ongoing monitoring and evaluation program to:

(1) Review what each program is expected to contribute to water conservation, that is, its specific goal, including potential reduction of unaccounted-for water.

(2) Design the methods which will be used to measure and evaluate its progress toward that goal and its costs.

(3) Define the information necessary for measuring the success and costs of each program and its overall contribution to conservation.

(4) Gather information in a timely manner.

(5) Design and maintain functional and durable data bases.

(6) Analyze periodically the success, cost, and other relevant characteristics of each conservation program.

(7) Prepare annual reports of progress made, costs incurred, customer participation and response.

(Res. 49-96, 5-15-96)

13.36.300 Amendments to annual plans.

Monitoring and evaluation reports will provide a foundation which City of Grand Junction staff will use to prioritize strategies, to design annual action plans for optimum effect and to improve the monitoring and evaluation process itself. Each annual action plan should include monitoring and evaluation components for each project. They will also indicate how successfully City of Grand Junction and its customers are meeting long-term water conservation goals.

(Res. 49-96, 5-15-96)

13.36.310 Annual conservation action plan process.

(a) Implement action item approved for the budget year, continue action items from previous years.

(b) Evaluate results and modify objectives for next year, draft next year's annual plan.

(c) Design strategies for achieving annual objectives in alignment with master plan.

(d) Continue to include line items in the budget for implementation of items relevant to the Water Conservation Master Plan.

(e) Provide copies of approved plan to interested citizens.

(f) Monitor ongoing programs.

(Res. 49-96, 5-15-96)

13.36.320 Summary.

Efficient use of water from Kannah Creek, North Fork of Kannah Creek and Whitewater Creek basins will play an increasingly important role in City of Grand Junction's long-range water use planning. Through wise water use, the need for costly facilities may be delayed and water resources may be protected for other uses.

To achieve these goals, it is necessary to get broad-based support for all conservation programs. It is also necessary that efficient water use becomes "second nature" for everyone. Clearly, no one person or agency can implement such changes in water use behavior. Only systematic, gradual behavior changes, interwoven with advances in technology will permanently create water conservation.

Many different strategies will be used to reach these water conservation goals. Present programs target indoor and outdoor water use in both the public and private sectors. It is the intent of this conservation master plan to provide a framework for evaluating and monitoring the various programs, while remaining flexible enough to adapt to changing conditions and to community needs. Sustainability in water savings and the cost effectiveness of the program will be key considerations in assessing various programs. Specific programs will be selected and funded during the annual planning and budgeting process.

Achieving water conservation goals will require the effort and commitment of everyone. The intent of City of Grand Junction is to ensure that future generations enjoy high quality water in sufficient quantities to meet their needs, and to work closely with citizens to build a foundation for tomorrow through efficient water use today.

(Res. 49-96, 5-15-96)

13.36.330 Glossary.

Acre feet. A measurement to describe a volume of water. One acre foot is the amount of water which would cover one acre of land to a depth of one foot: 325,851 gallons.

Action plan. A more detailed, analytical course of action to implement concepts outlined in a master plan, usually set up on a 12-month basis, having staffing and budget allocated to achieve specific objectives.

Conservation. A set of strategies to solve the dilemma of providing water to people, both through supply management (in which the utility maximizes efficient use of water) and through demand management (in which the customers practice efficient use); wise, efficient use by suppliers and customers. (See also *demand management* and *supply management*.)

Demand management. Methods to encourage customers to reduce their water demands thus using water efficiently. (See also *conservation*.) Example: Installation of water-efficient fixtures in bathroom, kitchen and laundry room by the homeowner/property manager.

Evaluation. The overall determination of a conservation program's effectiveness; strict accountability by a utility to its governing body and to its customers.

Goals. General statements of purpose for an effort or program; goals should complement and reinforce other City/District/community goals.

Master plan. A conceptual framework to show direction of intent.

Mission/purpose statement. A statement in clear language which explains why we exist, why we do what we do to ensure a certain standard quality of life for our customers.

Monitoring. An ongoing process to assess results of an effort. Steps in the process include identifying what will be measured, what assumptions will be held, what estimates are agreed on, what measuring tools will be used.

Multifamily residential. A planning term used to describe a building where two or more families live in separate units under one common roof; for example, apartment houses, townhomes, condominiums.

Objectives. Specific operational aims quantified in an annual action plan; statements must include specifically who will do precisely what, by when, and at what cost.

Programs. An ongoing effort to achieve a goal, usually involving several projects; e.g., a conservation program may include a metering project, a retrofit project, and a landscape project.

Project. Systemized efforts to achieve an objective.

Projected savings. An estimate of the amount of water which will be conserved because suppliers and customers are implementing certain efficiency practices.

Retrofit. An umbrella term which refers to the modification of something. In the case of water conservation, retrofit refers to modifications to plumbing fixtures to increase efficiency.

Supply management. Methods in which a utility maximizes use of available untreated water. (See also *conservation*.)

Sustainability. A decision-making concept describing development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Unaccounted-for water. A term used to describe the various ways water is difficult or impossible to measure such as under-registration of aging water meters, leaks, fire suppression, and water used in flushing the distribution system through fire hydrants.

Xeriscape. A landscape concept to describe a seven-step process of landscaping that conserves water and protects the environment. Developed by Denver Water in 1981, the term is now trademarked by the National Xeriscape Council, Inc. The seven steps are:

(1) Planning and design;

(2) Soil analyses;

(3) Appropriate plant selection;

(4) Practical turf areas;

(5) Efficient irrigation;

(6) Use of mulches;

(7) Appropriate maintenance.

(When this seven-step system is applied, landscape water may be reduced 30 to 80 percent.)

(Res. 49-96, 5-15-96)

13.36.340 Appendix 1 – City of Grand Junction Residential Retrofit Project summary.

The Grand Junction Residential Retrofit Pilot Project began in April 1991. The Colorado Office of Water Conservation managed the project and received technical advice, project implementation and other assistance from sources including Grand Junction Utilities Department, Office of Energy Conservation, Denver Water Department, and area consultants.

Retrofit projects, which change out existing plumbing fixtures and replace them with new lower water usage plumbing fixtures, are not new. A few aspects of this project, however, make it unique. The project was designed to include monitoring and evaluation of both water and energy consumption. The project also set out to determine water savings potential and consumer satisfaction regarding retrofit devices. The devices used in this project include the "Future Flush" and dual-flush (two-option) device, the "ShowerSpa" shower head, and swivel faucet aerators.

Approximately 102 single-family homeowners agreed to participate in this 18-month project to help city officials determine water saving potentials from plumbing retrofit devices. Homeowners were then provided with a 2.0 gallon per minute flow "ShowerSpa" shower head, a faucet aerator and a "Future Flush" toilet device for all bathroom fixtures and asked to install them. Water and energy consumption was collected monthly for evaluation. Two surveys of participating homeowners were conducted and are a part of the project. An attempt has been made to ensure this pilot project emulates "real life" water use versus water use in a controlled laboratory setting.

(a) Project Goal. The overall goal of the Grand Junction Residential Retrofit Demonstration Project was to develop information regarding the economic impact of a retrofit program and the water utility's return on program investment. The project was designed to accomplish this goal through the following four objectives:

(1) To determine changes in water and energy usage from a residential plumbing fixture retrofit.

(2) To determine the program cost effectiveness for both residents and the Grand Junction water utility.

(3) To determine long-term water savings potential from retrofit.

(4) To evaluate device acceptance levels from homeowners.

Water consumption data was collected for a 24-month period ending April 1993 and energy consumption data was collected for a period of 18 months ending in October 1992. This period will include one full winter water-use season which is important to isolate interior water use from exterior use and weather variables.

(b) Retrofit Project Results. The Grand Junction Retrofit Project only officially lasted 18 months. This time frame is probably not adequate to do a comparison between energy consumption and water consumption. The data for energy consumption is affected very dramatically by weather conditions. The original data collection time frame was from May 1991 through October 1992, with all project results being compared to a two-year average just prior to installation of retrofit devices. The water consumption data was collected for an extra six-month period, for a total data collection period from May 1992 through April 1993. This extended data collection period for water consumption will show a more accurate trend towards savings, because it covers two winter seasons, when water savings potentials are more accurately measured.

As in any real life project, this project had many variables to consider. The number of total participants was reduced from 102 to 85. The reduction was primarily due to ownership changes or other situations which were not acceptable for evaluation.

(1) Gas Results. Gas consumption was evaluated for the 18-month project period from May 1991 through October 1992. Winter consumption was also analyzed separately, this being from November through February. Gas consumption shows an increase of gas use for November and December, with a decrease in gas consumption by 0.87 percent. The retrofit devices resulted in overall savings in gas consumption of 6.85 percent for retrofit homeowners during the 18-month period.

(2) Electricity Results. Electrical consumption was evaluated for the 18-month project period from May 1991 through October 1992. Winter consumption was also analyzed separately, this being from November through February. Electrical consumption shows an increase for electricity for November and December, with a decrease for January and February. These four months represent a decrease in electrical consumption by 0.55 percent. The retrofit devices resulted in overall savings in electrical consumption of 0.54 percent for retrofit homeowners during the 18-month period.

(3) Water Results. The results of the water savings are going to be broken down into three different sections. The first section will include the same 85 customer base that was used in the gas and electricity results for means of comparisons for this retrofit project. The second section will give water consumption data for all 102 customers that were initially involved in the retrofit project. The third section screens the original 102 customers for missing data for water consumption only, and extends the monitoring time from 18 months to 24 months to obtain data through the two winter seasons.

This first section shows water consumption for the same 85 customer base which was evaluated for the 18-month project period from May 1991 through October 1992. Winter consumption was also analyzed separately, this being from November through February. Water consumption data shows a decrease in water consumption for all four winter months. Reduced water consumption for winter use resulted in a savings of 9.35 percent. The use of the retrofit devices reduced water consumption by 4.03 percent.

Water consumption for all 102 customers was evaluated for the 18-month project period from May 1991 through October 1992. Winter consumption was also analyzed separately, this being from November through February. Water consumption data shows a decrease in water consumption for all four winter months. Reduced water consumption for winter use resulted in a savings of 12.33 percent. The overall reduction in water consumption for the 18-month project was 6.45 percent.

The 17 customers that were screened out from the original 102 customer bas, reduced their winter water consumption by 20.48 percent and for the entire 18-month project by 18.91 percent.

This last section will deal with a customer base that will be used for long-range planning and future water conservation programs. This customer base started with the original 102 customer base, which were then rescreened based on available water consumption data only and answers on the final questionnaire. Of the 13 customers screened out, some were eliminated because they never installed the devices or never received the devices, others did not have enough prior water consumption data to make a comparison after retrofits were installed. The remaining 89 customers were evaluated for a 24-month period from May 1991 through April 1993. Winter consumption was also analyzed separately, this being from November through February for two winter cycles. Water consumption data shows a decrease in water consumption for the months of November, January and February, with December having the same consumption. Reduced water consumption for winter use resulted in a savings of 10.32 percent. The overall savings for the 24-month period was 8.40 percent.

(c) Final Summary. The retrofit project's main goal was to develop information regarding the economic impact of a retrofit program and the water utilities return on program investment. The following four objectives were established to help accomplish this goal:

(1) The first objective was to determine changes in water and energy usage from a residential plumbing fixture retrofit program.

Based on the results outlined in this report it is difficult to determine the long-range savings in energy consumption based on any 18-month time period. Gas and electrical consumption have too many variables that do not correlate across to water consumption. We cannot say for sure if this 18-month data collection period and the previous 24-month baseline period were normal, and all variables within both time periods equivalent. The results of the water consumption data (a decrease in water consumption of nine percent to 12 percent during winter months, and overall decrease of four percent to eight percent for the entire retrofit project) shows that the retrofit project does make a significant impact for residents.

(2) The second objective was to determine program cost effectiveness for both residents and the Grand Junction water utility.

Since this project furnished all devices free of charge to retrofit participants, its cost effectiveness to residents couldn't get any better. If participants are required to purchase their own retrofit devices, the payback for each customer will vary according to actual water and energy savings; it should take from 15 to 18 months to recover their initial investment of approximately $60.00 for all three types of retrofit devices.

As a utility, the answers get much more complicated. Based on the results of this retrofit project, a City wide retrofit program would save approximately 100 million gallons of water per year, or enough water to serve approximately 1,500 new residents. Operating costs at the water treatment plant would also be reduced by $6,000 per year. If new residents are not there to use this available water, we would be forced to increase water rates by five percent, to make up approximately $175,000 in lost revenue. Also, if we were to furnish these same devices to all homeowners, we would have to increase water rates an additional three percent, for a 10-year period, to pay for capital outlay for retrofit devices.

On the other side of the picture, if we needed to develop additional water resources for an expanding customer base, this type of water conservation program through the use of retrofit devices would be very attractive. The cost per acre foot of developed water would be $2,100. This is higher than the $1,200 to $1,500 we would like to pay, but much less than the $6,000 per acre foot some other projects are expecting to cost, once developed.

(3) The third objective was to determine long term water savings potentials from retrofit.

As stated in the second objective, we could achieve long term savings of 100 million gallons of water per year from the installation of retrofit devices, which is equivalent to 4.5 percent of total water used in our system. By comparison, as stated in a March 1989 AWWA Journal report titled "Long Term Options for Municipal Water Conservation," conversion to an increasing block rate (the rate for each additional 1,000 gallons of water used increases) for water rates could save up to 10 percent, or an increase in water rates of 10 percent could save three percent of total water consumption.

We will continue to monitor these customers (89 customer base) for a few more years to determine if water consumption savings will continue at the same rates as in the past 24-month period.

(4) The final objective was to evaluate device acceptance levels from homeowners.

The devices used in this retrofit project were of high quality which contributed to the acceptance levels also being high. The lowest rated and most troublesome device was the "Future Flush" dual flush toilet device that required an occasional adjustment. Even though it was the lowest rated, almost 75 percent of the respondents stated they will continue to use the "Future Flush" device after the retrofit project is over. Approximately 98 percent of respondents indicated they will continue to use the "ShowerSpa" shower head.

The Grand Junction Retrofit Project answered all the objectives it started out with. The results pertaining to energy consumption leave room for debate about true energy reductions versus water reductions. Unless hot water heaters were individually measured for energy consumption during retrofit project, data collection on energy consumption could take five to 10 years before enough data was obtained that true averages could be derived.

(Res. 49-96, 5-15-96)

Title 14

(Reserved)

Title 15

BUILDINGS AND CONSTRUCTION

Chapters:

15.04 Building Codes – Generally
15.08 Building Codes – Administration
15.12 Building Code
15.16 Electrical Code
15.20 Plumbing Code
15.24 Mechanical Code
15.28 Fuel Gas Code
15.32 Property Maintenance Code
15.36 Residential Code
15.40 Energy Conservation Code
15.44 Fire Code

Chapter 15.04

BUILDING CODES – GENERALLY

Sections:

15.04.010 Scope and application of building codes.
15.04.020 Adoption of unamended codes.
15.04.030 Copies of codes available for inspection.

Cross reference(s) – Regulations regarding alarm system installers, Chapter 5.08 GJMC; regulations and requirements regarding contractors, Chapter 5.16 GJMC.; solid waste collection and disposal requirements, Chapter 8.28 GJMC; driveways, Chapter 12.20 GJMC; utilities required, Chapters 13.04 through 13.12 GJMC.

State law reference(s) – Building and fire regulations, § 31-15-601, C.R.S. et seq.

15.04.010 Scope and application of building codes.

The codes adopted in this title shall apply throughout the City.

(Code 1994 § 8-1; Code 1965 § 7-83)

15.04.020 Adoption of unamended codes.

All sections of the referenced codes not specifically amended by this title are adopted as published.

(Ord. 3318, 12-6-00. Code 1994 § 8-2; Code 1965 § 7-86(a))

15.04.030 Copies of codes available for inspection.

At least one copy of each of the codes adopted in this title, all certified to be true copies, shall remain on file with the City Clerk.

At least three copies of each of the codes hereby adopted, all certified to be true copies, are now and shall remain on file with the Mesa County Building Department.

(Ord. 3318, 12-6-00. Code 1994 § 8-3; Code 1965 § 7-86(c))

State law reference(s) – Copies to be kept in office of the clerk, § 31-16-206, C.R.S.

Chapter 15.08

BUILDING CODES – ADMINISTRATION

Sections:

15.08.010 Board of Appeals – Appeals procedure.
15.08.020 Building Official's duties, authority.
15.08.030 Conflicts – Permits previously issued.
15.08.040 Nonassumption – Nonwaiver.
15.08.050 Violation and penalty.
15.08.060 Conflicting provisions.
15.08.070 Invalidity in part.

Cross reference(s) – Administration, GJMC Title 2.

15.08.010 Board of Appeals – Appeals procedure.

(a) A common appellate procedure and Board of Appeals to hear all appeals arising under codes adopted herein, except with respect to the National Electric Code, is contained within this section.

(b) In order to determine the suitability of alternate materials and methods of construction and to provide reasonable interpretations of this code, there shall be and is hereby created a Board of Appeals consisting of five members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The Chief Building Official shall be an ex officio member of and shall act as secretary to said Board. The Board of Appeals shall be appointed by the Board of County Commissioners and shall hold office at its pleasure. The Board shall adopt rules and procedures for conducting business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Chief Building Official.

(c) The Board of Appeals shall have jurisdiction to decide any appeals from the Chief Building Official if the decision of the Chief Building Official concerns suitability of alternate materials, methods of construction or a reasonable interpretation of the code. The Board of Appeals shall not hear appeals of life safety items, administrative provisions of the codes nor shall the Board of Appeals be empowered to waive requirements of the codes. The first order of business at any hearing of the Board of Appeals shall be to determine if it has jurisdiction to hear the appeal.

(d) Any appeal to the Board of Appeals shall be preceded by a written appeal to the Chief Building Official, who shall reply in writing. The decision of the Chief Building Official may be appealed to the Board of Appeals, within 10 days from the date of the decision of the Chief Building Official. A notice of appeal together with a copy of the original written appeal and a copy of the Chief Building Official's decision shall be filed with the Board of Appeals at the time the appeal is requested.

(e) The Board of Appeals shall meet within 30 days of the written appeal, hear evidence and argument if it deems appropriate, and shall render all decisions and findings in writing to the Chief Building Official with a duplicate copy to the appellant.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-26; Code 1965 § 7-82)

Cross reference(s) – Officers and employees, Chapter 2.08 GJMC.

15.08.020 Building Official's duties, authority.

The Director of Public Works and Utilities as Chief Building Official of the City by and through a contractual arrangement with the Mesa County Building Department shall administer and enforce such codes as are adopted and provided for in this title and as otherwise provided by law. Fees and costs other than

for or resulting from a violation, penalty or enforcement action shall be set by separate resolution adopted by the City Council, which fees and charges may be amended from time to time by resolution.

(Ord. 3318, 12-6-00. Code 1994 § 8-27; Code 1965 §§ 7-30, 7-84)

Cross reference(s) – Officers and employees, Chapter 2.08 GJMC.

15.08.030 Conflicts – Permits previously issued.

Any and all resolutions and/or ordinances or parts thereof in conflict herewith to the extent of such conflicts or inconsistencies are hereby amended; provided, however, this chapter shall not affect the construction of buildings for which permits were issued prior to the effective date of the ordinance codified in this section and all buildings now under construction pursuant to existing permits shall be constructed in conformance with the building codes applicable at the time of issuance of said permit; provided further, however, that no construction authorized by an existing permit shall be altered without complying with the newly adopted building codes. Nor shall the adoption of this code prevent the prosecution of violations of any prior resolution or ordinance adopting prior building codes, which occurred prior to the effective date of this title. Where this title and the codes adopted herein by reference are in conflict with other resolutions or ordinances of the City, the more restrictive provision shall apply.

(Ord. 3318, 12-6-00. Code 1994 § 8-28; Code 1965 § 7-86(b))

15.08.040 Nonassumption – Nonwaiver.

The City, its officials, employees and agents thereof shall not be deemed to have assumed a duty of care where none otherwise existed by the performance of a service or an act of assistance for the benefit of any person under this title. The adoption of these codes shall not give rise to a duty of care. The enforcement or failure to enforce this chapter or the mere fact that an inspection was conducted in the course of enforcing this chapter shall not give rise to a duty of care where none otherwise existed. Enactment of this title shall not constitute a waiver of sovereign immunity by the City, its officials, employees and agents.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-29; Code 1965 § 7-86(d))

Cross reference(s) – Tort liability, Chapter 2.16 GJMC.

15.08.050 Violation and penalty.

The penalties imposed for violation of the codes and of the statutory sections authorizing their adoption are as follows:

Any person, firm or corporation violating this chapter or any provision of any adopted code herein is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment in the County jail for not more than one year or by both such fine and imprisonment. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. In case any building or structure is or is proposed to be erected, constructed, remodeled, used or maintained in violation of this part or of any provision of this chapter, the City Attorney may institute an appropriate action injunction, mandamus or abatement to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, remodeling, maintenance or use. The City Attorney may use or enforce any remedies provided by law or in equity. Jurisdiction for any action brought under this title shall be in the Municipal Court of the City and such action shall be heard and decided in accordance with the rules of that Court.

(Ord. 3318, 12-6-00. Code 1994 § 8-30)

15.08.060 Conflicting provisions.

All other resolutions or ordinances in conflict herewith are hereby repealed except as otherwise provided herein.

(Ord. 3318, 12-6-00. Code 1994 § 8-31)

15.08.070 Invalidity in part.

If any part, section, subsection, sentence, clause or phrase of this chapter or of the codes adopted herein is for any reason held to be invalid, such decisions shall not affect the validity of remaining sections of this chapter or of the codes adopted herein, the City Council hereby declares that it would have passed the ordinance and adopted said codes in each part, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid. Should any portion of this title or codes adopted herein be declared invalid, then to the extent of such invalidity the prior code shall not be found, deemed or determined to be repealed so as to continue the provisions of the code in effect for any portions of this title and codes adopted thereby which may be declared invalid or unenforceable.

(Ord. 3318, 12-6-00. Code 1994 § 8-32)

Chapter 15.12

BUILDING CODE

Sections:
15.12.010 Adoption of International Building Code and Standards.
15.12.020 Amendments to International Building Code.

Cross reference(s) – Adoption of the fire code, GJMC 15.44.010.

State law reference(s) – Codes adopted by reference, § 31-16-201, C.R.S. et seq.; State Housing Act, § 24-32-701, C.R.S. et seq.

15.12.010 Adoption of International Building Code and Standards.

(a) The International Building Code, 2006 Edition, promulgated by the International Code Council, Inc., together with amendments set forth below (hereafter "IBC" or "International Building Code") is hereby adopted to provide minimum standards to safeguard life and limb, health, property and the public welfare by regulating and controlling various matters including, but not limited to, the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the jurisdiction.

(b) The following chapters of the Appendix of the International Building Code, 2006 Edition, are adopted:

(1) Chapter C, Group U – Agricultural Buildings;

(2) Chapter I, Patio Covers.

No other chapters of the Appendix are adopted.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00; Ord. 2812, 2-15-95. Code 1994 § 8-51; Code 1965 § 7-81(a)(1))

State law reference(s) – Copies to be kept in office of the clerk, § 31-16-206, C.R.S.

15.12.020 Amendments to International Building Code.

The building code adopted in GJMC 15.12.010 is hereby amended as follows:

(a) Section 105.2: Section 105.2 is amended by the addition of the word "platforms" to Section 105.2, Item 6.

(b) Section 108: Section 108 is amended by the addition of Subsection 108.7 as follows:

> No fees shall be required for a building permit obtained for Agricultural Buildings, as defined at Section 202. This agricultural building fee exemption does not include fees for electrical, mechanical and plumbing permits for said structures.

(c) Section 108.2: Section 108.2 is amended by adding the following language:

> Fees shall be determined by City Council and set forth in a Resolution.

(d) Section 108.6: Section 108.6 is amended to establish a fee refund policy, by the addition of the following:

> Building permit fees may be refunded at a rate of 85% of the building permit fee provided the project for which the permit was issued has not commenced and/or inspections have not been conducted. No refunds will be made after work has commenced.

(e) Section 109: Section 109 is amended by addition of Subsection 109.7 as follows:

No inspection shall be required for a building permit obtained for Agricultural Buildings as defined at Section 202. However, this exemption is not an exception to the minimum building standards set forth in the International Building Code, nor to the other requirements for inspections for electrical, mechanical and plumbing.

(f) Section 112: Section 112 is amended by deletion thereof. The Board of Appeals established in GJMC 15.08.010 shall serve as the Board of Appeals.

(g) Section 508: Section 508, Table 508.2 is amended to read:

Storage rooms over 100 square feet in Group I and H occupancies.

(h) Section 508: Section 508, Table 508.3.3 is amended by changing footnote b. to read:

Occupancy separation need not be provided for incidental storage areas within all occupancies that comply with the provisions of Section 508.3.2, Nonseparated occupancies, except Group I and H if the:

Remainder of footnote b. remains unchanged.

(i) Table 602: Table 602 is amended by the addition of footnote f. to E occupancies.

Footnote f. Group E Day Care occupancies that accommodate 12 or fewer persons shall have fire resistive ratings as required for Group R-3 occupancies.

(j) Section 708.4: Section 708.4 is amended by the addition of Exception #7 to read:

The wall need not extend into the crawl space in existing construction.

(k) Section 1004: Section 1004, Table 1004.1.1 is amended to change the maximum floor area allowance per occupant of agricultural building from 300 gross to 500 gross.

(l) Section 1704.1: Section 1704.1 is amended to change the last sentence of the first paragraph to read:

These inspections are to include the inspections specified in Section 109.

(m) Chapter 30: Chapter 30 concerning elevators, moving walks, escalators, or dumbwaiters is amended by amending Section 3001.1 as follows and adding four new sections and subsections to read as follows:

3001.1 Scope. This chapter governs the design, construction, installations, alterations, maintenance and repair of new and existing installations of elevators, dumbwaiters, escalators and moving walks, requiring permits therefor and providing procedures for the inspection and maintenance of such conveyances.

SECTION 3007

PERMITS & CERTIFICATES OF INSPECTION

3007.1 Permits Required. It shall be unlawful to install any new elevator, moving walk, escalator or dumbwaiter or to make alterations to any existing elevator, dumbwaiter, escalator or moving walk, as defined in Part XII of ASME A17.1, without first having obtained a permit for such installations from the building official. Permits shall not be required for maintenance or minor alterations.

3007.2 Certificates of Inspection Required. It shall be unlawful to operate any elevator, dumbwaiter, escalator or moving walk without a current certificate of inspection issued by an approved inspection agency. Such certificates shall be issued upon payment of prescribed fees and a valid inspection report indicating that the conveyance is safe and that the inspection and tests have been performed in accordance with Part X of ASME A17.1. Certificates shall not be issued when the conveyance is posted as unsafe pursuant to Section 3010.

Exception: Certificates of Inspection shall not be required for conveyances within a dwelling unit.

3007.3 Applications for Permits. Applications for a permit to install shall be made on forms provided by the building official, and the permit shall be issued to an owner or the owner's representative, upon payment of the permit fees specified in this section.

3007.4 Applications for Certificates of Inspection. Applications for an inspection and certificates of inspection shall be made to an approved inspection agency by the owner of an elevator, dumbwaiter, escalator or moving walk. Fees for inspections and certificates of inspection shall be determined by the approved inspection agency.

3007.5 Fees. A fee for each permit shall be paid to the building official as prescribed in the jurisdiction Permit Fee Schedule which shall be determined by City Council and set forth in a Resolution.

SECTION 3008

DESIGN

3008.1 Detailed requirements. For detailed design, construction and installation requirements see Chapter 16 and the appropriate requirements for ASME A17.1.

SECTION 3009

REQUIREMENTS FOR OPERATION AND MAINTENANCE

3009.1 General. The owner shall be responsible for the safe operation and maintenance of each elevator, dumbwaiter, escalator and moving walk installations and shall cause periodic inspections to be made on such conveyances as required by this section.

3009.2 Periodic Inspection and Tests. Routine and periodic inspections and tests shall be made as required by ASME A17.1.

3009.3 Alterations, Repairs and Maintenance. Alterations, repairs and maintenance shall be made as required by Part XII of ASME A17.1.

3009.4 Inspection Costs. All costs of such inspections shall be paid by the owner.

SECTION 3010

UNSAFE CONDITIONS

3010.1 Unsafe Conditions. When an inspection reveals an unsafe condition of an elevator, escalator, moving walk or dumbwaiter, the inspector shall immediately file with the owner and the building official a full and true report of inspection and unsafe condition.

If the building official finds that the unsafe condition endangers human life, the building official shall cause to be placed on such conveyance, in a conspicuous place, a notice stating that such conveyance is unsafe. The owner shall see to it that such notice of unsafe condition is legibly maintained where placed by the building official. The building official shall also issue an order in writing to the owner requiring the repairs or alterations to be made to such conveyance that are necessary to render it safe and may order the operation thereof discontinued until the repairs or alterations are made or the unsafe conditions are removed. A posted notice of unsafe conditions shall be removed by the building official when satisfied that the unsafe conditions have been corrected.

(n) Section 3109.4: Section 3109.4 is amended by deletion thereof.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00; Ord. 2812, 2-15-95. Code 1994 § 8-52; Code 1965 § 7-81(a)(2) – (20))

Chapter 15.16

ELECTRICAL CODE

Sections:
15.16.010 Adoption of National Electrical Code.

15.16.010 Adoption of National Electrical Code.

The National Electrical Code, 2005 Edition, as promulgated by the National Fire Protection Association Inc., One Batterymarch Park, Quincy, Massachusetts 02269 and as adopted by the State of Colorado and pursuant to Title 12, Article 23, C.R.S.

Applicants shall pay for each electrical permit at the time of issuance, a fee for electrical permits and inspections as determined by City Council and set forth in a resolution.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00; Ord. 2812, 2-15-95. Code 1994 § 8-53; Code 1965 § 7-81(b))

State law reference(s) – Copies to be kept in office of the clerk, § 31-16-206, C.R.S.

Chapter 15.20

PLUMBING CODE

Sections:
15.20.010 Adoption of International Plumbing Code.
15.20.020 Amendments to International Plumbing Code.

15.20.010 Adoption of International Plumbing Code.

(a) The International Plumbing Code as published by the International Code Council, together with amendments as set forth below (hereafter "IPC" or "International Plumbing Code") is hereby adopted for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use, and maintenance of plumbing systems within the jurisdiction.

(b) The following chapters of the Appendix of the International Plumbing Code, 2006 Edition, are adopted:

(1) Appendix B – Rates of Rain Fall for Various Cities;

(2) Appendix E – Sizing of Water Piping Systems.

No other chapters of the Appendix are adopted.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-54)

State law reference(s) – Plumbers, § 12-58-101, C.R.S. et seq.; copies to be kept in office of the clerk, § 31-16-206, C.R.S.

15.20.020 Amendments to International Plumbing Code.

The plumbing code adopted in Section 8-54 is hereby amended as follows:

(a) Section 106.6: Section 106.6 is amended by deletion of the section and replacing with the following:

> Section 106.6 Permit fees. A fee for each permit shall be as determined by City Council and set forth in a Resolution.

(b) Section 109: Section 109 is amended by deletion of the section and replacing with the following:

> Section 109, Subsection 109.1. The Board of Appeals as established in GJMC 15.08.010 shall serve as the Board of Appeals.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00; Ord. 2812, 2-15-95. Code 1994 § 8-55; Code 1965 § 7-81(c))

Chapter 15.24

MECHANICAL CODE

Sections:
15.24.010 Adoption of International Mechanical Code.
15.24.020 Amendments to International Mechanical Code.

15.24.010 Adoption of International Mechanical Code.

(a) The International Mechanical Code, 2006 Edition, promulgated by the International Code Council, Inc., together with amendments set forth below (hereafter "IMC" or "International Mechanical Code") is hereby adopted to regulate the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use and maintenance of mechanical systems within the jurisdiction.

(b) The following chapters of the Appendix of the International Mechanical Code, 2006 Edition, are adopted:

(1) Appendix A, Combustion Air Openings and Chimney Pass-Throughs.

No other chapters of the Appendix are adopted.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-56)

State law reference(s) – Copies to be kept in office of the clerk, § 31-16-206, C.R.S.

15.24.020 Amendments to International Mechanical Code.

The mechanical code adopted in GJMC 15.24.010 is hereby amended as follows:

(a) Section 106.5.2: Section 106.5.2 is amended by deletion of the section and replacing with the following:

> Section 106.5.2 Fee schedule. Fees shall be as determined by City Council and set forth in a Resolution.

(b) Section 108.4: Section 108.4 is amended by deletion of the section and replacing with the following:

> Section 108.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof shall be subject to penalties as prescribed in GJMC 15.08.050.

(c) Section 109: Section 109 is amended by deletion thereof. The Board of Appeals established in GJMC 15.08.010 shall serve as the Board of Appeals.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00; Ord. 2812, 2-15-95. Code 1994 § 8-57; Code 1965 § 7-81(d))

Chapter 15.28

FUEL GAS CODE

Sections:
15.28.010 Adoption of International Fuel Gas Code.
15.28.020 Amendments to International Fuel Gas Code.

15.28.010 Adoption of International Fuel Gas Code.

(a) The International Fuel Gas Code, 2006 Edition, promulgated by the International Code Council, Inc., together with amendments set forth below (hereafter "IFGC" or "International Fuel Gas Code") is hereby adopted for the control of buildings and structures within the jurisdiction.

(b) The following chapters of the Appendix of the International Fuel Gas Code, 2006 Edition, are adopted:

(1) Chapter A, Sizing and Capacities of Gas Piping;

(2) Chapter B, Sizing of Vent Systems;

(3) Chapter C, Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems.

No other chapters of the Appendix are adopted.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-58)

State law reference(s) – Copies to be kept in office of the clerk, § 31-16-206, C.R.S.

15.28.020 Amendments to International Fuel Gas Code.

The fuel gas code adopted in GJMC 15.28.010 is hereby amended as follows:

(a) Section 106.5.2: Section 106.5.2 is amended by deletion of the section and replacement with the following:

> Section 106.5.2 Fee schedule. Fees shall be as determined by City Council and set forth in a Resolution.

(b) Section 108.4: Section 108.4 is amended by deletion of the section and replacing with the following:

> Section 108.4 Violations penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof shall be subject to penalties as prescribed in GJMC 15.08.050.

(c) Section 109: Section 109 is amended by deletion thereof. The Board of Appeals established in GJCM 15.08.010 shall serve as the Board of Appeals.

(d) Section 404.4: Section 404.4 is amended by deletion and replacing with the following:

> Section 404.4 Piping through foundation wall. Underground piping outside of buildings shall terminate at exterior aboveground locations and shall enter buildings in exposed locations.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-59)

Chapter 15.32

PROPERTY MAINTENANCE CODE

Sections:
15.32.010 Adoption of International Property Maintenance Code.
15.32.020 Amendments to International Property Maintenance Code.

15.32.010 Adoption of International Property Maintenance Code.

The International Property Maintenance Code, 2006 Edition, promulgated by the International Code Council, Inc., together with amendments set forth below (hereafter "IPMC" or "International Property Maintenance Code") is hereby adopted for the control of buildings and structures within the jurisdiction.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-60)

State law reference(s) – Copies to be kept in office of the clerk, § 31-16-206, C.R.S.

15.32.020 Amendments to International Property Maintenance Code.

The property maintenance code, adopted in GJMC 15.32.010, is hereby amended as follows:

(a) Section 108.1.3: Section 108.1.3 is amended by the deletion of the words "vermin or rat infested."

(b) Section 111: Section 111 is amended by the deletion of the words and replaced with:

> The Board of Appeals established in GJMC 15.08.010 shall serve as the Board of Appeals.

(c) Section 302: Section 302 is amended by deletion thereof.

(d) Section 303: Section 303 is amended by deletion thereof.

(e) Section 307: Section 307 is amended by deletion thereof.

(f) Section 308: Section 308 is amended by deletion thereof.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-61)

Chapter 15.36

RESIDENTIAL CODE

Sections:
15.36.010 Adoption of International Residential Code.
15.36.020 Amendments to International Residential Code.

15.36.010 Adoption of International Residential Code.

(a) The International Residential Code, 2006 Edition, promulgated by the International Code Council, Inc., together with amendments set forth below (hereafter "IRC" or "International Residential Code") is hereby adopted for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height within the jurisdiction.

(b) The following chapters of the Appendix of the International Residential Code, 2006 Edition, are adopted:

(1) Appendix A, Sizing and Capacities of Gas Piping;

(2) Appendix B, Sizing of Vent Systems Serving Appliances Equipped With Draft Hoods, Category 1 Appliances, and Appliances Listed For Use With Type B Vents;

(3) Appendix C, Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems;

(4) Appendix D, Recommended Procedures for Safety Inspections of Existing Appliance Installations;

(5) Chapter H, Patio Covers;

(6) Appendix Q, ICC International Residential Code Electrical Provisions/National Electrical Code Cross-Reference.

No other chapters of the Appendix are adopted.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-62)

State law reference(s) – Copies to be kept in office of the clerk, § 31-16-206, C.R.S.

15.36.020 Amendments to International Residential Code.

The residential code adopted in GJMC 15.36.010 is hereby amended as follows:

(a) Section R105.2: Section R105.2, Item 1, is amended by deleting the words "120 square feet" and replacing with "200 square feet."

(b) Section R105.2: Section R105.2, Item 5, is amended to read:

Sidewalks, Driveways and Platforms not more than 30 inches above adjacent grade and not over any basement or story below.

(c) Section R105.2: Section R105.2 is amended by addition of the following new subsections:

Building Item 10. Re-siding of building regulated by this code.

Building Item 11. Re-roofing of buildings regulated by this code that do not exceed the limits of Section R907.3.

(d) Section R105.3.1.1: Section R105.3.1.1 is amended by deletion thereof.

(e) Section R106.3.1: Section R106.3.1 is amended by deletion of the first sentence of first paragraph. The Building Official shall retain one set of construction documents so reviewed.

(f) Section R106.5: Section R106.5 is amended by deletion thereof.

(g) Section R108.2: Section R108.2 is amended by deletion of the section and replacing with the following:

Section R108.2 Fee schedule. Fees shall be as determined by City Council and set forth in a Resolution.

(h) Section R112: Section R112 is amended by deletion thereof. The Board of Appeals established in GJMC 15.08.010 shall serve as the Board of Appeals.

(i) Table R302.1: Table R302.1 Exterior Walls is amended by changing the following:

Walls (not fire resistance rated) Minimum Fire Separation Distance = 3 feet

Projections (fire resistance rated) Minimum Fire Separation Distance = 2 feet

Projections (not fire resistance rated) Minimum Fire Separation = 3 feet

Openings (unlimited) Minimum Fire Separation = 3 feet

Openings (deleted 25%) Maximum Wall Area/0 Hours/3 feet

Penetrations (all) Minimum Fire Separation Distance < 3 feet, compliance with Section R317.3 and at 3 feet or greater, no requirements.

(j) Section R303.1: Section R303.1, Exception #3 is amended by deletion and replacing with the following:

Use of sunroom additions and patio covers, as defined in Section R202, shall be permitted for natural ventilation provided the space has adequate openings to the outside.

(k) Section R309.3: Section R309.3 is amended by deletion of the second paragraph.

(l) Section R309.5: Section R309.5 is amended by deletion thereof.

(m) Section R317: Section R317 is amended with the addition of:

For the purpose of this section, townhouse shall include two or more attached units as defined in Section R202.

(n) Section R408.2: Section R408.2 Openings for under-floor ventilation is amended by the addition of exception #1 to read:

The total area of ventilation openings may be reduced to 1/1,500 of under-floor area where the ground surface is treated with an approved vapor retarder material and the required openings are placed so as to provide cross-ventilation of the space. The installation of operable louvers shall not be prohibited.

(o) Section R908: The IRC is amended to add Section R908. Roof Covering Requirements in Wildfire Hazard Areas with the following subsections:

Section R908.1: Section R908.1 Wildfire Hazards defined. Areas that have wildfire hazard rating of medium or above (as shown on the Mesa County Wildfire Hazard Map).

Section R908.2 Roof Covering. Roof coverings for new buildings or structures or additions thereto or roof coverings utilized for re-roofing, shall be Class A or B, tested in accordance with ASME E108 or UL 790 or Fire-retardant-treated shingles or shakes treated in accordance with AWPA C1.

Section R908.3. Moved Buildings. Any building or structure moved within or into any Wildfire Hazard Area shall be made to comply with all the requirements for new buildings in the Wildfire Hazard Area.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-63)

Chapter 15.40

ENERGY CONSERVATION CODE

Sections:
15.40.010 Adoption of International Energy Conservation Code.

15.40.010 Adoption of International Energy Conservation Code.

The International Energy Conservation Code, 2006 Edition, promulgated by the International Code Council, Inc. (hereafter "IECC" or "International Energy Conservation Code") be and is hereby adopted as the code for the City of Grand Junction regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use and maintenance of the building envelope, mechanical, lifting and power systems in the City of Grand Junction.

(Ord. 4013, 1-3-07; Ord. 3318, 12-6-00. Code 1994 § 8-64)

State law reference(s) – Copies to be kept in office of the clerk, § 31-16-206, C.R.S.

Chapter 15.44

FIRE CODE

Sections:

15.44.010 Adoption of International Fire Code.
15.44.020 Establishment and duties of fire prevention.
15.44.030 Definitions.
15.44.040 Amendments to the International Fire Code.
15.44.050 New materials, processes or occupancies which may require permits.
15.44.060 Establishment and duties of Division of Fire Prevention.
15.44.070 Zones in which storage of flammable or combustible liquids in outside aboveground tanks is permitted.
15.44.080 Zones in which storage of liquefied petroleum gases is restricted.
15.44.090 Zones in which storage of explosives and blasting agents is prohibited.
15.44.100 Appeals.
15.44.110 Penalty provision.

Cross reference(s) – Smoking restricted in certain places, GJMC 8.20.020.

15.44.010 Adoption of International Fire Code.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, explosion, and chemical release, the International Fire Code (hereinafter "International Code" or "International Fire Code"), promulgated by the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, Virginia, including Appendices Chapters B, C, D, E, and F, 2006 Edition, except such portions as are hereinafter deleted, modified or amended by GJMC 15.44.040 are hereby adopted. Not less than one copy of the International Fire Code is filed in the office of the City Clerk. From the date on which this chapter shall take effect, the provisions of the International Code shall be controlling within the limits of the City of Grand Junction, Colorado.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00; Ord. 3141, 4-21-99; Ord. 2811, 2-15-95. Code 1994 § 18-56; Code 1965 § 12-21)

Cross reference(s) – Adoption of technical codes, Chapter 15.12 GJMC.

15.44.020 Establishment and duties of fire prevention.

(a) The International Code shall be enforced by the Division of Fire Prevention in the Fire Department of the City of Grand Junction which has been previously established and which shall be operated under the supervision of the Chief of said Fire Department.

(b) The Fire Marshal in charge of the Division of Fire Prevention in the Fire Department of the City of Grand Junction shall be appointed by the Chief of the Fire Department.

(c) The Chief of the Fire Department may detail such members of the Fire Department as inspectors as he shall from time to time deem necessary. The Chief of the Fire Department shall recommend to the City Manager the employment of technical inspectors as necessary.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00. Code 1994 § 18-57)

15.44.030 Definitions.

(a) Wherever the word "jurisdiction" is used in the International Fire Code, it shall be held to mean the City of Grand Junction, Colorado.

(b) Wherever the term "corporation counsel" is used in the International Fire Code, it shall be held to mean the City Attorney for the City.

(c) Wherever the term "City Manager" is used, it shall mean the City Manager or any employee of the City designated by the City Manager, such as but not limited to the Fire Chief, the Fire Marshal or the Finance Director of the City.

(d) Wherever an officer of the City, such as "City Manager" or "Fire Chief," is mentioned or designated herein, such officer may delegate, informally or in writing, the duties and responsibilities to a designee who shall have the full power and authority of the named or designated officer.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00; Ord. 3141, 4-21-99; Ord. 2811, 2-15-95. Code 1994 § 18-58; Code 1965 § 12-23)

Cross reference(s) – Definitions generally, GJMC 1.04.020.

15.44.040 Amendments to the International Fire Code.

The International Fire Code is amended and changed in the following respects:

(a) Add a section to read:

> **105.1.4 Permit Fees.** Permit rates and fees shall be as adopted by City Council by resolution.

(b) Section 105.6, Required Operational Permits. Section 105.6 is amended by adding an additional paragraph to read:

> An operational permit is not required for the following activities as set forth in the following titles under Section 105.6:
>
> 105.6.2 Amusement buildings
> 105.6.3 Aviation facilities
> 105.6.4 Carnivals and fairs
> 105.6.5 Cellulose nitrate film
> 105.6.6 Combustible dust-producing operations
> 105.6.7 Combustible fibers
> 105.6.9 Covered mall buildings
> 105.6.11 Cutting and welding
> 105.6.12 Dry cleaning plants
> 105.6.13 Exhibits and trade shows
> 105.6.15 Fire hydrants and valves
> 105.6.17 Floor finishing
> 105.6.18 Fruit and crop ripening
> 105.6.19 Fumigation and thermal insecticidal fogging
> 105.6.21 HPM facilities
> 105.6.23 Hot work operations
> 105.6.24 Industrial ovens
> 105.6.25 Lumber yards and woodworking plants
> 105.6.26 Liquid- or gas-fueled vehicles or equipment in assembly buildings
> 105.6.29 Miscellaneous combustible storage
> 105.6.32 Open flames and candles
> 105.6.34 Places of assembly
> 105.6.35 Private fire hydrants
> 105.6.38 Refrigeration equipment
> 105.6.39 Repair garages and motor fuel dispensing facilities
> 105.6.40 Rooftop heliports
> 105.6.42 Storage of scrap tires and tire byproducts
> 105.6.43 Temporary membrane structures, tents, and canopies
> 105.6.44 Tire-rebuilding plants

105.6.45 Waste handling
105.6.46 Wood products

(c) Section 311.1.1, Abandoned Premises. Section 311.1.1 is deleted and replaced with:

311.1.1 Abandoned premises. Buildings, structures and premises for which an owner cannot be identified or located by dispatch of a certificate of mailing to the last known or registered address, which persistently or repeatedly become unprotected or unsecured, which have been occupied by unauthorized persons or for illegal purposes, or which present a danger of structural collapse or fire spread to adjacent properties shall be considered abandoned, declared unsafe and abated by demolition or rehabilitation in accordance with the International Property Maintenance Code, 2006 Edition, and the International Building Code, 2006 Edition.

(d) Section 311.3, Removal of Combustibles. Section 311.3 shall be amended by addition of the following subsections:

311.3.1 In case of failure of any owner or lessee of such building(s) to remove all accumulations of hazardous materials, abate said building, and secure the premises, in a manner approved by the Fire Chief, and upon the election by the Fire Chief to remove said waste or rubbish and/or to secure or remove/install barricading of building(s), the Fire Chief is authorized to give notice by certified mail addressed to the last known address of the owner of such building, which shall require the removal of such waste or rubbish, or otherwise require the securing of said building(s) or removal of the problem causing the public nuisance, within sixty (60) days of the date of the notice. In the event such work is not done within the sixty (60) days, the City Manager may then proceed to have the work done as soon as practicable. The costs of such work shall be collected by the City Manager in accordance with the provisions of the International Property Maintenance Code. The charge shall be the actual costs for labor, equipment, and materials plus ten (10) percent for administration, supervision and inspection. The Fire Chief may cause any building to be barricaded or secured immediately after a fire has been extinguished. Any and all barricading or securing shall be at the owner's expense.

311.3.2 The City Manager, as soon as may be practicable after such charge is made, shall send by mail, addressed to the last known address of the owner of such property, a notice of such assessment. The notice shall contain a description of the lots or parcels of land, the name of the owner or owners, and the amount of the assessment, together with a brief description of said assessment.

311.3.3 It shall be the duty of the owner to pay such assessment within twenty (20) days after the mailing of such notice, and in case of his failure to do so, he shall be liable personally for the amount of the assessment and the same shall be a lien upon the respective lots or parcels of land from the time of such assessment. In case the owner shall fail to pay such assessment within twenty (20) days after notice has been mailed to him, as provided by this article, then it shall be the duty of the City Manager to certify the amount of the assessment to the County Treasurer or other officer of the County having custody of the tax list, for the current year, to be collected in the same manner as other taxes are collected, with ten (10) percent penalty thereon to defray the cost of collection. All of the laws of the State of Colorado for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full effect for the collection of all such assessments.

311.3.4 The fact that assessments have been made against property as provided in this article for removal of waste and rubbish, abatement and/or barricading or securing of said building(s) shall not prevent the owner, agent or lessee from being punished by fine

or imprisonment under the provisions of GJMC 1.04.090, but such fine or penalty may be imposed on those found guilty of violating any provision hereof in all cases, whether an assessment has or has not been made in accordance with the provisions hereof.

(e) Section 503.1, Where Required. Section 503.1 is amended by addition of the following:

The Fire Chief may be guided by the City of Grand Junction *Traffic Engineering Design Standards* and by Appendix D of this code for more detailed design requirements and alternative designs.

(f) Section 503.2.1, Dimensions. Section 503.2 is amended by the addition of two additional subsections, numbered 503.2.1.1 and 503.2.1.2, at the end thereof to read:

503.2.1.1 Fire apparatus access roads may, notwithstanding the foregoing paragraphs, have an unobstructed width of not less than sixteen feet if constructed as a loop ("fire loop lane"), as indicated in the diagram shown below and if all of the following conditions are met:

1. Not more than seven single family residences obtain access from the fire loop lane;

2. The sixteen foot wide fire loop lane shall consist of an all-weather clear surface;

3. No curve on any portion of the flow line of the fire loop lane shall have an inside radius of less than thirty-three feet (33') and an outside radius of less than forty-eight feet (48'). "Flow line" means the area between the curbs or equivalent if curbs are not present;

4. No portion of the fire loop lane shall extend more than two hundred and fifty feet (250') from the abutting street right-of-way;

5. A minimum of four parking spaces shall be constructed at the end of the fire loop lane, as indicated on the diagram;

6. The fire loop lane and parking stalls, as indicated on the diagram, are dedicated to and maintained by the City;

7. Two-way traffic is allowed;

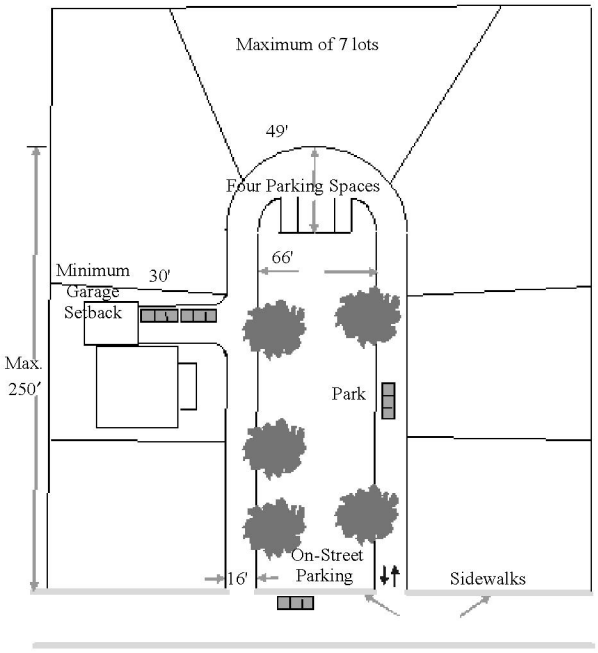
8. "No parking" signs and markings, as required by the City, are installed and maintained so that no parking is allowed between the curbs on any traveled portion of the fire loop lane;

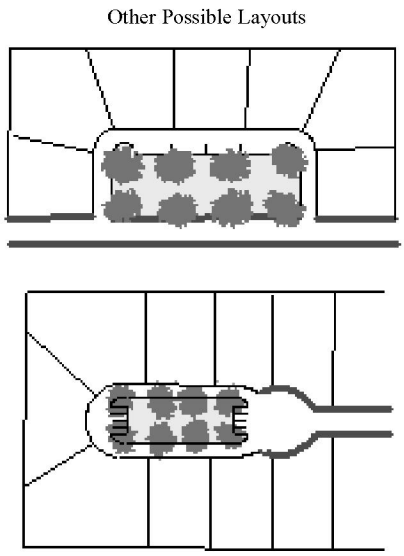
9. Corner lots that front the fire loop lane and the abutting street shall be required to only obtain access from the fire loop lane;

10. No garage or carport built on a lot obtaining access from the fire loop lane shall be constructed, any portion of which is closer than thirty feet (30') from any portion of the fire loop lane;

11. Each residence obtaining access from the fire loop lane shall provide and maintain four parking spaces between the garage or carport and the fire loop lane; and

12. The fire loop lane shall only connect to a street where on-street parking exists now and is expected to remain, according to the City Engineer, based on such factors as the City capital program and any adopted street plans.





503.2.1.2 Fire code standards for a shared driveway:

1. A shared driveway shall be owned and maintained by the owners of the parcels or lots which abut the shared driveway;

2. Not more than four single family lots shall abut or touch any portion of the shared driveway and no more than four single family units may access a shared driveway;

3. A shared driveway shall be least sixteen feet (16') wide and not longer than one hundred and fifty feet (150');

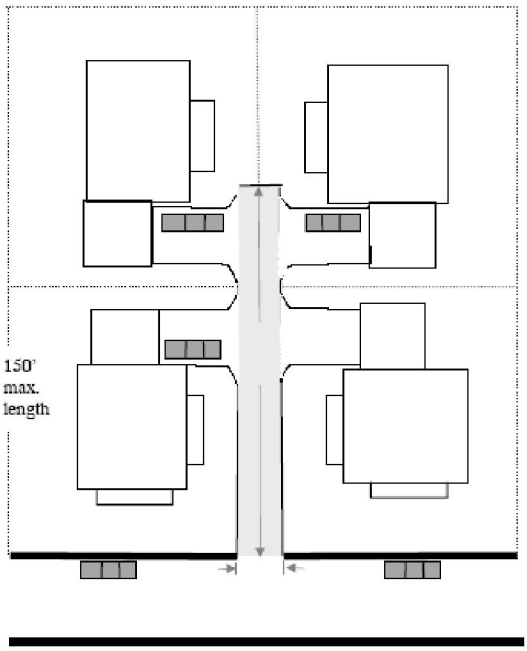
4. No parking is allowed on the shared driveway;

5. Each lot abutting a shared driveway must provide four (4) on-site parking spaces.

6. Each lot abutting a shared driveway must access off the shared driveway unless approved by Director of Community Development or Planning Commission, depending upon which entity is approving the plan; and

7. A shared driveway may be used only where it intersects a street where on-street parking exists and is expected to remain, according to the City Engineer, based on such factors as the City capital program and any adopted street plans.

Example Layout for a Shared Driveway



(g) Section 903.3.1.3, NFPA 13D Sprinkler Systems. Section 903.3.1.3 is amended by the addition of the following:

Where domestic water is provided by a public water system, any required 13D system must be supplied by the public water system. The water tap must be adequate to supply the hydraulic demand of the fire sprinkler system.

(h) Section 903.3.7, Fire Department Connections. Section 903.3.7 is amended by the addition of the following:

Fire department connections must be located within 150 feet of the nearest fire hydrant.

(i) Section 907.15, Monitoring. Section 907.15 is amended by addition of the following subsections:

907.15.1 False alarms. Whenever the activation of any fire alarm is due to a malfunction of the alarm or alarm system and that alarm or alarm system has had a malfunction within the same calendar year quarter, or more than six times during any calendar year, the owner and/or operator of the alarm or alarm system shall pay a false alarm fee to offset some of the costs involved in the dispatching and responding of fire equipment to the location of the alarm.

907.15.2 It is the responsibility of the owner or operator of an alarm system to prevent the improper use of the system, such as the intentional activating of a false alarm or the intentional activation of a smoke or heat detector to produce a false alarm. After three such activations within the same quarter of a calendar year, or more than six during any calendar year, from the same alarm system, the fee schedule for false alarms shall become effective.

907.15.3 Whenever the Fire Chief cannot determine how a false alarm was activated and three such unexplained alarms occur within a calendar year quarter, or alarm(s) ex-

ceeding six during any calendar year, the fee schedule for false alarms shall become effective with the fourth and seventh and subsequent alarm(s) respectively.

907.15.4 A fee, in accordance with the fee schedule established by resolution of the City Council and on file with the City Clerk, shall be charged for false alarms.

907.15.5 A new alarm system shall be allowed thirty (30) days to become stabilized before charges will accrue for false alarms.

(j) Section 2505, Outdoor Storage of Tires. Section 2505 is deleted in its entirety and replaced with the following:

Section 2505.1. No person shall store more than 500 tires on any parcel, tract or lot of land.

Section 2505.2. Tires shall be arranged as required in sections 2505.3 through 2505.7.

Section 2505.3. Maximum pile or stack height shall not exceed six (6) feet.

Section 2505.4. Pile or stack width and length shall not exceed eight (8) feet.

Section 2505.5. Twenty (20) feet of clearance shall be maintained between piles or stacks.

Section 2505.6. Piles or stacks shall not be placed closer than twenty (20) feet to any structure; and

Section 2505.7. Piles or stacks shall be stored so as to provide ready access by the Fire Department in the event of a fire.

(k) Section B103, Modifications. Section B103 is amended by the addition of the following subsection:

B103.4 Alternative Methods. In areas which are mostly developed where not more than two buildable lots are created (at the same time) after the effective date hereof, and the existing water lines and fire flow are inadequate in the area, the Fire Chief may allow a residential structure to be built if sprinklered and if he determines that water upgrades would be impracticable. In such event, the Fire Chief shall record a memorandum indicating the fire protection measure used and the facts concerning the inadequate water lines.

(l) Section C102, Location. Section C102 is amended by the addition of the following:

C102.2 Water supply lines. Hydrants shall be on a looped (receiving water from more than one direction) water supply line of at least six inches (6") in diameter.

Exceptions:

1. One or two-family residential developments may have hydrants supplied by a dead-end water line where there are 30 or fewer dwelling units. Up to 60 dwelling units may have hydrants supplied by a dead-end water line when all units are protected by an approved residential fire sprinkler system. In any case, the Fire Chief may require such developments provide for water line connections to adjacent properties to ensure the overall water distribution system meets recognized standards.

2. Multiple-family residential developments having up to 100 dwelling units may be protected by fire hydrants supplied by a dead-end water line. Up to 200 dwelling units may be protected by fire hydrants supplied by a dead-end water line when all units are protected by an approved residential fire sprinkler system. In no case shall such developments be supplied by a dead-end line exceeding 1,000 feet in length. The Fire Chief may require such developments provide for water line connections to adjacent properties to ensure the overall water distribution system meets recognized standards.

3. For commercial and industrial developments, any building not exceeding three stories or 30 feet in height may be protected by fire hydrants supplied by a dead-end water line.

4. For commercial and industrial developments, buildings or facilities having a gross building area up to 62,000 square feet may be protected by fire hydrants supplied by a dead-end water line. The gross building area may be increased to 124,000 square feet without a looped water line when all buildings are equipped with an approved automatic fire sprinkler system. In no case shall such developments be supplied by a dead-end line exceeding 1,000 feet in length. The Fire Chief may require such developments to provide for water line connections to adjacent properties to ensure the overall water distribution system meets recognized standards.

5. The Fire Chief may allow a new development that would otherwise be required to provide a looped water line for required fire hydrants, to have a dead-end line as long as the development provides a means to connect to a looped system as future development occurs. The time period and conditions under which this exception is allowed shall be as determined by the Chief.

6. The Fire Chief may allow fire hydrants to be supplied by other than a looped water line when the permittee can demonstrate, to the satisfaction of the Fire Chief, that a looped system is not practicable. In such event, the Fire Chief shall make his findings in writing and shall copy such findings to the Public Works Director and the Director of Community Development. In such cases, additional fire protection may be required as determined by the Chief.

C102.3 Fire Hydrant Installation. The distance from the center of the fire hydrant pumper connection to the finished grade shall not be less than 22 inches. Pumper connections shall face the access road or as directed by the Fire Chief.

(m) Section D107.1, One- or Two-Family Residential Developments. D107.1, exception 1: Delete the language of exception 1 and replace with:

1. Where there are 60 or fewer dwelling units on a single public or private access way and all dwelling units are protected by approved residential sprinkler systems, access from two directions shall not be required.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00; Ord. 2811, 2-15-95. Code 1994 § 18-59; Code 1965 § 12-29)

Cross reference(s) – New materials, processes or occupancies which may require permits, GJMC 15.44.050; zones in which storage of flammable or combustible material in outside aboveground tanks is permitted, GJMC 15.44.070; zones in which storage of liquefied petroleum gas is restricted, GJMC 15.44.080; zones in which storage of explosives and blasting agents is prohibited, GJMC 15.44.090; appeals from decisions regarding the fire regulations in the City, GJMC 15.44.100.

15.44.050 New materials, processes or occupancies which may require permits.

The Fire Chief and the Fire Marshal shall determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in the International Fire Code. The Fire Marshal shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00. Code 1994 § 18-60; Code 1965 § 12-28)

Cross reference(s) – Amendments to the International Fire Code, GJMC 15.44.040.

15.44.060 Establishment and duties of Division of Fire Prevention.

(a) The International Fire Code shall be enforced by the Division of Fire Prevention in the Fire Department of the City, which has been previously established and which shall be operated under the supervision of the Fire Chief or his designee.

(b) The Fire Marshal in charge of the Division of Fire Prevention in the Fire Department of the City shall be appointed by the Fire Chief on the basis of his/her qualifications.

(c) The Fire Chief may detail such members of the Fire Department as inspectors as he shall from time to time deem necessary. The Fire Chief shall recommend to the City Manager the employment of technical inspectors, who, when such authorization is made, shall be appointed on the basis of their qualifications.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00. Code 1994 § 18-61; Code 1965 § 12-22)

Cross reference(s) – Officers and employees, Chapter 2.08 GJMC.

15.44.070 Zones in which storage of flammable or combustible liquids in outside aboveground tanks is permitted.

(a) Section 3404 of the International Fire Code limits the storage of flammable or combustible liquids in outside aboveground tanks. Storage of flammable or combustible liquids is permitted as follows:

On lands within the City that are zoned in the categories of C-2 (heavy commercial), I-1 (light industrial) and I-2 (heavy industrial). The Fire Chief may permit storage of flammable or combustible liquids in aboveground tanks on lands within the jurisdiction which are zoned C-1 (light commercial) when it can be demonstrated to the Fire Chief or his designee that such use may be safely undertaken in the particular location.

(b) Section 3406.4 of the International Fire Code limits the siting of bulk plants for flammable or combustible liquids. New bulk plants or terminals for flammable or combustible liquids are permitted as follows:

On lands within the City that are zoned in the categories of C-2 (heavy commercial), I-1 (light industrial) and I-2 (heavy industrial). The Fire Chief may permit such use in C-1 (light commercial) when it can be demonstrated to the satisfaction of the Fire Chief or his designee that such use may be safely undertaken in the particular location.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00. Code 1994 § 18-62; Code 1965 § 12-24)

Cross reference(s) – Amendments to the International Fire Code, GJMC 15.44.040.

15.44.080 Zones in which storage of liquefied petroleum gases is restricted.

Section 3804 of the International Fire Code restricts the storage of liquefied petroleum gas. Liquefied petroleum gas may be stored as follows:

On lands within the City that are zoned in the categories of C-2 (heavy commercial), I-1 (light industrial) and I-2 (heavy industrial). The Fire Chief may permit such use in C-1 (light commercial)

when it can be demonstrated to the satisfaction of the Fire Chief or his designee that such use may be safely undertaken in the particular location.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00. Code 1994 § 18-63; Code 1965 § 12-25)

Cross reference(s) – Amendments to the International Fire Code, GJMC 15.44.040.

15.44.090 Zones in which storage of explosives and blasting agents is prohibited.

Storage of explosives and blasting agents, within the limits of the City, is prohibited. This restriction shall not prohibit such use where the storage is made by an individual or company under proper safeguards as may be prescribed by the Fire Chief or his designee.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00. Code 1994 § 18-64; Code 1965 § 12-26)

Cross reference(s) – Amendments to the International Fire Code, GJMC 15.44.040.

15.44.100 Appeals.

Whenever the Fire Chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the International Fire Code do not apply or that the true intent and meaning of the International Fire Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Chief to the Board of Appeals created by Section 108 of the International Fire Code, by filing with the Fire Chief a written appeal along with a fee as established by resolution of the City Council and on file in the City Clerk's office, within 30 days from the date of the decision appealed.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00. Code 1994 § 18-65; Code 1965 § 12-27)

Cross reference(s) – Amendments to the International Fire Code, GJMC 15.44.040.

15.44.110 Penalty provision.

GJMC 1.04.090 shall apply as though fully set forth in each code and provision adopted in this chapter.

(Ord. 4012, 1-3-07; Ord. 3319, 12-6-00. Code 1994 § 18-67)

Appendix A

Franchises

Chapters:

I. Public Service Company of Colorado
II. Grand Valley Rural Power Lines, Inc.
III. Bresnan Communications

Charter reference(s) – Franchises and public utilities, Article XIV; procedures for adoption of franchises, § 105 et seq.
Cross reference(s) – Franchise for operating water and wastewater systems in the City, GJMC 13.12.360.

Chapter I. Public Service Company of Colorado

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Sec. 2.3 Term of franchise.

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Sec. 14.1 Transportation of gas.

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Sec. 19.2 Company approval.
Sec. 19.3 Voter's approval.
Sec. 19.4 Termination of prior franchise.

PEOPLE'S ORDINANCE NO. 35

An ordinance granting a franchise by the City of Grand Junction to Public Service Company of Colorado, its successors and assigns, the right to furnish, sell and distribute gas and electricity to the City and to all persons, businesses, and industry within the City and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said City all facilities reasonably necessary to furnish, sell and distribute gas and electricity within the City and the right to make reasonable use of all streets and other public places and public easements as herein defined, as may be necessary; and fixing the terms and conditions thereof.

Be it ordained by the City Council of the City of Grand Junction, Colorado:

Article 1. Definitions

Sec. 1.0 Definitions.

For the purposes of this franchise, the following words and phrases shall have the meaning given in this article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in this article shall be given their common ordinary meaning.

1.1 *City* refers to and is the municipal corporation designated as the City of Grand Junction, Mesa County, Colorado, and includes the territory as currently is or may in the future be included within the boundaries of the City of Grand Junction.

1.2 *Company* refers to and is Public Service Company of Colorado, and its successors and assigns, but does not include its affiliates, subsidiaries or any other entity in which it has an ownership interest.

1.3 *Council* or *City Council* refers to and is the legislative body of the City.

1.4 *Distribution facilities* refers to and is only that portion of the company's electric system which delivers electric energy from the substation breakers to the point-of-delivery of the customer, including all devices connected to that system, as well as that portion of the company's gas system which delivers gas from the down side of the regulator station to the point-of-delivery of the customer, including all devices connected to that system.

1.5 *Facilities* refer to and are all facilities reasonably necessary to provide gas and electricity into, within and through the City and include plants, works, systems, substations, transmission and distribution structures, lines, equipment, pipes, mains, conduit, transformers, underground lines, gas compressors, meters, wires, cables and poles.

1.6 *Gas* or *natural gas* refers to and is such gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum, manufactured, or any mixture thereof.

1.7 *Public easements* refer to and are public and dedicated easements created and available for use by public utilities for their facilities.

1.8 *Public Utilities Commission* or *PUC* refers to and is the Public Utilities Commission of the State of Colorado or other authority succeeding to the regulatory powers of the Public Utilities Commission.

1.9 *Residents* refers to and includes all persons, businesses, industry, governmental agencies, and any other entity whatsoever, presently located or to be hereafter located, in whole or in part, within the territorial boundaries of the City.

1.10 *Revenues* refer to and are those amounts of money which the company receives from its customers within the City for the sale and transportation of gas and the sale of electricity and use of its facilities by others within the City, as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments.

1.11 *Streets and other public places* refer to and are streets, alleys, viaducts, bridges, roads, lanes and other public rights-of-way and public easements in said City.

Article 2. Grant of Franchise

Sec. 2.1 Grant of franchise.

The City of Grand Junction hereby grants to Public Service Company, for the period specified in and subject to the conditions, terms and provisions contained in this franchise, a nonexclusive right to furnish, sell and distribute gas and electricity to the City and to all residents of the City. Subject to the conditions, terms and provisions contained in this franchise, the City also hereby grants to the company a nonexclusive right to acquire, construct, install, locate, maintain, operate and extend into, within and through the City all facilities reasonably necessary to furnish, sell and distribute gas and electricity within and through the City and a nonexclusive right to make reasonable use of the streets and other public places as may be necessary to carry out the terms of this franchise. These rights shall extend to all areas of the City as it is now constituted and to additional areas as the City may increase in size by annexation or otherwise. The City reserves the right to itself make or grant a similar use in the said public ways.

Sec. 2.2 Street lighting service.

The rights granted in this franchise encompass the nonexclusive franchise to provide street lighting service to the City and the provisions of this franchise apply with full and equal force to the street lighting service provided by the company. Wherever reference is made to the sale of electricity or to the provision of electric service in this franchise, these references shall be deemed to include the provision of street lighting service. Wherever reference is made to company facilities, equipment, system or plant in this franchise, this reference shall be deemed to include company-owned street lighting facilities, equipment, system and plant.

Sec. 2.3 Term of franchise.

This franchise shall take effect on January 1, 1993. The term of this franchise shall be for 20 years, beginning with said effective date of this franchise and expiring on December 31, 2012.

Article 3. Franchise Fee

Sec. 3.1 Franchise fee.

In consideration for the grant of this franchise, the company shall pay the City a sum equal to three percent of the first $10,000 of all revenue received monthly from the sale of electric power and from the sale and transportation of natural gas within the City, to each customer at any one location and a sum equal

to two percent of all revenue received monthly from the sale of electric power and from the sale and transportation of natural gas within the City in excess of $10,000 to each customer for each such service at any one location; provided, however, there shall be excluded from all of such revenue all amounts paid to the company by the City for electric service and gas furnished to the City.

Sec. 3.2 Payment schedule.

For the franchise fee owed on revenues received after the effective date of this franchise, payment shall be made in monthly installments not more than 30 days following the close of the month for which payment is to be made. Initial and final payments shall be prorated for the portions of the months at the beginning and end of the term of this franchise. All payments shall be made to the City Finance Director or other person designated by the City. The City Finance Director, or other authorized representatives, shall have access to the books of the company for the purpose of auditing or checking to ascertain that the franchise fee has been correctly computed and paid.

In the event an error by the company results in an overpayment of the franchise fee to the City and said overpayment is in excess of $5,000, credit for the overpayment shall be spread over an equal period of time for which the error was undiscovered. If the overpayment is $5,000 or less, credit shall be taken against the next payment(s).

Sec. 3.3 Change of franchise fee and other franchise terms.

Once during each calendar year of the franchise term the City Council, upon giving 30 days' notice to the company of its intention so to do, may review and change the consideration the City may be entitled to receive as a part of the franchise; provided, however, the Council may only change the consideration to be received by the City under the terms of this franchise to the equivalent of the consideration paid by the company to any city or town in the State of Colorado in which the company supplies gas and/or electric service under franchise.

The company shall, upon request, report to the City within 60 days of the execution of a subsequent franchise or of any change of franchise in other municipalities under which a city receives greater consideration than is provided herein from the company to the City hereunder. If the City Council decides the consideration shall be so changed, it shall provide for such change by ordinance; provided, however, that any change in the franchise fee is then allowed to be surcharged by the company; and provided, further, that the consideration is not higher than the highest consideration paid by the company to any municipality, including the City and County of Denver, within the State of Colorado. For purposes of this section, consideration means the franchise fee established in Article 3, Section 1; the undergrounding program established in Article 10, Section 2; and also includes any other provision which is of similar significant financial benefit to the City.

Sec. 3.4 Franchise fee payment in lieu of other fees.

Payment of the franchise fee by the company is accepted by the City in lieu of any occupancy tax, license tax, or similar tax on the privilege of doing business or in connection with the physical operation thereof, but does not exempt the company from any lawful taxation upon its property or any other tax not related to the franchise or the physical operation thereof except the City may impose and company shall pay road cut permits, inspection fees and permits, and other similar costs and fees uniformly applied throughout the City and does not exempt the company from payment of head taxes or other fees or taxes assessed generally upon businesses.

Sec. 3.5 Contract obligation.

This franchise ordinance constitutes a valid and binding contract between the company and the City. In the event that the franchise fee specified in this ordinance is declared illegal, unconstitutional or void for any reason by any court or other proper authority, the company will be contractually bound to pay an occupation tax to the City that would be, as near as practicable, equivalent to the amount which would have been paid by the company as a franchise fee hereunder.

Article 4. Supply, Construction and Design

Sec. 4.1 Supply of gas and electricity.

The company shall take all reasonable and necessary steps to provide an adequate supply of gas and electricity to its customers at the lowest reasonable cost consistent with long-term reliable supplies. If the supply of gas and electricity to its customers should be interrupted, the company shall take all necessary and reasonable actions to restore such supply within the shortest practicable time.

Sec. 4.2 Restoration of service.

In the event the company's gas and/or electric system, or any part thereof, is partially or wholly destroyed or incapacitated, the company shall use due diligence to restore its system to satisfactory service within the shortest practicable time.

Sec. 4.3 Obligations regarding company facilities.

The company shall install, maintain, repair, renovate and replace its facilities with due diligence in a good and workmanlike manner and the company's facilities will be of sufficient quality and durability to provide adequate and efficient gas and electric service to the City and its residents. Company facilities shall not interfere with the City's water mains, sewer mains or other municipal use of streets and other public places. The company shall erect and maintain its facilities in such a way so as to minimize interference with trees and other natural features. Company facilities shall be installed in public easements so as to cause a minimal amount of interference with such property.

Sec. 4.4 Excavation and construction.

All excavation and construction work done by the company shall be done in a timely and expeditious manner which minimizes the inconvenience to the public and individuals. All public and private property whose use conforms to restrictions in public easements disturbed by company excavation or construction activities shall be restored by the company at its expense to substantially its former condition. The City reserves the right to determine compliance; provided, however, nothing herein shall limit the company's ability to challenge the City's determination of compliance before any authority having jurisdiction. If, after reasonable notice to the company and the company's failure to restore same, and if such failure poses a threat to the health, safety and welfare of the public, the City may take remedial steps as necessary. In such event, the company shall reimburse the City fully for its costs therefor.

Sec. 4.5 Relocation of company facilities.

Within the City, if at any time the City requests the company to relocate any facility in the City installed or maintained in streets, alleys, public rights-of-way or public easements, pursuant to this franchise or previous franchises, in order to permit the City to make any public use of rights-of-way, easements or streets to construct any public improvement, or to build any public project, or for any municipal purpose in which the City has a financial or ownership interest, such relocation shall be made by the company at its expense. Such relocation shall be completed within a reasonable time from the date when the City makes its request; provided, however, the company shall be granted an extension of time of completion equivalent to any delay caused by conditions not under its control and provided further that the company proceed with due diligence at all times. Following relocation, all property shall be restored to its former condition by the company at its expense. Nothing herein contained shall be construed to impose any obligation upon the City to make any payment for any relocation of company's facilities whether located within, or without, said designated areas.

Relocated underground facilities shall be underground. Relocated aboveground facilities shall be aboveground unless the City either agrees to pay the additional cost of moving them underground or requests that such additional cost be paid out of available funds under Section 10.2.

Sec. 4.6 Service to new areas.

If the boundaries of the City are expanded within the company's certificated service area during the term of this franchise, the company shall extend service to residents in the expanded area at the earliest practicable time and in accordance with the company's extension policy. Service to the expanded area shall be in accordance with the terms of this franchise agreement, including payment of franchise fees.

Sec. 4.7 City not required to advance funds.

Upon receipt of the City's authorization for billing and construction, the company shall extend its facilities to provide gas and electric service to the City for municipal uses within the City limits or for any major municipal facility outside the City limits, and within the company certificated service area, without requiring the City to advance funds prior to construction.

Sec. 4.8 Technological improvements.

The company shall generally introduce and install, as soon as practicable, electrical energy technological advances in its equipment and service within the City when such advances are technically and economically feasible and are safe and beneficial to the City and its residents. The company shall report in advance to the City any plans to include technological advances relating to communications systems such as fiber optics which may utilize gas and electric facilities already in place for the transmission of communication signals, which facilities may be installed by the company for its use, the use of the City, or for use of others as the company may license. The City may use said facilities for its own use without cost, except such additional expense which may be incurred by the company as a result of the City's use. The City shall not use said facilities for commercial purposes unless it reaches prior agreement with the company regarding consideration for the use of said facilities. In no event shall the City's use impair the company's use of its own facilities. Upon request of the City, the company will provide a detailed report for the use of such communications systems subject to protecting confidential information. Nothing contained herein shall be construed to authorize the company to engage in communications activities for sale or lease, nor shall this ordinance be construed as a franchise for said telecommunications activities within the City.

Article 5. Compliance

Sec. 5.1 City regulation.

The City expressly reserves, and the company expressly recognizes, the City's right and duty to adopt, from time to time, in addition to the provisions herein contained, such Charter provisions, ordinances and rules and regulations as may by the City be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens.

Sec. 5.2 Compliance with City requirements.

The company will comply with all City requirements regarding curb and pavement cuts, excavating, digging and related construction activities. If requested by the City, the company shall submit copies of reports of annual and long-term planning for capital improvement projects with descriptions of required street cuts, excavation, digging and related construction activities within 30 days after issuance. Except for emergencies, the City may require that all installations be coordinated with the City's street improvement programs. The Director of Public Works shall be the City's agent for inspection and for compliance with City ordinances and regulations on any such project.

Sec. 5.3 City review of construction and design.

Prior to construction of any significant facilities for electrical energy, any transmission lines or generating plant, building, substation, or similar structure within the City, the company shall furnish to the City the plans for such facilities. In addition, the company shall assess and report on the impact of such proposed construction on the City environment. Such plans and reports may be reviewed by the City to ascer-

tain, inter alia, (1) that all applicable laws including building and zoning codes and air and water pollution regulations are complied with, (2) that aesthetic and good planning principles have been given due consideration and (3) that adverse impact on the environment has been minimized.

Sec. 5.4 Compliance with regulations.

The gas and electrical energy which the company distributes shall conform with the standards promulgated by the Public Utilities Commission, and with the tariff provisions of the company setting standards, as the same may be amended from time to time.

Sec. 5.5 Compliance with air and water pollution laws.

The company shall use its best efforts to take measures which will result in its facilities meeting the standards required by applicable federal, State and City air and water pollution laws; provided, however, that nothing herein shall limit the company's right to challenge the validity or applicability of any such laws or standards. Upon the City's request, the company will provide the City with a status report of such measures.

Sec. 5.6 Inspection.

The City shall have the right to inspect at all reasonable times any portion of the company's system used to serve the City and its residents. The City shall also have access to company records for the purpose of determining company compliance with this franchise. The company agrees to cooperate with the City in conducting the inspection and to correct any discrepancies affecting the City's interest in a prompt and efficient manner.

Article 6. Public Utilities Commission

Sec. 6.1 Public Utilities Commission regulation.

The City and the company recognize that the lawful provisions of the company's tariffs on file and in effect with the Public Utilities Commission which are consistent with the restrictions and limitations of Article XXV of the Colorado Constitution regarding the rights of municipalities to franchise are controlling over any inconsistent provision in this franchise dealing with the same subject matter. In the opinion of the company, no provision of this franchise is inconsistent with any of the currently effective provisions of the company's tariffs.

Article 7. Reports to City

Sec. 7.1 Reports on company operations.

The company shall submit reasonable and necessary reports containing or based on information readily obtainable from the company's books and records as the City may request with respect to the operations of the company under this franchise and provide the City with a list of real property within the City which is owned by the company.

Sec. 7.2 Copies of tariffs.

The company shall keep on file in a local company office, all tariffs, rules, regulations and policies approved by the Public Utilities Commission relating to service by the company to the City and its residents.

Sec. 7.3 Bills.

On request by the City, the company shall at no cost provide a list of account numbers and items metered and shall specify the type of account for which charges are made, i.e., gas service, street lighting, traffic signal, general office, spot lighting, etc., and the company shall provide the City every two years with a complete listing of all the City's accounts.

Article 8. City Use of Company Facilities

Sec. 8.1 City use.

The City shall have the right to use, for the purpose of stringing wires, all poles and suitable overhead structures constructed by the company within the City, which use shall not include the distribution or transmission of electricity. Such use by the City will be without cost. The company will allow others holding a franchise, except for electric service, from the City to so utilize such poles and suitable overhead structures upon reasonable terms and conditions to be agreed upon by the company and such holder of a franchise from the City; provided, however, that nothing herein contained shall limit or restrict company from, in its sole discretion, authorizing such joint use by holders of an electric franchise from the City; and provided further, that the company shall assume no liability nor shall it be put to any additional expense in connection therewith and the use of said poles and structures by the City or others holding a franchise from the City shall be in such a manner as not to constitute a safety hazard or to interfere unreasonably with the company's use of same.

Sec. 8.2 Underground conduit.

If the company installs new electric underground conduit or opens a trench or replaces such conduit, the company shall provide adequate advance notice to permit additional installation of similar conduit and pull wire for the City. If the City wants additional similar conduit and pull wire installed, it will so notify the company and provide similar conduit and pull wire at its expense to the company which will install it without further expense to the City; provided, that such action by the City will not unreasonably interfere with the company's facilities or delay the accomplishment of the project.

Sec. 8.3 Annexation to the City.

When any property owned by the company becomes eligible for voluntary annexation to the City and is not simultaneously eligible for voluntary annexation to another municipal corporation, the company shall petition to annex the same upon request made by the City; provided, that no condition of such annexation shall impair the company's ownership or then existing use of its property and water or water rights for public utility purposes. Except as herein provided, the company agrees to meet all terms and conditions imposed upon the annexation by the City that are no more stringent than those imposed generally upon property owners seeking annexation of their land to the City. The company shall be exempted from a public donation of land, money or water rights arising from such mandatory annexation under this section to the extent that the land being annexed is committed, dedicated or being utilized by facilities directly involved in generating, transmitting or distributing electric energy or gas service(s) under this franchise; and provided further, that said exemption from public donation shall not extend to any unimproved land or land not so directly committed, dedicated and currently used.

Sec. 8.4 Right of first purchase.

In the event the company at any time during the term of this franchise proposes to sell or dispose of any of its real property located within the City, it shall grant to the City the right of first purchase of same. The company shall supply a qualified appraisal on any such property to the City which shall have 60 days in which to exercise the right of first purchase by giving written notice to the company. Should the City not provide the required written notice, the company may proceed to negotiate with others for the sale of such property provided that the company may not sell such property for an amount less than 95 percent of the appraised value without first providing the City an opportunity to purchase such property at such

lesser price, in which event the City must notify the company in writing within 30 days if it wishes to purchase such property. It is understood that nothing in this section shall preclude the company from transferring real property to a subsidiary or affiliate without first affording the City the rights referred to above, provided that if the transferee proposes to sell or dispose of such property within one year, it shall not do so without first affording the City the rights referred to above.

Article 9. Indemnification of the City

Sec. 9.1 City held harmless.

The company shall save the City harmless and indemnify the City from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the City for all its reasonable expenses, arising out of the operations of the company within the City and the securing of and the exercise by the company of the franchise rights granted in this franchise, including any third party claims, administrative hearings and litigation. The company shall not be obligated to pay that part of any judgment which arises out of the negligent act or failure to act of the City or its officers or employees. The City will provide prompt written notice to the company of the pendency of any claim or action against the City arising out of the exercise by the company of its franchise rights. The company will be permitted, at its own expense, to appear and to defend or to assist in defense of such claim. None of the City expenses reimbursed by the company under this section shall be surcharged. In the event the City institutes litigation against the company for a breach of this ordinance or for an interpretation of the ordinance, and the City is the prevailing party, the company shall reimburse the City for all costs related thereto, including reasonable expert and attorneys' fees. The right of the company to seek contribution from the City for its negligence, as provided by the Colorado statutes, is hereby expressly reserved.

Sec. 9.2 Payment of expenses incurred by City in relation to ordinance.

At the City's option, the company shall pay in advance or reimburse the City for expenses incurred in publication of notices and ordinances and for photocopying of documents arising out of the negotiations or process for obtaining the franchise, including the costs of election.

Sec. 9.3 Financial responsibility.

At the time of the execution of this franchise, and from time to time at the City's request, not more frequently than annually, the company shall submit to the City Attorney as a confidential document proof of its ability to meet its obligations under this franchise, including its ability to indemnify the City as required by this article. This proof may take the form of insurance coverage, adequate funding of self-insurance, or the provision of a bond. The company shall supply the City with a list of its insurance companies with the types of coverage, but not levels of insurance. Said list shall be kept current by annual revisions as of January 1st during the term of the franchise. The City may require, from time to time, and the company agrees to provide, additional reasonable funding of the company's indemnification obligations as a self-insured, if company is acting as a self-insurer.

Sec. 9.4 Breach of contract.

In the event the company fails to fulfill a substantial obligation under this franchise, the City will have a breach of contract claim against the company, in addition to any other remedy provided by law.

Article 10. Underground Construction and Overhead Conversion

Sec. 10.1 Underground electrical distribution lines in new areas.

The company will place newly constructed electrical distribution lines underground to serve new residential subdivision areas in accordance with the company's tariffs and City subdivision regulations.

Sec. 10.2 Overhead conversion at expense of company.

(a) As and when requested by the City, the company will spend one percent of the preceding calendar year's electric revenues to move electric distribution facilities located in streets and other public places in the City underground; provided, that the undergrounding shall extend for a minimum distance of one block or 750 feet, or as may be mutually agreed to by the parties.

(b) Any unexpended portion of the one percent of electric revenue may be carried over to succeeding years and, in addition, upon request by the City, the company shall anticipate amounts to be available for up to three years in advance. Any amounts advanced shall be credited against amounts to be expended in succeeding years until such advances are eliminated. No relocation expenses which the company is required to expend pursuant to Section 4.5 shall be charged to this allocation.

(c) Funds to be expended pursuant to this section shall not be used in any project or situation for which and to the extent that the City has received federal or State funds for the purpose of undergrounding utilities. Funds to be expended pursuant to this section may be used for "matching" purposes with State or federal moneys.

(d) If the Public Utilities Commission authorizes a systemwide program or programs of undergrounding electric distribution facilities, the company will allocate to the program of undergrounding in the City such amount as is authorized by the Public Utilities Commission, but in no case less than one percent of annual electric revenues.

(e) In addition to the provisions of this section, the City may require additional facilities to be moved underground at the City's expense.

(f) The City acknowledges that the establishment of this undergrounding fund creates no vested right in the City to the undergrounding moneys. Further, if such moneys are not expended pursuant to the conditions hereof, the fund is not convertible to cash or available for any other purposes.

Sec. 10.3 Review of undergrounding program.

Representatives of both the City and the company shall meet periodically to review the company's undergrounding program. This review shall include:

(a) Undergrounding programs, including conversions and replacements which have been accomplished or are underway by the company, together with the company's plans for additional undergrounding;

(b) Undergrounding projects anticipated by the City.

Such meetings shall be held to achieve a continuing program for the orderly undergrounding of electrical lines in the City.

Sec. 10.4 Cooperation with other utilities.

When undertaking a project of undergrounding, the City and the company shall work with other utilities or companies which have their lines overhead to attempt to have all lines undergrounded as part of the same project. When other utilities or companies are placing their lines underground, the company shall cooperate with these utilities and companies and undertake to underground company facilities as part of the same project where feasible. The company shall not be required to pay the costs of any other utility in connection with work under this section.

Article 11. Transfer of Franchise

Sec. 11.1 Consent of City required.

The company shall not transfer or assign any rights under this franchise to a third party excepting only corporate reorganizations of the company not including a third party, unless the City Council shall approve in writing such transfer or assignment. Approval of the transfer or assignment shall not be unreasonably withheld.

Sec. 11.2 Transfer fee.

In order that the City may share in the value this franchise adds to the company's operation, any such transfer or assignment of rights under this franchise requiring the approval of the City Council shall be subject to the conditions that the transferee shall promptly pay to the City of Grand Junction a pro rata share of $1,000,000, which pro rata amount of $1,000,000 shall be calculated by multiplying $1,000,000 times a fraction of which the then population of the City of Grand Junction which is served by the company is the numerator and the then population of the City and County of Denver is the denominator. Such transfer fee shall not be recovered from the City or from the City residents or property owners through electric rates or gas rates of customers in the City of Grand Junction or by surcharge by the transferee or the company.

Article 12. Purchase or Condemnation

Sec. 12.1 City's right to purchase or condemn.

The right of the City to construct, purchase or condemn any public utility works or ways, and the rights of the company in connection therewith, as provided by the Colorado Constitution and statutes, are hereby expressly reserved.

Sec. 12.2 Continued cooperation by company.

In the event the City exercises its option to purchase or condemn, the company agrees that, at the City's request, it will continue to supply any service it supplies under this franchise, for the duration of the term of this franchise pursuant to terms and conditions negotiated for such continued operation. At City's request, company shall supply electric power for use by the City in the City system. No value shall be given to the franchise or to public rights-of-way. Company shall cooperate with the City by making available then existing pertinent company records which are not privileged to enable the City to evaluate the feasibility of acquisition by the City of company facilities.

Article 13. Removal of Company Facilities at End of Franchise

Sec. 13.1 Limitations on company removal.

In the event this franchise is not renewed at the expiration of its term or the company terminates any service provided herein for any reason whatsoever, and the City has not purchased or condemned the system and has not provided for alternative gas or electrical service, or if the franchise is forfeited, the company shall have no right to remove said system pending resolution of the disposition of the system. The company further agrees it will not withhold any temporary services necessary to protect the public and shall be entitled only to monetary compensation in no greater amount than it would have been entitled to were such services provided during the term of this franchise. Only upon receipt of written notice from the City stating that the City has adequate alternative electrical energy sources to provide for the people of the City shall the company be entitled to remove any or all of said systems in use under the terms of this franchise.

Article 14. Transportation of Gas

Sec. 14.1 Transportation of gas.

The City expressly reserves the right to obtain or produce gas. The company shall transport natural gas purchased by the City for use in City facilities pursuant to separate contracts with the City. The company agrees to transport gas made available for sale on terms and conditions comparable to other contracts entered into contemporaneously by the company with similarly situated customers.

Article 15. Small Power Production and Cogeneration

Sec. 15.1 Company to purchase.

The City expressly reserves the right to engage in the production of electricity. The company agrees to purchase said City-generated power pursuant to its tariffs. Payment for generated power and energy actually purchased shall be guaranteed over the term of the purchase contract. The company agrees to purchase said City-generated power pursuant to separate contracts negotiated with the City.

Article 16. Forfeiture

Sec. 16.1 Forfeiture.

Both the company and the City recognize there may be circumstances whereby compliance with the provisions of this franchise is impossible or is delayed because of circumstances beyond the company's control. In those instances, the company shall use its best efforts to comply in a timely manner and to the extent possible. If the company fails to perform any of the terms and conditions of this franchise and such failure is within the company's control, the City, acting by and through its Council, may determine, after hearing, that such failure is of a substantial nature. Upon receiving notice of such determination, the company shall have a reasonable time in which to remedy the violations. If during said reasonable time corrective actions have not been successfully taken, the City, acting by and through its Council, shall determine whether any or all rights and privileges granted the company under this franchise shall be forfeited. This shall not limit or restrict any other rights or remedies available to the City and the company in law or equity.

Sec. 16.2 Judicial review.

Any such declaration of forfeiture shall be subject to judicial review as provided by law.

Sec. 16.3 Other legal remedies.

Nothing herein contained shall limit or restrict any legal rights that the City or the company may possess arising from any alleged violation of this franchise.

Sec. 16.4 Continued obligations.

Upon forfeiture, the company shall continue to provide service to the City and its residents in accordance with the terms hereof until the City makes alternative arrangements for such service. If the company fails to provide continued service, it shall be liable for damages to the City.

Article 17. Amendments

Sec. 17.1 Amendments to franchise.

At any time during the term of this franchise, the City, through its City Council, or the company may propose amendments to this franchise by giving 30 days' written notice to the other of the proposed amendment(s) desired and both parties thereafter, through their designated representatives, will negotiate within a reasonable time in good faith in an effort to agree on mutually satisfactory amendment(s). The word "amendment" as used in this section does not include a change authorized in Section 3.3.

Article 18. Miscellaneous

Sec. 18.1 Successors and assigns.

The rights, privileges, franchises and obligations granted and contained in this franchise shall inure to the benefit of and be binding upon Public Service Company, its successors and assigns.

Sec. 18.2 Third parties.

Nothing contained in this franchise shall be construed to provide rights to third parties.

Sec. 18.3 Representatives.

Both parties shall designate from time to time in writing representatives for the company and the City who will be the persons to whom notices shall be sent regarding any action to be taken under this ordinance. Notice shall be in writing and forwarded by certified mail or hand delivery to the persons and addresses as hereinafter stated, unless the persons or addresses are changed at the written request of either party, delivered in person or by certified mail. Until any such change shall hereafter be made, notices shall be sent to the City and to the company's western division manager. Currently the addresses are as follows:

For the City: City Manager, City of Grand Junction
250 N. 5th Street
Grand Junction, Colorado 81501-2668

For the company: Western Division Manager
Public Service Company
Post Office Box 849
Grand Junction, Colorado 81502

Sec. 18.4 Severability.

Should any one or more provisions of this franchise be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a term that will achieve the original intent of the parties hereunder.

Sec. 18.5 Entire agreement.

This franchise constitutes the entire agreement of the parties. There have been no representations made other than those contained in this franchise.

Article 19. Approval

Sec. 19.1 Council approval.

This grant of franchise shall not become effective unless approved by a majority vote of the City Council.

Sec. 19.2 Company approval.

The company shall file with the City Clerk its written acceptance of this franchise and of all of its terms and provisions within 10 days after the adoption of this franchise by the City Council. The acceptance shall be in form and content approved by the City Attorney. If the company shall fail to timely file its written acceptance as herein provided, this franchise shall be and become null and void.

Sec. 19.3 Voter's approval.

This grant of franchise shall not become effective unless approved by a majority vote of the qualified electors of the City voting thereon at a special election to be held on a date to be hereafter established by the City Council.

Sec. 19.4 Termination of prior franchise.

Upon the effective date of this franchise, the franchise granted to the company by the City as set forth in Ordinance No. 32, Series of 1977 of the City, shall be terminated and of no further force and effect.

Chapter II. Grand Valley Rural Power Lines, Inc.

Sections:

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Sec. 1.0 Definitions.

Article 2. Grant of Franchise

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Sec. 2.2 Street lighting service.
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PEOPLE'S ORDINANCE NUMBER 35

An ordinance granting a franchise by the City of Grand Junction to Grand Valley Rural Power Lines, Inc., its successors and assigns, the right to furnish, sell and distribute electricity to the City and to all persons, businesses, and industry within the City and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said City all facilities reasonably necessary to furnish, sell and distribute electricity within the City and the right to make reasonable use of all streets and other public places and public easements as herein defined, as may be necessary; and fixing the terms and conditions thereof.

Be it ordained by the City Council of the City of Grand Junction, Colorado:

Article 1. Definitions

Sec. 1.0 Definitions.

For the purposes of this franchise, the following words and phrases shall have the meaning given in this article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined in this article shall be given their common ordinary meaning.

1.1 *City* refers to and is the municipal corporation designated as the City of Grand Junction, Mesa County, Colorado and includes the territory as currently is or may in the future be included within the boundaries of the City of Grand Junction.

1.2 *Company* refers to and is Grand Valley Rural Power Lines, Inc. (Grand Valley Power), and its successors and assigns, but does not include its affiliates, subsidiaries or any other entity in which it has an ownership interest.

1.3 *Council* or *City Council* refers to and is the legislative body of the City.

1.4 *Distribution facilities* refers to and is only that portion of the company's electric system which delivers electric energy from the substation breakers to the point-of-delivery of the customer, including all devices connected to that system.

1.5 *Facilities* refer to and are all facilities reasonably necessary to provide electricity into, within and through the City and include plants, works, systems, substations, transmission and distribution structures, lines, equipment, conduit, transformers, underground lines, meters, wires, cables and poles.

1.6 *Public easements* refer to and are public and dedicated easements created and available for use by public utilities for their facilities.

1.7 *Public Utilities Commission* or *PUC* refers to and is the Public Utilities Commission of the State of Colorado or other authority succeeding to the regulatory powers of the Public Utilities Commission.

1.8 *REA* refers to and is the Rural Electrification Administration, United States Department of Agriculture.

1.9 *Residents* refers to and includes all persons, businesses, industry, governmental agencies, and any other entity whatsoever, presently located or to be hereafter located, in whole or in part, within the territorial boundaries of the City.

1.10 *Revenues* refer to and are those amounts of money which the company receives from its customers within the City for the sale of electricity and use of its facilities by others, as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other approved adjustments.

1.11 *Streets and other public places* refer to and are streets, alleys, viaducts, bridges, roads, lanes and other public rights-of-way in said City.

Article 2. Grant of Franchise

Sec. 2.1 Grant of franchise.

The City of Grand Junction hereby grants to Grand Valley Power, for the period specified in and subject to the conditions, terms and provisions contained in this franchise, a nonexclusive right to furnish, sell and distribute electricity to the City and to all residents of the City. Subject to the conditions, terms and provisions contained in this franchise, the City also hereby grants to the company a nonexclusive right to acquire, construct, install, locate, maintain, operate and extend into, within and through the City all facilities reasonably necessary to furnish, sell and distribute electricity within and through the City and a nonexclusive right to make reasonable use of the streets and other public rights-of-way and public easements as may be necessary to carry out the terms of this franchise. These rights shall extend to all areas of the City as it is now constituted and to additional areas as the City may increase in size by annexation or otherwise. The City reserves the right to itself make or grant a similar use in the said public ways.

Sec. 2.2 Street lighting service.

The rights granted in this franchise encompass the nonexclusive franchise to provide street lighting service to the City and the provisions of this franchise apply with full and equal force to the street lighting service provided by the company. Wherever reference is made to the sale of electricity or to the provision of electric service in this franchise, these references shall be deemed to include the provision of street lighting service. Wherever reference is made to company facilities, equipment, system or plant in this franchise, this reference shall be deemed to include company-owned street lighting facilities, equipment, system and plant.

Sec. 2.3 Term of franchise.

This franchise shall take effect on January 1, 1993. The term of this franchise shall be for 20 years, beginning with said effective date of this franchise and expiring on December 31, 2012.

Article 3. Franchise Fee

Sec. 3.1 Franchise fee.

In consideration for the grant of this franchise, the company shall pay the City a sum equal to three percent of the first $10,000 of all revenue received monthly from the sale of electric power within the City to each customer at any one location, and a sum equal to two percent of all revenue received monthly

from the sale of electric power in excess of $10,000 to each customer for each such service at any one location; provided, however, there shall be excluded from all of such revenue all amounts paid to the company by the City for electric service furnished to the City.

Sec. 3.2 Payment schedule.

For the franchise fee owed on revenues received after the effective date of this franchise, payment shall be made in monthly installments not more than 30 days following the close of the month for which payment is to be made. Initial and final payments shall be prorated for the portions of the months at the beginning and end of the term of this franchise. All payments shall be made to the City Finance Director or other person designated by the City. The City Finance Director, or other authorized representatives, shall have access to the books of the company for the purpose of auditing or checking to ascertain that the franchise fee has been correctly computed and paid.

In the event an error by the company results in an overpayment of the franchise fee to the City and said overpayment is in excess of $5,000, credit for the overpayment shall be spread over an equal period of time for which the error was undiscovered. If the overpayment is $5,000 or less, credit shall be taken against the next payment(s).

Sec. 3.3 Change of franchise fee and other franchise terms.

Once during each calendar year of the franchise term the City Council, upon giving 30 days' notice to the company of its intention so to do, may review and change the consideration the City may be entitled to receive as a part of the franchise; provided, however, the Council may only change the consideration to be received by the City under the terms of this franchise to the equivalent of the consideration paid by the company to any City or town in the State of Colorado in which the company supplies electric service under franchise.

The company shall, upon request, report to the City within 60 days of the execution of a subsequent franchise or of any change of franchise in other municipalities under which a City receives greater consideration than is provided herein from the company to the City hereunder. If the City Council decides the consideration shall be so changed, it shall provide for such change by ordinance; provided, however, that any change in the franchise fee is then allowed to be surcharged by the company; and provided, further, that the consideration is not higher than the highest consideration paid by the company to any municipality or city and county within the State of Colorado. For purposes of this section, consideration means the franchise fee established in Article 3, Section 1; the undergrounding program established in Article 10, Section 2; and also includes any other provision which is of similar significant financial benefit to the City.

Sec. 3.4 Franchise fee payment in lieu of other fees.

Payment of the franchise fee by the company is accepted by the City in lieu of any occupancy tax, license tax, or similar tax on the privilege of doing business or in connection with the physical operation thereof, but does not exempt the company from any lawful taxation upon its property or any other tax not related to the franchise or the physical operation thereof, except the City may impose and company shall pay road cut permits, inspection fees and permits, and other similar costs and fees uniformly applied throughout the City and does not exempt the company from payment of head taxes or other fees or taxes assessed generally upon businesses.

Sec. 3.5 Contract obligation.

This franchise ordinance constitutes a valid and binding contract between the company and the City. In the event that the franchise fee specified in this franchise is declared illegal, unconstitutional or void for any reason by any court or other proper authority, the company will be contractually bound to pay an occupation tax to the City that would be, as near as practicable, equivalent to the amount which would have been paid by the company as a franchise fee hereunder.

Article 4. Supply, Construction and Design

Sec. 4.1 Supply of electricity.

The company shall take all reasonable and necessary steps to provide an adequate supply of electricity to its customers at the lowest reasonable cost consistent with long-term reliable supplies. If the supply of electricity to its customers should be interrupted, the company shall take all necessary and reasonable actions to restore such supply within the shortest practicable time.

Sec. 4.2 Restoration of service.

In the event the company's electric system, or any part thereof, is partially or wholly destroyed or incapacitated, the company shall use due diligence to restore its system to satisfactory service within the shortest practicable time. The City reserves the right to determine compliance. The company shall promptly perform reasonable remedial action required by the City pursuant to said inspection.

Sec. 4.3 Obligations regarding company facilities.

The company shall install, maintain, repair, renovate and replace its facilities with due diligence in a good and workmanlike manner and the company's facilities will be of sufficient quality and durability to provide adequate and efficient electric service to the City and its residents. Company facilities shall not interfere with the City's water mains, sewer mains or other municipal use of streets and other public places. The company shall erect and maintain its facilities in such a way so as to minimize interference with trees and other natural features. Company facilities shall be installed in public easements so as to cause a minimal amount of interference with such property.

Sec. 4.4 Excavation and construction.

All excavation and construction work done by the company shall be done in a timely and expeditious manner which minimizes the inconvenience to the public and individuals. All public and private property whose use conforms to restrictions in public easements disturbed by company excavation or construction activities shall be restored by the company at its expense to substantially its former condition. The City reserves the right to determine compliance; provided, however, nothing herein shall limit the company's ability to challenge the City's determination of compliance before any authority having jurisdiction of the premises. If, after reasonable notice to the company and the company's failure to restore same, and if such failure poses a threat to the health, safety and welfare of the public, the City may take remedial steps as necessary. In such event, the company shall reimburse the City fully for its costs therefor.

Sec. 4.5 Relocation of company facilities.

Within the City, if at any time the City requests the company to relocate any facility in the City installed or maintained in streets, alleys, public rights-of-way or public easements, pursuant to this franchise or previous franchises, in order to permit the City to make any public use of rights-of-way, easements or streets, to construct any public improvement, or to build any public project, or for any municipal purpose in which the City has a financial or ownership interest, such relocation shall be made by the company at its expense. Such relocation shall be completed within a reasonable time from the date when the City makes its request; provided, however, the company shall be granted an extension of time of completion equivalent to any delay caused by conditions not under its control and provided further that the company proceed with due diligence at all times. Following relocation, all property shall be restored to its former condition by the company at its expense. Nothing herein contained shall be construed to impose any obligation upon the City to make any payment for any relocation of company's facilities whether located within, or without, said designated areas.

Relocated underground facilities shall be underground. Relocated aboveground facilities shall be aboveground unless the City either agrees to pay the additional cost of moving them underground or requests that such additional cost be paid out of available funds under Section 10.2.

Sec. 4.6 Service to new areas.

If the boundaries of the City are expanded within the company's certificated service area during the term of this franchise, the company shall extend service to residents in the expanded area at the earliest practicable time and in accordance with the company's extension policy. Service to the expanded area shall be in accordance with the terms of this franchise agreement, including payment of franchise fees.

Sec. 4.7 City not required to advance funds.

Upon receipt of the City's authorization for billing and construction, the company shall extend its facilities to provide electric service to the City for municipal uses within the City limits or for any major municipal facility outside the City limits, and within the company certificated service area, without requiring the City to advance funds prior to construction.

Sec. 4.8 Technological improvements.

The company shall generally introduce and install, as soon as practicable, electrical energy technological advances in its equipment and service within the City when such advances are technically and economically feasible and are safe and beneficial to the City and its residents. The company shall report in advance to the City any plans to include technological advances relating to communications systems such as fiber optics which may utilize electric facilities already in place for the transmission of communication signals, which facilities may be installed by the company for its use, the use of the City, or for use of others as the company may license. The City may use said facilities for its own use without cost, except such additional expense which may be incurred by the company as a result of the City's use. The City shall not use said facilities for commercial purposes unless it reaches prior agreement with the company regarding consideration for the use of said facilities. In no event shall the City's use impair the company's ability to use its own facilities. Upon request of the City, the company will provide a detailed report for the use of such communications systems subject to protecting confidential information. Nothing contained herein shall be construed to authorize the company to engage in communications activities for sale or lease, nor shall this franchise be construed as a franchise for said telecommunications activities within the City.

Article 5. Compliance

Sec. 5.1 City regulation.

The City expressly reserves, and the company expressly recognizes, the City's right and duty to adopt, from time to time, in addition to the provisions herein contained, such Charter provisions, ordinances and rules and regulations as may by the City be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens.

Sec. 5.2 Compliance with City requirements.

The company will comply with all City requirements regarding curb and pavement cuts, excavating, digging and related construction activities. If requested by the City, the company shall submit copies of reports of annual and long-term planning for capital improvement projects with descriptions of required street cuts, excavation, digging and related construction activities within 30 days after issuance. Except for emergencies, the City may require that all installations be coordinated with the City's street improvement programs. The director of public works shall be the City's agent for inspection and for compliance with City ordinances and regulations on any such project.

Sec. 5.3 City review of construction and design.

Prior to construction of any significant facilities for electrical energy, any transmission lines or generating plant, building, substation, or similar structure within the City, if requested by the City, the company shall furnish to the City the plans for such facilities. In addition, the company shall assess and report on the impact of such proposed construction on the City environment. Such plans and reports may be

reviewed by the City to ascertain, inter alia, (1) that all applicable laws including building and zoning codes and air and water pollution regulations are complied with, (2) that aesthetic and good planning principles have been given due consideration and (3) that adverse impact on the environment has been minimized. The company shall submit reports of annual and long-term planning for capital improvement projects with descriptions of required street cuts, excavation, digging and related construction activities. Except for emergencies, the City will require that all installations be coordinated with the City's street improvement programs. The City Director of Public works shall be the City agent for inspection and for compliance with City ordinances and regulations on any such projects.

Sec. 5.4 Compliance with REA and PUC regulations.

The electrical energy which the company distributes shall conform with the standards promulgated by the REA or the Public Utilities Commission, depending upon which body has oversight jurisdiction over the issue in question, and with the tariff provisions of the company setting standards, as the same may be amended from time to time.

Sec. 5.5 Compliance with air and water pollution laws.

The company shall use its best efforts to take measures which will result in its facilities meeting the standards required by applicable federal, State and City air and water pollution laws; provided, however, that nothing herein shall limit the company's right to challenge the validity or applicability of any such laws. Upon the City's request, the company will provide the City with a status report of such measures.

Sec. 5.6 Inspection.

The City shall have the right to inspect at all reasonable times any portion of the company's system used to serve the City and its residents. The City shall also have access to company records for the purpose of determining company compliance with this franchise. The company agrees to cooperate with the City in conducting the inspection and to correct any discrepancies affecting the City's interest in a prompt and efficient manner.

Article 6. Public Utilities Commission

Sec. 6.1 Public Utilities Commission and REA regulations.

The company has exempted itself from Public Utilities Commission regulation pursuant to C.R.S. Title 40, Article 9.5, Part 1. Nevertheless, the PUC retains jurisdiction over the company for certain matters as set forth under Colorado law. In addition, the company is subject to regulation by the REA.

Article 7. Reports to City

Sec. 7.1 Reports on company operations.

The company shall submit reasonable and necessary reports containing or based on information readily obtainable from the company's books and records as the City may request with respect to the operations of the company under this franchise and provide the City with a list of real property within the City which is owned by the company.

Sec. 7.2 Copies of tariffs.

The company shall keep on file, in a local company office, all tariffs, rules, regulations and policies approved by the board of directors relating to service by the company to the City and its residents.

Sec. 7.3 Bills.

On request by the City, the company shall at no cost provide a list of account numbers and items metered and shall specify the type of account for which charges are made, i.e., street lighting, traffic signal, general office, spotlighting, etc., and the company shall provide the City every two years with a complete listing of all the City's accounts.

Article 8. City Use of Company Facilities

Sec. 8.1 City use.

The City shall have the right to use, for the purpose of stringing wires, all poles and suitable overhead structures constructed by the company within the City, which use shall not include the distribution or transmission of electricity. Such use by the City will be without cost. The company will allow others holding a franchise, except for electric service, from the City to so utilize such poles and suitable overhead structures upon reasonable terms and conditions to be agreed upon by the company and such holder of a franchise from the City; provided, however, that nothing herein contained shall limit or restrict company from, in its sole discretion, authorizing such joint use by holders of an electric franchise from the City and, provided, further, that the company shall assume no liability nor shall it be put to any additional expense in connection therewith and the use of said poles and structures by the City or others holding a franchise from the City shall be in such a manner as not to constitute a safety hazard or to interfere unnecessarily with the company's use of same.

Sec. 8.2 Underground conduit.

If the company installs new electric underground conduit or opens a trench or replaces such conduit, the company shall provide adequate advance notice to permit additional installation of similar conduit and pull wire for the City. If the City wants additional similar conduit and pull wire installed, it will so notify the company and provide similar conduit and pull wire at its expense to the company which will install it without further expense to the City; provided, that such action by the City will not unnecessarily interfere with the company's facilities or delay the accomplishment of the project.

Sec. 8.3 Annexation to the City.

When any property owned by the company becomes eligible for voluntary annexation to the City, the company shall petition to annex the same upon request made by the City; provided, that no condition of such annexation shall impair the company's ownership or then existing use of its property and water or water rights for public utility purposes. Except as herein provided, the company agrees to meet all terms and conditions imposed upon the annexation by the City that are no more stringent than those imposed generally upon property owners seeking annexation of their land to the City. The company shall be exempted from a public donation of land, money or water rights arising from such mandatory annexation under this section to the extent that the land being annexed is committed, dedicated or being utilized by facilities directly involved in generating, transmitting or distributing electric energy service under this ordinance; and provided further, that said exemption from public donation shall not extend to any unimproved land or land not so directly committed, dedicated and currently used.

Sec. 8.4 Right of first purchase.

In the event the company at any time during the term of this franchise proposes to sell or dispose of any of its real property located within the Clean Water Act 201 Planning Area for Mesa County and those portions of Mesa County lying south of the Highline Canal, west of 34 Road and north of the Gunnison River, it shall grant to the City the right of first purchase of same. The company shall supply a qualified appraisal on any such property to the City which shall have 60 days in which to exercise the right of first purchase by giving written notice to the company. Should the City not provide the required written notice, the company may proceed to negotiate with others for the sale of such property; provided, that the company may not sell such property for an amount less than 95 percent of the appraised value without first

providing the City an opportunity to purchase such property at such lesser price, in which event the City must notify the company in writing within 30 days if it wishes to purchase such property. It is understood that nothing in this section shall preclude the company from transferring real property to a subsidiary or affiliate without first affording the City the rights referred to above; provided, that if the transferee proposes to sell or dispose of such property within one year, it shall not do so without first affording the City the rights referred to above.

Article 9. Indemnification of the City

Sec. 9.1 City held harmless.

The company shall save the City harmless and indemnify the City from and against all liability or damage and all claims or demands whatsoever in nature, and reimburse the City for all its reasonable expenses, arising out of the operations of the company within the City and the securing of and the exercise by the company of the franchise rights granted in this franchise, including any third party claims, administrative hearings and litigation. The company shall not be obligated to pay any judgment which arises out of the negligent act or failure to act of the City or its officers or employees. None of the City expenses reimbursed by the company under this section shall be surcharged. In the event the City institutes litigation against the company for a breach of this ordinance or for an interpretation of the franchise, and the City is the prevailing party, the company shall reimburse the City for all costs related thereto, including reasonable expert and attorneys' fees. The right of the company to seek contribution from the City for its negligence, as provided by the Colorado statutes, is hereby expressly reserved.

Sec. 9.2 Payment of expenses incurred by City in relation to ordinance.

At the City's option, the company shall pay in advance or reimburse the City for expenses incurred in publication of notices and ordinances and for photocopying of documents arising out of the negotiations or process for obtaining the franchise, including the costs of election.

Sec. 9.3 Financial responsibility.

At the time of the execution of this franchise, and from time to time, at the City's request, not more frequently than annually, the company shall submit to the City Attorney as a confidential document proof of its ability to meet its obligations under this ordinance, including its ability to indemnify the City as required by this article. This proof may take the form of insurance coverage, adequate funding of self-insurance, or the provision of a bond. The company shall supply the City with a list of its insurance companies with the types of coverage, but not levels of insurance. Said list shall be kept current by annual revisions as of January 1st during the term of the franchise. The City may require, from time to time, and the company agrees to provide, additional reasonable funding of the company's indemnification obligations as a self-insured, if company is acting as a self-insurer.

Sec. 9.4 Breach of contract.

In the event the company fails to fulfill a substantial obligation under this franchise, the City will have a breach of contract claim against the company, in addition to any other remedy provided by law.

Article 10. Underground Construction and Overhead Conversion

Sec. 10.1 Underground electrical distribution lines in new areas.

The company will place newly constructed electrical distribution lines underground to serve new residential subdivision areas in accordance with the company's tariffs and City subdivision regulations.

Sec. 10.2 Overhead conversion at expense of company.

(a) As and when requested by the City, the company will spend one percent of the preceding calendar year's electric revenues to move electric distribution facilities located in streets and other public

places in the City underground; provided, that the undergrounding shall extend for a minimum distance of one block or 750 feet, or as may be mutually agreed to by the parties.

(b) Any unexpended portion of the one percent of electric revenue may be carried over to succeeding years and, in addition, upon request by the City, the company shall anticipate amounts to be available for up to three years in advance. Any amounts advanced shall be credited against amounts to be expended in succeeding years until such advances are eliminated. No relocation expenses which the company is required to expend pursuant to Section 4.5 shall be charged to this allocation.

(c) Funds to be expended pursuant to this section shall not be used in any project or situation for which and to the extent that the City has received federal or State funds for the purpose of undergrounding utilities. Funds to be expended pursuant to this section may be used for "matching" purposes with State or federal moneys.

(d) If the Public Utilities Commission or the REA, depending upon which body has oversight jurisdiction, authorizes a systemwide program or programs of undergrounding electric distribution facilities, the company will allocate to the program of undergrounding in the City such amount as is authorized by the Public Utilities Commission or the REA, but in no case less than one percent of annual electric revenues.

(e) In addition to the provisions of this section, the City may require additional facilities to be moved underground at the City's expense.

(f) The City acknowledges that the establishment of this undergrounding fund creates no vested right in the City to the undergrounding moneys. Further, if such moneys are not expended pursuant to the conditions hereof, the fund is not convertible to cash or available for any other purposes.

(g) Within the City, the company will use its best efforts to landscape existing substations and other facilities. All new facilities shall be landscaped within one year of the time that the facilities are placed into operation. "Landscaping" means according to plans approved by the City Community Development Department.

Sec. 10.3 Review of undergrounding program.

Representatives of both the City and the company shall meet periodically to review the company's undergrounding program. This review shall include:

(a) Undergrounding programs, including conversions and replacements which have been accomplished or are underway by the company, together with the company's plans for additional undergrounding;

(b) Undergrounding projects anticipated by the City.

Such meetings shall be held to achieve a continuing program for the orderly undergrounding of electrical lines in the City.

Sec. 10.4 Cooperation with other utilities.

When undertaking a project of undergrounding, the City and the company shall work with other utilities or companies which have their lines overhead to attempt to have all lines undergrounded as part of the same project. When other utilities or companies are placing their lines underground, the company shall cooperate with these utilities and companies and undertake to underground company facilities as part of the same project where feasible. The company shall not be required to pay the costs of any other utility in connection with work under this section.

Article 11. Transfer of Franchise

Sec. 11.1 Consent of City required.

The company shall not transfer or assign any rights under this franchise to a third party excepting only corporate reorganizations of the company not including a third party, unless the City Council shall approve in writing such transfer or assignment. Approval of the transfer or assignment shall not be unreasonably withheld.

Sec. 11.2 Transfer fee.

In order that the City may share in the value this franchise adds to the company's operation, any such transfer or assignment of rights under this franchise requiring the approval of the City Council shall be subject to the conditions that the transferee shall promptly pay to the City of Grand Junction a pro rata share of $1,000,000, which pro rata amount of $1,000,000 shall be calculated by multiplying $1,000,000 times a fraction of which the then population of the City of Grand Junction which is served by the company is the numerator and the then population of the City and County of Denver is the denominator. Such transfer fee shall not be recovered from the City or from the City residents or property owners through electric rates of customers in the City of Grand Junction or by surcharge by the transferee or the company.

Article 12. Purchase or Condemnation

Sec. 12.1 City's right to purchase or condemn.

The right of the City to construct, purchase or condemn any public utility works or ways, and the rights of the company in connection therewith, as provided by the Colorado Constitution and statutes, are hereby expressly reserved.

Sec. 12.2 Continued cooperation by company.

In the event the City exercises its option to purchase or condemn, the company agrees that, at the City's request, it will continue to supply any service it supplies under this franchise, for the duration of the term of this franchise pursuant to terms and conditions negotiated for such continued operation. At City's request, company shall supply electric power for use by the City in the City system. No value shall be given to the franchise or to rights-of-way. Company shall cooperate with the City by making available then existing pertinent company records which are not privileged to enable the City to evaluate the feasibility of acquisition by the City of company facilities.

Article 13. Removal of Company Facilities at End of Franchise

Sec. 13.1 Limitations on company removal.

In the event this franchise is not renewed at the expiration of its term or the company terminates any service provided herein for any reason whatsoever, and the City has not purchased or condemned the system and has not provided for alternative electrical service, or if the franchise is forfeited, the company shall have no right to remove said system pending resolution of the disposition of the system. The company further agrees it will not withhold any temporary services necessary to protect the public and shall be entitled only to monetary compensation in no greater amount than it would have been entitled to were such services provided during the term of this franchise. Only upon receipt of written notice from the City stating that the City has adequate alternative electrical energy sources to provide for the people of the City shall the company be entitled to remove any or all of said systems in use under the terms of this franchise.

Article 14. (Reserved)

This article is reserved.

Article 15. Small Power Production and Cogeneration

Sec. 15.1 Company to purchase.

The City expressly reserves the right to engage in the production of electricity. The company agrees to purchase City-generated power pursuant to its tariffs. Payment for generated power and energy actually purchased shall be guaranteed over the term of the purchase contract. The company agrees to purchase the City-generated power in accordance with its tariffs and applicable Public Utilities Commission rules and regulations.

Article 16. Forfeiture

Sec. 16.1 Forfeiture.

Both the company and the City recognize there may be circumstances whereby compliance with the provisions of this franchise is impossible or is delayed because of circumstances beyond the company's control. In those instances, the company shall use its best efforts to comply in a timely manner and to the extent possible. If the company fails to perform any of the terms and conditions of this franchise and such failure is within the company's control, the City, acting by and through its Council, may determine, after hearing, that such failure is of a substantial nature. Upon receiving notice of such determination, the company shall have a reasonable time in which to remedy the violations. If during said reasonable time corrective actions have not been successfully taken, the City, acting by and through its Council, shall determine whether any or all rights and privileges granted the company under this franchise shall be forfeited. This shall not limit or restrict any other rights or remedies available to the City and the company in law or equity.

Sec. 16.2 Judicial review.

Any such declaration of forfeiture shall be subject to judicial review as provided by law.

Sec. 16.3 Other legal remedies.

Nothing herein contained shall limit or restrict any legal rights that the City or the company may possess arising from any alleged violation of this franchise.

Sec. 16.4 Continued obligations.

Upon forfeiture, the company shall continue to provide service to the City and its residents in accordance with the terms hereof until the City makes alternative arrangements for such service. If the company fails to provide continued service, it shall be liable for damages to the City.

Article 17. Amendments

Sec. 17.1 Amendments to franchise.

At any time during the term of this franchise, the City, through its City Council, or the company may propose amendments to this franchise by giving 30 days' written notice to the other of the proposed amendment(s) desired and both parties thereafter, through their designated representatives, will negotiate within a reasonable time in good faith in an effort to agree on mutually satisfactory amendment(s). The word "amendment" as used in this section does not include a change authorized in Section 3.3.

Article 18. Miscellaneous

Sec. 18.1 Successors and assigns.

The rights, privileges, franchises and obligations granted and contained in this franchise shall inure to the benefit of and be binding upon Grand Valley Power, its successors and assigns.

Sec. 18.2 Third parties.

Nothing contained in this franchise shall be construed to provide rights to third parties.

Sec. 18.3 Representatives.

Both parties shall designate from time to time in writing representatives for the company and the City who will be the persons to whom notices shall be sent regarding any action to be taken under this ordinance. Notice shall be in writing and forwarded by certified mail or hand delivery to the persons and addresses as hereinafter stated, unless the persons or addresses are changed at the written request of either party, delivered in person or by certified mail. Until any such change shall hereafter be made, notices shall be sent to the City and to the company's general manager. Currently the addresses are as follows:

For the City: City Manager, City of Grand Junction
250 N. 5th Street
Grand Junction, Colorado 81501-2668

For the company: General Manager
Grand Valley Power Company
Post Office Box 190
Grand Junction, Colorado 81502

Sec. 18.4 Severability.

Should any one or more provisions of this franchise be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a term that will achieve the original intent of the parties hereunder.

Sec. 18.5 Entire agreement.

This franchise constitutes the entire agreement of the parties. There have been no representations made other than those contained in this franchise.

Sec. 18.6 Attorneys' fees.

In the event the City institutes litigation against the company for a breach of this ordinance or for an interpretation of the ordinance, and the City is the prevailing party, the company shall reimburse the City for all costs related thereto, including reasonable attorney's fees.

Article 19. Approval

Sec. 19.1 Council approval.

This grant of franchise shall not become effective unless approved by a majority vote of the City Council.

Sec. 19.2 Company approval.

The company shall file with the City Clerk its written acceptance of this franchise and of all of its terms and provisions within ten days after the adoption of this franchise by the City Council. The acceptance shall be in form and content approved by the City Attorney. If the company shall fail to timely file its written acceptance as herein provided, this franchise shall be and become null and void.

Sec. 19.3 Voter's approval.

This grant of franchise shall not become effective unless approved by a majority vote of the qualified electors of the City voting thereon at a special election to be held on a date to be hereafter established by the City Council.

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PEOPLE'S ORDINANCE NO. 36

A people's ordinance granting a franchise by the City of Grand Junction to Bresnan Communications Limited Liability Company, its successors and assigns, for the right to furnish, sell and distribute cable television services to the City and to all persons, businesses and industry within the City and the right to acquire, construct, install, locate, maintain, operate and extend into, within and through said City all facilities reasonably necessary to furnish cable television services and the right to make reasonable use of all streets and other public places and easements as may be necessary; and fixing the terms and conditions thereof:

BRESNAN COMMUNICATIONS
AND
THE CITY OF GRAND JUNCTION, COLORADO

CABLE FRANCHISE AGREEMENT

Article 1. Definitions and Exhibits

Sec. 1.0 Definitions.

For the purposes of this franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 *Affiliate*, when used in connection with grantee, means any person who owns or controls, is owned or controlled by, or is under common ownership or control with, grantee.

1.2 *Bad debt* means amounts lawfully billed to a subscriber and owed by the subscriber for cable service and accrued as revenues on the books of grantee, but not collected after reasonable efforts have been made by grantee to collect the charges.

1.3 Reserved.

1.4 *Basic service* means any cable service tier which includes, at a minimum, the retransmission of local television broadcast signals and local access programming.

1.5 *Broadcast signal* means a television or radio signal transmitted over the air to a wide geographic audience, and received by a cable system by antenna, microwave, satellite dishes or any other means.

1.6 *Cable Act* means the Title VI of the Communications Act of 1934, as amended and codified at 47 U.S.C. Section 151, et seq.

1.7 *Cable Internet service* means any cable service offered by grantee whereby persons receive access to the Internet through the cable system.

1.8 *Cable operator* means any person or groups of persons, including grantee, who provide(s) cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a cable system.

1.9 *Cable service* means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.10 *Cable system* means any facility including grantee's, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

(1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(2) A facility that serves subscribers without using any right-of-way;

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a cable system (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(4) An open video system that complies with federal statutes; or

(5) Any facilities of any electric utility used solely for operating its electric utility systems.

1.11 *Channel* means a portion of the electromagnetic frequency spectrum which is used in the cable system and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.12 *City* is the City of Grand Junction, Colorado, a body politic and corporate under the laws of the State of Colorado, and all of the area within its boundaries, as such may change from time to time, and any of its legally established enterprises.

1.13 *City Council* means the Grand Junction City Council, or its successor, the governing body of the City of Grand Junction, Colorado.

1.14 *Commercial subscribers* means any subscribers other than residential subscribers.

1.15 *Demarcation point* means the patch panel, termination block or other termination device provided by the grantee, if any, located within each I-Net site, which represents the interface between the I-Net and the qualified I-Net user's local network or end user electronics. In all cases the demarcation point will be clearly marked as such by grantee, and will provide an identifiable interface for the end user electronics.

1.16 *Designated access provider* means the entity or entities designated now or in the future by the City to manage or co-manage access channels and facilities. The City may be a designated access provider.

1.17 *Director of Cable Services* means the person designated by the City Manager who is responsible for the City's administrative affairs arising out of or under this franchise.

1.18 *Downstream* means carrying a transmission from the headend to remote points on the cable system or to interconnection points on the cable system.

1.19 *Dwelling unit* means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered multiple dwelling units unless the additional facilities are clearly accessory.

1.20 *Expanded basic service* means the tier of optional video programming services, which is the level of cable service above basic service, and does not include premium services.

1.21 *FCC* means the Federal Communications Commission.

1.22 *Fiber optic* means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying cable service or institutional network service by means of electric light wave impulses.

1.23 *Franchise* means the document in which this definition appears, i.e., the contractual agreement, executed between the City and grantee, containing the specific provisions of the authorization granted to use the streets, alleys, public places, or other rights-of-way of the City, including references, specifications, requirements and other related matters.

1.24 *Franchise area* means the area within the jurisdictional boundaries of the City, including any areas annexed by the City during the term of this franchise.

1.25 *Franchise fee* means any fee or assessment of any kind imposed by a franchising authority or other governmental entity on the grantee or a cable subscriber or both solely because of their status as such. The term franchise fee does not include: any tax, fee or assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable operators or their services but not including a tax, fee or assessment which is unduly discriminatory against cable operators or cable subscribers); access capital costs which are required under this agreement to be incurred by grantee for public, educational or governmental access facilities; requirements or charges incidental to the awarding or enforcing of the franchise, including, but not limited to, payments for bonds, letters of credit, insurance, indemnification, penalties or liquidated damages; or any fee imposed under Title 17 of the United States Code.

1.26 *GAAP* means generally accepted accounting principles.

1.27 *Generally applicable* means, when referenced to ordinances, laws, or regulations, legal obligations that are applied generally and not limited solely to grantee.

1.28 *Grantee* means Bresnan Communications or its lawful successor, transferee or assignee.

1.29 *Gross revenues* means any and all revenue received by the grantee, or by any other entity that is a cable operator of the grantee's cable system, which may include affiliates of grantee from the operation of the grantee's cable system to provide cable services in the franchise area. Gross revenues include, by way of illustration and not limitation, monthly fees charged subscribers for basic service; any expanded tiers of cable service; optional premium services; installation, disconnection, reconnection and change-in-service fees; leased access channel fees; remote control rental fees; all cable service lease payments from the cable system; late fees and administrative fees; fees, payments or other consideration received by the grantee from programmers for carriage of programming on the cable system and accounted for as revenue under GAAP; revenues from rentals or sales of converters or other cable system equipment used to receive cable service; advertising revenues;

the fair market value of consideration received by the grantee for use of the cable system to provide cable service and accounted for as revenue under GAAP; revenues from program guides; revenue from data transmissions to the extent these transmissions are considered cable services under federal law; additional outlet fees; revenue from cable Internet service to the extent this service is considered a cable service under federal law; franchise fees; revenue from interactive services to the extent they are considered cable services under federal law; revenue from the sale or carriage of other cable services on the cable system; and revenue from home shopping, bank-at-home channels and other revenue-sharing arrangements. Gross revenues shall include revenue received by any entity other than the grantee where necessary to prevent evasion or avoidance of the obligation under this franchise to pay the franchise fees. Gross revenues shall not include (1) to the extent consistent with GAAP, bad debt; provided, however, that all or part of any such bad debt that is written off but subsequently collected shall be included in gross revenues in the period collected; or (2) any taxes on services furnished by the grantee which are imposed directly on any subscriber or user by the State, City or other governmental unit and which are collected by the grantee on behalf of said governmental unit. The franchise fee is not such a tax.

The parties intend for the definition of gross revenues to be as inclusive as possible consistent with existing applicable law. If there is a change in federal law subsequent to the effective date of this franchise, such change shall not impact this gross revenues definition unless the change specifically preempts the affected portion of the definition above.

1.30 *Headend* means any facility for signal reception and dissemination on a cable system, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, and processors for broadcast signals.

1.31 *Leased access channel* means any channel or portion of a channel of the cable system available to the public in a manner consistent with 47 U.S.C. Section 532 for commercial use by persons other than grantee, for a fee or charge.

1.32 *Node* means an exchange point in the signal distribution system portion of the cable system, where optical signals are converted to RF signals.

1.33 *PEG access channel* means any channel, or portion thereof, designated for PEG access purposes or otherwise made available to facilitate or transmit PEG access programming or services.

1.34 *Public, educational, and governmental access* or *PEG access* means the availability of channel capacity on the cable system for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including the City and its designees, including, but not limited to:

(1) *Public access* means access where community-based, noncommercial organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users.

(2) *Educational access* means access where schools are the primary users having editorial control over programming and services. For purposes of this definition, "school" means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.

(3) *Government access* means access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.35 *Person* means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.36 *Premium service* means programming choices (such as movie channels, pay-per-view programs, or video on demand) offered to subscribers on a per-channel, per-program or per-event basis.

1.37 *Residential subscriber* means any person who receives cable service delivered to dwelling units or multiple dwelling units, excluding those billed on a bulk-billing basis.

1.38 *Right-of-way* means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the franchise area: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, rights-of-way and similar public property and areas.

1.39 *State* means the State of Colorado.

1.40 *Subscriber* means any person who or which elects to subscribe to, for any purpose, cable service provided by grantee by means of or in connection with the cable system and whose premises are physically wired and lawfully activated to receive cable service from grantee's cable system.

1.41 *Subscriber network* means that portion of the cable system used primarily by grantee in the transmission of cable services to residential subscribers.

1.42 *Telecommunications* means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(43)).

1.43 *Telecommunications service* means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

1.44 *Tier* means a group of channels for which a single periodic subscription fee is charged.

1.45 *Two-way* means capable of providing both upstream and downstream transmissions.

1.46 *Upgrade* means an improvement in channel capacity or other technical aspect of the cable system capacity, which may be accomplished with or without a rebuild of the system.

1.47 *Upstream* means carrying a transmission to the headend from remote points on the cable system or from interconnection points on the cable system.

Article 2. Grant of Franchise

Sec. 2.1 Grant.

(a) The City as franchising authority hereby grants to the grantee a nonexclusive franchise which authorizes the grantee to construct, and operate, maintain, reconstruct, rebuild and upgrade a cable system in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the franchise area, for the purpose of providing cable service subject to the terms and conditions set forth in this franchise and in any prior utility use agreements entered into with regard to individual property. This franchise shall constitute both a right and an obligation to provide the cable services required by, and to fulfill the obligations set forth in, the provisions of this franchise.

(b) Nothing in this franchise shall be deemed to waive the lawful requirements of any generally applicable City ordinance or Charter provision existing as of the effective date, as defined in Section 2.3(a).

(c) Each and every term, provision or condition herein is subject to applicable State, federal and City law, and the ordinances and regulations enacted pursuant thereto. Notwithstanding the foregoing, the City may not unilaterally alter the material rights and obligations of grantee under this franchise.

(d) This franchise shall not be interpreted to prevent the City from imposing additional lawful conditions, including additional compensation conditions for use of the rights-of-way, should grantee provide service other than cable service.

(e) Grantee promises and guarantees, as a condition of exercising the privileges granted by this franchise, that any person who is a cable operator of this cable system in the franchise area, or directly involved in the management or operation of the cable system in the franchise area, will also comply with the terms and conditions of this franchise.

(f) No rights shall pass to grantee by implication. Without limiting the foregoing, by way of example and not limitation, this franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

(2) Any permit, agreement, or authorization required by the City for right-of-way users in connection with operations on or in rights-of-way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(g) This franchise is intended to convey limited rights and interests only as to those rights-of-way in which the City has an actual interest. It is not a warranty of title or interest in any right-of-way; it does not provide the grantee with any interest in any particular location within the right-of-way; and it does not confer rights other than as expressly provided in the grant hereof.

(h) This franchise does not authorize or prohibit grantee to provide telecommunications service, or to construct, operate or maintain telecommunications facilities. This franchise is not a bar to imposition of any lawful conditions on grantee with respect to telecommunications, whether similar, different or the same as the conditions specified herein. This franchise does not relieve grantee of any obligation it may have to obtain from the City an authorization to provide telecommunications services, or to construct, operate or maintain telecommunications facilities, or relieve grantee of its obligation to comply with any such authorizations that may be lawfully required.

Sec. 2.2 Use of rights-of-way.

(a) Subject to the City's supervision and control, grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the rights-of-way within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a cable system within the City.

(b) Grantee must follow City-established requirements for placement of cable system facilities in rights-of-way, including the specific location of facilities in the rights-of-way, and must in any event install cable system facilities in a manner that minimizes interference with the use of the rights-of-way by others, including others that may be installing communications facilities. Within limits reasonably related to the City's role in protecting public health, safety and welfare, the City may require that cable system facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular right-of-way; may deny access if grantee is not willing to comply with City's lawful requirements; and may require grantee at its cost to remove any facility that is not installed in compliance with the requirements lawfully established by the City, and may require grantee to cooperate with others to minimize adverse impacts on the rights-of-way through joint trenching and other arrangements.

Sec. 2.3 Effective date and term of franchise.

(a) This franchise and the rights, privileges and authority granted hereunder shall take effect on May 1, 2005, (the "effective date"), and shall terminate on May 1, 2015, unless terminated sooner as hereinafter provided. The term shall be automatically extended for an additional five years for a total of 15 years upon the grantee's successful completion of the initial 10-year term of the franchise.

(b) The grant of this franchise shall have no effect on the grantee's duty under the Charter or any prior ordinance(s) and all amendments thereto in effect prior to the effective date of this franchise.

Sec. 2.4 Franchise nonexclusive.

This franchise shall be nonexclusive and subject to all prior rights, interests, easements or licenses granted by the City to any person to use any property, right-of-way, right, interest or license for any purpose whatsoever, including the right of the City to use same for any purpose it deems fit, including the same or similar purposes allowed grantee hereunder. The City may at any time grant authorization to use the rights-of-way for any purpose not incompatible with grantee's authority under this franchise and for such additional franchises for cable systems as the City deems appropriate.

Sec. 2.5 Police powers.

(a) Grantee's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City shall have the right to adopt, from time to time, such generally applicable ordinances as may be deemed necessary in the exercise of its police power; provided, that such ordinances shall be reasonable and not destructive of the rights granted in this franchise.

(b) The City reserves the right to exercise its police powers, notwithstanding anything in this franchise to the contrary, and any conflict between the provisions of this franchise and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter.

Sec. 2.6 Grant of other franchises.

In the event the City enters into a franchise, permit, license, authorization or other agreement of any kind with any other person or entity other than the grantee to enter into the City's rights-of-way for the purpose of constructing or operating a cable system or providing cable service to any part of the franchise area, in which the grantee is actually providing cable service under the terms and conditions of this franchise or is required to extend cable service to under the provisions of this franchise, the material provisions thereof, in the reasonable discretion of the City, shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another.

Sec. 2.7 Familiarity with franchise.

The grantee and the City each acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein.

Sec. 2.8 Effect of acceptance.

By accepting the franchise, the grantee: (a) acknowledges and accepts the City's legal right to issue and enforce the franchise; (b) accepts and agrees to comply with each and every provision of this franchise subject to applicable law; and (c) agrees that the franchise was granted pursuant to processes and procedures consistent with applicable law, as existed on the effective date of this franchise, and that it will not raise any claim to the contrary.

Article 3. Franchise Fee Payment and Financial Controls

Sec. 3.1 Franchise fee.

(a) As compensation for the benefits and privileges granted under this franchise and in consideration of permission to use the City's rights-of-way, grantee shall pay as a franchise fee to the City, throughout the duration of this franchise, an amount equal to two and one-half percent of grantee's annual gross revenues. Accrual of such franchise fee shall commence as of the effective date of this franchise.

(b) The City recognizes that, in the future, grantee may allocate revenue between cable services (which are subject to the franchise fee) and noncable services (which are not subject to the franchise fee but may be subject to other fees and/or taxes), when these two types of service are bundled together in a discounted package offered to subscribers. Due to the ambiguities that currently exist both in the business and regulatory environment on this issue, the City and the grantee hereby reserve all rights, claims, defenses and remedies regarding the City's authority to impose and/or enforce requirements related to the revenue allocation methodology to be used when cable services and noncable services are offered to subscribers in a discounted package, for the purpose of calculating franchise fee payments.

Further, in the event that the City believes that grantee has unlawfully, unfairly, or in violation of this franchise allocated revenue between cable services and noncable services for the purpose of calculating franchise fee payments, the City and the grantee shall meet upon advance notice from the City to discuss the allocation methodology. If the City and the grantee cannot agree on the matter within a reasonable period of time, the City and grantee shall submit the matter to a mutually agreeable third party for mediation. The cost of the mediation shall be shared equally between the City and the grantee. If the mediation is unsuccessful or if the City and the grantee are unable to mutually agree on a mediator, then either the City or the grantee can bring the matter to a court of competent jurisdiction, or pursue any other remedies available to them in this franchise or by law.

Sec. 3.2 Payments.

In accordance with the Cable Act, the 12-month period applicable under the franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be payable quarterly. Each payment shall be due and payable no later than 60 days after the end of the preceding calendar quarter.

Sec. 3.3 Acceptance of payment and recomputation.

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or for the performance of any other obligation of grantee.

Sec. 3.4 Annual franchise fee reports.

Grantee shall, with each franchise fee payment, furnish to the City a statement stating the total amount of gross revenues for the year and all payments, deductions and computations for the period. Such statement shall be signed by the general manager or a financial officer or controller of grantee, stating that it accurately reflects the gross revenues of the grantee prior to submission to the City.

Sec. 3.5 Audits.

Upon 30 days' prior written notice, the City, including the City's Auditor or his/her authorized representative, shall have the right, no more often than once annually, to conduct an independent audit of grantee's records reasonably related to the administration or enforcement of this franchise, in accordance with GAAP. If the audit shows that franchise fee payments have been underpaid by five percent or more, grantee shall pay the total cost of the audit, such cost not to exceed $2,000. The City's right to audit and the grantee's obligation to retain records related to a franchise fee audit shall expire three years after each franchise fee payment has been made to the City.

Sec. 3.6 Late payments.

In the event any payment due annually is not received within 60 days from the end of the calendar year, grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due compounded annually), calculated from the date the payment was originally due until the date the City receives the payment.

Sec. 3.7 Underpayments.

If a net franchise fee underpayment is discovered as the result of an audit, grantee shall pay interest at the rate of eight percent per annum, compounded annually, calculated from the date each portion of the underpayment was originally due until the date grantee remits the underpayment to the City.

Sec. 3.8 Alternative compensation.

In the event the obligation of grantee to compensate the City through franchise fee payments is lawfully suspended or eliminated, in whole or part, then grantee shall pay to the City compensation equivalent to the compensation paid to the City by other similarly situated users of the City's rights-of-way for grantee's use of the City's rights-of-way; provided, that in no event shall such payments exceed the equivalent of five percent of grantee's gross revenues (subject to the other provisions contained in this franchise).

Sec. 3.9 Maximum and equivalent compensation.

(a) Once during each calendar year of the franchise term, the City Council, upon giving 30 days' notice to the grantee of its intention so to do, may review and change by ordinance the franchise fee and any other consideration that the City is entitled to receive pursuant to this franchise agreement or applicable law (including PEG access support); provided, however, the City Council may only change the consideration and franchise fee to be received by the City under the terms of this franchise agreement to the equivalent of the consideration and franchise fee paid by grantee to any franchising authority or local jurisdiction in which the grantee supplies cable services under franchise; and provided, that the maximum franchise fee (excluding other consideration such as PEG support) may not exceed that lawfully allowed.

(b) The grantee shall report to the City within 60 days of the execution of a subsequent franchise or of any change of franchise in another municipality(ies) under which a city receives greater consideration than is provided herein from the grantee to the City hereunder. The grantee's report under this subsection shall include, at a minimum, the name of the jurisdiction where the change occurred or the subsequent franchise was granted, the nature of the change or of the provision in the subsequent franchise, the effective date of the change or subsequent franchise, and a copy of the relevant franchise agreement or other document containing the change or provision.

(c) For purposes of this Section 3.9, "consideration" means the payments and/or financial support of any kind and equipment, technical advice and assistance necessary or required for the access channel and any other benefit (whether or not denominated as a franchise fee) which is of similar significant financial benefit to a city or town in which the grantee supplies cable services under franchise.

Sec. 3.10 Additional commitments not franchise fee payments.

No term or condition in this franchise shall in any way modify or affect grantee's obligation to pay franchise fees. Although the total sum of franchise fee payments and additional commitments set forth elsewhere in this franchise may total more than five percent of grantee's gross revenues in any 12-month period, grantee agrees that the additional commitments herein are not franchise fees as defined under any federal law in effect, as of the effective date of this franchise, nor are they to be offset or credited against any franchise fee payments due to the City, nor do they represent an increase in franchise fees to be passed through to subscribers pursuant to any federal law.

Sec. 3.11 Tax liability.

Subject to applicable law, the franchise fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the franchise fees under this franchise shall not exempt grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation,

property or income of grantee that may be lawfully imposed by the City. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against grantee solely because of its status as a cable operator, or against subscribers, solely because of their status as such.

Sec. 3.12 Financial records.

Grantee agrees to meet with a representative of the City upon request to review grantee's methodology of record-keeping, the computing of franchise fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records.

Sec. 3.13 Payment on termination.

If this franchise terminates for any reason, the grantee shall file with the City within 90 calendar days of the date of the termination, a revenue statement in accordance with Section 3.4, showing the gross revenues received by the grantee since the end of the previous fiscal year. At the time grantee submits its revenue statement to the City, grantee shall also submit a statement of the amounts owed and payment therefor. Acceptance of payment by City shall not operate as a waiver of any disputed amounts claimed owed.

Article 4. Administration and Regulation

Sec. 4.1 Authority.

(a) The City shall reasonably regulate the exercise of the privileges permitted by this franchise in the public interest. The City may delegate that power and right, or any part thereof, in its sole discretion, to the extent permitted under State and local law; provided, however, grantee shall have the right of appeal to the legislative body of the City any adverse determination made by a delegate of the City.

(b) Nothing in this franchise shall limit nor expand the City's right of eminent domain under State law.

Sec. 4.2 Rates and charges.

All of grantee's rates and charges related to or regarding cable services shall be subject to regulation by the City to the full extent authorized by applicable federal, State and local laws.

Sec. 4.3 Rate discrimination.

All of grantee's rates and charges shall be published (in the form of a publicly available rate card) and be nondiscriminatory as to all persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with governing law, with identical rates and charges for all subscribers receiving identical cable services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the City. Grantee shall offer the same cable services to all residential subscribers at identical rates and to multiple dwelling unit subscribers as authorized by FCC rules. Grantee shall permit subscribers to make any lawful in-residence connections the subscriber chooses without additional charge nor penalty to the subscriber therefor. However, if any in-home connection requires service from grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the subscriber may be charged reasonable service charges by grantee. Nothing herein shall be construed to prohibit:

(a) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or

(b) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or

(c) The offering of rate discounts for cable service; or

(d) The grantee from establishing different and nondiscriminatory rates and charges and classes of service for commercial subscribers, as allowable by federal law and regulations.

Sec. 4.4 Filing of rates and charges.

(a) Throughout the term of this franchise, grantee shall maintain on file with the City a complete schedule of applicable rates and charges for cable services provided under this franchise. Nothing in this subsection shall be construed to require grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns. As used in this subsection, no rate or charge shall be considered temporary if subscribers have the ability over a period greater than 12 consecutive months (or such other period as may be approved by the City) to purchase cable services at such rate or charge.

(b) Upon written request of the City, grantee shall provide a complete schedule of current rates and charges for leased access channels, or portions of such channels, provided by grantee. The schedule shall include a description of the price, terms, and conditions established by grantee for leased access channels.

Sec. 4.5 Cross subsidization.

Grantee shall comply with all applicable laws regarding rates for cable services and all applicable laws covering issues of cross subsidization.

Sec. 4.6 Reserved authority.

The grantee and the City each reserve all rights and authority arising from the Cable Act and any other relevant provisions of federal, State, or local law.

Sec. 4.7 Time limits strictly construed.

Whenever this franchise sets forth a time for any act to be performed by grantee, such time shall be deemed to be of the essence, and any failure of grantee to perform within the allotted time may be considered a material breach of this franchise, and sufficient grounds for the City to invoke any relevant remedy.

Sec. 4.8 Franchise amendment procedure.

Either party may at any time seek an amendment of this franchise by so notifying the other party in writing. Within 30 days of receipt of notice, the City and grantee shall meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the City Council for its approval. If so approved by the City Council, and the grantee, then the amendment(s) shall, referred to the electorate pursuant to paragraph 119 of the City Charter.

Sec. 4.9 Performance evaluations.

(a) The City may hold performance evaluation sessions within 30 days of the triennial anniversary dates of the effective date of this franchise. All such evaluation sessions shall be conducted by the City.

(b) Special evaluation sessions may be held at any time by the City during the term of this franchise upon reasonable prior written notice to grantee.

(c) All evaluation sessions shall be open to the public and announced at least two weeks in advance in a newspaper of general circulation in the City.

(d) Topics which may be discussed at any evaluation session may include, but are not limited to, those matters over which this franchise and/or applicable law gives the City regulatory control or authority; provided, that nothing in this subsection shall be construed as requiring the renegotiation of this franchise.

(e) During evaluations under this subsection, grantee shall fully cooperate with the City and shall provide such information and documents as the City may reasonably require to perform the evaluation.

Sec. 4.10 Late fees.

(a) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the grantee imposes upon a subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with applicable law.

(b) Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the grantee's other services or activities it performs in compliance with applicable law, including FCC law, rule or regulation.

(C) The grantee's late fee and disconnection policies and practices shall be nondiscriminatory and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the City without regard to the neighborhood or income level of the subscriber.

Sec. 4.11 Force majeure.

In the event grantee is prevented or delayed in the performance of any of its obligations under this franchise by reason beyond the control of grantee, grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this franchise or to procure a substitute for such obligation which is reasonably satisfactory to the City. Those conditions which are not within the control of grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the grantee's ability to provide cable services in the City and which was not caused and could not have been avoided by the grantee using its reasonable best efforts in its operations to avoid such results.

If grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this franchise, grantee shall provide documentation as reasonably required by the City to substantiate the grantee's claim. If grantee has not yet cured the deficiency, grantee shall also provide the City with its proposed plan for remediation, including the timing for such cure. To the extent any nonperformance is the result of any force majeure condition, grantee shall not be held in default nor suffer any penalty as a result.

Article 5. Financial and Insurance Requirements

Sec. 5.1 Indemnification.

(a) General Indemnification. Grantee shall indemnify, defend and hold the City, its officers, officials, boards, commissions, and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and attorneys' fees or expenses, arising from any casualty or accident to person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this franchise, by or for grantee, or by its agents, or its employees, or by reason of any neglect or omission of grantee. Grantee shall reasonably consult and cooperate with the City while conducting its defense of the City. Grantee shall not be required to provide indemnification for programming cable cast over the PEG access channel.

(b) Indemnification for Relocation. Grantee shall indemnify the City for any damages, claims, additional costs or expenses assessed against, or payable by, the City arising out of or resulting from grantee's failure to remove, adjust or relocate any of its facilities in the rights-of-way in a timely manner in accordance with any relocation required by the City.

(c) Additional Circumstances. Grantee shall also indemnify, defend and hold the City harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and attorneys' fees or expenses in any way arising out of:

(1) The lawful actions of the City in granting this franchise to the extent such actions are consistent with this franchise and applicable law;

(2) Damages arising out of any failure by grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the cable system, whether or not any act or omission complained of is authorized, allowed or prohibited by this franchise.

(d) Procedures and Defense. If a claim or action arises, the City or any other indemnified party shall promptly tender the defense of the claim to grantee, which defense shall be at grantee's expense. The City may participate in the defense of a claim in which it is named, at its own cost. Grantee may not agree to any settlement of claims affecting the City without the City's approval.

(e) Nonwaiver. The fact that Grantee carries out any activities under this franchise through independent contractors shall not constitute an avoidance of or defense to grantee's duty of defense and indemnification under this subsection.

(f) Expenses. If separate representation to fully protect the interests of both parties is necessary, such as arising from a conflict of interest between the City and the counsel selected by grantee to represent the City, after all reasonable measures have been taken to prevent the necessity of hiring separate counsel for the City, then the grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to any action, suit or proceeding indemnified by grantee. The City's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the City Attorney or his/her assistants or any employees of the City but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by grantee.

Sec. 5.2 Insurance.

(a) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance coverage:

(1) Commercial general liability insurance with limits of no less than $1,000,000 per occurrence and $1,000,000 general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the City, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the City, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

(2) Commercial automobile liability insurance with minimum combined single limits of $1,000,000 each occurrence and $1,000,000 aggregate with respect to each of grantee's owned, hired and nonowned vehicles assigned to or used in the operation of the cable system in the City. The policy shall contain a severability of interests provision.

(b) A certificate of insurance shall be provided to the City stating that the policy or policies shall not be canceled or materially changed so as to be out of compliance with these requirements without 30 days' written notice first provided to the City, via certified mail, and 10 days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this franchise, grantee shall provide replacement coverage. Grantee agrees to maintain continuous, uninterrupted insurance coverage, in at least the amounts required, for the duration of this franchise.

Sec. 5.3 Deductibles/certificate of insurance.

Any deductible of the policies shall not in any way limit grantee's liability to the City.

(a) Deductibles.

(1) The City, its officers, officials, boards, commissions, and employees shall be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by or for which grantee has assumed responsibility herein;

(2) Grantee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, boards, commissions, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, boards, commissions, and employees shall be in excess of the grantee's insurance and shall not contribute to it; and

(3) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(b) Acceptability of Insurers. The insurance obtained by grantee shall be placed with insurers with a Best's rating of no less than "A-."

(c) Verification of Coverage. The grantee shall furnish the City with certificate of insurance reflecting blanket additional insured status. The certificate is to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate is to be on standard forms or such forms as are consistent with standard industry practices.

(d) Self-Insurance. In the alternative to providing a certificate of insurance to the City certifying insurance coverage as required above, grantee may provide self-insurance in the same amount and level of protection for grantee and City, its officers, and employees as otherwise required under this section. The adequacy of self-insurance shall be subject to the periodic review and approval of the City.

Sec. 5.4 Construction bond.

(a) Within 30 days of commencement of an upgrade of the cable system or other work in the right-of-way, grantee shall provide and maintain in effect a construction bond in an amount no less than $25,000 to secure completion of any and all work. Upon the successful completion of the upgrade, the City shall release or return the bond within 10 business days of receipt of written request, either by signing a release form or returning the bond itself.

(b) The construction bond may be drawn on by City for damages relating to the system upgrade construction. Any such draw shall be conducted according to the procedures of Article 14, including that grantee has received written notice and 30 days after receipt of notice to cure any material violations before any payment.

(c) Within 30 days after notice to grantee that any amount has been withdrawn by the grantee from the bond pursuant to Article 14, grantee shall restore the bond to its original amount.

(d) Grantee shall have the right to appeal to the City Council for reimbursement in the event grantee believes that the bond was drawn upon improperly. Grantee shall also have the right of judicial appeal if grantee believes the bond has not been properly drawn upon in accordance with this franchise. Any amounts the City erroneously or wrongfully withdraws from the bond shall be returned to grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal on the date the funds were withdrawn.

(e) Maintenance of the requisite construction bond shall not in any way limit the liability of the grantee for any failure to fully perform its obligations under this franchise agreement.

Article 6. Customer Service

Sec. 6.1 Customer service standards.

Grantee shall comply with customer service standards promulgated by the FCC as well as any applicable customer service standards lawfully adopted of the City, as the same may be amended from time to time by the City Council acting by ordinance. Grantee reserves the right to challenge any customer service ordinance that it believes is inconsistent with its contractual rights under this franchise.

Sec. 6.2 Subscriber privacy.

Grantee shall fully comply with any provisions regarding the privacy rights of subscribers contained in federal, State, or local law.

Sec. 6.3 Subscriber contracts.

Grantee shall not enter into a contract with any subscriber that is in conflict with the terms of this franchise, or any exhibit hereto, or the requirements of any applicable customer service standard. Upon request, grantee will provide to the City a sample of the subscriber contract or service agreement then in use.

Sec. 6.4 Advance notice to City.

The grantee shall use reasonable efforts to furnish any notices provided to subscribers or the media in the normal course of business to the City in advance.

Article 7. Reports and Records

Sec. 7.1 Open records.

The City, including the City's Auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of grantee, and its parent corporations and affiliates which are reasonably related to the administration or enforcement of the terms of this franchise. Grantee shall not deny the City access to any such records on the basis that grantee's records are under the control of any affiliate or a third party. The City may, in writing, request copies of any such records required under this Article 7 and grantee shall provide such copies within 45 days of the receipt of such request. One copy of all reports and records required under this or any other subsection shall be furnished to the City, at the sole expense of grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then grantee may request, in writing within 30 days of receipt of City's written request, that the City inspect them at grantee's local offices. If any books or records of grantee are not kept in a local office and not made available in copies to the City upon written request as set forth above, and if the City reasonably determines that an examination of such records is necessary or appropriate for the performance of any of the City's administration or enforcement of this franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by grantee.

Sec. 7.2 Confidentiality.

The City agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent grantee makes the City aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the City believes it must release any such confidential books and records in the course of enforcing this franchise, or for any other reason, it shall advise grantee in advance so that grantee may take appropriate steps to protect its interests. If the City receives a demand from any person for disclosure of any information designated by grantee as confidential, the City shall, so far as consistent with applicable law, advise grantee and provide grantee with a copy of any written request by the party demanding access to such information within a reasonable time.

Until otherwise ordered by a court or agency of competent jurisdiction, the City agrees that, to the extent permitted by State and federal law, it shall deny access to any of grantee's books and records marked confidential as set forth above to any person. Grantee shall reimburse the City for all reasonable costs and attorneys' fees incurred in any legal proceedings pursued under this article to protect the confidentiality of grantee's records.

Sec. 7.3 Records required.

(a) Except as otherwise indicated herein, grantee shall maintain for the period of time required by FCC or other applicable governmental regulatory agency, or when there is no applicable governmental agency requirement, for five years, and shall furnish to the City upon written request:

(1) A complete set of maps showing the location of all cable system equipment and facilities in the right-of-way, but excluding detail on proprietary electronics contained therein and subscriber drops;

(2) As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the City's authorized representative(s) or agent(s) and made available upon reasonable notice during regular business hours, during the course of technical inspections as reasonably conducted by the City. These maps shall be certified as accurate at the time they are prepared by an appropriate representative of the grantee;

(3) A copy of all FCC filings on behalf of grantee and its affiliates which relate to the operation of the cable system in the City; and

(4) A current list of cable services, rates and channel line-ups.

(b) Subject to Section 7.2, all information furnished to the City is public information, and shall be treated as such, except for information involving the privacy rights of individual subscribers.

Sec. 7.4 Annual reports.

Upon written request, but no more often than annually, grantee shall submit to the City a written report, in a form reasonably acceptable to the City, which shall include, but not necessarily be limited to, a summary of the previous year's activities in the development of the cable system, including, but not limited to, cable services begun or discontinued during the reporting year.

Sec. 7.5 Copies of federal and State reports.

Upon reasonable written request, grantee shall submit to the City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of grantee's cable system within the City. Grantee shall submit such documents to the City no later than 30 days after receipt of written request. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency. With respect to all documents provided to any federal, State, or local regulatory agency as a routine matter in the due course of operating grantee's cable system within the City, grantee shall make such documents available to the City upon reasonable written request.

Sec. 7.6 Complaint file and reports.

(a) Grantee shall keep an accurate and comprehensive file of any and all complaints it receives regarding the cable system in the franchise area and grantee's actions in response to those complaints. Such files shall be kept in a manner consistent with the privacy rights of subscribers. These files shall remain open to the City and the public during normal business hours. Upon written request, no more often than annually, grantee shall provide the City a summary which shall include information concerning customer complaints received by grantee during the time period specified in

grantor's request, but no greater than a one-year period, including a summary of customer complaints referred by the City in writing to grantee.

(b) A log of all service interruptions shall be maintained and provided to City upon written request.

(c) Grantee shall provide the City such other information as reasonably requested by the City; provided, that Grantee is given 30 days' prior written notice.

Sec. 7.7 Failure to report.

The failure or neglect of grantee to file any of the reports or filings required under this franchise (not including clerical errors or errors made in good faith) may, at the City's option, be deemed a material breach of this franchise.

Sec. 7.8 False statements.

Any false or misleading statement or representation in any report required by this franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this franchise and may subject grantee to all remedies, legal or equitable, which are available to the City under this franchise or otherwise.

Article 8. Programming

Sec. 8.1 Broad programming categories.

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

(a) Educational programming;

(b) Colorado news, weather and information;

(c) Sports;

(d) General entertainment (including movies);

(e) Children/family-oriented;

(f) Arts, culture and performing arts;

(g) Science/documentary; and

(h) National news, weather and information.

Sec. 8.2 Deletion or reduction of broad programming categories.

Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the City.

Sec. 8.3 Parental control device.

Upon request by any subscriber, grantee shall provide by sale or lease a parental control or lockout device, traps or filters to enable a subscriber to prohibit viewing of a particular cable service during periods selected by the subscriber. Grantee shall inform its subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with applicable law.

Sec. 8.4 Continuity of service mandatory.

(a) The grantee shall use reasonable efforts so as to ensure that all subscribers receive continuous, uninterrupted cable service insofar as their financial and other obligations to grantee are honored. For

the purposes of this subsection, "uninterrupted" does not include short-term outages of the cable system for maintenance or testing.

(b) In the event of a change of grantee, or in the event another cable operator acquires the cable system in accordance with this franchise and applicable law, grantee shall reasonably cooperate with the City, new franchisee or cable operator in maintaining continuity of cable service to all subscribers. During any transition period, grantee shall be entitled to the revenues for any period during which it operates the cable system, and shall be entitled to reasonable costs for its services when it no longer operates the cable system.

(c) Subject to the force majeure provision of this agreement, failure of grantee to operate the cable system for four consecutive days without prior approval of the City or its designee, or without just cause may be considered a material violation of this agreement.

Sec. 8.5 Services for the disabled.

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

Article 9. Access

Sec. 9.1 Management and control of access channels.

The City shall have sole and exclusive responsibility for identifying the designated access providers and allocating the access resources under this article. The City may authorize designated access providers to control and manage the use of any and all access facilities provided by grantee under this franchise, including, without limitation, the operation of access channels. To the extent of such designation by the City, the designated access provider shall have sole and exclusive responsibility for operating and managing such access facilities. The City or its designee may formulate rules for the operation of the access channels, consistent with this franchise. Grantee shall cooperate with the City and designated access providers in the use of the cable system and access facilities for the provision of access. Nothing herein shall prohibit the City from authorizing itself to be a designated access provider. Nothing herein shall prohibit the City from assigning several designated access providers to share a single access channel.

All assigned access channels can be used to transmit signals in any format which is technically compatible with the cable system, including, by way of example and not limitation, video, audio only, secondary audio and/or text messages. Such uses must be in furtherance of access purposes.

Sec. 9.2 Initial access channel.

(a) Within 120 days of written notification by the City to the grantee, grantee shall provide one downstream government, educational and public access channel on the cable system for the exclusive use of the City.

(b) In the event that at any time during the duration of this franchise agreement the City determines to enact a government, educational and public access channel fee (PEG fee) the City may by ordinance set and/or amend the PEG fee.

Sec. 9.3 Access channels on basic service.

All access channels provided to subscribers under this franchise shall be included by grantee, without limitation, as a part of basic service.

Sec. 9.4 Access channel assignments.

Grantee will use reasonable efforts to minimize the movement of access channel assignments.

Sec. 9.5 Relocation of access channels.

Grantee shall provide the City with a minimum of 90 days' notice, and use its best efforts to provide 120 days' notice, prior to the time any access channel designation is changed, unless the change is required by federal law, in which case grantee shall give the City the maximum notice possible. Any new channel designations for the access channels provided pursuant to this franchise shall be in full compliance with FCC signal quality and proof-of-performance standards.

Sec. 9.6 Technical quality.

The grantee shall maintain all access channels at the same or better level of technical quality and reliability required by this franchise and all other applicable laws, rules and regulations for other channels.

Sec. 9.7 Changes in technology.

In the event grantee makes any change in the cable system and related equipment and facilities or in grantee's signal delivery technology, which affects the signal quality or transmission of access services or programming, grantee shall, at its own expense, take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment and training of access personnel, to ensure that the capabilities of access services are not diminished or adversely affected by such change. For example, this provision shall apply if the cable system is converted from an analog to a digital format, such that the access channels must also be converted to digital in order to be received by subscribers.

Sec. 9.8 Information about access programming to subscribers.

Upon request by the City, grantee shall include information about access programming in the installation packet provided to subscribers. The City shall supply the materials, for insertion in the packet, in a format consistent with grantee's requirements.

Article 10. General Right-of-Way Use and Construction

Sec. 10.1 Right to construct.

Subject to generally applicable laws, regulations, rules, resolutions and ordinances of the City and the provisions of this franchise, grantee may perform all construction in the rights-of-way for any facility needed for the maintenance, upgrade or extension of grantee's cable system.

Sec. 10.2 Right-of-way and annual construction meetings.

Subject to receiving reasonable advance notice, grantee shall make reasonable effort to regularly attend and participate in meetings of the City, regarding right-of-way issues that may impact the cable system.

Sec. 10.3 Joint trenching/boring.

Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of right-of-way cuts within the City.

Sec. 10.4 General standard.

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature, durable and installed in accordance with good engineering practices.

Sec. 10.5 Permits required for construction.

Prior to doing any work in the right-of way or other public property, grantee shall apply for and obtain appropriate permits from the City. Grantee shall comply with the generally applicable ordinances, laws, or regulations regarding City rights-of-way as may be adopted from time to time pursuant to the City's lawful police powers. Grantee shall pay all generally applicable and lawful fees for the requisite City permits received by grantee.

Sec. 10.6 Emergency permits.

In the event that emergency repairs are necessary, grantee shall immediately notify the City of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within 48 hours after discovery of the emergency.

Sec. 10.7 Compliance with applicable codes.

(a) City Codes. Grantee shall comply with all applicable City codes, including, without limitation, the International Building Code, International Fire Code, facilities in the right-of-way ordinance and applicable mechanical, zoning codes and development and regulations.

(b) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as minimally specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time and City regulations. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable City, State and federal codes and regulations.

(c) Safety Codes. Grantee shall comply with all applicable federal, State and City safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by applicable law during construction, operation and repair of its cable system. By way of illustration and not limitation, grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

Sec. 10.8 Mapping.

Grantee shall comply with any generally applicable ordinances, rules and regulations of the City regarding mapping systems for users of the rights-of-way.

Sec. 10.9 Minimal interference.

Work in the right-of-way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's cable system shall be constructed and maintained in such manner as not to interfere with sewers, water pipes or any other property of the City or with any other pipes, wires, conduits, pedestals, structures or other facilities that may have been laid in the rights-of-way by, or under, the City's authority. The grantee's cable system shall be located, constructed and maintained so as not to endanger or unreasonably interfere with the lives of persons, or to interfere with improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the rights-of-way or other public property, and shall not unreasonably interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the City may require the removal or relocation of grantee's lines, cables, equipment and other appurtenances from the property in question at grantee's expense.

Sec. 10.10 Prevention of injury – Safety.

Grantee shall provide and use any equipment and facilities necessary to control and carry grantee's signals so as to prevent injury to the City's property or property belonging to any person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by grantee in the rights-of-way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

Sec. 10.11 Hazardous substances.

(a) Grantee shall comply with any and all applicable laws, statutes, regulations and orders concerning hazardous substances relating to grantee's cable system in the rights-of-way.

(b) Upon reasonable notice to grantee, the City may inspect grantee's facilities in the rights-of-way to determine if any release of hazardous substances has occurred, or may occur, from or related to grantee's cable system. In removing or modifying grantee's facilities as provided in this franchise, grantee shall also remove all residue of hazardous substances related thereto.

(c) Grantee agrees to indemnify the City against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the City arising out of a release of hazardous substances caused by grantee's cable system.

Sec. 10.12 Locates.

Prior to doing any work in the right-of-way, grantee shall give appropriate notices to the City and to the notification association established in C.R.S. Section 9-1.5-105, as such may be amended from time to time. Notice to the City shall be given pursuant to generally applicable City ordinance and/or regulations, by written notice to the City or its designee prior to the commencement of construction.

Sec. 10.13 Notice to private property owners.

Except in the case of an emergency involving public safety or service interruptions to a large number of subscribers, grantee shall give reasonable advance notice to private property owners or legal tenants of work on or adjacent to private property.

Sec. 10.14 Underground construction and use of poles.

(a) When required by general ordinances, resolutions, regulations or rules of the City or applicable State or federal law, grantee's cable system shall be placed underground at grantee's expense, subject to applicable law. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(b) Where electric, telephone and other above-ground utilities are installed underground at the time of cable system construction, or when all such wiring is subsequently placed underground, all cable system lines shall also be placed underground with other wire line service at no expense to the City or subscribers subject to applicable law, unless funding is generally available for such relocation to all users of the rights-of-way. Related cable system equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation. Nothing contained in this section shall require grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

(c) The grantee shall utilize existing poles and conduit wherever possible and reasonably practical.

(d) In the event grantee cannot obtain the necessary poles and related facilities pursuant to a pole attachment agreement or conduit does not exist and only in such event, then it shall be lawful for grantee to make all needed excavations in the rights-of-way for the purpose of placing, erecting, laying,

maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of grantee's cable system. All poles and conduit of grantee shall be located as reasonably designated by the proper City authorities.

(e) This franchise does not grant, give or convey to the grantee the right or privilege to install its facilities in any manner on utility poles or right-of-way of the City or any other person. The City may reasonably use grantee's poles, at no cost to the City, for City facilities, including but not limited to fiber optic lines, cameras, lights or other devices. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon written request by the City.

(f) The grantee and the City recognize that situations may occur in the future where the City may desire to place its own cable or conduit for fiber optic cable in trenches or bores opened by the grantee. The grantee agrees to cooperate with the City in any construction by the grantee that involves trenching or boring; provided, that the City has first provided reasonable notice to the grantee that it is interested in sharing the trenches or bores in the area where the grantee's construction is occurring. The grantee shall allow the City to lay its cable, conduit and fiber optic cable in the grantee's trenches and bores, provided the City shares in any extraordinary cost of the trenching and boring. The City shall be responsible for maintaining its respective cable, conduit and fiber optic cable buried in the grantee's trenches and bores under this paragraph.

Sec. 10.15 Undergrounding of multiple dwelling unit drops.

In cases of single site multiple dwelling units, grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and multiple dwelling unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the multiple dwelling units.

Sec. 10.16 Burial standards.

(a) Depths. Unless otherwise required by law, grantee shall comply with the following burial depth standards. In no event shall grantee be required to bury its cable deeper than electric or gas facilities in the same portion of the right-of-way:

Underground cable, feeder and trunks lines shall be buried at a minimum depth of 42 inches or as otherwise required by City development permits and construction standards.

(b) Timeliness. Cable drops installed by grantee to residences shall be buried according to these standards within one calendar month of initial installation or at a time mutually agreed upon between the grantee and the subscriber. When freezing surface conditions or other weather conditions prevent grantee from achieving such timetable, grantee shall apprise the subscriber of the circumstances and the revised schedule for burial, and shall provide the subscriber with grantee's telephone number and instructions as to how and when to call grantee to request burial of the line if the revised schedule is not met.

Sec. 10.17 Electrical bonding.

Grantee shall ensure that all new cable drops are properly bonded to the electrical power ground at the home, consistent with applicable code requirements. All nonconforming or nonperforming cable drops shall be replaced by grantee as necessary.

Sec. 10.18 Subdivision installation.

Any ordinance of the City which requires installation of utilities in subdivisions or other developments shall be construed to include wiring for cable systems.

Sec. 10.19 Repair and restoration of property.

(a) The grantee shall protect public and private property from damage. If damage occurs, the grantee shall promptly notify the property owner within 24 hours in writing.

(b) Whenever grantee disturbs or damages any right-of-way, other public property or any private property, grantee shall promptly restore the right-of-way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(c) Grantee shall warrant any restoration work performed by or for grantee in the right-of-way or on other public property for one year.

(d) Upon completion of the work that caused any disturbance or damage, grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within 72 hours, considering the nature of the work that must be performed.

Sec. 10.20 Use of conduits by the City.

Subject to any applicable State or federal regulations or tariffs, the City may install or affix and maintain wires and equipment owned by the City for City purposes in or upon any and all of grantee's ducts, conduits or equipment in the rights-of-way and other public places, to the extent space therein or thereon is reasonably available, and pursuant to all applicable ordinances and codes; provided, that (a) such use by City does not interfere with the current or future use by the grantee; (b) the City holds the grantee harmless against and from all claims, demands, costs, or liabilities of every kind and nature whatsoever arising out of such use, including but not limited to reasonable attorney fees and costs; (c) such use by the City is restricted to noncommercial municipal purposes; (d) the City takes reasonable precautions to prevent any use of the grantee's conduits, ducts, or equipment in any manner that results in inappropriate use thereof, or any loss or damage to the conduit, ducts, or equipment, or the cable system; (e) the City does not use the conduits, ducts, or equipment for any purpose that is in competition with the services offered by the grantee. For the purposes of this subsection, "City purposes" includes, but is not limited to, the use of the structures and installations for City fire, police, traffic, water, telephone, and/or signal systems, but not for cable service in competition with grantee. Grantee shall not deduct the value of such use of its facilities from its franchise fee payments or from other fees payable to the City.

Sec. 10.21 Common users.

(a) For the purposes of this subsection:

(1) *Attachment* means any wire, optical fiber or other cable, and any related device, apparatus or auxiliary equipment for the purpose of voice, video or data transmission.

(2) *Conduit* or *conduit facility* means any structure, or section thereof, containing one or more ducts, conduits, manholes, handhole or other such facilities in grantee's cable system.

(3) *Duct* means a single enclosed raceway for cables, fiber optics or other wires.

(4) *Licensee* means any person licensed or otherwise permitted by the City to use the rights-of-way.

(5) *Surplus ducts or conduits* are conduit facilities other than those occupied by grantee or any prior licensee, or unoccupied ducts held by grantee as emergency use spares, or other unoccupied ducts that grantee reasonably expects to use within two years from the date of a request for use.

(b) Grantee acknowledges that the rights-of-way have a finite capacity for containing conduits. Therefore, grantee agrees that whenever the City determines it is impracticable to permit construction of an underground conduit system by any other person which may at the time have authority to construct or maintain conduits or ducts in the rights-of-way, but excluding persons providing cable services in competition with grantee, the City may require grantee to afford to such person the right to use grantee's surplus ducts or conduits in common with grantee, pursuant to the terms and condi-

tions of an agreement for use of surplus ducts or conduits entered into by grantee and the licensee. Nothing herein shall require grantee to enter into an agreement with such person if, in grantee's reasonable determination, such an agreement could compromise the integrity of the cable system.

(c) A licensee occupying part of a duct shall be deemed to occupy the entire duct.

(d) Grantee shall give a licensee a minimum of 120 days' notice of its need to occupy a licensed conduit and shall propose that the licensee take the first feasible action as follows:

(1) Pay revised conduit rent designed to recover the cost of retrofitting the conduit with multiplexing, fiber optics or other space-saving technology sufficient to meet grantee's space needs;

(2) Pay revised conduit rent based on the cost of new conduit constructed to meet grantee's space needs;

(3) Vacate the needed ducts or conduit; or

(4) Construct and maintain sufficient new or larger conduit to meet grantee's space needs.

(e) When two or more licensees occupy a section of conduit facility, the last licensee to occupy the conduit facility shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting, space-saving technology or construction of new conduit, all licensees shall bear the increased cost.

(f) All attachments shall meet applicable local, State, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between grantee and the licensee. Grantee may, at its option, correct any attachment deficiencies and charge the licensee for its costs. Each licensee shall pay grantee for any fines, fees, damages or other costs the licensee's attachments cause grantee to incur.

(g) In order to enforce the provisions of this subsection with respect to grantee, the City must demonstrate that it has required all similarly situated users of the rights-of-way to comply with the provisions of this subsection.

Sec. 10.22 Acquisition of facilities.

Upon grantee's acquisition of facilities in any City right-of-way, or upon the addition to the City of any area in which grantee owns or operates any facility, grantee shall, at the City's request, submit to the City a statement describing all facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent grantee has possession of such information. Such facilities shall immediately be subject to the terms of this franchise.

Sec. 10.23 Discontinuing use/abandonment of cable system facilities.

Whenever grantee intends to discontinue using any facility within the rights-of-way, grantee shall submit to the City a complete description of the facility and the date on which grantee intends to discontinue using the facility. Grantee may remove the facility or request that the City permit it to remain in place. Notwithstanding grantee's request that any such facility remain in place, the City may require grantee to remove the facility from the right-of-way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The City may require grantee to perform a reasonable combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a reasonable schedule set by the City. Until such time as grantee removes or modifies the facility as reasonably directed by the City, or until the rights to and responsibility for the facility are accepted by another person, grantee shall retain all liability for such facility and be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the right-of-way, in the same manner and degree as if the facility were in active use. If grantee abandons its facilities, the City may choose to use such facilities for any purpose whatsoever including, but not limited to, access purposes. If the City chooses to utilize any such abandoned facilities, grantee's liability for those facilities shall cease.

Sec. 10.24 Movement of cable system facilities for City purposes.

The City shall have the right to require grantee to relocate, remove, replace, modify or disconnect grantee's facilities and equipment located in the rights-of-way or on any other property of the City in the event of an emergency or when reasonable public convenience requires such change (for example, without limitation, by reason of traffic conditions, public safety, right-of-way vacation, right-of-way construction, change or establishment of right-of-way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the City for public purposes). Such work shall be performed at no cost to the City. Except during an emergency, the City shall provide reasonable notice to grantee, not to be less than 10 business days and allow grantee the opportunity to perform such action after review and approval of the relocation plan by the City. In the event of any capital improvement project exceeding $250,000 in expenditures by the City which requires the removal, replacement, modification or disconnection of grantee's facilities or equipment, the City shall provide at least 30 days' written notice to grantee. Following notice by the City, grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any right-of-way or on any other property of the City. If the City requires grantee to relocate its facilities located within the rights-of-way, the City shall make a reasonable effort to provide grantee with an alternate location within the rights-of-way but a replacement location is not guaranteed. If funds are generally made available to users of the rights-of-way for such relocation, grantee shall be entitled to its pro rata share of such funds.

If the grantee fails to complete this work within the time prescribed and to the City's reasonable satisfaction, the City may cause such work to be done and bill the reasonable cost of the work to the grantee, including all reasonable costs and expenses incurred by the City due to grantee's delay. In such event, the City shall not be liable for any damage to any portion of grantee's cable system unless the City acted in a negligent manner. Within 30 days of receipt of an itemized list of those costs, the grantee shall pay the City.

Sec. 10.25 Movement of cable system facilities for other franchise holders.

If any removal, replacement, modification or disconnection of the cable system is required to accommodate the construction, operation or repair of the facilities or equipment of another City franchise holder, grantee shall, after at least 30 days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee may require that the costs associated with the removal or relocation be paid by the benefited party at no cost to the City.

Sec. 10.26 Temporary changes for other permittees.

At the request of any person holding a valid permit and upon reasonable advance notice, grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and grantee may require a reasonable deposit of the estimated payment in advance.

Sec. 10.27 Reservation of City use of right-of-way.

Nothing in this franchise shall prevent the City or public utilities owned, maintained or operated by public entities other than the City from constructing sewers; grading, paving, repairing or altering any right-of-way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of grantee's cable system.

Sec. 10.28 Tree trimming.

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the City's rights-of-way which interferes with grantee's cable system. Grantee shall comply with any general ordinance or regulations of the City regarding tree trimming. Except in emergencies, grantee may not prune trees at a point below 30 feet above sidewalk grade until one week's written notice has been given to the owner or occupant of the premises abutting the right-of-way in or over which the tree is growing. The owner or

occupant of the abutting premises may prune such tree at his or her own expense during this one-week period. If the owner or occupant fails to do so, grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or grantee's facilities from imminent danger only.

Sec. 10.29 Inspection of construction and facilities.

The City may inspect any of grantee's facilities, equipment or construction at any time upon at least five business days' notice, or, in case of emergency, upon demand without prior notice. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable law, may order grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes. The City has the right to correct, inspect, administer and repair the unsafe condition if grantee fails to do so, and to reasonably charge grantee therefor.

Sec. 10.30 Stop work.

(a) On notice from the City that any work is being performed contrary to the provisions of this franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any generally applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City.

(b) The stop work order shall:

(1) Be in writing;

(2) Be given to the person doing the work, or posted on the work site;

(3) Be sent to grantee by overnight delivery or by facsimile at the address given herein;

(4) Indicate the nature of the alleged violation or unsafe condition; and

(5) Establish conditions under which work may be resumed.

Sec. 10.31 Work of contractors and subcontractors.

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the City's generally applicable ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this franchise and other applicable law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is grantee's responsibility to ensure that contractors, subcontractors or other persons performing work on grantee's behalf are familiar with the requirements of this franchise and other applicable laws governing the work performed by them.

Article 11. Cable System Configuration, Technical Standards and Testing

Sec. 11.1 Subscriber network/system upgrade.

(a) At such time as the grantee undertakes and completes any upgrade, grantee shall send written notice to the City. The City shall have 90 days from receipt of notice of completion to review the sweep analysis records kept by the grantee which verify the completion of the cable system bandwidth expansion, and to complete such technical inspections as may be reasonably necessary to verify that the other components of the upgrade are complete. The City Manager or his designee may require the grantee to provide additional facts and information, in his/her reasonably exercised discretion, necessary to verify completion of any upgrade.

(b) The cable system shall at all times be operated and maintained in compliance with FCC standards on closed captioning. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and access) are retransmitted in those same formats.

(c) All construction shall be subject to the City's permitting process.

(d) Grantee and City shall meet, at the City's request, to discuss construction before it commences.

(e) Grantee will take prompt corrective action if it finds that any facilities or equipment on the cable system are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this franchise or applicable law.

(f) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the franchise area.

Sec. 11.2 State of the art.

The City shall not be restricted from holding any hearing at any time, including before or as a condition of renewal, to review whether or not the cable system and the cable services offered by the grantee are meeting demonstrated community needs. The parties recognize and agree that the review may include but is not limited to the grantee's participation in/contribution to local programming, PEG programming and production facilities and equipment that the City may require.

Sec. 11.3 Standby power.

Grantee shall maintain standby power system supplies, rated for at least two hours' duration, throughout the trunk and distribution networks.

Sec. 11.4 Emergency alert capability.

(a) Grantee shall provide an operating emergency alert system ("EAS") in accordance with and as required by the provisions of FCC Regulations, 47 C.F.R. Part II, and as such provision may from time to time be amended. Grantee shall test the EAS as required by federal law. Upon request, the City shall be permitted to participate in and/or witness any EAS testing. If the test indicates that the EAS is not performing consistent with FCC requirements, grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested as required by federal law.

Sec. 11.5 Technical performance.

The technical performance of the cable system shall meet or exceed all applicable technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The City shall have the full authority permitted by applicable law to enforce compliance with these technical standards.

Sec. 11.6 Cable system performance testing.

(a) Grantee shall, at grantee's expense, perform the following tests on its cable system:

(1) All tests required by the FCC;

(2) All other tests reasonably necessary to determine compliance with technical standards adopted by the FCC at any time during the term of this franchise.

(b) Grantee shall maintain written records of all results of its cable system tests, performed by or for grantee, for as long as required by federal law. Copies of such test results will be available to the City upon written request.

(c) Grantee shall be required to promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as possible. Grantee's failure

to correct deficiencies identified through this testing process may be considered a material violation of this franchise.

Sec. 11.7 Additional tests.

Where there exists other evidence which in the reasonable judgment of the City casts doubt upon the reliability or technical quality of cable service, the City shall have the right and authority to require grantee to test, analyze and report on the performance of the cable system. Grantee shall reasonably cooperate with the City in performing such testing and shall prepare the results and a report, if requested, within 30 days after testing. Such report shall include the following information:

(a) The nature of the complaint or problem which precipitated the special tests;

(b) The cable system component tested;

(c) The equipment used and procedures employed in testing;

(d) The method, if any, in which such complaint or problem was resolved; and

(e) Any other information pertinent to said tests and analysis which may be required.

Article 12. Service Availability, Interconnection and Service to Schools and Public Buildings

Sec. 12.1 Universal service.

Grantee shall not arbitrarily refuse to provide cable services to any person within its franchise area. Subject to Section 12.2, all dwelling units, multiple dwelling units and commercial establishments in the franchise area shall have the same availability of cable services from grantee's cable system under nondiscriminatory rates subject to Section 4.3, and reasonable terms and conditions. The City acknowledges that the grantee cannot control the dissemination of particular cable services beyond the demarcation point at a multiple dwelling unit. Notwithstanding the foregoing, grantee may introduce new or expanded cable services on a geographically phased basis, where such services require an upgrade of the cable system. Grantee may also charge for line extensions and nonstandard installations pursuant to Section 12.2.

Sec. 12.2 Service availability.

(a) In General. Except as otherwise provided herein, and under normal operating conditions, no less than 95 percent of the time, measured on a quarterly basis, grantee shall provide cable service within seven days of a request by any person within the City. For purposes of this subsection, a request shall be deemed made on the date of signing a service agreement, receipt of funds by grantee, receipt of a written request by grantee or receipt by grantee of a verified verbal request. Grantee shall provide such service:

  (1) At a nondiscriminatory installation charge for a standard installation, consisting of a 125-foot drop connecting to an inside wall for residential subscribers, with additional charges for nonstandard installations computed according to a nondiscriminatory methodology for such installations, adopted by grantee;

  (2) At nondiscriminatory monthly rates for residential subscribers.

(b) Service to Multiple Dwelling Units. The grantee shall offer the individual units of a multiple dwelling unit all cable services offered to other dwelling units in the City and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the grantee having legal access to said unit. The City acknowledges that the grantee cannot control the dissemination of particular cable services beyond the demarcation point at a multiple dwelling unit.

(c) Whenever the grantee receives a request for cable service from a customer in a contiguous unserved area where there are at least 60 residences within 5,280 cable-bearing strand feet (one cable mile) from the portion of the grantee's trunk or distribution cable which is to be extended, it shall extend

its cable system to such customer at no cost to said customer for the cable system extension, other than the published standard installation fees charged to all customers. Notwithstanding the foregoing, the grantee shall have the right, but not the obligation, to extend the cable system into any portion of the service area where another operator is providing cable service, into any annexed area which is not contiguous to the present service area of the grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a freeway crossing.

(d) Customer Charges for Extensions of Service. No customer shall be refused service arbitrarily; however, for unusual circumstances, such as a customer's request to locate the cable drop underground, the existence of more than 125 feet of distance from distribution cable to connection of service to customers, or a request from a customer in an area which does not meet the density requirement of subsection (c) of this section, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the grantee and customers in the area in which service may be expanded, the grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose denominator equals 60. Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

Sec. 12.3 Connection of public facilities.

Grantee shall, at no cost to the City, continue to provide one outlet of basic service and expanded basic service to all City-owned and occupied buildings, schools and public libraries where such service is provided as of the effective date of this franchise. For purposes of this subsection, "school" means all State-accredited K – 12 public and private schools. In addition, grantee shall provide, as directed or approved by the Director of Cable Services, at no cost to the City or other entity, one outlet of basic and expanded basic service to additional City-owned or leased and City-occupied buildings, additional schools and libraries upon request if the drop line from the feeder cable to such building does not exceed 125 feet or if the City or other entity agrees to pay the incremental cost of such drop line in excess of 125 feet, including the cost of such excess labor and materials. Such obligation to provide free cable service shall not extend to areas of City buildings where the grantee would normally enter into a commercial contract to provide such cable service. Outlets of basic and expanded basic service provided in accordance with this subsection may be used to distribute cable services throughout such buildings; provided such distribution can be accomplished without causing cable system disruption and general technical standards are maintained. Such outlets may only be used for lawful purposes and shall not be used to entertain public groups or be used for commercial purposes.

Article 13. Franchise Violations

Sec. 13.1 Procedure for remedying franchise violations.

(a) If the City believes that grantee has failed to perform any obligation under this franchise or has failed to perform in a timely manner, the City shall notify grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have 30 days from the receipt of such notice to:

(1) Respond to the City, contesting the City's assertion that a default has occurred, and requesting a meeting in accordance with subsection (b) of this section; or

(2) Cure the default; or

(3) Notify the City that grantee cannot cure the default within the 30 days, because of the nature of the default. In the event the default cannot be cured within 30 days, grantee shall promptly take all reasonable steps to cure the default and notify the City in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the City may

set a meeting in accordance with subsection (b) of this section to determine whether additional time beyond the 30 days specified above is indeed needed, and whether grantee's proposed completion schedule and steps are reasonable.

(b) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (a)(3) of this section, or denies the default and requests a meeting in accordance with subsection (a)(1) of this section, or the City orders a meeting in accordance with subsection (a)(3) of this section, the City shall set a meeting to investigate said issues or the existence of the alleged default. The City shall notify grantee of the meeting in writing and such meeting shall take place no less than 30 days after grantee's receipt of notice of the meeting. At the meeting, grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(c) If, after the meeting, the City determines that a default exists, the City shall order grantee to correct or remedy the default or breach within 15 days or within such other reasonable time frame as the City shall determine. In the event grantee does not cure within such time to the City's reasonable satisfaction, the City may:

(1) Commence an action at law for monetary damages or where applicable withdraw an amount from the construction bond as monetary damages;

(2) Recommend the revocation of this franchise pursuant to the procedures in Section 13.2; or

(3) Recommend any other legal or equitable remedy available under this franchise or any applicable law.

(d) The determination as to whether a violation of this franchise has occurred shall be within the discretion of the City; provided, that any such final determination may be subject to appeal to a court of competent jurisdiction under applicable law.

Sec. 13.2 Revocation.

(a) In addition to revocation in accordance with other provisions of this franchise, the City may revoke this franchise and rescind all rights and privileges associated with this franchise in the following circumstances, each of which represents a material breach of this franchise:

(1) If grantee fails to perform any material obligation under this franchise, including any requirement added, and any change made, following the effective date of this franchise agreement under the most favored nations language in Section 3.9 and the access channel terms in Section 9.2 hereof;

(2) If grantee willfully fails for more than 48 consecutive hours to provide continuous and uninterrupted cable service;

(3) If grantee attempts to evade any material provision of this franchise or to practice any fraud or deceit upon the City or subscribers;

(4) If grantee becomes insolvent, or if there is an assignment for the benefit of grantee's creditors; or

(5) If grantee makes a material misrepresentation of fact in the application for or negotiation of this franchise.

(b) Following the procedures set forth in Section 13.1(a) and (b), and prior to forfeiture or termination of the franchise, the City shall give written notice to the grantee of its intent to revoke the franchise. The notice shall set forth the exact nature of the noncompliance.

(c) Any proceeding under subsection (b) of this section shall be conducted by the City Council or its designee and open to the public. Grantee shall be afforded at least 60 days' prior written notice of such proceeding.

(1) At such proceeding, grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence and to call and question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The City Council or its designee shall hear any persons interested in the revocation, and shall allow grantee, in particular, an opportunity to state its position on the matter.

(2) Within 90 days after the hearing, the City Council shall determine whether to revoke the franchise and declare that the franchise is revoked; or if the breach at issue is capable of being cured by grantee, direct grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the City Council or its designee determines are reasonable under the circumstances. If the City determines that the franchise is to be revoked, the City shall set forth the reasons for such a decision and shall transmit a copy of the decision to the grantee. Grantee shall be bound by the City's decision to revoke the franchise unless grantee appeals the decision to a court of competent jurisdiction within 30 days of the date of the decision.

(3) Grantee shall be entitled to such relief as the court may deem appropriate.

(4) The City Council may at its sole discretion take any lawful action it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

Sec. 13.3 Procedures in the event of termination or revocation.

(a) If this franchise expires without renewal and is not extended, or is otherwise lawfully terminated or revoked, the City may, subject to applicable law:

(1) Allow grantee to maintain and operate its cable system on a month-to-month basis or short-term extension of this franchise for not less than six months, unless a sale of the cable system can be closed sooner or grantee demonstrates to the City's satisfaction that it needs additional time to complete the sale. Grantee's continued operation of the cable system during the six-month period or such other period as the parties may agree shall not be deemed to be a waiver nor an extinguishment of any rights of either grantee or City; or

(2) Purchase grantee's cable system in accordance with the procedures set forth in Section 13.4.

(b) In the event that a sale has not been completed in accordance with subsections (a)(1) and/or (a)(2) of this section, the City may order the removal of the above-ground cable system facilities and such underground facilities from the City at grantee's sole expense within a reasonable period of time as determined by the City. In removing its plant, structures and equipment, grantee shall refill, at its own expense, any excavation that is made by it and shall leave all rights-of-way, public places and private property in as good condition as that prevailing prior to grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions shall remain in full force and effect during the period of removal.

(c) If grantee fails to complete any removal required by the City to the City's reasonable satisfaction, after written notice to grantee, the City may cause the work to be done and grantee shall reimburse the City for the reasonable costs incurred within 30 days after receipt of an itemized list of the costs.

(d) The City may seek legal and equitable relief to enforce the provisions of this franchise.

Sec. 13.4 Purchase of cable system.

(a) If at any time this franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, the City shall have the option to purchase the cable system.

(b) The City may, within 60 days of such events as described in subsection (a) of this section, offer in writing to purchase grantee's cable system. Grantee shall have 30 days from receipt of a written offer from the City within which to accept or reject the offer.

(c) In any case where the City elects to purchase the cable system, the purchase shall be closed within 120 days of the date of the City's audit of a current profit and loss statement of grantee. The City shall pay for the cable system in cash or certified funds, and grantee shall deliver appropriate bills of sale and other instruments of conveyance.

(d) For the purposes of this subsection, the price for the cable system shall be determined as follows:

(1) In the case of the expiration of the franchise without renewal, at fair market value determined on the basis of grantee's cable system valued as a going concern, but with no value allocated to the franchise itself.

(2) In the case of revocation for cause, the equitable price of grantee's cable system.

Sec. 13.5 Receivership and foreclosure.

(a) At the option of the City, subject to applicable law, this franchise may be revoked 120 days after the appointment of a receiver or trustee to take over and conduct the business of grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within 120 days of appointment; or

(2) The receivers or trustees have, within 120 days after their election or appointments, fully complied with all the terms and provisions of this franchise, and have remedied all defaults under the franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this franchise.

(b) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of grantee, the City may serve notice of revocation on grantee and to the purchaser at the sale, and the rights and privileges of grantee under this franchise shall be revoked 30 days after service of such notice, unless:

(1) The City has approved the transfer of the franchise, in accordance with the procedures set forth in this franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the City to assume and be bound by all of the terms and conditions of this franchise.

Sec. 13.6 No monetary recourse against the City.

Grantee shall not have any monetary recourse against the City or its officers, officials, boards, commissions, or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the City under this franchise are in addition to, and shall not be read to limit, any immunities the City may enjoy under federal, State or local law.

Sec. 13.7 Alternative remedies.

No provision of this franchise shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of the franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violations by grantee, or to seek and obtain judicial enforcement of grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

Article 14. Franchise Renewal and Transfer

Sec. 14.1 Renewal.

(a) The City and grantee agree that any proceedings undertaken by the City that relate to the renewal of the franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be pre-empted and superseded by the provisions of any subsequent provision of federal or State law.

(b) In addition to the procedures set forth in said Section 626(a), the City agrees to notify grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of grantee under the then current franchise term. Notwithstanding anything to the contrary set forth herein, grantee and City agree that at any time during the term of the then current franchise, while affording the public adequate notice and opportunity for comment, the City and grantee may agree to undertake and finalize negotiations regarding renewal of the then current franchise and the City may grant a renewal thereof. Grantee and City consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

Sec. 14.2 Transfer of ownership or control.

(a) The cable system and this franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any person or entity without the prior written consent of the City, which consent shall be by the City Council, acting by ordinance or resolution.

(b) The grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the grantee shall make this franchise subject to cancellation unless and until the City shall have consented in writing thereto.

(c) The parties to the sale or transfer shall make a written request to the City for its approval of a sale or transfer and furnish all information required by law and the City.

(d) In seeking the City's consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the City may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the cable system for the remaining term of the franchise.

(e) The City shall act by ordinance or resolution on the request within 120 days of the request, provided it has received all legally required information. Subject to the foregoing, if the City fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

(f) Within 30 days of any transfer or sale, if approved or deemed granted by the City, grantee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this franchise, subject to applicable law. In the event of a change in control, in which the grantee is not replaced by another entity, the grantee will continue to be bound by all of the provisions of the franchise, subject to applicable law, and will not be required to file an additional written acceptance.

(g) In reviewing a request for sale or transfer, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and grantee shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate; provided, however, any such terms and conditions so attached shall be related to the legal, technical and financial qualifications of the prospective controlling party or transferee and to the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this franchise by grantee.

(h) Notwithstanding anything to the contrary in this subsection, the prior approval of the City shall not be required for any sale, assignment or transfer of the franchise or cable system to an affiliate of grantee; provided, that the proposed assignee or transferee must show financial responsibility as may be reasonably determined necessary by the City and must agree in writing to comply with all of the provisions of the franchise. Further, grantee may pledge the assets of the cable system for the purpose of financing without the consent of the City; provided, that such pledge of assets shall not impair or mitigate grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this franchise.

Article 15. Severability

Sec. 15.1 Severability.

If any section, subsection, paragraph, term or provision of this franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other section, subsection, paragraph, term or provision of this franchise, all of which will remain in full force and effect for the term of the franchise.

Article 16. Miscellaneous Provisions

Sec. 16.1 Preferential or discriminatory practices prohibited.

No Discrimination in Employment. In connection with the performance of work under this franchise, the grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this franchise, grantee shall fully comply with all equal employment or nondiscrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

Sec. 16.2 Notices.

Throughout the term of the franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent postage prepaid to such respective address and such notices shall be effective upon the date of mailing. These addresses may be changed by the City or the grantee by written notice at any time. At the effective date of this franchise:

Grantee's address shall be:

BRESNAN COMMUNICATIONS LLC
c/o General Manager
2502 Foresight Circle
Grand Junction, Colorado 81505

With a copy to:

BRESNAN COMMUNICATIONS LLC
c/o 1 Manhattanville Road
Purchase, New York 10577
Attention: Legal Department

The City's address shall be:

City of Grand Junction
c/o City Manager
250 N. 5th Street
Grand Junction, Colorado 81501

With a copy to:

City of Grand Junction
c/o City Attorney
250 N. 5th Street
Grand Junction, Colorado 81501

Sec. 16.3 Descriptive headings.

The headings and titles of the sections and subsections of this franchise are for reference purposes only, and shall not affect the meaning or interpretation of the text herein.

Sec. 16.4 Publication and election costs to be borne by grantee.

Grantee shall reimburse the City for all publication and election costs of this franchise.

Sec. 16.5 Binding effect.

This franchise shall be binding upon the parties hereto, their permitted successors and assigns.

Sec. 16.6 No joint venture.

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party, act toward third persons or the public in any manner that would indicate any such relationship with the other.

Sec. 16.7 Waiver.

The failure of the City at any time to require performance by the grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

Sec. 16.8 Reasonableness of consent or approval.

Whenever under this franchise "reasonableness" is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards as well as business and economic considerations.

Sec. 16.9 Entire agreement.

This franchise and all exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

Sec. 16.10 Amendments to franchise.

At any time during the term of this franchise, the City, through its City Council, or the grantee may propose amendments to this franchise by giving 30 days' written notice to the other of the proposed amendment(s) desired and both parties thereafter, through their designated representatives, will negotiate within a reasonable time in good faith in an effort to agree on mutually satisfactory amendment(s).

Sec. 16.11 Successors and assigns.

The rights, privileges, franchises and obligations granted and contained in this ordinance shall inure to the benefit of and be binding upon Bresnan Communications Company, its successors and assigns.

Sec. 16.12 Third parties.

Nothing contained in this franchise shall be construed to provide rights to third parties.

Sec. 16.13 Severability.

Should any one or more provisions of this franchise be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a term that will achieve the original intent of the parties hereunder.

Sec. 16.14 Entire agreement.

This franchise constitutes the entire agreement of the parties. There have been no representations made other than those contained in this franchise. Any and all provisions of the Charter in effect at the time of approval of this franchise are incorporated and made operative by this reference as if fully set forth.

Sec. 16.15 Council approval.

This grant of franchise shall not become effective unless approved by a majority vote of the City Council.

Sec. 16.16 Grantee approval.

The grantee shall file with the City Clerk its written acceptance of this franchise and of all of its terms after the adoption of this franchise by the City Council. The acceptance shall be in form and content approved by the City Attorney.

Sec. 16.17 Voters' approval.

This grant of franchise shall not become effective unless approved by a majority vote of the qualified electors of the City voting thereon at the regular election to be held on a date to be hereinafter established by the City Council.

Sec. 16.18 Termination of prior revocable permit.

Upon the effective date of this franchise, the revocable permit granted to the predecessors of the grantee shall be terminated and of no further force and effect.

IN WITNESS WHEREOF, this franchise ordinance is signed in the name of the City of Grand Junction, Colorado this 8th day of November, 2005.

ATTEST:

/s/ Stephanie Tuin

Stephanie Tuin
City Clerk

CITY OF GRAND JUNCTION, COLORADO:

/s/ Bruce Hill

Bruce Hill
Mayor

APPROVED AS TO FORM:

/s/ John P. Shaver

John P. Shaver
City Attorney

UNCONDITIONAL ACCEPTANCE OF FRANCHISE

The undersigned, Bresnan Communications, hereby accepts this franchise passed and adopted by the City of Grand Junction pursuant to People's Ordinance No. 36 and approved by the electorate on April 5, 2005 and does hereby unconditionally agree that it will comply with and abide by all the provisions, terms and conditions of the franchise, subject to applicable federal, State and local law, and that as written and to the best of its knowledge, all terms of the franchise are consistent with federal, State and local law, as existed on the date this acceptance is signed.

Accepted and approved this 3rd day of November, 2005.

BRESNAN COMMUNICATIONS

/s/ Robert Bresnan

Title: Senior Vice President of Its Manager

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38-54	13.04.290
38-55	13.04.300
38-56	13.04.310
38-57	13.04.320
38-58	13.04.330
38-59	13.04.340
38-60	13.04.350
38-61	13.04.360
38-62	13.04.370
38-63	13.04.380
38-64	13.04.390
38-65	13.04.400
38-66	13.04.410
38-67	13.04.420
38-68	13.04.430
38-69	13.04.440

1994 Code	GJMC
38-70	13.04.450
38-71	13.04.460
38-72	13.04.470
38-73	13.04.480
38-96	13.08.010
38-97	13.08.020
38-98	13.08.030
38-99	13.08.040
38-100	13.08.050
38-101	13.08.060
38-102	13.08.070
38-103	13.08.080
38-104	13.08.090
38-105	13.08.100
38-106	13.08.110
38-107	13.08.120
38-108	13.08.130
38-109	13.08.140
38-110	13.08.150
38-111	13.08.160
38-112	13.08.170
38-113	13.08.180
38-114	13.08.190
38-115	13.08.200
38-116	13.08.210
38-117	13.08.220
38-118	13.08.230
38-119	13.08.240
38-120	13.08.250
38-121	13.08.260
38-122	13.08.270
38-123	13.08.280
38-124	13.08.290
38-125	13.08.300
38-126	13.08.310
38-127	13.08.320
38-128	13.08.330

1994 Code	GJMC
38-129	13.08.340
38-130	13.08.350
38-131	13.08.360
38-132	13.08.370
38-133	13.08.380
38-134	13.08.390
38-135	13.08.400
38-136	13.08.410
38-137	13.08.420
38-138	13.08.430
38-161	13.12.010
38-162	13.12.020
38-163	13.12.030
38-164	13.12.040
38-165	13.12.050
38-166	13.12.060
38-167	13.12.070
38-168	13.12.080
38-169	13.12.090
38-170	13.12.100
38-171	13.12.110
38-172	13.12.120
38-173	13.12.130
38-174	13.12.140
38-175	13.12.150
38-176	13.12.160
38-177	13.12.170
38-178	13.12.180
38-179	13.12.190
38-180	13.12.200
38-181	13.12.210
38-182	13.12.220
38-183	13.12.230
38-184	13.12.240
38-185	13.12.250
38-186	13.12.260
38-187	13.12.270

1994 Code	GJMC
38-188	13.12.280
38-189	13.12.290
38-190	13.12.300
38-191	13.12.310
38-192	13.12.320
38-193	13.12.330
38-194	13.12.340
38-195	13.12.350
38-196	13.12.360
38-197	13.12.370
38-198	13.12.380
38-199	13.12.390
38-200	13.12.410
38-201	12.28.010
38-202	12.28.020
38-203	12.28.030
38-204	12.28.040
38-205	12.28.050
38-206	12.28.060
38-207	12.28.070
38-208	13.28.080
38-209	13.28.090
38-210	13.28.100
38-211	13.28.110
38-212	13.28.120
38-213	13.28.130
38-214	13.28.140
38-215	12.28.150
38-216	12.28.160
38-217	12.28.170
38-218	12.28.180
38-219	12.28.190
38-220	12.28.200
38-221	12.28.210
38-222	12.28.220
40-26	2.36.010
40-27	2.36.020

1994 Code	GJMC
40-28	2.36.030
40-29	2.36.040
40-51	8.32.010
40-52	8.32.020
40-53	8.32.030
40-54	8.32.040
40-55	8.32.050
40-56	8.32.060
40-57	8.32.070
40-58	8.32.080
40-59	8.32.090
40-60	8.32.100
40-61	8.32.110
40-62	8.32.120
40-63	8.32.130
40-64	8.32.140
40-65	8.32.150
40-66	8.32.160
App. A	People's Ordinance Table
App. B	App. A
App. C § 1	12.08.110
App. C § 2	12.08.120
App. C § 3	12.08.130
App. C § 4	12.08.140, 12.08.150
App. D § 1	13.16.010
App. D § 2	13.16.020
App. D § 3	13.16.030
App. D § 4	13.16.040 – 13.16.110
App. D § 5	13.16.120
App. D § 6	13.16.130
App. E § 1	13.20.010
App. E § 2	13.20.020
App. E § 3	13.20.030
App. E § 4	13.20.040
App. E § 5	13.20.050
App. F § 1	13.24.010

1994 Code	GJMC
App. F § 2	13.24.020
App. F § 3	13.24.030
App. F § 4	13.24.040
App. F § 5	13.24.050
App. F § 6	13.24.060
App. F § 7	13.24.070
App. F § 8	13.24.080
App. F § 9	13.24.090

Resolution Table

This table lists all resolutions from 1994 to date. For information on resolutions passed prior to this date, please contact the city clerk's office. If a resolution is codified, its location in the code is cited by chapter number at the end of the ordinance description. Resolutions are codified if they are general, permanent, and/or include penalty provisions for noncompliance. "Not codified" indicates that the resolution could have been codified but was not for some reason (superseded by a later resolution, codified in a separate publication). "Special" means the resolution was special in nature or for a specific period of time (e.g., budget, annexation, tax levy, street vacation).

1-94	City Council meetings (Special)
2-94	Annexation notice (Special)
3-94	Annexation notice (Special)
4-94	Annexation petition (Special)
5-94	Amends road easement (Special)
6-94	Adoption of 1994 amended unified planning work program (Special)
7-94	Authorizes use of undergrounding funds for 12th Street (Special)
8-94	Federal aid off-system funding grant (Special)
9-94	Annexation petitions (Special)
10-94	Declares need for affordable housing (Special)
11-94	Supports grant application, Western Slope ATV (Special)
12-94	Permit issuance (Special)
13-94	Extends leave term (Special)
14-94	Federal aid off-system funding, emergency pre-empt stations (Special)
15-94	Amends road easement (Special)
16-94	Mesa County and Fruitvale Sanitation District arrearages agreement (Special)
17-94	Annexation petition (Special)
16-94	Rescinds Res. 42-93, Clifton water line easement (Repealer)
18-94	Authorizes farm lease (Special)
19-94	Adopts 1994 municipal annexation plan (Special)
20-94	City's Participation in Pension Obligation Task Force (Special)
21-94	Alley Improvement District ST-93 assessments hearing (Special)
22-94	Street Improvement District No. ST-92 assessments hearing (Special)
23-94	Easement conveyance (Special)
24-94	Permit issuance (Special)
25-94	Permit issuance (Special)
26-94	Permit issuance (Special)
27-94	Approves half-time coordinator for the arts commission (Special)
28-94	Energy impact assistance grant funds (Special)
29-94	Amends Anderson Ranch lease (Special)
30-94	Leases big game hunting rights on the Somerville Ranch Property (Special)
31-94	Amends fees and charges policy, G.J. Recreation Department (trading of grave spaces) (Special)
32-94	Appoints Susan Dackonish as Associate Municipal Judge (Special)
33-94	Permit issuance (Special)
34-94	Authorizes "Adopt-A-Street" program (Special)
35-94	Amends Mesa County Transportation Development Plan 1993-1997 (Special)
36-94	Permit issuance (Special)
37-94	Annexation petition (Special)
38-94	Colorado Division of Housing for a housing rehabilitation grant application (Special)
39-94	Renames streets (Special)
40-94	Creates Parks Development Task Force (Special)
41-94	Adopts Section 4, system expansion, sewer rules and regulations (13.16)
42-94	Purchase of real property (Special)
43-94	Permit issuance (Special)
44-94	Annexation petitions (Special)
45-94	Amends policy and reaffirms rental fees, City-County Auditorium (Special)
46-94	Irrigation water lease (Special)
47-94	Authorizes amendment of street and utility development standards (Special)
48-94	Creates Grand Junction Trails Board (Special)
49-94	Agreement with Mesa County and Fruitvale Sanitation District, arrearages (Special)
50-94	Agreement with Mesa County, Climax Mill Site (Special)

51-94	Permit issuance (Special)
52-94	Permit issuance (Special)
53-94	Authorizes lease (Special)
54-94	Annexation petition (Special)
55-94	Annexation petitions (Special)
56-94	1995 unified planning work program and 1995-2000 Transportation Improvement Plan (Special)
57-94	Annexation notice (Special)
58-94	Annexation notice (Special)
62-94	Amends sewer rules and regulations, joint city-county sewer system (Tabled to July 20, 1994)
59-94	Annexation petitions (Special)
60-94	Permit issuance (Special)
61-94	Annexation petition (Special)
62-94	Sewer rules and regulations (13.16)
63-94	Annexation petition (Special)
64-94	Annexation notice (Special)
65-94	Rights-of-way and easements conveyance (Special)
66-94	Accepts community development block grant funds (Special)
67-94	Administration of community development block grant (CDBG) funds (Special)
68-94	Adopts storm water management manual (Title 26)
69-94	Authorizes lease of city property (Special)
70-94	Sale of surplus property (Special)
71-94	Purchase of property (Special)
72-94	Alley Improvement District No. ST-1995 (Special)
73-94	Sanitary Sewer Improvement District No. 37-94 (Special)
74-94	Plat realigning and relocating open space (Special)
75-94	Colorado Historical Society grant applications (Special)
76-94	Supplemental contract with Colorado Department of Transportation, ISTEA Enhancement Grant (Special)
77-94	Annexation petitions (Special)
78-94	Permit issuance (Special)
79-94	Amends development application fee schedule (Special)
80-94	Designates C.D. Smith Building in register of historic sites (Special)
81-94	Designates Avalon Theater in register of historic sites (Special)
82-94	Designates old Saint Mary's Hospital in register of historic sites (Special)
83-94	Permit issuance (Special)
84-94	Community development block grant funds grant application (Special)
85-94	Ratifies rehab funds agreement (Special)
86-94	Sewer Improvement District SS-37-94 (Special)
87-94	Creates Alley Improvement District No. ST-95 (Special)
88-94	Growth Plan steering committee (Special)
89-94	Amends Res. 44-89, provides for Councilmember as voting member of Commission (Special)
90-94	Lease of City property (Special)
91-94	Supports efforts of the committee for the Museum District to create a cultural district (Special)
92-94	Cross-connection control program (13.24)
93-94	Opposition to Amendment 12 (Special)
94-94	Annexation petition (Special)
95-94	Extends lease of City property (Special)
96-94	1994 tax levy (Special)
97-94	1994 tax levy, Downtown Development Authority (Special)
98-94	1994 tax levy, Ridges Metropolitan District (Special)
99-94	1994 tax levy, West Water Sanitation District (Special)
100-94	Fee in lieu of grease interceptor installation (Special)
101-94	Acceptance of community development block grant funds (Special)
102-94	Administration of community development block grant (CDBG) funds (Special)
103-94	Annexation petition (Special)
104-94	Annexation petition (Special)
105-94	Establishes fees, charges and minimum insurance requirements (Special)
106-94	Amends water rates (Special)
107-94	Amends sewer system charges (Special)
108-94	Amends solid waste management fees (Special)
109-94	Annexation petition (Special)
110-94	Revocable permit issuance (Special)
111-94	Authorizes contract for audit services (Special)
112-94	Revocable permit issuance (Special)
113-94	Authorizes lease of property (Special)

114-94	Accepts grant for federal aid funding, hazard elimination project SHO M555-004 (Special)
115-94	Annexation notice (Special)
116-94	Annexation petitions (Special)
117-94	Annexation notice (Special)
118-94	Authorizes farm lease (Special)
119-94	Authorizes dry grazing lease (Special)
120-94	Authorizes dry grazing lease (Special)
121-94	Alley Improvement District No. ST-94, Phase A improvements (Special)
122-94	Alley Improvement District No. ST-94, Phase B improvements (Special)
123-94	Appropriation of additional water for Juniata Reservoir (Special)
124-94	Renames Cody Drive to Darby Drive (Special)
125-94	Amends development application fee schedule (Special)
126-94	Annexation petitions (Special)
127-94	Annexation petitions (Special)
128-94	Annexation petitions (Special)
129-94	Appointments to Historic Preservation Board (Special)
1-95	City council meetings schedule (Special)
2-95	Fee for applications, retail beer and liquor licenses change in location (Special)
3-95	Adjusts terms of interfund loans (Special)
4-95	Authorizes use of undergrounding funds (Special)
5-95	Fees and charges policy, Parks and Recreation Department (Special)
6-95	Permit issuance (Special)
7-95	Establishes polling places (Special)
8-95	Annexation notice (Special)
9-95	Permit issuance (Special)
10-95	Annexation petition (Special)
11-95	Annexation petition (Special)
12-95	Addendum to contract; transfer of funds (Special)
13-95	Exchange of vacant land (Special)
14-95	1995 golf course fees and charges policy (Special)
15-95	Adopts Phase I Program, parks development (Special)
16-95	Appointment of Associate Municipal Court Judges (Special)
17-95	Contract grant, Colorado Historical Society (Special)
18-95	Annexation petition (Special)
19-95	No. SS-38-95 Sanitary Sewer Improvement District (Special)
20-95	No. SS-39-95 Sanitary Sewer Improvement District (Special)
21-95	Purchase of land (Special)
22-95	Designates voting district boundaries (Special)
23-95	Amends General Capital Improvement Plan (Special)
24-95	Amends Res. No. 44-89, approval of grants awarded by Commission on Arts and Culture (Special)
25-95	Objects to use of a City flowline tap for water supply to a campground near Kannah Creek (Special)
26-95	Authorizes lease of property (Special)
27-95	Authorizes lease of property (Special)
28-95	Appoints judges of election, April 4, 1995 municipal election (Special)
29-95	Notice of election, April 4, 1995 municipal election (Special)
30-95	Adopts the 1995 Municipal Annexation Plan (Special)
31-95	Annexation petitions (Special)
32-95	Annexation petitions (Special)
33-95	Alternate point of diversion, Grand Junction Colorado River pipeline water right (Special)
34-95	Amends 1995-2000 Transportation Improvement Plan (Special)
35-95	Acceptance of community development block grant funds (Special)
36-95	Administration of community development block grant (CDBG) funds (Special)
37-95	Annexation petition (Special)
38-95	Permit issuance (Special)
39-95	Amending Res. 21-95, purchase of land (Special)
40-95	Annexation petitions (Special)
41-95	Grants utilities easements (Special)
42-95	Purchase of real property (Special)
43-95	Amends easement width (Special)
44-95	Designates Emerson School in city register of historic sites (Special)
45-95	Contracts for Blue Heron, Phase II Trail, and Columbine Park playground equipment and safety surface installation (Special)
46-95	Orchard Mesa Neighborhood Plan (35.08, 35.12, 35.16, 35.20, 35.24, 35.28, 35.32, 35.36, 35.40, 35.44)

47-95 Creates Sanitary Sewer Improvement District No. SS 38-95 (Special)
48-95 Creates Sanitary Sewer Improvement District No. SS 39-95 (Special)
49-95 Endorses Councilmember Reford C. Theobold as a candidate for director on the CML Executive Board (Special)
50-95 Authorizes conveyance of drainage easement to Grand Junction Drainage District (Special)
51-95 Annexation petition (Special)
52-95 Sanitary Sewer Improvement District No. SS 40-95 (Special)
53-95 Annexation petition (Special)
54-95 Endorses Councilmember Reford C. Theobold as candidate for the NLC Board of Directors (Special)
55-95 Fiscal year 1996 unified planning work program (Special)
56-95 Extends term of property lease (Special)
57-95 Annexation petitions (Special)
58-95 Extends property lease (Special)
59-95 Authorizes farm lease (Special)
60-95 Annexation petitions (Special)
61-95 Annexation petitions (Special)
62-95 Purchase of land (Special)
63-95 Authorizes property lease (Special)
64-95 Annexation petition (Special)
65-95 Sanitary Sewer Improvement District No. SS 40-95 (Special)
66-95 Contract for trail construction (Special)
67-95 Permit issuance (Special)
68-95 Annexation notice (Special)
69-95 Accepts a federal aid off-system funding grant (Special)
70-95 Amends investment policy (Special)
71-95 Annexation petition (Special)
72-95 Annexation petitions (Special)
73-95 Designates Williams House in city register of historic sites (Special)
74-95 Designates B.P.O.E. Home in city register of historic sites (Special)
75-95 Permit issuance (Special)
76-95 Contract for investment management (Special)
77-95 Amendment to 1995-2000 Transportation Improvement Plan (Special)
78-95 Underground power line easement conveyance (Special)
79-95 Authorizes lease of property (Special)
80-95 Persigo Wastewater Treatment Plant (13.16)
81-95 Annexation petition (Special)
82-95 Annexation notice (Special)
83-95 Annexation petitions (Special)
84-95 Permit issuance (Special)
85-95 Designates depository; approves agreement for banking services (Special)
86-95 Authorizes dry grazing lease (Special)
87-95 Permit issuance (Special)
88-95 Annexation petition (Special)
89-95 Annexation petition (Special)
90-95 Authorizes use of undergrounding funds (Special)
91-95 Permit issuance (Special)
92-95 Annexation petitions (Special)
93-95 1995 tax levy (Special)
94-95 1995 tax levy, Ridges Metropolitan District (Special)
95-95 1995 tax levy, West Water and Sanitation District A (Special)
96-95 1995 tax levy, Downtown Development Authority (Special)
97-95 Alley Improvement District No. ST-96, Phase A (Special)
98-95 Authorizes use of undergrounding funds (Special)
99-95 Supports entry of the Downtown Development Authority into Great American Main Street Awards Competition (Special)
100-95 Designating First Presbyterian Church in the City register of historic sites (Special)
101-95 Permit issuance (Special)
102-95 Annexation notice (Special)
103-95 Annexation petitions (Special)
104-95 Annexation petitions (Special)
105-95 Approves interfund loan (Special)
106-95 1996-1997 fees and charges policy, Parks and Recreation Department (Special)
107-95 Transportation services agreement (Special)
108-95 Authorizes dry grazing lease (Special)
109-95 Authorizes site lease (Special)
110-95 Purchase of property (Special)
111-95 Sale of property (Special)
112-95 Purchase of real property (Special)
113-95 Easement grant (Special)
114-95 Permit issuance (Special)

115-95	Street Improvement District No. ST-96 (Special)
116-95	Sanitary Sewer Improvement District No. SS-41-95 (Special)
117-95	Extends lease (Special)
118-95	Annexation notice (Special)
119-95	Annexation petition (Special)
120-95	Amends solid waste management fees (Special)
121-95	Authorizes VCB to enter into contracts for its services (Special)
122-95	Contract for group term life insurance (Special)
123-95	Designates Whitman School in City register of historic sites (Special)
124-95	City policy and practices, Clifton annexation area (Special)
125-95	Designates Westlake/Burhorne drainage area as a park site (Special)
126-95	Creates Alley Improvement District No. ST-96, Phase A (Special)
127-95	Adopts 1996-1997 budget (Special)
1-96	City Council meeting schedule (Special)
2-96	Annexation petition (Special)
3-96	Permit issuance (Special)
4-96	Annexation petition (Special)
5-96	Authorizes use of undergrounding funds (Special)
6-96	Grant for federal aid funds (Special)
7-96	Alley Improvement District No. ST-96, Phase B (Special)
8-96	Street Improvement District No. ST-96 (Special)
9-96	Sanitary Sewer Improvement District No. SS-41-95 (Special)
10-96	Sales and use tax return filing frequency and reporting due dates (Special)
11-96	Approves 1996 department heads salary schedule (Special)
12-96	Clarifies applicability on trails of Ord. 2884, dog excrement disposal (Special)
13-96	Conveyance of telecommunications easement (Special)
14-96	Annexation petition (Special)
15-96	Sale of surplus city property (Special)
16-96	Conveyance of telecommunications easement (Special)
17-96	Purchase of real property (Special)
18-96	Consent to vary covenants for Melrose Subdivision (Special)
19-96	Annexation petitions (Special)
20-96	Reconstruction of certain alleys (Special)
21-96	Appointing David Graham to the Airport Authority (Special)
22-96	Creation of the Grand Junction Public Finance Corporation (Special)
23-96	Underground electric line easements conveyance (Special)
24-96	Annexation petition (Special)
25-96	Annexation petition (Special)
26-96	Authorizes use of undergrounding funds (Special)
27-96	Amends 1995-2000 Transportation Improvement Plan (Special)
28-96	Alley Improvement District No. ST-96, Phase C (Special)
29-96	Adopts 1996 Municipal Annexation Plan (Special)
30-96	Reconsiders annexations (Special)
31-96	Contract with Great Outdoors Colorado (GOCO), Canyon View Park (Special)
32-96	Sanitary Sewer Improvement District No. SS-38-95 (Special)
33-96	Designates Old Goodwill Building in register of historic sites (Special)
34-96	Annexation petition (Special)
35-96	Annexation petition (Special)
36-96	Amends solid waste management fees (Special)
37-96	SS ID-37-94 assessments (Special)
38-96	SS ID-40-95 assessments (Special)
39-96	Alley Improvement District No. ST-95 improvements (Special)
40-96	Authorizes office space lease (Special)
41-96	Annexation petition (Special)
42-96	Annexation petitions (Special)
43-96	Annexation petitions (Special)
44-96	Contributions to Mesa State College Foundation (Special)
45-96	Annexation petition (Special)
46-96	Alley Improvement District No. ST-96, Phase C (Special)
47-96	Lease of property (Special)
48-96	Telecommunications easement grant (Special)
49-96	Adopts water conservation plan (13.36)
50-96	Establishes permit fees for work in the public rights-of-way (Special)
51-96	Designates Stranges Grocery Store in City register of historic sites (Special)
52-96	Designates Fair Building in City register of historic sites (Special)

53-96	Authorizes placement of historic marker (Special)
54-96	Annexation petitions (Special)
55-96	Annexation petitions (Special)
56-96	Changes name of Moses Subdivision to Paradise Corner (Special)
57-96	Authorizes lease of irrigation water (Special)
58-96	Names "Wingate Park" (Special)
59-96	Amends Res. 89-94, Councilmember on Arts Commission (Special)
60-96	City Council meeting schedule (Special)
61-96	Amends temporary use permit and home occupation permit fee schedule (Special)
62-96	Annexation petition (Special)
63-96	Supports agreement between City and State Board of the Great Outdoors Colorado Trust Fund (Special)
64-96	Annexation petitions (Special)
65-96	Annexation petitions (Special)
66-96	Permit issuance (Special)
67-96	Permit issuance (Special)
68-96	Authorizes movement of platted properties from taxing districts (Special)
69-96	Right-of-way parcels grant (Special)
70-96	Amends Res. 105-94, ambulance service permit fee (Special)
71-96	Transportation services agreement (Special)
72-96	1997 Unified Planning Work Program and 1997-2002 Transportation Improvement Program (Special)
73-96	1995-2000 Transportation Improvement Plan amendments (Special)
74-96	Permit issuance (Special)
75-96	Annexation petition (Special)
76-96A	Annexation petitions (Special)
77-96	Annexation petition (Special)
78-96	Accepts grant for federal aid funds (Special)
79-96	Acknowledges defense of police employees in Civil Action No. 95 CV 171 (Boeschenstein) (Special)
80-96	Supports school district bond issue for 1996 (Special)
81-96	Exchange of city-owned property (Special)
82-96	Annexation petitions (Special)
83-96	Annexation petitions (Special)
84-96	Permit issuance (Special)
85-96	Annexation petition (Repealed by 67-97)
86-96	Supports Mesa County's application for redesignation of County-wide enterprise zone (Special)
87-96	Appointment of alternate hearing officer, liquor and beer licensing (Special)
88-96	Extends lease of property (Special)
89-96	Permit issuance (Special)
90-96	Purchase of property (Special)
91-96	Adopts Growth Plan (31.04, 31.08, 31.12, 31.16, 31.20, 31.24, 31.32, 31.36, 31.40)
92-96	Purchase of real property (Special)
93-96	Extends lease of property (Special)
94-96	Telecommunications easement (Special)
95-96	Utility easement (Special)
96-96	Non-exclusive easement (Special)
97-96	Annexation notice (Special)
98-96	Annexation notice (Special)
99-96	Annexation petition (Special)
100-96	Annexation petitions (Special)
101-96	Authorizes VCB to enter into contracts for its services (Special)
102-96	Approves Law Enforcement Assistance Fund Contract L-30-97 (Special)
103-96	1996 tax levy (Special)
104-96	1996 tax levy, Ridges Metropolitan District (Special)
105-96	1996 tax levy, West Water and Sanitation District (Special)
106-96	1996 tax levy, Downtown Development Authority (Special)
107-96	Alley Improvement District No. ST-97, Phase A (Special)
108-96	Annexation petition (Special)
109-96	Accepts grant for federal aid funds (Special)
110-96	Changes name of Faith Street within Grace Commercial Subdivision replat to Bogart Lane (Special)
111-96	Cooperative Planning Agreements between City, Mesa County and Fruita, and City, Mesa County and Palisade (Special)
112-96	Annexation petition (Special)
113-96	Authorizes lease of property (Special)
114-96	Annexation petition (Special)

115-96	Amends 1996/1997 fees and charges policy, Parks and Recreation Department (Special)
116-96	Authorizes dry grazing lease (Special)
117-96	Authorizes dry grazing lease (Special)
118-96	Authorizes lease of property (Special)
119-96	Amends lease (Special)
120-96	Supports agreement, City and the State Board of the Great Outdoors Colorado Trust Fund (Special)
121-96	Supports agreement between City, Grand Junction/Mesa County Riverfront Commission, Mesa County Land Conservancy, Colorado Division of Wildlife, Colorado Division of Parks and Outdoor Recreation, City of Fruita, Town of Palisade and Mesa County (Special)
122-96	Supports agreement between City and Downtown Development Authority (Special)
123-96	(Number not used)
124-96	Alley Improvement District No. ST-97, Phase A (Special)
125-96	Annexation petitions (Special)
126-96	Delivery of untreated water to water providers and individual water users (13.20)
1-97	City Council meeting schedule (Special)
2-97	Permit issuance (Special)
3-97	Annexation petition (Special)
4-97	Sanitary Sewer Improvement District Nos. SS-38-95 and SS-39-95 (Special)
5-97	Changes name of Short Lane between F-1/2 Road and Midway Avenue to Deer View Lane (Special)
6-97	Annexation petition (Special)
7-97	States City Council policy toward Redlands annexations (Special)
8-97	Amends bylaws of Commission on Arts and Culture (Special)
9-97	Cooperation and delegation with PIAB, Inc., Canyon View Park Baseball Field completion (Special)
10-97	Acquisition of property (Special)
11-97	Permit issuance (Special)
12-97	Permit issuance (Special)
13-97	Annexation petition (Special)
14-97	Annexation petition (Special)
15-97	Establishes polling places for April 8, 1997 municipal election (Special)
16-97	Amends Res. 61-90, alley improvement districts assessment rates (Special)
17-97	Amends bylaws of Planning Commission (Special)
18-97	Annexation petition (Special)
19-97	Creates wood stove incentive replacement fund (Special)
20-97	Art in Public Places Program (Repealed by 125-08)
21-97	Appointment of judges of election, April 8, 1997 municipal election (Special)
22-97	Permit issuance (Special)
23-97	Acquisition of property (Special)
24-97	Submits to electorate April 8, 1997, an amendment to the City Charter, Article II, Section 38, salaries (Special)
25-97	Notice of election, regular municipal election April 8, 1997 (Special)
26-97	Designates voting district boundaries (Special)
27-97	Adopts the 1997 Municipal Annexation Plan (Special)
28-97	Approves Occupant Protection Twist Campaign contract (Special)
29-97	Annexation petitions (Special)
30-97	Annexation petitions (Special)
31-97	Joint resolution between City, Town of Palisade, Town of Fruita and the County of Mesa, appointment of members to commission and 1997 funding (Special)
32-97	Adopts Urban Trails Master Plan (Special)
33-97	Designates Hotel Melrose in City register of historic sites (Special)
34-97	Annexation petition (Special)
35-97	Stating General City Annexation Policies (Special)
36-97	Grants option to purchase conservation easements (Special)
37-97	Designates Raso Building in City register of historic sites (Special)
38-97	Appoints City Councilmembers to various boards and organizations (Special)
39-97	Annexation petition (Special)
40-97	Authorizes use of public service company undergrounding funds (Special)
41-97	Annexation notice (Special)
42-97	Non-exclusive easement grant (Special)

43-97	Designates residence at 625 Chipeta Avenue in City register of historic sites (Special)
44-97	Intent to amend Street Improvement District No. ST-96 (Special)
45-97	SSID 38-95 and SSID 39-95 improvements (Special)
46-97	Permit issuance (Special)
47-97	Transportation services agreement (Special)
48-97	Annexation petition (Special)
49-97	Permit issuance (Special)
50-97	1998-2002 Transit Development Plan (Special)
51-97	Fees and charges relating to Ch. 4 of the code of ordinances (Special)
52-97	Sanitary Sewer Improvement Districts Nos. SS-38-95 and SS-39-95 improvements (Special)
53-97	Alley Improvement District No. ST-96 improvements (Special)
54-97	Alley Improvement District No. ST-96, Phase B assessments (Special)
55-97	Alley Improvement District No. ST-96, Phase C assessments (Special)
56-97	1998 Unified Planning Work Program (Special)
57-97	Appointment of liquor and beer licensing alternate hearing officer (Special)
58-97	Agreement between City and State Board of the Great Outdoors Colorado Trust Fund (Special)
59-97	Transit Development Plan for 1998-2002 (Special)
60-97	Defense of police employees in Civil Action No. 95 CF 420 (Special)
61-97	Policies and procedures manual for purchasing of equipment (Not codified)
62-97	Sanitary Sewer Improvement District No. SS 42-97 (Special)
63-97	Permit issuance (Special)
64-97	Permit issuance (Special)
65-97	Designates Lincoln Park residential historic district in City register of historic sites (Special)
66-97	Approves Law Enforcement Assistance Fund Contract #L-19-98 (Special)
67-97	Rescinds Res. 85-96 (Repealer)
68-97	Permit issuance (Special)
69-97	Annexation petition (Special)
70-97	1997 tax levy (Special)
71-97	1997 tax levy, Ridges Metropolitan District (Special)
72-97	1997 tax levy, West Water and Sanitation District (Special)
73-97	1997 tax levy, Downtown Development Authority (Special)
74-97	Authorizes right-of-way conveyance (Special)
75-97	Easement issuance (Special)
76-97	1997-2002 Transportation Improvement Plan (TIP) (Special)
77-97	Permit issuance (Special)
78-97	Creates Joint Utilization Commission (Special)
79-97	Sanitary Sewer Improvement District No. SS-42-97 (Special)
80-97	Sale of City property (Special)
81-97	Authorizes Mayor to sign GOCO grant application for Mesa Slopes (Special)
82-97	Reconveyance agreement, Redlands Water and Power Co. (Special)
83-97	1998-1999 fees and charges policy, Parks and Recreation Department (Special)
84-97	Describes applicable provisions of the City Code, the Growth Plan and City planning resources regarding Atlantic Fidelity v. City of Grand Junction (Special)
85-97	Sale of City property (Special)
86-97	Expresses support of changes in the pipeline route location of the TransColorado Gas transmission project (Special)
87-97	Designates First National Bank Building in City register of historic sites (Special)
88-97	Adopts 1998-1999 budget (Special)
1-98	City Council meeting schedule (Special)
2-98	Extends dry grazing lease (Special)
3-98	Extends dry grazing lease (Special)
4-98	Authorizes lease of property (Special)
5-98	Sanitary Sewer Improvement District No. SS-41-95 improvements (Special)
6-98	Purchase of real property (Special)
7-98	Authorizes 20-year transmitter site and access road lease (Special)
8-98	Purchase of real property (Special)
9-98	Extends lease of property (Special)
10-98	Sale of city property (Special)
11-98	Amends office space lease (Special)

12-98	Amends offer to purchase property (Special)
13-98	Authorizes amended lease of City property (Special)
14-98	Alley Improvement District No. ST-98, Phase A (Special)
15-98	Amends bylaws of Planning Commission (Special)
16-98	Regional communication center operating agreement (42.04)
17-98	Designates voting district boundaries (Special)
18-98	Appointment of judges, April 7, 1998 special election (Special)
19-98	Establishes polling places for April 7, 1998 special election (Special)
20-98	Notice of election, April 7, 1998 special election (Special)
21-98	Cooperative planning agreements, Grand Junction, Mesa County and Fruita, and Grand Junction, Mesa County and Palisade (44.04)
22-98	Sanitary sewer service extension (Special)
23-98	Designates Vorbeck Building in City register of historic sites (Special)
24-98	TransColorado gas transmission project (Special)
25-98	Permit issuance (Special)
26-98	Alley Improvement District No. ST-98, Phase B (Special)
27-98	Accepts grant for federal aid funds (Special)
28-98	Permit issuance (Special)
29-98	Creates Alley Improvement District No. ST-98, Phase A (Special)
30-98	Permit issuance (Special)
31-98	Appoints City Councilmembers to various boards and organizations (Special)
32-98	1997-2002 Transportation Improvement Plan (Special)
33-98	Creates Alley Improvement District No. ST-98, Phase B (Special)
34-98	Purchase of real property (Special)
35-98	Designates Electric Building in the City register of historic sites (Special)
36-98	Designates the residence at 619 Chipeta Avenue in the City register of historic sites (Special)
37-98	Memorandum of understanding, Mesa County Transportation Coalition (Special)
38-98	North Central Valley Neighborhood Plan (38.04, 38.08, 38.12, 38.16, 38.20, 38.24, 38.28, 38.32, 38.36, 38.40)
39-98	Transportation services agreement (Special)
40-98	Permit issuance (Special)
41-98	Authorizes use of undergrounding funds (Special)
42-98	Authorizes vacation of easements by resolution (Special)
43-98	1997-2002 Transportation Improvement Plan (Special)
44-98	Permit issuance (Special)
45-98	SS 42-97 improvements (Special)
46-98	Alley Improvement District No. ST-97, Phase A improvements (Special)
47-98	1999 Unified Planning Work Program (Special)
48-98	Exchange of real estate (Special)
49-98	Utility easement vacation (Special)
50-98	Utility easement vacation (Special)
51-98	Utility easement vacation (Special)
52-98	Approves contract for professional services (Special)
53-98	Amends Res. No. 70-96, ambulance service permit fee (Special)
54-98	Annexation petition (Special)
55-98	Contract to buy and sell real estate, Berry property (Special)
56-98	Amends water purchase agreement, City and Clifton Water District (Special)
57-98	Designates Reed Building in city register of historic sites (Special)
58-98	Permit issuance (Special)
59-98	Sewer easement vacation (Special)
60-98	Utility easement grant (Special)
61-98	Annexation petition (Special)
62-98	Repeals residency requirement, housing authority members (Special)
63-98	Temporary drainage easement vacation (Special)
64-98	Annexation petition (Special)
65-98	1999-2004 Transportation Improvement Plan (Special)
66-98	Annexation petitions (Special)
67-98	Approves Law Enforcement Assistance Fund (LEAF) Contract (Special)
68-98	Alley Improvement District No. ST-99, Phase A (Special)
69-98	Designates depository, approves agreement for banking services (Special)

70-98	Authorizes contract for audit services (Special)
71-98	Establishes local law enforcement block grant advisory board (Special)
72-98	Approves Occupant Protection Twist Campaign contract (Special)
73-98	Indemnifies U.S. for use of Wayne Aspinall Courthouse for the Teen Court Program (Special)
74-98	1998 tax levy (Special)
75-98	1998 tax levy, Ridges Metropolitan District (Special)
76-98	1998 tax levy, West Water and Sanitation District (Special)
77-98	1998 tax levy, Downtown Development Authority (Special)
78-98	Multi-purpose easement vacation (Special)
79-98	Annexation petition (Special)
80-98	Approves development plan and design density for the Redlands Mesa Development (Special)
81-98	Creates Alley Improvement District No. ST-99, Phase A (Special)
1-99	City Council meeting schedule (Special)
2-99	Amends Res. 69-98, banking services authorized signatures (Special)
3-99	Accepts funds from the Colorado Department of Transportation, CDOT Project CR300-043 (Special)
4-99	Annexation petition (Special)
5-99	Annexation petition (Special)
6-99	Approves written plan for the conduct of a mail ballot (Special)
7-99	Annexation petition (Special)
8-99	Annexation petition (Special)
9-99	Annexation petition (Special)
10-99	Annexation petitions (Special)
11-99	Agreement with BLN Classic Golf Management, LLC (Special)
12-99	Lease of office space (Special)
13-99	Amends Res. No. 50-96, fees and permits for work in public rights-of-way (Special)
14-99	Annexation petition (Special)
15-99	Designates voting district boundaries (Special)
16-99	Accepts funds from the Colorado Department of Transportation, Project SHE M555-009 (Special)
17-99	Alley Improvement District No. ST-98, Phase A improvements (Special)
18-99	Alley Improvement District No. ST-99, Phase B (Special)
19-99	Utility easement vacation (Special)
20-99	Annexation petition (Special)
21-99	Annexation petition (Special)
22-99	Annexation petitions (Special)
23-99	Annexation petitions (Special)
24-99	Repeals requirement for fallout shelters in all buildings (Repealer)
25-99	Utility easement vacation (Special)
26-99	Drainage easement vacation (Special)
27-99	Annexation petition (Special)
28-99	Annexation petition (Special)
29-99	Annexation petition (Special)
30-99	Annexation petition (Special)
31-99	Places on ballot question of increase in City Council compensation (Special)
32-99	Annexation petitions (Special)
33-99	Annexation petitions (Special)
34-99	Annexation petition (Special)
35-99	Notice of election, April 6, 1999 regular municipal election (Special)
36-99	Accepts grant for federal aid funds (Special)
37-99	Designates Riverside Elementary School in City register of historic sites (Special)
38-99	Utility easement vacation (Special)
39-99	Annexation petition (Special)
40-99	Annexation petition (Special)
41-99	Annexation petitions (Special)
42-99	Land exchange between City and Bureau of Land Management (Special)
43-99	Authorizes farm lease (Special)
44-99	Annexation petition (Special)
45-99	Permit issuance (Special)
46-99	Conveyance of Lots 26 – 29, Block 120, to Downtown Development Authority (Special)
47-99	Creates Alley Improvement District No. ST-99, Phase B (Special)
48-99	Annexation petition (Special)
49-99	Annexation petitions (Special)
50-99	Annexation petitions (Special)
51-99	Annexation petitions (Special)
52-99	Annexation petitions (Special)
53-99	Annexation petition (Special)
54-99	Boundary adjustments, Ute Water Conservancy District Water Service Area; amends bulk water purchase arrangements (Special)
55-99	Authorizes lease of property (Special)
56-99	City Council meetings (Special)

57-99	Computation of assessments, properties in alley improvement districts (Special)
58-99	Annexation petitions (Special)
59-99	Amends Growth Plan, rezone (Special)
60-99	Annexation petitions (Special)
61-99	Appoints City Councilmembers to various boards and organizations (Special)
62-99	Lease of office space (Special)
63-99	Annexation petition (Special)
64-99	Annexation petition (Special)
65-99	Annexation petition (Special)
66-99	Amends Planning Commission by-laws (Special)
67-99	Summer Hill subdivision development conditions (Special)
68-99	Authorizes exercise of first right of refusal to Purchase Lots 20, 21, and 22 in Block 101 (Special)
69-99	Annexation petitions (Special)
70-99	Annexation petition (Special)
71-99	Annexation petition (Special)
72-99	Permit issuance (Special)
73-99	Permit issuance (Special)
74-99	Utility easement vacation (Special)
75-99	Annexation petition (Special)
76-99	Annexation petitions (Special)
77-99	Authorizes use of underground funds (Special)
78-99	Annexation petitions (Special)
79-99	Annexation petition (Special)
80-99	Annexation petition (Special)
81-99	Annexation petition (Special)
82-99	1999-2004 Transportation Improvement Program (Special)
83-99	2000 Unified Planning Work Program (Special)
84-99	Accepts grant of state funds, 5th Street Improvement Project (Special)
85-99	Electric utility easement grant (Special)
86-99	Utility easement vacation (Special)
87-99	Annexation petitions (Special)
88-99	Annexation petitions (Special)
89-99	Cross-connection control program (13.24)
90-99	Utility easement vacation (Special)
91-99	Amends Growth Plan, rezone (Special)
92-99	Annexation petitions (Special)
93-99	Transportation services agreement (Special)
94-99	Extends lease of property (Special)
95-99	Amends Growth Plan, rezone (Special)
96-99	Amends Growth Plan, rezone (Special)
97-99	Annexation petition (Special)
98-99	Annexation petition (Special)
99-99	Annexation petitions (Special)
100-99	Alley Improvement District No. ST-98, Phase B improvements (Special)
101-99	Alley Improvement District No. ST-99, Phase A improvements (Special)
102-99	Annexation petition (Special)
103-99	Annexation petition (Special)
104-99	Annexation petition (Special)
105-99	Annexation notice (Special)
106-99	Amends Res. 67-99, Summer Hill subdivision development conditions (Special)
107-99	Amends Growth Plan (31.24, 31.40)
108-99	Recognizes Scott Harrington, Community Development Director (Rescinded 9-15-99)
109-99	Changes number of Housing Authority members (Special)
110-99	Designates 1015 Hill Avenue in City historical register (Special)
111-99	Designates Mesa County Courthouse in City Historical Register (Special)
112-99	Intent to annex (Special)
113-99	Endorsement of School District Ballot Issue 3A (Special)
114-99	Alley Improvement District No. ST-00, Phase A (Special)
115-99	Drainage easement vacation (Special)
116-99	Annexation petition (Special)
117-99	Annexation notice (Special)
118-99	Annexation petition (Special)
119-99	Accepts grant of state funds (Special)
120-99	Utility, irrigation and drainage easements vacation (Special)
121-99	Annexation petition (Special)
122-99	Annexation petitions (Special)
123-99	Annexation petitions (Special)
124-99	Submits to electorate measure to amend City Charter, collective bargaining (Special)
125-99	Annexation petition (Special)
126-99	Annexation petition (Special)
127-99	Opposes Charter amendment proposal for collective bargaining (Special)
128-99	Annexation petition (Special)
129-99	Creates Alley Improvement District No, ST-00, Phase A (Special)
130-99	Annexation petitions (Special)
131-99	Annexation petitions (Special)
132-99	Permit issuance (Special)

133-99	Amends Planning Commission by-laws, consent calendar (Special)
134-99	1999 tax levy (Special)
135-99	1999 temporary credit taxes levy (Special)
136-99	1999 tax levy, Ridges Metropolitan District (Special)
137-99	1999 tax levy, West Water and Sanitation District (Special)
138-99	1999 tax levy, Downtown Development Authority (Special)
139-99	Amends agreement to initiate land exchange (Special)
140-99	Authorizes exchange of real estate with the United States of America (Special)
141-99	Amends lease of City property (Special)
142-99	Electric utility easement (Special)
143-99	Utility easements vacation (Special)
144-99	Annexation petition (Special)
145-99	Annexation petition (Special)
146-99	Annexation petition (Special)
147-99	Annexation petitions (Special)
148-99	Purchase of Purdy Mesa Water Livestock Company (Special)
149-99	2000-2001 Parks and Recreation Department fees and charges policy (Special)
150-99	Sanitary Sewer Improvement District No. SS-43-99 (Special)
151-99	Annexation petition (Special)
152-99	Annexation petition (Special)
153-99	Adopts 2000-2001 budget (Special)
154-99	Approves 2000-2001 budget, Persigo sewer system (Special)
01-00	City Council meeting schedule (Special)
02-00	Notice of election, February 1, 2000 special election (Special)
03-00	Opposes federal legislation prohibiting collection of state and local sales and use taxes on remote sales (Special)
04-00	Annexation petition (Special)
05-00	Annexation petition (Special)
06-00	Annexation petition (Special)
07-00	Amends Growth Plan, Desert Hills Estates (Special)
08-00	Creates Sanitary Sewer Improvement District No. SS-43-99 (Special)
09-00	Acquisition of real property (Special)
10-00	Acceptance of GOCO grant, Westlake Park (Special)
11-00	Annexation petition (Special)
12-00	Annexation petition (Special)
13-00	Annexation petition (Special)
14-00	Defense of Officer John Kiesler, Civil Action No. 99 CV 510 (Special)
15-00	Permit issuance (Special)
16-00	Acquisition of property by condemnation (Special)
17-00	Amends Growth Plan, rezone (Special)
18-00	Annexation petition (Special)
19-00	Annexation petition (Special)
20-00	Amends Growth Plan, rezone (Special)
21-00	Annexation petitions (Special)
22-00	Amends Growth Plan, rezone (Special)
23-00	Annexation petition (Special)
24-00	Annexation petition (Special)
25-00	Utility and irrigation easements vacations (Special)
26-00	Establishes development fees (Special)
27-00	Annexation petition (Special)
28-00	Annexation petition (Special)
29-00	Annexation petition (Special)
30-00	Annexation petition (Special)
31-00	Annexation petition (Special)
32-00	Irrigation and drainage easement vacation (Special)
33-00	Ingress-egress easement vacation (Special)
34-00	Annexation petitions (Special)
35-00	Off-site parking agreement (Special)
36-00	Alley Improvement District No. ST-00, Phase B (Special)
37-00	Annexation petition (Special)
38-00	Establishes septic system elimination program (Special)
39-00	Annexation petition (Special)
40-00	2001-2006 Transportation Improvement Program (Special)
41-00	Designates First United Methodist Church in the City register of historic sites (Special)
42-00	Notice of annexation intent (Special)
43-00	Notice of annexation intent (Special)
44-00	Notice of annexation intent (Special)
45-00	Notice of annexation intent (Special)
46-00	Notice of annexation intent (Special)
47-00	Amending Chapter 6, Article III of the Code of Ordinances Animal Control (Repealed by 52-00)
48-00	Utility easement vacation (Special)
49-00	Annexation petition (Special)
50-00	Annexation petitions (Special)
51-00	Annexation petitions (Special)

52-00	Repeals Res. 47-00, animal control (Repealer)
53-00	Creates Alley Improvement District No. Phase B (Special)
54-00	Annexation petition (Special)
55-00	Annexation petitions (Special)
56-00	Appoints David A. Varley as interim City Manager (Special)
57-00	Accepts Juvenile Accountability Incentive Block Grant (Special)
58-00	Sanitary Sewer Improvement District No. SS-43-99 improvements (Special)
59-00	Transportation services agreement (Special)
60-00	Amends Persigo 201 Service Area (Special)
61-00	Federal aid enhancement funds, project STE M55-013 (Special)
62-00	Permit issuance (Special)
63-00	Annexation petition (Special)
64-00	Appoints City Councilmembers to various boards (Special)
65-00	Designates trail on the Grand Mesa as Mark's Trail (Special)
66-00	Amends Res. 2-99, banking services authorized signatures (Special)
67-00	2001 Unified Planning Work Program (Special)
68-00	2000 Transportation Improvement Program (Special)
69-00	Authorizes acceptance of offer to sell to the Grand Junction Housing Authority Lots 19 through 26, Block 134 (Special)
70-00	Annexation notice (Special)
71-00	Annexation notice (Special)
72-00	Authorizes office space lease (Special)
73-00	Defense of Officer Geraldine Earthmen in Civil Action No. 00 S 5236 (Special)
74-00	Water line easement (Special)
75-00	Designates location for the posting of the notice of meetings (Special)
76-00	Annexation petition (Special)
77-00	Colorado Native Garden Environmental Education Center project agreement (Special)
78-00	Alley Improvement District No. ST-99, Phase B improvements (Special)
79-00	Alley Improvement District No. ST-00, Phase A improvements (Special)
80-00	Amends Orchard Mesa Neighborhood Plan (Title 35)
81-00	Grants electric utility easement (Special)
82-00	Annexation petition (Special)
83-00	Annexation petition (Special)
84-00	Defines valid development applications as referenced in Amendment 24 (Special)
85-00	Amends Growth Plan, rezone (Special)
86-00	Green Mountain Reservoir excess water agreement (Special)
87-00	Grants sanitary sewer easement (Special)
88-00	Annexation petition (Special)
89-00	Annexation petition (Special)
90-00	Opposes adoption of Amendment 24 (Special)
91-00	Opposes Amendment 21 (Special)
92-00	Policies regarding subdivision of lands within existing local sewer improvement districts (Special)
93-00	Amends Res. 66-00, banking services authorized signatures (Special)
94-00	Ratifies interim City Manager's signatures on lease renewal (Special)
95-00	Alley Improvement District No. ST-01, Phase A (Special)
96-00	Permit issuance (Special)
97-00	2001-2006 Transportation Improvement Program (Special)
98-00	Lease of property (Special)
99-00	Temporary drainage easement vacation (Special)
100-00	Annexation petition (Special)
101-00	Annexation petition (Special)
102-00	Annexation petition (Special)
103-00	Annexation petitions (Special)
104-00	Amends 201 Sewer Service boundary (Special)
105-00	Amends Growth Plan, Knolls subdivision (Special)
106-00	Utility easement vacation (Special)
107-00	Annexation notice (Special)
108-00	Accepts funds from Colorado Department of Transportation, CDOT Project CM555-014 (Special)
109-00	24 Road Corridor Subarea Plan (31.24, 33.04, 33.08, 33.12, 33.16, 33.20, 33.24, 33.28, 33.32)
110-00	Accepts federal aid funds, project STM M555-012, 13078 (Special)
111-00	Rules and procedures to pre-qualify contractors to bid on City public works and utility projects (12.32)
112-00	Sanitary Sewer Improvement District No. SS-44-00 (Special)

113-00	Permit issuance (Special)
114-00	Annexation petitions (Special)
115-00	Annexation petition (Special)
116-00	Creates Alley Improvement District No. ST-01, Phase A (Special)
117-00	Utility and drainage easement vacation (Special)
118-00	Contract to buy and sell real and personal property (Special)
119-00	Continues school land dedication fee (Special)
120-00	2000 tax levy (Special)
121-00	2000 temporary credit taxes levy (Special)
122-00	2000 tax levy, Ridges Metropolitan District (Special)
123-00	2000 tax levy, West Water and Sanitation District (Special)
124-00	2000 tax levy, Downtown Development Authority (Special)
125-00	Authorizes lease of property (Special)
126-00	Permit issuance (Special)
127-00	Adopts utility rates (Special)
128-00	Permit issuance (Special)
129-00	Annexation petition (Special)
130-00	Authorizes mail ballot election, April 3, 2001 regular municipal election (Special)
131-00	Sets building code fees under the 2000 International Building Code (Special)
132-00	Operational and construction permit fees, International Fire Code (Special)
133-00	Acquisition of easement by condemnation, Sanitary Sewer Improvement District No. SS-44-00 (Special)
134-00	Designates voting district boundaries (Special)
135-00	Exchange of real estate (Special)
136-00	Amends and extends lease of City property (Special)
137-00	Extends dry grazing lease (Special)
138-00	Extends dry grazing lease (Special)
139-00	Creates Sanitary Sewer Improvement Improvement District No. SS-44-00 (Special)
01-01	Contract for Project C 340A-008, SH 340 (Special)
02-01	2001 consolidated planning grant certifications and assurances (Special)
03-01	Submits to electorate measure to retain and spend revenues (Special)
04-01	City Council meeting schedule (Special)
05-01	Utility and drainage easement vacation (Special)
06-01	Annexation petition (Special)
07-01	Notice of election, April 3, 2001 regular municipal election (Special)
08-01	Accepts assignment from Mesa County of portion of private activity bond allocation (Special)
09-01	Contract authorization, Two Rivers Convention Center renovation (Special)
10-01	Lease of City property (Special)
11-01	Utility, drainage and irrigation easement vacation (Special)
12-01	Utility and irrigation easement vacation (Special)
13-01	Annexation petition (Special)
14-01	Amends Riverview Technology Corporation articles and bylaws (Special)
15-01	Grants permission for Riverview Technology Corporation, Inc. to acquire the DOE Compound (Special)
16-01	Defense of Chief Martyn E. Currie and Detective Kevin Imbriaco Officer, Civil Action No. 00 N 2190 (Special)
17-01	Authorizes farm lease (Special)
18-01	Amends City property lease (Special)
19-01	Revocable permit issuance (Special)
20-01	Annexation petition (Special)
21-01	Annexation petition (Special)
22-01	Annexation petitions (Special)
23-01	Amends development application fee schedule (Special)
24-01	2001-2006 Transportation Improvement Program (Special)
25-01	Designates Richard Warren Motor Company Building in the City register of historic sites (Special)
26-01	Acquisition of property (Special)
27-01	Annexation petition (Special)
28-01	Creates Cultural Heritage Plaza including existing Ten Commandments monument (Special)
29-01	Purchasing (Not codified)
30-01	Utility easement vacation (Special)
31-01	Annexation petition (Special)
32-01	Annexation petition (Special)
33-01	Annexation petition (Special)
34-01	Accepts warranty deed for Lots 1 – 10, Block 122, from Downtown Development Authority (Special)

35-01 Amends Persigo agreement, authorizing specific connections to Valle Vista sewer line (Special)
36-01 2001 Unified Planning Work Program (Special)
37-01 Extends lease of office space (Special)
38-01 Revocable permit issuance (Special)
39-01 Annexation petition (Special)
40-01 Annexation petition (Special)
41-01 Revocable permit issuance (Special)
42-01 Authorizes use of overhead to underground one percent funds, 29 Road improvement project (Special)
43-01 Easement grant (Special)
44-01 Annexation petition (Special)
45-01 Annexation petition (Special)
46-01 Rescinds authority to exercise power of eminent domain, Lots 11 and 12, Block 122 (Special)
47-01 Appoints City Councilmembers to various boards (Special)
48-01 Stormwater easement vacation (Special)
49-01 Easement vacation (Special)
50-01 Annexation petition (Special)
51-01 Accepts Juvenile Accountability Incentive Block grant (Special)
52-01 Annexation petitions (Special)
53-01 Annexation petitions (Special)
54-01 Annexation petitions (Special)
55-01 Accepts Colorado State emergency medical services grant (Special)
56-01 2002 regional transportation planning contract (special)
57-01 2001-2006 transportation improvement program (Special)
58-01 Adoption of addendum, 1998-2002 Mesa County Transit Development Plan (Special)
59-01 Adopts 2001 five-year consolidated plan for community development block grant (CDBG) program (Special)
60-01 Annexation petition (Special)
61-01 Annexation petition (Special)
62-01 2002 Unified Planning Work Program (UPWP) (Special)
63-01 Permit revocation (Special)
64-01 Revocable permit issuance (Special)
65-01 Sanitary sewer easement vacation (Special)
66-01 Irrigation easement vacation (Special)
67-01 Annexation petition (Special)
68-01 Approves site-specific development plan (Special)
69-01 Provides for City reimbursement of portion of costs, improvements to Power Road (Special)
70-01 Annexation petitions (Special)
71-01 Adopts Municipal Court parking fine schedule (Special)
72-01 Acquisition of property (Special)
73-01 2002 Unified Planning Work Program (UPWP) (Special)
74-01 Annexation petition (Special)
75-01 Revocable permit issuance (Special)
76-01 Accepts grant for federal aid funds, Project STE M555-016 (Special)
77-01 Accepts grant for federal aid funds, Project STE M555-015 (Special)
78-01 Sanitary Sewer Improvement District No. SS-44-00 improvements (Special)
79-01 Alley Improvement District No. ST-00, improvements (Special)
80-01 Alley Improvement District No. ST-01, Phase A improvements (Special)
81-01 Revocable permit issuance (Special)
82-01 Annexation petition (Special)
83-01 Designates residence at 1685 Clymer Way in City register of historic sites, (Special)
84-01 Annexation petitions (Special)
85-01 Electric utility easement grant (Special)
86-01 Utility easements grant (Special)
87-01 Authorizes application for loan, combined sewer elimination project (Special)
88-01 2002 Consolidated Planning Grant (CPG) (Special)
89-01 2002 Unified Planning Work Program certifications and assurances (Special)
90-01 Authorizes use of undergrounding funds for alley between 1st Street and 2nd Street, and between Colorado Avenue and Ute Avenue (Special)
91-01 Drainage and utility easement vacation (Special)
92-01 Utility easement vacation (Special)
93-01 Annexation petitions (Special)
94-01 Calls special election, Rimrock Marketplace General Improvement District (Special)
95-01 Mail ballot election, November 6, 2001 special election for Rimrock Marketplace General Improvement District (Special)

96-01	Designates Seventh Day Adventist Church in the City register of historic sites (Special)
97-01	Irrigation and drainage easement vacation (Special)
98-01	Amends and extends lease of property (Special)
99-01	Alley Improvement District No. ST-02, Phase A (Special)
100-01	Ingress-egress easement and utility easement vacation (Special)
101-01	Authorizes VCB to enter into contracts for marketing services (Special)
102-01	Annexation petitions (Special)
103-01	Approves short-term rental agreements, fire vehicles and equipment (Special)
104-01	Accepts grant for federal aid funds, Project CM555-017 (Special)
105-01	Amends Res. 53-98, ambulance service permit fee (Special)
106-01	Permit issuance (Special)
107-01	Permit issuance (Special)
108-01	Amends Res. 71-01, Municipal Court parking fine schedule (Special)
109-01	Annexation petition (Special)
110-01	2001-2006 Transportation Improvement Program (Special)
111-01	Adopts Transportation Engineering Standards (Title 24)
112-01	Adopts Grand Valley Circulation Plan (Special)
113-01	Alley Improvement District No. ST-02, Phase A (Special)
114-01	2002-2003 Parks and Recreation Department fees and charges policy (Special)
115-01	Adopts utility rates for solid waste and recycling (Special)
116-01	Sewer easement vacation (Special)
117-01	Turnaround easement and utility easement vacation (Special)
118-01	Lease-purchase agreement, fire engines and other equipment (Special)
119-01	Designates depository and approves banking services agreement (Special)
120-01	2001 tax levy (Special)
121-01	2001 temporary credit taxes levy (Special)
122-01	2001 temporary credit taxes levy, Downtown Development Authority (Special)
123-01	2001 temporary credit taxes levy, Downtown Development Authority (Special)
124-01	2001 temporary credit taxes levy, Ridges Metropolitan District (Special)
125-01	2001 tax levy, West Water and Sanitation District (Special)
126-01	Annexation petition (Special)
127-01	Adopts revised rules and procedures to pre-qualify contractors to bid on City public works and utility projects (12.32)
128-01	Lease and purchase of property (Special)
129-01	Adopts 2002-2003 budget (Special)
130-01	Establishes policy for use of bond and loan proceeds from the tax increment financed debt issued by the City (Special)
131-01	Authorizes line of credit, DDA/TIF Capital Improvement Fund (Special)
132-01	Authorizes use of overhead to underground one percent funds, Independent Avenue project (Special)
133-01	Amends development application fee schedule (Special)
134-01	Finds 12th Street Medical Plaza and Hospice Planned Development consistent with Growth Plan (Special)
135-01	Annexation petitions (Special)
01-02	City Council meeting schedule (Special)
02-02	Approves 2001 update, Grand Junction Strategic Cultural Plan (Special)
03-02	Stormwater retention easement vacation (Special)
04-02	Authorizes farm lease (Special)
05-02	Exchange of real estate, Western Colorado Botanical Society (Special)
06-02	Annexation petition (Special)
07-02	Annexation petitions (Special)
08-02	Renames Lakeridge Drive to Mariposa Drive (Special)
09-02	Exchange of waterline easements (Special)
10-02	Lease and purchase of property (Special)
11-02	State highway maintenance services agreement (Special)
12-02	Approves master plan, Mesa County Central Library (Special)
13-02	Adopts amendments to the Urban Trails Master Plan (Special)

14-02	Redevelopment of neighborhood market, 215 Chuluota Avenue, to be Consistent with Growth Plan (Special)
15-02	Annexation petition (Special)
16-02	Annexation petition (Special)
17-02	Annexation petition (Special)
18-02	Annexation petition (Special)
19-02	Adopts guidelines for funding outside organizations (Special)
20-02	Amending Planning Commission bylaws (Special)
21-02	Annexation petitions (Special)
22-02	City Council meeting schedule (Special)
23-02	Annexation petitions (Special)
24-02	Reappoints Care McInnis-Raaum as Associate Municipal Court Judge (Special)
25-02	Temporary stormwater retention easement vacation (Special)
26-02	Annexation hearing (Special)
27-02	Annexation petition (Special)
28-02	Annexation petition (Special)
29-02	State highway maintenance services agreement (Special)
30-02	Amends Growth Plan Future Land Use Map, rezone (Special)
31-02	Utility/irrigation easement vacation (Special)
32-02	Accepts Juvenile Accountability Incentive Block grant (Special)
33-02	Annexation petitions (Special)
34-02	Street vacation (Special)
35-02	Annexation petitions (Special)
36-02	Annexation petitions (Special)
37-02	Local match funding, Grand Valley Transit Public Transit Services for 2002-2005 (Special)
38-02	Extending office space lease (Special)
39-02	Authorizes exchange of real estate (Special)
40-02	2003-2008 Transportation Improvement Program (Special)
41-02	Utility easement vacation (Special)
42-02	Annexation petition (Special)
43-02	Grant application, construction of intersection improvements funding (Special)
44-02	Appoints City Councilmembers to various boards (Special)
45-02	Renames section of Rio Grande Drive to Camino Del Rey Drive (Special)
46-02	Annexation petitions (Special)
47-02	Annexation petitions (Special)
48-02	Annexation petitions (Special)
49-02	2003 Regional Transportation Planning Contract (Special)
50-02	Annexation petition (Special)
51-02	Annexation petition (Special)
52-02	Annexation petition (Special)
53-02	Annexation petition (Special)
54-02	Amends Growth Plan Future Land Use Map, rezone (Special)
55-02	Adopts 2002 Program Year Action Plan, 2001 Five-Year Consolidated Plan for the community development block grant (CDBG) program (Special)
56-02	Grant application, Riverfront Greenway Legacy project (Special)
57-02	Permit issuance (Special)
58-02	Signal communications project materials purchase agreement (Special)
59-02	Adopts Neighborhood Traffic Calming Policy (Special)
60-02	Amends funding agreement, 29 Road Phase II Reconstruction Project, STM-M555-016 (Special)
61-02	Utility and drainage easement vacation (Special)
62-02	Redlands Area Plan (31.24, 34.04, 34.08, 34.12, 34.16, 34.20, 34.24, 34.28, 34.32, 34.36, 34.40, 34.44, 34.48)
63-02	Adopts Redlands Area Transportation Plan as part of Grand Valley Circulation Plan (Special)
64-02	Permit issuance (Special)
65-02	2003 Unified Planning Work Program, 2003 CPG certifications and assurances (Special)
66-02	Agreement to utilize FHWA funds, median along Broadway from Colorado River West to E. Mayfield Drive (Special)
67-02	Removal of overhead utilities, placing underground and using one percent funds (Special)
68-02	Permit issuance (Special)
69-02	Turnaround easement vacation (Special)
70-02	Amends Res. 37-02, Grand Valley Transit Services (Special)
71-02	Annexation petitions (Special)
72-02	Annexation petitions (Special)
73-02	Annexation petitions (Special)

74-02	Creates stormwater management steering committee (Special)
75-02	Policy for use of City Hall grounds (Repealed by 18-04)
76-02	Annexation petition (Special)
77-02	Intergovernmental agreement, 2003 Consolidated Planning Grant (Special)
78-02	Application to Great Outdoors Colorado (GOCO) for continuation of development of Canyon View Park (Special)
79-02	Bonds issuance (Special)
80-02	Alley Improvement District No. St-02 improvements (Special)
81-02	Annexation petition (Special)
82-02	Annexation petition (Special)
83-02	Annexation petition (Special)
84-02	Clarifies ethical standards for members of the City's boards and commissions (Repealed by 79-06)
85-02	Agreement with United States Environmental Protection Agency (Special)
86-02	Annexation petition (Special)
87-02	Annexation petition (Special)
88-02	City Council meeting schedule (Special)
89-02	Annexation petition (Special)
90-02	Alley Improvement District No. ST-03 (Special)
91-02	Annexation petition (Special)
92-02	Annexation petition (Special)
93-02	Annexation petition (Special)
94-02	Annexation petitions (Special)
95-02	Annexation petitions (Special)
96-02	Annexation petitions (Special)
97-02	Special improvement district agreement (Special)
98-02	Intergovernmental agreement, City and the Rural Fire Protection District (Special)
99-02	Annexation petition (Special)
100-02	Annexation petition (Special)
101-02	Annexation petition (Special)
102-02	Alley Improvement District No. ST-03 (Special)
103-02	Endorses participation in the Colorado Main Street Program (Special)
104-02	Annexation petition (Special)
105-02	Annexation petition (Special)
106-02	Annexation petition (Special)
107-02	Annexation petition (Special)
108-02	Designates John J. O'Boyle Residence in City register of historic sites (Special)
109-02	Supports Southgate Commons Townhomes as housing affordable to low and moderate income households (Special)
110-02	Annexation petition (Special)
111-02	Annexation petition (Special)
112-02	Annexation petitions (Special)
113-02	Amends Growth Plan Future Land Use Map (Special)
114-02	2002 tax levy (Special)
115-02	2002 temporary credit taxes levy (Special)
116-02	2002 temporary credit taxes levy, Downtown Development Authority (Special)
117-02	2002 temporary credit taxes levy, Ridges Metropolitan District (Special)
119-02	Authorizes use of overhead to underground one percent funds, 29 Road Improvement Project (Special)
120-02	Special improvement district agreement amendment (Special)
121-02	Temporary turnaround easement vacation (Special)
122-02	Annexation petition (Special)
123-02	Annexation petition (Special)
124-02	Approves Town of Palisade and City of Fruita Membership in Grand Valley Metropolitan Planning Organization (Special)
125-02	Amends Persigo System wastewater rates (Special)
126-02	Extends closing date of contract to exchange real estate (Special)
127-02	Extends lease of City property (Special)
128-02	Amends and extends farm lease (Special)
129-02	Amends Res. 71-01, Municipal Court parking fine schedule (Special)
130-02	Annexation petitions (Special)
131-02	Permit issuance (Special)
132-02	Permit issuance (Special)
133-02	Guides City's representative to Grand Valley Regional Transportation Committee (Special)
01-03	City Council meeting schedule (Special)
02-03	Authorizes mail ballot election, April 8, 2003 regular municipal election (Special)

03-03	Annexation petition (Special)
04-03	Annexation petition (Special)
05-03	Adopts City Council's Strategic Plan 2002-2012 (Special)
06-03	Annexation petition (Special)
07-03	Annexation petition (Special)
08-03	Annexation petition (Special)
09-03	Annexation petitions (Special)
10-03	Notice of election, April 8, 2003 regular municipal election (Special)
11-03	Grants electric utility easement (Special)
12-03	Grants drainage easement (Special)
13-03	Endorses Grand Junction Downtown Partnership Program (Special)
14-03	Annexation petition (Special)
15-03	Annexation petition (Special)
16-03	Annexation petition (Special)
17-03	Annexation petition (Special)
18-03	Annexation petition (Special)
19-03	Annexation petition (Special)
20-03	Annexation petition (Special)
21-03	Annexation petition (Special)
22-03	Amends Persigo sewer system's policy regarding payments for sewer back-ups (13.16)
23-03	Annexation petition (Special)
24-03	Sanitary sewer easement vacation (Special)
25-03	Access easement grant (Special)
26-03	Amendment to special improvement district agreement (Special)
27-03	NPDES Phase II permit application submittal (Special)
28-03	Canyon View Park project agreement (Special)
29-03	Authorizes economic development incentive (Special)
30-03	Amends Growth Plan (31.20, 31.24, 31.32)
31-03	Easement vacation (Special)
32-03	Permit issuance (Special)
33-03	Permit issuance (Special)
34-03	Annexation petition (Special)
35-03	Annexation petition (Special)
36-03	Annexation petition (Special)
37-03	Annexation petition (Special)
38-03	Annexation petition (Special)
39-03	Annexation petition (Special)
40-03	Statement of intent to bid the construction of capital construction within the Departments of Public Works and Utilities, and Parks and Recreation (Special)
41-03	Appoints City Councilmembers to various boards (Special)
42-03	Amends Res. 01-03, City Council meeting schedule (Special)
43-03	Easement vacations (Special)
44-03	Amends Growth Plan Future Land Use Map (Special)
45-03	Annexation petition (Special)
46-03	Annexation petition (Special)
47-03	Purchase of real property (Special)
48-03	Authorizes lease of property (Special)
49-03	Annexation petition (Special)
50-03	Annexation petition (Special)
51-03	Utility easement vacation (Special)
52-03	Water line easement vacation (Special)
53-03	Annexation petition (Special)
54-03	Annexation petition (Special)
55-03	Annexation petition (Special)
56-03	Amends property description, Ridges Metropolitan District Taxing Areas (Special)
57-03	Purchase of real property (Special)
58-03	Adopts 2003 Program Year Action Plan, Community Development Block Grand (CDGB) Program (Special)
59-03	Sanitary Sewer Improvement District No. SS-45-03 (Special)
60-03	Contract with Colorado Department of Transportation, hazard elimination grant funding (Special)
61-03	Affirms Res. 49-02, distribution of forfeited property (Special)
62-03	Annexation petition (Special)
63-03	Annexation petition (Special)
64-03	Adopts model municipal records retention schedule (Special)
65-03	Authorizes use of overhead to underground one percent funds, street improvement projects (Special)
66-03	Annexation petition (Special)
67-03	Defense of Stanley Ancell, Robert M. Culver, Martyn E. Currie, John C. Jackson, Robert Russell and Julia Stogsdill in Civil Action No. 03 B 1181 (Special)
68-03	Annexation petition (Special)
69-03	Annexation petition (Special)
70-03	Annexation petition (Special)
71-03	Annexation petition (Special)
72-03	Permit issuance (Special)

73-03	Sanitary Sewer Improvement District No. SS-45-03 (Special)
74-03	Annexation petition (Special)
75-03	Annexation petition (Special)
76-03	Annexation petition (Special)
77-03	Intergovernmental agreement, construction use tax audits (Special)
78-03	Annexation petitions (Special)
79-03	Authorizes removal of Files Parcel from the Ridges Metropolitan District (Special)
80-03	Annexation petition (Special)
81-03	Calls special election, Riverside Parkway bonds issuance (Special)
82-03	Amends Grand Valley Circulation Plan, classification of B 3/4 Road (Special)
83-03	Wastewater regulations, Section 4, system expansion (13.16)
84-03	Takes position on ballot issue Referendum A (Special)
85-03	Permit issuance (Special)
86-03	Adopts revised Transportation Engineering Design Standards (TEDS) Manual (Title 24)
87-03	Removes portion of Parcel No. 2945-291-00-066 from the 201 Sewer Service Area boundary (Special)
88-03	Annexation petition (Special)
89-03	Annexation petition (Special)
90-03	Utility easement vacation (Special)
91-03	Annexation petition (Special)
92-03	Annexation petition (Special)
93-03	Annexation petition (Special)
94-03	Ratifies parking structure construction contract (Special)
95-03	Water line easement vacation (Special)
96-03	Right-of-way easement (Special)
97-03	Alley Improvement District No. ST-04 (Special)
98-03	Lease of City-owned lot (Special)
99-03	Annexation petition (Special)
100-03	Authorizes economic development incentive (Special)
101-03	Annexation petition (Special)
102-03	Approves Law Enforcement Assistance Fund (LEAF) Contract #L-28-04 (Special)
103-03	Sets hours of usage for the City's parks (12.04)
104-03	Annexation petition (Special)
105-03	Annexation petition (Special)
106-03	Annexation petition (Special)
107-03	Privatization of the Grand Junction Office Laboratory (Special)
108-03	Alley Improvement District No. St-04 (Special)
109-03	Amends Growth Plan Future Land Use Map (Special)
110-03	Utility easement vacation (Special)
111-03	Utility rates for wastewater and water services (Special)
112-03	2004-2005 Parks and Recreation Department fees and charges policy (Special)
113-03	2003 tax levy (Special)
114-03	2003 temporary credit taxes levy (Special)
115-03	2003 tax levy, Downtown Development Authority (Special)
116-03	2003 tax levy, Ridges Metropolitan District (Special)
117-03	2003 tax levy, West Water and Sanitation District (Special)
118-03	Adopts 2004-2005 budget (Special)
119-03	Annexation petition (Special)
120-03	Annexation petition (Special)
121-03	Designates Lawrence and Amelia Miller Residence in City register of historic sites (Special)
122-03	Adopts wastewater plant investment fee (Special)
123-03	Alley Improvement District No. ST-03 improvements (Special)
124-03	Application for enhancement funds, 7th Street streetscaping/medians (Special)
125-03	Annexation petition (Special)
01-04	City Council meeting schedule (Special)
02-04	Authorizes farm lease (Special)
03-04	Authorizes dry grazing lease (Special)
04-04	Authorizes dry grazing lease (Special)
05-04	Purchase of real property (Special)
06-04	Westside Downtown Redevelopment Plan (36.04, 36.08, 36.12, 36.20, 36.24)
07-04	Alley Improvement District No. ST-04, Phase B (Special)
08-04	Extends lease of City property (Special)
09-04	Grant application, intersection improvements at North 7th Street and Patterson Road (Special)
10-04	Annexation petition (Special)
11-04	Annexation petition (Special)
12-04	Grant funding agreement, 29 Road Phase III reconstruction project, STM-M555-022 (Special)

13-04	Annexation petitions (Special)
14-04	Annexation petition (Special)
15-04	Annexation petition (Special)
16-04	Sanitary Sewer Improvement District No. SS-46-04 (Special)
17-04	Grant application for development of Wingate Park (Special)
18-04	Repeals Res. 75-02; adopts policy for the use of City Hall facilities (9.04)
19-04	Utility and irrigation easement vacation (Special)
20-04	Alley Improvement District No. ST-04, Phase B (Special)
21-04	Grant application, funding of the construction of street and drainage improvements (Special)
22-04	Purchase of real property (Special)
23-04	Annexation petition (Special)
24-04	Annexation petition (Special)
25-04	Annexation petition (Special)
26-04	Annexation petition (Special)
27-04	Sanitary Sewer Improvement District No. SS-46-04 (Special)
28-04	Annexation petition (Special)
29-04	Appoints John Shaver as City Attorney (Special)
30-04	Annexation petition (Special)
31-04	Annexation petition (Special)
32-04	Drainage and utility easement vacation (Special)
33-04	Relinquishes first right of refusal to purchase real property (Special)
34-04	Authorizes exchange of real estate (Special)
35-04	Purchase of property (Special)
36-04	Purchase of property (Special)
37-04	Purchase of property (Special)
38-04	2004 tax levy, Horizon Drive Association Business Improvement District (Special)
39-04	Transportation Engineering Design Standards (TEDS) Manual (24.01, 24.04, 24.08, 24.12, 24.16, 24.20, 24.24, 24.28, 24.32, 24.36, 24.40, 24.44, 24.44, 24.48, 24.52, 24.56, 24.60, 24.64, 24.68)
40-04	Reappointment of Care McInnis Raaum as Municipal Court Judge (Special)
41-04	Annexation petition (Special)
42-04	Annexation petition (Special)
43-04	Sanitary Sewer Improvement District No. SS-45-03 improvements (Special)
44-04	Purchase of real property (Special)
45-04	Adopts sales tax enforcement, collection and delinquency policy (3.12)
46-04	Appoints City Councilmembers to various boards (Special)
47-04	Annexation petition (Special)
48-04	Utility easement vacation (Special)
49-04	Annexation petition (Special)
50-04	Annexation petition (Special)
51-04	Annexation petition (Special)
52-04	Annexation petition (Special)
53-04	Renames Glenwood Avenue in Orchard Mesa to Glenwood Drive (Special)
54-04	Renames a section of 27 1/2 Road located south of G Road to 27 1/2 Court (Special)
55-04	Utility easement vacation (Special)
56-04	Annexation petition (Special)
57-04	Annexation petition (Special)
58-04	Annexation petition (Special)
59-04	Annexation petition (Special)
60-04	Adopts 2004 Program Year Action Plan, community development block grant (CDGB) program (Special)
61-04	Permit issuance (Special)
62-04	Annexation petition (Special)
63-04	Annexation petition (Special)
64-04	Annexation petition (Special)
65-04	Amends Grand Valley Circulation Plan (Special)
66-04	Annexation petition (Special)
67-04	Permit issuance (Special)
68-04	Easement vacations (Special)
69-04	Annexation petition (Special)
70-04	Mail ballot election, November 2, 2004 special election (Special)
71-04	Authorizes lease of sidewalk right-of-way (Special)
72-04	Authorizes lease of sidewalk right-of-way (Special)
73-04	Annexation petition (Special)
74-04	Sanitary Sewer Improvement District No. SS-46-04 improvements (Special)
75-04	Annexation petition (Special)
76-04	Annexation petition (Special)
77-04	Annexation petition (Special)
78-04	Alley Improvement Districts No. ST-04 and No. ST-04, Phase B improvements (Special)
79-04	Endorses Council President Bruce Hill's application, NLC Community and Economic Development Steering Committee (Special)

80-04 Annexation petition (Special)
81-04 Appoints designated voter, November 2, 2004 special election regarding tax increment financing debt (Special)
82-04 Annexation petition (Special)
83-04 Annexation petition (Special)
84-04 Renames Poplar Avenue to Poplar Drive between Lorey Drive and Lilac Lane (Special)
85-04 Annexation petition (Special)
86-04 Amends Growth Plan Future Land Use Map (Special)
87-04 Adopts infill/redevelopment implementation program (Special)
88-04 Authorizes expenditure of economic development funds (Special)
89-04 Paradise Hills Interceptor Sewer Easement No. 4 vacation (Special)
90-04 Annexation petition (Special)
91-04 Annexation petition (Special)
92-04 Annexation petition (Special)
93-04 Purchase of real property (Special)
94-04 Purchase of real property (Special)
95-04 Adopts Mesa County pre-disaster mitigation plan (42.08)
96-04 Annexation petition (Special)
97-04 Annexation petition (Special)
98-04 Supports Ballot Issue 5t (Special)
99-04 Utility and irrigation easement vacation (Special)
100-04 Drainage and utility easement vacation (Special)
101-04 Alley Improvement District 2005 (Special)
102-04 Approves master plan for Walker Field Airport (Special)
103-04 Annexation petition (Special)
104-04 Amends Growth Plan Future Land Use Map (Special)
105-04 Annexation petition (Special)
106-04 Annexation petition (Special)
107-04 Annexation petition (Special)
108-04 Accepts grant of federal funds, 7th and Patterson right-turn lane hazard elimination project (Special)
109-04 Purchase of real property (Special)
110-04 Easement vacations (Special)
111-04 Electric utility easement grant (Special)
112-04 Annexation petition (Special)
113-04 Annexation petition (Special)
114-04 Grant application, mobile communications center purchase funding (Special)
115-04 Grant application, pedestrian overpass construction funding (Special)
116-04 Purchase of real property (Special)
117-04 Annexation petition (Special)
118-04 Annexation petition (Special)
119-04 Annexation petition (Special)
120-04 Authorizes economic incentive (Special)
121-04 Annexation petition (Special)
122-04 Annexation petition (Special)
123-04 Annexation petition (Special)
124-04 Watershed memorandum of understanding (Special)
125-04 Bonds issuance (Special)
126-04 Alley Improvement District No. ST-05 (Special)
127-04 Amends utility rates for water, wastewater and solid waste services (Special)
128-04 Amends Growth Plan, rezone (Special)
129-04 2004 tax levy (Special)
130-04 2004 temporary credit taxes levy (Special)
131-04 2004 tax levy, Downtown Development Authority (Special)
132-04 2004 tax levy (Special)
133-04 2004 tax levy, Grand Junction West Water and Sanitation District (Special)
134-04 Public access easements vacation (Special)
135-04 Permit issuance (Special)
136-04 Alley Improvement District No. ST-05 Phase B (Special)
137-04 Approves Law Enforcement Assistance Fund (LEAF) Contract L-27-05 (Special)
138-04 Purchase of properties (Special)
139-04 Annexation petition (Special)
140-04 Annexation petition (Special)
141-04 Directs City Manager concerning off-premises sign applications, Riverside Parkway (Special)
142-04 Contract agreements, conveyance of Land Action Campus LLC and GJ Tech Center LLC (Special)
01-05 City Council meeting schedule (Special)
02-05 Authorizes mail ballot election, April 5, 2005 regular municipal election (Special)
03-05 Annexation petition (Special)
04-05 Annexation petition (Special)
05-05 Purchase of real property (Special)

06-05	Purchase of real property (Special)
07-05	Acquisition of certain property by negotiation or condemnation (Special)
08-05	Annexation petition (Special)
09-05	Annexation petition (Special)
10-05	Annexation petition (Special)
11-05	Annexation petition (Special)
12-05	Annexation petition (Special)
13-05	Pear Park Neighborhood Plan (37.04, 37.08, 37.12, 37.16, 37.20, 37.24, 37.28, 37.32, 37.36)
14-05	Adopts 2005-2006 Strategic Plan (Special)
15-05	Extends lease of City property (Special)
16-05	Easement vacations (Special)
17-05	Annexation petition (Special)
18-05	Annexation petition (Special)
19-05	Submits cable TV franchise agreement measure to electorate on April 5, 2005 (Special)
20-05	Alley Improvement District No. ST-05, Phase B (Special)
21-05	Notice of election, April 5, 2005 regular municipal election (Special)
22-05	Amends development fee schedule (Special)
23-05	Annexation petition (Special)
24-05	Annexation petition (Special)
25-05	Conditional Letter of Map Revision (CLOMR), Ranchmen's Ditch drainage improvements project (Special)
26-05	Grant application, storm water capacity improvements construction (Special)
27-05	Purchase of real property (Special)
28-05	Purchase of real property (Special)
29-05	Purchase of real property (Special)
30-05	Purchase of real property (Special)
31-05	Defense of Officer William Baker in County Court Action No. 05-C-235 (Special)
32-05	Defense of Officers Eric Janusz, Ryan Piotrowski, Jeremiah Boies, Doug Norcross and Police Chief Greg Morrison and Firefighters Brant Butner, Doug Walsh and Fire Chief Rick Beaty in United States District Court Action No. 04-F-2548 (Special)
33-05	Annexation petition (Special)
34-05	Annexation petition (Special)
35-05	Purchase of real property (Special)
36-05	Purchase of real property (Special)
37-05	Annexation petition (Special)
38-05	Annexation petition (Special)
39-05	Amends Growth Plan, rezone (Special)
40-05	Easement vacations (Special)
41-05	Annexation petition (Special)
42-05	Annexation petition (Special)
43-05	Purchase of real property (Special)
44-05	Purchase of real property (Special)
45-05	Annexation petition (Special)
46-05	Annexation petition (Special)
47-05	Authorizes one-year farm lease (Special)
48-05	Permit revocation (Special)
49-05	Annexation notice (Special)
50-05	Annexation notice (Special)
51-05	Annexation notice (Special)
52-05	FY2006-2009 local match funding, Grand Valley Transit Public Transit Services (Special)
53-05	Annexation petition (Special)
54-05	Annexation petition (Special)
55-05	Donation of scoreboard at Suplizio Field to Mesa State College (Special)
56-05	Temporary turnaround easement vacation (Special)
57-05	Annexation petition (Special)
58-05	Annexation petition (Special)
59-05	Authorizes lease of City's Hallenbeck Ranch Property (Special)
60-05	Annexation petition (Special)
61-05	Annexation petition (Special)
62-05	Annexation petition (Special)
63-05	Annexation petition (Special)
64-05	Annexation petition (Special)
65-05	Annexation petition (Special)
66-05	Annexation petition (Special)
67-05	Acquisition of property by either negotiation or condemnation (Special)
68-05	Purchase of real property (Special)
69-05	Purchase of real property (Special)
70-05	Re-authorizes exchange of real estate (Special)
71-05	Amends Pear Park Neighborhood Plan (37.24)
72-05	Amends Growth Plan Future Land Use Map (Special)
73-05	Appoints City Councilmembers to represent on various boards (Special)
74-05	Easement vacation (Special)
75-05	Temporary turnaround easement vacation (Special)
76-05	Annexation petition (Special)
77-05	Annexation petition (Special)
78-05	Annexation petition (Special)

79-05 Amends Res. 56-05, temporary turnaround easement vacation (Special)
80-05 Purchase of real property (Special)
81-05 Annexation petition (Special)
82-05 Grant of easement agreement (Special)
83-05 Lease of sidewalk right-of-way (Special)
84-05 Lease of sidewalk right-of-way (Special)
85-05 Lease of sidewalk right-of-way (Special)
86-05 Annexation petition (Special)
87-05 Annexation petition (Special)
88-05 Annexation petition (Special)
89-05 Purchase of real property (Special)
90-05 Intergovernmental agreement, 29 Road and I-70B interchange approval process (Special)
91-05 Annexation petition (Special)
92-05 Annexation petition (Special)
93-05 Purchase of real property (Special)
94-05 Annexation petition (Repealed by 20-07)
95-05 Annexation petition (Special)
96-05 Annexation petition (Special)
97-05 Amends Res. 01-05, City Council meeting schedule (Special)
98-05 Purchase of real property (Special)
99-05 Purchase of real property (Special)
100-05 Ratifies public facilities construction and maintenance agreement (Special)
101-05 Approves designation of city-owned lands as right-of-way (Special)
102-05 Annexation petition (Special)
103-05 Annexation petition (Special)
104-05 Annexation petition (Special)
105-05 Annexation petition (Special)
106-05 Annexation petition (Special)
107-05 Annexation petition (Special)
108-05 Authorizes economic inventive (Special)
109-05 Annexation petition (Special)
110-05 Annexation petition (Special)
111-05 Annexation petition (Special)
112-05 Approves designation of city-owned lands as right-of-way (Special)
113-05 Adopts 2005 Program Year Action Plan (Special)
114-05 Purchase of real property (Special)
115-05 Purchase of real property (Special)
116-05 Appoints Gregory O. Trainer to the Division 5 Basin Roundtables (Special)
117-05 Utility and drainage easement vacation (Special)
118-05 Permit issuance (Special)
119-05 Annexation petition (Special)
120-05 Contract for street maintenance (Special)
121-05 Annexation petition (Special)
122-05 Annexation petition (Special)
123-05 Annexation petition (Special)
124-05 Annexation petition (Special)
125-05 Annexation petition (Special)
126-05 Annexation petition (Special)
127-05 Amends Growth Plan Future Land Use Map, rezone (Special)
128-05 Purchase of real property (Special)
129-05 Purchase of real property (Special)
130-05 Appoints Dan Vanover to the Division 4 Basin Roundtable (Special)
131-05 Annexation petition (Special)
132-05 Annexation petition (Special)
133-05 Annexation petition (Special)
134-05 Purchase of real property (Special)
135-05 Purchase of real property (Special)
136-05 Adopts National Incident Management System (NIMS) (2.56)
137-05 Annexation petition (Special)
138-05 Purchase of right-of-way (Special)
139-05 Purchase of real property (Special)
140-05 Acquisition of property by negotiation or condemnation (Special)
141-05 Designates Schiesswohl Building in City register of historic sites (Special)
142-05 Calls special election, Downtown Grand Junction Business Improvement District (Special)
143-05 Supports Referenda C and D (Special)
144-05 Annexation petition (Special)
145-05 Annexation petition (Special)
146-05 Annexation petition (Special)
147-05 Alley Improvement Districts No. ST-05, Phase B improvements (Special)
148-05 Sanitary Sewer Improvement District No. SS-47-05 (Special)
149-05 Annexation petition (Special)
150-05 Purchase of real property (Special)
151-05 Authorizes use of overhead to underground one percent funds for Riverside Parkway improvement project (Special)
152-05 Endorses Council President Bruce Hill's Application for a Leadership position on the NLC Community and

	Economic Development Steering Committee (Special)
153-05	Annexation petition (Special)
154-05	Annexation petition (Special)
155-05	Purchase of real property (Special)
156-05	Purchase of real property (Special)
157-05	Authorizes economic incentive (Special)
158-05	Annexation petition (Special)
159-05	Intergovernmental agreement, US-50/Riverside Parkway interchange (Special)
160-05	Purchase of real property (Special)
161-05	Purchase of right-of-way (Special)
162-05	Utility easement vacation (Special)
163-05	Annexation petition (Special)
164-05	Annexation petition (Special)
165-05	Sanitary Sewer Improvement District No. SS-47-05 (Special)
166-05	Annexation petition (Special)
167-05	Designates depository; approves banking services agreement (Special)
168-05	Annexation petition (Special)
169-05	Annexation petition (Special)
170-05	Downtown Grand Junction Business Improvement District special assessments (Special)
171-05	Annexation petition (Special)
172-05	Annexation petition (Special)
173-05	Alley Improvement District No. ST-06 (Special)
174-05	Annexation petition (Special)
175-05	Purchase of right-of-way (Special)
176-05	Annexation petition (Special)
177-05	Permit issuance (Special)
178-05	Accepts grant of federal funds and authorizes City funds for Main Street median installation, streetscaping and landscaping renovations (Special)
179-05	Local assessment roll (Special)
180-05	Annexation petition (Special)
181-05	Acquisition of property by negotiation or condemnation (Special)
182-05	2006–2007 Parks and Recreation Department fees and charges policy (Special)
183-05	2005 tax levy (Special)
184-05	2005 temporary credit taxes levy (Special)
185-05	2005 tax levy, Downtown Development Authority (Special)
186-05	2005 tax levy, Ridges Metropolitan District (Special)
187-05	Colorado Wireless Interoperability Network (CWIN) project agreement (Special)
188-05	Revokes powers of attorney for completed alley improvements in alley improvement districts (Special)
189-05	Grant application, funding of the construction 23 Road and G Road intersection improvements (Special)
190-05	Annexation petition (Special)
191-05	Adopts utility rates for water and wastewater services (Special)
192-05	Amends development fee schedule (Special)
193-05	Sets 2006 school land dedication fee (Special)
194-05	Purchase of right-of-way (Special)
195-05	Purchase of property (Special)
196-05	Purchase of real property (Special)
197-05	Adopts 2006, 2007 budget (Special)
01-06	City Council meeting schedule (Special)
02-06	Ratifies conveyance of land to school district (Special)
03-06	Permit issuance (Special)
04-06	Public easements vacation (Special)
05-06	Alley Improvement District No. ST-06 (Special)
06-06	Purchase of real property (Special)
07-06	Annexation petition (Special)
08-06	Annexation petition (Special)
09-06	Annexation petition (Special)
10-06	Annexation petition (Special)
11-06	Annexation petition (Special)
12-06	Annexation petition (Special)
13-06	Revises Growth Plan Future Land Use Map (Special)
14-06	Recommends Fire Department as designated ambulance service licensee (Special)
15-06	7th Street construction, funding of other downtown improvements (Special)
16-06	Downtown parking structure; amends parking system management memorandum of agreement (Special)
17-06	Annexation petition (Special)
18-06	Annexation petition (Special)
19-06	Sanitary Sewer Improvement District No. SS-47-05 improvements (Special)
20-06	Intergovernmental agreement, C-340/Riverside Parkway intersection (Special)

21-06	Acquisition of property by negotiation or condemnation (Special)
22-06	Annexation petition (Special)
23-06	Annexation petition (Special)
24-06	Alley Improvement District, El Poso Area Street Improvement District, ST-06, Phase B (Special)
25-06	Annexation petition (Special)
26-06	Annexation petition (Special)
27-06	Creates Avalon Theatre Advisory Committee (Special)
28-06	Purchase of real property (Special)
29-06	Approves proposed private street (Tract C) for Legends East Subdivision (Special)
30-06	Annexation petition (Special)
31-06	Annexation petition (Special)
32-06	Annexation petition (Special)
33-06	City Council meeting schedule (Special)
34-06	Annexation petition (Special)
35-06	Annexation petition (Special)
36-06	Annexation petition (Special)
37-06	Amends Growth Plan Future Land Use Map (Special)
38-06	Annexation petition (Special)
39-06	Sewer easement vacation (Special)
40-06	Appoints City Councilmembers to various boards (Special)
41-06	Annexation petition (Special)
42-06	Annexation petition (Special)
43-06	Irrigation and drainage easement vacation (Special)
44-06	Street Improvement District No. ST-06, Phase B (Special)
45-06	Amends Growth Plan, rezone (Special)
46-06	Amends Growth Plan, rezone (Special)
47-06	Amends Growth Plan, rezone (Special)
48-06	Amends Growth Plan, rezone (Special)
49-06	Annexation petition (Special)
50-06	Utility easement vacation (Special)
51-06	Downtown Grand Junction Business Improvement District special assessments (Special)
52-06	Permit issuance (Special)
53-06	Waterline easement vacation (Special)
54-06	Roadway slope and borrow pit easement vacation (Special)
55-06	Annexation petition (Special)
56-06	Annexation petition (Special)
57-06	Annexation petition (Special)
58-06	Annexation petition (Special)
59-06	Annexation petition (Special)
60-06	Annexation petition (Special)
61-06	Annexation petition (Special)
62-06	Amends development fee schedule (Special)
63-06	Annexation petition (Special)
64-06	Amends Growth Plan Future Land Use Map (Special)
65-06	Amends 24 Road Corridor Subarea Plan and the Growth Plan specific to the mixed use land use designation (31.20, 33.24)
66-06	Annexation petition (Special)
67-06	Annexation petition (Special)
68-06	Annexation petition (Special)
69-06	Annexation petition (Special)
70-06	Annexation petition (Special)
71-06	Annexation petition (Special)
72-06	Annexation petition (Special)
73-06	Adopts 2006 Five-Year Consolidated Plan, community development block grant (CDBG) program (Special)
74-06	Adopts 2006 Program Year Action Plan, community development block grant (CDBG) program (Special)
75-06	Adopts 2006 analysis of impediments to fair housing choice study, community development block grant (CDBG) program (Special)
76-06	Amends Growth Plan, rezone (Special)
77-06	Annexation petition (Special)
78-06	Annexation petition (Special)
79-06	Ethical standards for members of the city's boards and commissions; repeals Res. 84-02 (2.52)
80-06	Renames Sundstrand Court and Sundstrand Way to Printers Court and Printers Way (Special)
81-06	Annexation petition (Special)
82-06	Annexation petition (Special)
83-06	Annexation petition (Special)
84-06	2006 ambulance transport fees (Special)
85-06	Approves amended assessment, properties at 359 Colorado Avenue (Special)
86-06	Amends Growth Plan, maximum residential density requirement in the downtown area (31.24)
87-06	Annexation petition (Special)
88-06	Annexation petition (Special)
89-06	Annexation petition (Special)
90-06	Annexation petition (Special)
91-06	Annexation petition (Special)

92-06 Annexation petition (Special)
93-06 Annexation petition (Special)
94-06 Annexation petition (Special)
95-06 Annexation petition (Special)
96-06 Annexation petition (Special)
97-06 Rotomilling and asphalt overlay agreement (Special)
98-06 Amends Growth Plan, rezone (Special)
99-06 Annexation petition (Special)
100-06 Annexation petition (Special)
101-06 Annexation petition (Special)
102-06 Annexation petition (Special)
103-06 Annexation petition (Special)
104-06 Alley Improvement Districts No. ST-06 improvements (Special)
105-06 Sale of Lot 2, Block 1, WDD Subdivision (Special)
106-06 Utility easement vacation (Special)
107-06 Annexation petition (Special)
108-06 Annexation petition (Special)
109-06 Annexation petition (Special)
110-06 Appoints McInnis-Raaum as Municipal Court Judge (Special)
111-06 Permit issuance (Special)
112-06 Adopts bylaws of the Grand Junction, Colorado City Youth Council (Special)
113-06 Permit issuance (Special)
114-06 Designates voting district boundaries (Charter)
115-06 Annexation petition (Special)
116-06 Annexation petition (Special)
117-06 Annexation petition (Special)
118-06 Authorizes VCB to enter into contract for services (Special)
119-06 Annexation petition (Special)
120-06 Annexation petition (Special)
121-06 Authorizes dry grazing lease (Special)
122-06 Authorizes dry grazing lease (Special)
123-06 Annexation petition (Special)
124-06 Sanitary sewer easement vacations (Special)
125-06 Annexation petition (Special)
126-06 Opposes Amendment 38, ballot measure to amend initiatives and referenda petitioning process (Special)
127-06 Approves Industrial Developments, Inc. Colorado West Improvements, Inc., as economic development cooperator (Special)
128-06 Approves Grand Junction Economic Partnership as economic development cooperator (Special)
129-06 Annexation petition (Special)
130-06 Annexation petition (Special)
131-06 Permit issuance (Special)
132-06 Annexation petition (Special)
133-06 Annexation petition (Special)
134-06 Annexation petition (Special)
135-06 Contract for audit services (Special)
136-06 Lease of City-owned lots (Special)
137-06 Annexation petition (Special)
138-06 Amends Growth Plan, rezone (Special)
139-06 Annexation petition (Special)
140-06 Annexation petition (Special)
141-06 Easement agreement grant (Special)
142-06 Alley Improvement District No. ST-07 (Special)
143-06 Bluffs Sanitary Sewer Improvement District No. SS-48-06 (Special)
144-06 Appoints hearing officer for liquor and beer licensing (Special)
145-06 Annexation petition (Special)
146-06 Annexation petition (Special)
147-06 Annexation petition (Special)
148-06 2006 tax levy (Special)
149-06 2006 temporary credit taxes levy (Special)
150-06 2006 tax levy, Downtown Development Authority (Special)
151-06 2006 tax levy, Ridges Metropolitan District (Special)
152-06 Adopts utility rates for water, wastewater, and solid waste services (Special)
153-06 Annexation petition (Special)
154-06 Annexation petition (Special)
155-06 Annexation petition (Special)
156-06 Annexation petition (Special)
157-06 Annexation petition (Special)
158-06 Appoints David A. Varley as City Manager (Special)
159-06 Air protection, oil and gas production emission (Special)
160-06 Approves right-of-way designation (Special)
161-06 Authorizes mail ballot election, April 3, 2007, regular municipal election (Special)
162-06 Authorizes mail ballot election, April 3, 2007, special municipal election (Special)
163-06 (Not used)
164-06 Permit issuance (Special)
165-06 Perpetual storm water easement, temporary construction easements and

	longitudinal temporary easement (Special)
166-06	Creates Sanitary Sewer Improvement District No. SS-48-06 (Special)
167-06	Annexation petition (Special)
168-06	Annexation petition (Special)
01-07	City Council meeting schedule (Special)
02-07	Annexation petition (Special)
03-07	Fees for building code, operational and construction permits and false alarms (Special)
04-07	Alley Improvement District No. ST-07 (Special)
05-07	Amends Growth Plan, rezone (Special)
06-07	Amends Growth Plan, rezone (Special)
07-07	Annexation petition (Special)
08-07	Annexation petition (Special)
09-07	Annexation petition (Special)
10-07	Annexation petition (Special)
11-07	Annexation petition (Special)
12-07	Approves call for election, proposed ballot measure to the electors of the Downtown Development Authority District (Special)
13-07	Submits to electorate on April 3, 2007, a measure to retain and spend revenues (Special)
14-07	Annexation petition (Special)
15-07	Notice of April 3, 2007 regular municipal election; grants authority to appoint election judges (Special)
16-07	Notice of election, DDA April 3, 2007 special election (Special)
17-07	Lease of portion of the "Las Colonias Property" (Special)
18-07	Lease of sidewalk right-of-way (Special)
19-07	Temporary turn-around easement vacation (Special)
20-07	Rescinds Res. 94-05, annexation petition (Special)
21-07	Annexation petition (Special)
22-07	Annexation petition (Special)
23-07	Annexation notice (Special)
24-07	Permit issuance (Special)
25-07	Annexation petition (Special)
26-07	Purchase of real property (Special)
27-07	Annexation petition (Special)
28-07	Annexation petition (Special)
29-07	Annexation petition (Special)
30-07	Annexation petition (Special)
31-07	Annexation petition (Special)
32-07	Annexation petition (Special)
33-07	Annexation petition (Special)
34-07	Appoints designated voter for City for April 3, 2007, special election regarding tax increment financing debt (Special)
35-07	Annexation petition (Special)
36-07	Annexation petition (Special)
37-07	Annexation petition (Special)
38-07	Annexation petition (Special)
39-07	Amends Res. 167-05, banking services authorized signatures (Special)
40-07	Purchase of perpetual storm water easement and temporary construction easement (Special)
41-07	Purchase of perpetual storm water easement, temporary construction easements, and a longitudinal temporary easement (Special)
42-07	Permit issuance (Special)
43-07	Annexation petition (Special)
44-07	Annexation petition (Special)
45-07	Annexation petition (Special)
46-07	Annexation petition (Special)
47-07	Requests Colorado Air Quality Control Commission to establish ozone monitoring (Special)
48-07	Annexation petition (Special)
49-07	Annexation petition (Special)
50-07	Annexation petition (Special)
51-07	Annexation petition (Special)
52-07	Amends Growth Plan, rezone (Special)
53-07	Annexation petition (Special)
54-07	Amends development fee schedule (Special)
55-07	Provides support for Colorado Water Quality Control Commission's stormwater regulations (Special)
56-07	Annexation petition (Special)
57-07	Annexation petition (Special)
58-07	Amends Growth Plan, rezone (Special)
59-07	Amends Grand Valley Circulation Plan (Special)
60-07	Annexation petition (Special)
61-07	Annexation petition (Special)
62-07	Authorizes Riverview Technology Corporation to use its property as collateral to obtain loan for improvements (Special)
63-07	Supports comprehensive Statewide Energy Plan and mitigation of impacts of oil and gas development (Special)

64-07 Renamed Al Drive to Justice Drive and Air Tech Court to Justice Court (Special)
65-07 Annexation petition (Special)
66-07 Annexation petition (Special)
67-07 Annexation petition (Special)
68-07 Annexation petition (Special)
69-07 Annexation petition (Special)
70-07 Requests Mesa County Board of County Commissioners increase the number of commissioners (Special)
71-07 Names private streets within the Hilltop Commons Subdivision (Special)
72-07 Annexation petition (Special)
73-07 Annexation petition (Special)
74-07 Annexation petition (Repealed by 100-07)
75-07 Annexation petition (Special)
76-07 (Not used)
77-07 Annexation petition (Special)
78-07 Utility easement vacation (Special)
79-07 Storm sewer easement vacation (Special)
80-07 Pedestrian easement vacation (Special)
81-07 Annexation petition (Special)
82-07 Annexation petition (Special)
83-07 Annexation petition (Special)
84-07 Annexation petition (Special)
85-07 Annexation petition (Special)
86-07 Amending Res. 03-07, watershed activity application fee (Special)
87-07 Ratifies purchase contract for property (Special)
88-07 Adopts Las Colonias master plan (Special)
89-07 Permit issuance (Special)
90-07 Ingress/egress easement vacation (Special)
91-07 Drainage easement vacation (Special)
92-07 Annexation petition (Special)
93-07 Annexation petition (Special)
94-07 Annexation petition (Special)
95-07 Amends Res. 51-97, liquor license application special events permit fees (Special)
96-07 Annexation petition (Special)
97-07 2007 Program Year Action Plan, community development block grant (CDBG) program (Special)
98-07 Ratifies purchase contract for property (Special)
99-07 Annexation petition (Special)
100-07 Rescinds Res. 74-07, annexation petition; vacates second reading of annexation ordinance (Special)
101-07 Authorizes sale contract for property (Special)
102-07 Authorizes contract with Mesa County for building inspection and contractor licensing services (Special)
103-07 Improvements acceptance, El Poso Street Improvement District No. ST-06, Phase B (Special)
104-07 Grants utilities easement (Special)
105-07 Utilities easement grant (Special)
106-07 Amends Growth Plan, rezone (Special)
107-07 Annexation petition (Special)
108-07 Amends Growth Plan, rezone (Special)
109-07 Termination and designation of retirement plan provider (Special)
110-07 Appoints Laurie M. Kadrich as City Manager (Special)
111-07 Application to amend Growth Plan designation for City property (Special)
112-07 Supports efforts of GJ Core to promote conservation and reuse of resources (Special)
113-07 Utility easement vacation (Special)
114-07 Appoints City Councilmembers to various boards (Special)
115-07 Watershed protection regulations (13.32)
116-07 Annexation petition (Special)
117-07 Oath of office policy (2.52)
118-07 Approves membership to the Rocky Mountain Rail Authority (Special)
119-07 Purchase of property (Special)
120-07 Permit issuance (Special)
121-07 Improvements acceptance, Bluffs Sanitary Sewer Improvement District No. SS-48-06 (Special)
122-07 Strategic transit project agreement (Special)
123-07 Community service workers accident medical insurance coverage (Special)
124-07 Designates residence at 960 Main Street in City register of historic sites (Special)
125-07 Annexation petition (Special)
126-07 Annexation petition (Special)
127-07 Alley Improvement District No. ST-07 improvements (Special)
128-07 Private activity bond allocation (Special)
129-07 Annexation petition (Special)

130-07 Annexation petition (Special)
131-07 Annexation petition (Special)
132-07 Annexation petition (Special)
133-07 Annexation petition (Special)
134-07 Annexation petition (Special)
135-07 Galley Lane Sanitary Sewer Improvement District No. SS-49-07 (Special)
136-07 Amends Growth Plan, rezone (Special)
137-07 City Council meeting schedule (Special)
138-07 Permit issuance (Special)
139-07 Multi-purpose drainage and irrigation easement vacation (Special)
140-07 Annexation petition (Special)
141-07 Annexation petition (Special)
142-07 Annexation petition (Special)
143-07 Annexation petition (Special)
144-07 Annexation petition (Special)
145-07 2008 Parks and Recreation Department fees and charges policy (Special)
146-07 Annexation petition (Special)
147-07 Annexation petition (Special)
148-07 Annexation petition (Special)
149-07 Permit issuance (Special)
150-07 Annexation petition (Special)
151-07 Renames Glenwood Avenue between 5th Street and 7th Street to Tiger Avenue (Special)
152-07 Annexation petition (Special)
153-07 Utility easements vacation (Special)
154-07 Annexation petition (Special)
155-07 Annexation petition (Special)
156-07 Alley Improvement District No. ST-08 (Special)
157-07 Amends Planning Commission by-laws (Special)
158-07 Creates Sanitary Sewer Improvement District No. SS-40-07 (Special)
159-07 Annexation petition (Special)
160-07 Annexation petition (Special)
161-07 Annexation petition (Special)
162-07 Amends Growth Plan, rezone (Special)
163-07 Annexation petition (Special)
164-07 Annexation petition (Special)
165-07 Adopts utility rates for water, wastewater, and solid waste services (Special)
166-07 Adopts parking rates, Rood Avenue Parking Garage (Special)
167-07 Annexation petition (Special)
168-07 Annexation petition (Special)
169-07 Annexation petition (Special)
170-07 Annexation petition (Special)
171-07 Annexation petition (Special)
172-07 Annexation petition (Special)
173-07 Ratifies purchase contract for property (Special)
174-07 Adopts North Avenue Corridor Plan (32.04, 32.08, 32.12, 32.16, 32.20, 32.24)
175-07 2007 tax levy (Special)
176-07 2007 tax levy, Downtown Development Authority (Special)
177-07 2007 tax levy, Ridges Metropolitan District (Special)
178-07 Annexation petition (Special)
179-07 Annexation petition (Special)
180-07 Annexation petition (Special)
181-07 Annexation petition (Special)
182-07 Annexation petition (Special)
183-07 Annexation petition (Special)
184-07 Annexation petition (Special)
185-07 Designates signatories for banking and financial accounts and transactions (Special)
186-07 (Not used)
187-07 Increases transportation impact fee for 2008 (Special)
188-07 Approves designation of right-of-way (Special)
189-07 Sewer easement (Special)
190-07 Amends Growth Plan, rezone (Special)
191-07 Amends Growth Plan, rezone (Special)
192-07 Amends Growth Plan, rezone (Special)
193-07 Alley Improvement District No. ST-08 (Special)
01-08 City Council meeting schedule (Special)
02-08 Establishes flat rate development inspection fees (Special)
03-08 Annexation petition (Special)
04-08 Annexation petition (Special)
05-08 Ratifies purchase contract for property (Special)
06-08 Accepts grant of federal funds, 7th Street (26 1/2 Road) bridge replacement project (Special)
07-08 Annexation petition (Special)
08-08 Annexation petition (Special)
09-08 Annexation petition (Special)
10-08 State highways maintenance services agreement (Special)
11-08 State highways maintenance services agreement (Special)
12-08 Annexation petition (Special)

13-08	Open space requirement, The Ridges Filing No. One through The Ridges Filing No. Six (Special)
14-08	Annexation petition (Special)
15-08	Annexation petition (Special)
16-08	Annexation petition (Special)
17-08	Annexation petition (Special)
18-08	Annexation petition (Special)
19-08	Annexation petition (Special)
20-08	Permit issuance (Special)
21-08	Annexation petition (Special)
22-08	Annexation petition (Special)
23-08	Grant application for continuation of development of Canyon View Park (Special)
24-08	Annexation petition (Special)
25-08	Amends Growth Plan, rezone (Special)
26-08	Annexation petition (Special)
27-08	Annexation petition (Special)
28-08	Annexation petition (Special)
29-08	Amends Growth Plan, rezone (Special)
30-08	Annexation petition (Special)
31-08	Annexation petition (Special)
32-08	Ratifies service and purchase agreement with Knowledge Computing Corporation (Special)
33-08	Annexation petition (Special)
34-08	Amends Growth Plan, rezone (Special)
35-08	Annexation petition (Special)
36-08	Annexation petition (Special)
37-08	Annexation petition (Special)
38-08	Annexation petition (Special)
39-08	Annexation petition (Special)
40-08	Adopts 2008 Stormwater Management Manual (SWMM) (26.04, 26.08, 26.12, 26.16, 26.24, 26.28, 26.32, 26.36, 26.40, 26.44, 26.48, 26.52, 26.56, 26.60, 26.64, 26.68, 26.72, 26.76, 26.80)
41-08	Purchase of real property (Special)
42-08	Purchase of real property (Special)
43-08	Annexation petition (Special)
44-08	Annexation petition (Special)
45-08	Annexation petition (Special)
46-08	Annexation petition (Special)
47-08	Annexation petition (Special)
48-08	Utility/drainage easements vacation (Special)
49-08	Annexation petition (Special)
50-08	Annexation petition (Special)
51-08	(Not used)
52-08	Annexation petition (Special)
53-08	Sale of real property (Special)
54-08	Annexation petition (Special)
55-08	Annexation petition (Special)
56-08	Annexation petition (Special)
57-08	Annexation petition (Special)
58-08	Annexation petition (Special)
59-08	Annexation petition (Special)
60-08	Annexation petition (Special)
61-08	Amends Res. 95-07, liquor license application fees (Special)
62-08	Purchase of real property (Special)
63-08	Authorizes easement (Special)
64-08	Easement vacations (Special)
65-08	Establishes fine schedule, enforcement of code violations (Special)
66-08	Permit issuance (Special)
67-08	Annexation petition (Special)
68-08	Annexation petition (Special)
69-08	Annexation petition (Special)
70-08	Annexation petition (Special)
71-08	Annexation petition (Special)
72-08	Annexation petition (Special)
73-08	Annexation petition (Special)
74-08	Annexation petition (Special)
75-08	Annexation petition (Special)
76-08	Amends Growth Plan, rezone (Special)
77-08	Purchase of real property (Special)
78-08	Annexation petition (Special)
79-08	Sale of real property (Special)
80-08	Lease of sidewalk right-of-way (Special)
81-08	Annexation petition (Special)
82-08	Annexation petition (Special)
83-08	Annexation petition (Special)
84-08	Purchase of real property (Special)
85-08	Annexation petition (Special)
86-08	Annexation petition (Special)
87-08	2008 Program Year Action Plan, community development block grant (CDBG) program (Special)
88-08	Renames portions of River Road and D Road to Riverside Parkway (Special)
89-08	Authorizes lease of sidewalk right-of-way (Special)
90-08	Annexation petition (Special)
91-08	Annexation petition (Special)
92-08	Annexation petition (Special)
93-08	Amends Growth Plan, rezone (Special)
94-08	Annexation petition (Special)
95-08	Purchase of real property (Special)
96-08	Purchase of real property (Special)
97-08	Improvements acceptance, Galley Lane Sanitary Sewer Improvement District No. SS-49-07 (Special)

98-08 Permit issuance (Special)
99-08 Annexation petition (Special)
100-08 Annexation petition (Special)
101-08 Annexation petition (Special)
102-08 Annexation petition (Special)
103-08 Ratifies contract to purchase land (Special)
104-08 Amends Growth Plan, rezone (Special)
105-08 Annexation petition (Special)
106-08 Annexation petition (Special)
107-08 Annexation petition (Special)
108-08 Annexation petition (Special)
109-08 Annexation petition (Special)
110-08 Annexation petition (Special)
111-08 Annexation petition (Special)
112-08 Annexation petition (Special)
113-08 Rural Fire Protection District agreement (Special)
114-08 Offering of invocations prior to City Council meetings (Special)
115-08 Annexation petition (Special)
116-08 Redlands Mesa Metropolitan District service plan and intergovernmental agreement (Special)
117-08 Submits to electorate measures to increase sales and use tax (Special)
118-08 Annexation petition (Special)
119-08 Rood Avenue Parking Plaza condominiums (Special)
120-08 Permit issuance (Special)
121-08 Private activity bond allocation, Colorado Housing and Finance Authority (Special)
122-08 Easement vacation (Special)
123-08 Amends Growth Plan, rezone (Special)
124-08 Endorses Councilmember Bruce Hill's application for the chairmanship of the National League of Cities Community and Economic Development Steering Committee (Special)
125-08 Revises Art in Public Places Program – One Percent for Art; repeals Res. 20-97 (2.48)
126-08 Annexation petition (Special)
127-08 Annexation petition (Special)
128-08 Annexation petition (Special)
129-08 Annexation petition (Special)
130-08 Annexation petition (Special)
131-08 Annexation petition (Special)
132-08 Affirms right to vote for increased city taxes and prior to city incurring debt (Special)
133-08 Amends Growth Plan, rezone (Special)
134-08 Supports application for land transfer to Mesa State College for a regional public safety training facility (Special)
135-08 Purchase of real property (Special)
136-08 Lease agreement with Pikes Peak Television, Inc. (Special)
137-08 Permit issuance (Special)
138-08 Annexation petition (Special)
139-08 Purchase of real property (Special)
140-08 Amends Growth Plan, rezone (Special)
141-08 Accepts federal aid funds (Special)
142-08 Annexation petition (Special)
143-08 Purchase of real property (Special)
144-08 Authorizes sales contract for City property (Special)
145-08 Alley Improvement District No. ST-09 (Special)
146-08 2008 tax levy (Special)
147-08 2008 tax levy, Downtown Development Authority (Special)
148-08 2008 tax levy (Special)
149-08 Annexation petition (Special)
150-08 Annexation petition (Special)
151-08 Annexation petition (Special)
152-08 Adopts water, irrigation, wastewater, solid waste, and parking rates (Special)
153-08 Annexation petition (Special)
154-08 Purchase of real property (Special)
155-08 Purchase of real property (Special)
156-08 Purchase of real property (Special)
01-09 City Council meeting schedule (Special)
02-09 Authorizes mail ballot election, April 7, 2009 (Special)
03-09 Authorizes acquisition of property and assets of the Fruitvale Sanitation District (Special)
04-09 US-50 Access Control Plan intergovernmental agreement (Special)
05-09 Annexation petition (Special)
06-09 Annexation petition (Special)
07-09 Alley Improvement District No. ST-09, Phase A (Special)
08-09 Lease agreement (Special)
09-09 Alley Improvement District No. ST-09, Phase B (Special)
10-09 Renames Saccomanno Drive to Seeber Drive and Sentinel Way to Saccamanno Road (Special)
11-09 Annexation petition (Special)
12-09 Annexation petition (Special)
13-09 Amends Growth Plan, rezone (Special)

14-09	Renames 25 1/2 Road to Base Rock Street between Rimrock Avenue and Crosby Avenue (Special)
15-09	Annexation petition (Special)
16-09	Notice of election (Special)
17-09	Annexation petition (Special)
18-09	Accepts Alley Improvement District No. ST-08 improvements (Special)
19-09	Authorizes funds for 29 Road and I-70B interchange project (Special)
20-09	Grant application for local parks and outdoor recreation grant (Special)
21-09	Amends Commission on Arts and Culture bylaws (Special)
22-09	Amends Growth Plan, rezone (Special)
23-09	Adopts 2009 parks and recreation fees (Special)
24-09	Annexation petition (Special)
25-09	Annexation petition (Special)
26-09	Alley Improvement District No. ST-09, Phase B (Special)
27-09	Amends Growth Plan, rezone (Special)
28-09	Amends Growth Plan, rezone (Special)
29-09	Annexation petition (Special)
30-09	Annexation petition (Special)
31-09	Utility easement vacation (Special)
32-09	Slope easement vacation (Special)
33-09	Irrigation and drainage easement vacation (Special)
34-09	Massage parlor license fees (Special)
35-09	Annexation petition (Special)
36-09	Multi-purpose trail and drainage easement vacation (Special)
37-09	Revocable permit issuance (Special)
38-09	Option and lease agreement, New Cingular Wireless PCS, LLC (Special)
39-09	Annexation petition (Special)
40-09	Amends Res. 61-08, liquor license application fees (Special)
41-09	Annexation petition (Special)
42-09	Annexation petition (Special)
43-09	Purchase of real property (Special)
44-09	Designates I.O.O.F. Hall located at 128 North 5th Street in City register of historic sites (Special)
45-09	Annexation petition (Special)
46-09	Annexation petition (Special)
47-09	Utility and irrigation easement vacation (Special)
48-09	Drainage easement vacation (Special)
49-09	Appoints City Councilmembers to various boards (Special)
50-09	Easement vacation (Special)
51-09	Annexation petition (Special)
52-09	Annexation petition (Special)
53-09	Annexation petition (Special)
54-09	Annexation petition (Special)
55-09	Permit issuance (Special)
56-09	Permit issuance (Special)
57-09	Accepts ownership of portion of I-70 Business Loop (Special)
58-09	2009 Program Year Action Plan, community development block grant (CDBG) program (Special)
59-09	Multi-purpose easement vacation (Special)
60-09	Annexation petition (Special)
61-09	Amends Growth Plan, rezone (Special)
62-09	Utility easement vacation (Special)
63-09	Annexation petition (Special)
64-09	Annexation petition (Special)
65-09	Permit issuance (Special)
66-09	Annexation petition (Special)
67-09	Agreement between City and State Board of the Great Outdoors Colorado Trust Fund (Special)
68-09	Approves service plan and inter-governmental agreement for 29 and D Metropolitan District No. 1 and No. 2 (Special)
69-09	Annexation petition (Special)
70-09	Pedestrian and equestrian easement vacation (Special)
71-09	Utility, irrigation, and drainage easement vacation (Special)
72-09	Private activity bond allocation, Colorado Housing and Finance Authority (Special)
73-09	Alley Improvement District No. ST-09, Phase A (Special)
74-09	Utility and access easement vacation (Special)
75-09	Utility easement vacation (Special)
76-09	Annexation petition (Special)
77-09	Amends Growth Plan, rezone (Special)
78-09	Permit issuance (Special)
79-09	Appoints Tom Kenyon to represent the city on the Colorado Municipal League Policy Committee (Special)
80-09	Annexation petition (Special)
81-09	Moir Growth Plan Amendment (Special)
82-09	Amends Resos. 69-04 and No. 85-04, annexation (Special)
83-09	Renames Melrose Park to Rocket Park (Special)

People's Ordinance Table

Ordinances adopted by referendum of the people are listed in this table. If an ordinance is codified, its location in the code is cited by chapter number at the end of the ordinance description. Ordinances are codified if they are general, permanent, and/or include penalty provisions for noncompliance. "Not codified" indicates that the ordinance could have been codified but was not for some reason (superseded by a later ordinance, codified in a separate publication). "Special" means the ordinance was special in nature or for a specific period of time (e.g., budget, annexation, tax levy, street vacation).

1	Ratifies condemnation proceedings (Special)
2	Accepts Palmer Park (Special)
3	Irrigation ditches and canals (12.16)
4	Alley vacations (Special)
5	Sale and purchase of property (Special)
6	Gas and electricity franchises (Expired)
7	Commissioner salaries (Special)
8	Purchase of property (Special)
9	Land conveyance (Special)
10	Purchase of cemetery property (Special)
11	Street and alley vacations (Special)
12	Alley vacation (Special)
13	Accepts Moyer Pool and provides regulations (Not codified)
14	Authorizes sale of property (Special)
15	Purchase of property (Special)
16	Land conveyance (Special)
17	Land conveyance (Special)
18	Appropriation for purchase of site for Junction College of Grand Junction (Special)
19	Street vacation (Special)
20	Electricity franchise (Expired)
21	Land conveyance (Special)
22	Gas franchise (Repealed by People's Ordinance 25)
23	Land parcel exchange (Special)
24	Electricity franchise (Expired)
25	Gas franchise; repeals People's Ordinance 22 (Expired)
26	Street lighting service contract (Expired)
27	Ad valorem tax levy (Special)
28	Development of airport facilities (Obsolete)
29	Gas and electricity franchises (Expired)
30	Dogs at large (6.12)
31	Publication of receipts and expenditures (2.04)
32	Gas and electricity franchises (Expired)
33	Public improvement assessments (12.12)
34	Lodgers' tax (3.08)
35	Gas and electricity franchises (Appendix A)
36	Cable television franchise (Appendix A)

Ordinance Table

This table lists all ordinances adopted after the enactment of a new code of ordinances by Ordinance 2789 on November 16, 1994. For information on ordinances passed prior to this date, please contact the city clerk's office. If an ordinance is codified, its location in the code is cited by chapter number at the end of the ordinance description. Ordinances are codified if they are general, permanent, and/or include penalty provisions for noncompliance. "Not codified" indicates that the ordinance could have been codified but was not for some reason (superseded by a later ordinance, codified in a separate publication). "Special" means the ordinance was special in nature or for a specific period of time (e.g., budget, annexation, tax levy, street vacation).

2790	Appropriation of funds for city, Ridges Metropolitan District, and West Water and Sanitation District (Special)
2791	Submits to electors question of the sale of a portion of Lilac Park (Special)
2792	Emergency medical services (Repealed by 4089)
2793	Right-of-way vacation (Special)
2794	Amends zoning and development code § 5-10-3, agricultural animals in residential zone districts (Title 21)
2795	Amends zoning and development code § 10-1-1.D, board of appeals (Title 21)
2796	Amends annexation zoning (Special)
2797	Annexation zoning (Special)
2798	Annexation zoning (Special)
2799	Annexation zoning (Special)
2800	Annexation zoning (Special)
2801	Annexation zoning (Special)
2802	Amends Ord. 2765, historic preservation (Title 21)
2803	Annexation (Special)
2804	Rezone (Special)
2805	Annexation (Special)
2806	Annexation (Special)
2807	Rezone (Special)
2808	Street vacation (Special)
2809	Amends zoning and development code §§ 5-4-6.A and F, open space fees (Title 21)
2810	Amends Ch. 34, retail sales and use tax (3.12)
2811	Adopts the 1994 Editions of the Uniform Fire Code and Fire Code Standards (15.44)
2812	Building codes (15.12, 15.16, 15.20, 15.24)
2813	Annexation (Special)
2814	Alley Improvement District No. ST-94, Phase A assessments (Special)
2815	Alley Improvement District No. ST-94, Phase B assessments (Special)
2816	Rezone (Special)
2817	Annexation zoning (Special)
2818	Annexation (Special)
2819	Amends 1995 budget (Special)
2820	Approves boundaries expansion, Downtown Development Authority (Special)
2821	Zones subdivision site (Special)
2822	Amends zoning and development code § 10-1-1.B, variance criteria (Title 21)
2823	Repeals § 6-32, disposal of manure (Repealer)
2824	Annexation zoning (Special)
2825	Annexation (Special)
2826	Annexation (Special)
2827	Annexation zoning (Special)
2828	Annexation (Special)
2829	Amends zoning and development code §§ 4-3-4, 5-10-3 and Ch. 12 (Title 21)
2830	Approves boundaries expansion, Downtown Development Authority (Special)
2831	Amends zoning and development code § 4-3-4 and Ch. 12 (Title 21)
2832	Amends §§ 16-26 and 16-27, junk, rubbish and weeds (8.04)
2833	Rezone (Special)
2834	Rezone (Special)
2835	Alley vacation (Special)
2836	Annexation zoning (Special)
2837	Annexation zoning (Special)
2838	Annexation zoning (Special)
2839	Annexation zoning (Special)
2840	Annexation zoning (Special)
2841	Annexation zoning (Special)
2842	Annexation zoning (Special)
2843	Amends zoning and development code § 4-9-1.A, minimum lot size (Title 21)

2844	Amends zoning and development code §§ 4-2-1 through 4-2-19, bulk requirements (Title 21)
2845	Rezone (Special)
2846	Utilities and drainage easement vacation (Special)
2847	Rezone (Special)
2848	Annexation (Special)
2849	Annexation (Special)
2850	Annexation (Special)
2851	Annexation zoning (Special)
2852	Annexation zoning (Special)
2853	Right-of-way vacation (Special)
2854	Annexation zoning (Special)
2855	Utility easement vacation (Special)
2856	Rezone (Special)
2857	Rezone (Special)
2858	Right-of-way vacation (Special)
2859	Annexation (Special)
2860	Annexation zoning (Special)
2861	Adds § 24-20, skate devices (9.04)
2862	Annexation (Special)
2863	Annexation zoning (Special)
2864	Rezone (Special)
2865	Rezone (Special)
2866	Alley vacation (Special)
2867	Annexation (Special)
2868	Rezone (Special)
2869	Annexation zoning (Special)
2870	Utility easement vacation (Special)
2871	Rezone (Special)
2872	Annexation (Special)
2873	Annexation (Special)
2874	Annexation zoning (Special)
2875	Annexation (Special)
2876	Annexation (Special)
2877	Amends 1995 budget (Special)
2878	Annexation zoning (Special)
2879	Annexation (Special)
2880	Annexation zoning (Special)
2881	Annexation (Special)
2882	Annexation zoning (Special)
2883	1996 appropriations (Special)
2884	Removal and disposal of dog excrement (6.04)
2885	Annexation (Special)
2886	Amends zoning and development code, school impact fees (Title 21)
2887	Amends Ch. 34, city retail sales and use tax (3.12)
2888	Street vacation (Failed)
2889	Rezone (Special)
2890	Right-of-way vacation (Special)
2891	Annexation (Special)
2892	Amends Ch. 38, water and sewers (13.04, 13.12)
2893	Rezone (Special)
2894	Annexation zoning (Special)
2895	Annexation (Special)
2896	Annexation zoning (Special)
2897	Amends § 3 of Ord. 2883, city manager's salary (Special)
2898	Rezone (Special)
2899	Annexation zoning (Special)
2900	Annexation zoning (Special)
2901	Annexation (Special)
2902	Bonds issuance (Special)
2903	Rezone (Special)
2904	Annexation zoning (Special)
2905	Alley vacation (Special)
2906	Alley vacation (Special)
2907	Rezone (Special)
2908	Rezone (Special)
2909	Amends 1996 budget (Special)
2910	Procedures to disconnect annexations; disconnects Eastern Commercial and Villa Coronado annexations (2.04)
2911	Lease purchase agreement (Special)
2912	Right-of-way vacation (Special)
2913	Alley vacation (Special)
2914	Boundary expansion, Downtown Development Authority and tax increment financing district (Special)
2915	Amends zoning and development code §§ 5-10-3, 5-10-4 and Ch. 12, animal regulations (Title 21)
2916	Amends zoning and development code § 4-13 and Ch. 12, Temporary uses and structures (Title 21)
2917	Amends zoning and development code § 5-10-3, chinchilla ranches (Title 21)
2918	Amends zoning and development code § 4-3-4, use/zone matrix (Title 21)
2919	Amends zoning and development code § 5-7-7.B.5, flush wall sign allowance (Title 21)
2920	Annexation (Special)
2921	Annexation zoning (Special)
2922	Annexation (Special)
2923	Annexation zoning (Special)
2924	Right-of-way vacation (Special)
2925	Annexation (Special)
2926	Amends §§ 38-162, 38-164, 38-165, 38-166, 38-167 and 38-169, right-of-way work permits (13.12)

2927	Adds zoning and development code § 5-4-17; amends §§ 4-3-4, 4-8-2, 5-1-4, 5-4-15 and 5-5-1, churches and other nonresidential uses (Title 21)
2928	Rezone (Special)
2929	Amends zoning and development code § 4-3-4, use/zone matrix (Title 21)
2930	Annexation zoning (Special)
2931	Annexation zoning (Special)
2932	Alley Improvement District No. ST-95 assessments (Special)
2933	Sanitary Sewer Improvement District No. SS-37-94 assessments (Special)
2934	Sanitary Sewer Improvement District No. SS-40-95 assessments (Special)
2935	Annexation (Special)
2936	Rezone (Special)
2937	Adds zoning and development code § 5-15, mineral extraction, washing, crushing cement batch plants and asphalt plants (Title 21)
2938	Rezone (Special)
2939	Alley vacation (Special)
2940	Utility and irrigation easement vacation (Special)
2941	Annexation (Special)
2942	Amends § 38-194, fire protection for water lines (13.12)
2943	Street vacation (Special)
2944	Right-of-way vacation (Special)
2945	Amends zoning and development code § 4-3-4 and Ch. 12, impound lots (Title 21)
2946	Zones property (Special)
2947	Annexation zoning (Special)
2948	Annexation (Special)
2949	Rezone (Special)
2950	Sewer easement vacation (Special)
2951	Rezone (Special)
2952	Rezone (Special)
2953	Annexation zoning (Special)
2954	Rezone (Special)
2955	Rezone (Special)
2956	Annexation (Special)
2957	Zones property (Special)
2958	Amends 1996 budget (Special)
2959	Rezone (Special)
2960	Right-of-way vacation (Special)
2961	Rezone (Special)
2962	Annexation (Special)
2963	Annexation zoning (Special)
2964	Annexation (Special)
2965	Annexation (Special)
2966	Annexation zoning (Special)
2967	Amends zoning and development code § 4-9-1.F (Title 21)
2968	1997 appropriations (Special)
2969	Annexation (Special)
2970	Annexation zoning (Special)
2971	Utility and irrigation easement vacation (Special)
2972	Rezone (Special)
2973	Street vacation (Special)
2974	Rezone (Special)
2975	Annexation zoning (Special)
2976	Annexation (Special)
2977	Annexation (Special)
2978	Annexation (Special)
2979	Annexation zoning (Special)
2980	Annexation zoning (Special)
2981	Wood stoves and fireplaces (8.20)
2982	Annexation (Special)
2983	Annexation (Special)
2984	Annexation (Special)
2985	Annexation (Special)
2986	Submits to electorate question of sale or trade of certain real property (Special)
2987	Annexation (Special)
2988	Amends Ch. 30, solid waste (8.28)
2989	Amends zoning and development code § 5-8, flood damage prevention (Title 21)
2990	Annexation zoning (Special)
2991	Annexation zoning (Special)
2992	Annexation zoning (Special)
2993	Roadway easement vacation (Special)
2994	Rezone (Special)
2995	Rezone (Special)
2996	Water line easement vacation (Special)
2997	General utilities easement vacation (Special)
2998	Drainage and utilities easement vacation (Special)
2999	Rezone (Special)
3000	Annexation (Special)
3001	Annexation zoning (Special)
3002	Annexation (Special)
3003	Annexation zoning (Special)
3004	Easement vacation (Special)
3005	Amends 1997 budget (Special)
3006	Annexation (Special)
3007	Annexation zoning (Special)
3008	Boundary expansion, Downtown Development Authority and tax increment financing district (Special)
3009	Rezone (Special)

3010	Amends zoning and development code § 4-3-4 and Ch. 12, community corrections facility (Title 21)
3011	Annexation zoning (Special)
3012	Annexation (Special)
3013	Annexation zoning (Special)
3014	Adopts amended retirement plans (Special)
3015	Right-of-way vacation (Special)
3016	Utilities, drainage and irrigation easement vacation (Special)
3017	Right-of-way vacation (Special)
3018	Abandoned easements vacation (Special)
3019	Annexation (Special)
3020	Annexation zoning (Special)
3021	Private activity bond allocation, Colorado Housing and Finance Authority (Special)
3022	Rezone (Special)
3023	Right-of-way vacation (Special)
3024	Easement vacation (Special)
3025	Amends Ch. 4, alcoholic beverages (5.12)
3026	Sewer Improvement District Sanitary Improvement Districts 38-97 and 39-95 assessable costs (Special)
3027	Zones parcel of land (Special)
3028	Right-of-way vacation (Special)
3029	Alley Improvement District No. ST-96, Phase A assessments (Special)
3030	Approves cost of improvements, Alley Improvement District No. ST-96, Phase B (Special)
3031	Approves cost of improvements, Alley Improvement District No. ST-96, Phase C (Special)
3032	Amends 1997 budget (Special)
3033	Zones parcel of land (Special)
3034	Rezone (Special)
3035	Utility easement vacation (Special)
3036	Annexation (Special)
3037	Rezone (Special)
3038	Annexation zoning (Special)
3039	Drainage, utility, irrigation, pipeline and access easements vacation (Special)
3040	1998 appropriation ordinance (Special)
3041	Drainage, irrigation, utility and multi-purpose easements vacation (Special)
3042	Rezone (Special)
3043	Submits to electorate question of sale of a portion of Lilac Park (Special)
3044	Street vacation (Special)
3045	Amends § 38-49, technically based local limits (13.04)
3046	Sanitary Sewer Improvement District No. SS-41-95 assessments (Special)
3047	Utility easement vacation (Special)
3048	Rezone (Special)
3049	Rezone (Special)
3050	Rezone (Special)
3051	Rezone (Special)
3052	Rezone (Special)
3053	Alley right-of-way vacation (Special)
3054	Alley right-of-way vacation (Special)
3055	1998 supplemental appropriations (Special)
3057	Rezone (Special)
3056	Easement vacation (Special)
3058	Rezone (Special)
3059	Easements vacation (Special)
3060	Rezone (Special)
3061	Rezone (Special)
3062	Ingress/egress easement vacation (Special)
3063	Alley vacation (Special)
3064	Easement vacation (Special)
3065	Rezone (Special)
3066	Adopts amendments to retirement plans (Special)
3067	Street vacation (Special)
3068	Street vacation (Special)
3069	Private activity bond allocation, Colorado Housing and Finance Authority (Special)
3070	Rezone (Special)
3071	Zones parcel of land (Special)
3072	Right-of-way vacation (Special)
3073	Zones parcel of land (Special)
3074	Alley right-of-way vacation (Special)
3075	Sanitary Sewer Improvement District No. SS-42-97 assessments (Special)
3076	Alley Improvement District No. ST-97, Phase A assessments (Special)
3077	Annexation (Special)
3078	Annexation (Special)
3079	Annexation (Special)
3080	Rezone (Special)
3081	Zones parcel of land (Special)
3082	Alley vacation (Special)
3083	Amends 1998 budget (Special)
3084	1999 appropriation ordinance (Special)
3085	Annexation (Special)
3086	Rezone (Special)
3087	Rezone (Special)

3088	Zones parcel of land (Special)
3089	Annexation zoning (Special)
3090	Annexation (Special)
3091	Annexation (Special)
3092	Annexation (Special)
3093	Annexation zoning (Special)
3094	Annexation (Special)
3095	Tobacco products (9.04)
3096	Rezone (Special)
3097	Annexation (Special)
3098	Annexation (Special)
3099	Annexation (Special)
3100	Annexation zoning (Special)
3101	Annexation (Special)
3102	Annexation (Special)
3103	Annexation (Special)
3104	Annexation zoning (Special)
3105	Annexation (Special)
3106	Annexation zoning (Special)
3107	Annexation (Special)
3108	Annexation (Special)
3109	Annexation zoning (Special)
3110	Annexation zoning (Special)
3111	Annexation zoning (Special)
3112	Optional premises license, Pinon Grill (Special)
3113	Alley Improvement District No. ST-98, Phase A assessments (Special)
3114	Annexation (Special)
3115	Annexation zoning (Special)
3116	Annexation (Special)
3117	Annexation (Special)
3118	Annexation zoning (Special)
3119	Annexation (Special)
3120	Annexation (Special)
3121	Annexation (Special)
3122	Annexation (Special)
3123	Annexation zoning (Special)
3124	Annexation (Special)
3125	Annexation (Special)
3126	Annexation (Special)
3127	Annexation zoning (Special)
3128	Annexation (Special)
3129	Annexation (Special)
3130	Annexation zoning (Special)
3131	Annexation (Special)
3132	Annexation zoning (Special)
3133	Annexation (Special)
3134	Annexation (Special)
3135	Zones land (Special)
3136	Rezone (Special)
3137	Annexation (Special)
3138	Street vacation (Special)
3139	Amends 1999 budget (Special)
3140	Bonds issuance (Special)
3141	Amends §§ 18-56, 18-58 and 38-194, fire code (13.12, 15.44)
3142	Annexation zoning (Special)
3143	Annexation zoning (Special)
3144	Annexation zoning (Special)
3145	Annexation (Special)
3146	Annexation zoning (Special)
3147	Rezone (Special)
3148	Rezone (Special)
3149	Rezone (Special)
3150	Right-of-way vacation (Special)
3151	Alley vacations (Special)
3152	Right-of-way vacation (Special)
3153	Annexation (Special)
3154	Annexation (Special)
3155	Annexation zoning (Special)
3156	Street vacation (Special)
3157	Rezone (Special)
3158	Annexation (Special)
3159	Annexation (Special)
3160	Annexation zoning (Special)
3161	Amends Ord. 3084, salary of city manager (Special)
3162	Zones parcels of land (Special)
3163	Annexation (Special)
3164	Right-of-way vacation (Special)
3165	Annexation (Special)
3166	Annexation zoning (Special)
3167	Rezone (Special)
3168	Annexation (Special)
3169	Annexation zoning (Special)
3170	Zones land (Special)
3171	Annexation (Special)
3172	Annexation zoning (Special)
3173	Annexation (Special)
3174	Annexation zoning (Special)
3175	Annexation (Special)
3176	Annexation (Special)
3177	Annexation (Special)
3178	Annexation zoning (Special)
3179	Alley vacation (Special)
3180	Private activity bond allocation, Colorado Housing and Finance Authority (Special)
3181	Zones parcel of land (Special)
3182	Alley Improvement District No. ST-98, Phase B assessments (Special)
3183	Alley Improvement District No. ST-99, Phase A assessments (Special)
3184	Amends zoning and development code, telecommunication facilities (Title 21)

3185	Annexation (Special)
3186	Annexation (Special)
3187	Annexation (Special)
3188	Annexation zoning (Special)
3189	Amends zoning and development code, adding RSF-E Zone (Title 21)
3190	Annexation (Special)
3191	Annexation (Special)
3192	Annexation zoning (Special)
3193	Annexation (Special)
3194	Annexation zoning (Special)
3195	Amends 1999 budget (Special)
3196	Annexation (Special)
3197	Annexation zoning (Special)
3198	Amends Ord. 3170, zoning of property (Special)
3199	Annexation (Special)
3200	Annexation zoning (Special)
3201	Amends § 241-2, disorderly house (9.04)
3202	Amends § 24-18, indecent exposure (9.04)
3203	Amends Ch. 16, Art. V, excessive noise (8.16)
3204	Amends zoning and development code, planning commission alternates and board of appeals (Title 21)
3205	Annexation (Special)
3206	Annexation zoning (Special)
3207	Annexation (Special)
3208	Annexation zoning (Special)
3209	Annexation (Special)
3210	Annexation zoning (Special)
3211	Annexation zoning (Special)
3212	Annexation (Special)
3213	Annexation zoning (Special)
3214	Right-of-way vacation (Special)
3215	Annexation (Special)
3216	Annexation zoning (Special)
3217	Annexation (Special)
3218	Annexation (Special)
3219	Annexation zoning (Special)
3220	2000 appropriation ordinance (Special)
3221	Annexation (Special)
3222	Annexation zoning (Special)
3223	Annexation (Special)
3224	Annexation (Special)
3225	Annexation (Special)
3226	Annexation zoning (Special)
3227	Annexation (Special)
3228	Annexation zoning (Special)
3229	Rezone (Special)
3230	Right-of-way vacation (Special)
3231	Amends permitted uses in specific PB zone (Special)
3232	Zones property (Special)
3233	Annexation (Special)
3234	Annexation zoning (Special)
3235	Annexation (Special)
3236	Annexation zoning (Special)
3237	Annexation (Special)
3238	Temporary turnaround access easement vacation (Special)
3239	Right-of-way vacation (Special)
3240	Adopts new zoning and development code (Title 21)
3241	Adopts new zoning maps as part of new zoning and development code (Special)
3242	Annexation (Special)
3243	Annexation (Special)
3244	Annexation (Special)
3245	Annexation (Special)
3246	Annexation zoning (Special)
3247	Amends 2000 budget (Special)
3248	Amends Ch. 6, Art. III, animal control (6.12)
3249	Annexation (Special)
3250	Annexation zoning (Special)
3251	Annexation (Special)
3252	Annexation zoning (Special)
3253	Annexation (Special)
3254	Annexation (Special)
3255	Annexation (Special)
3256	Annexation zoning (Special)
3257	Annexation (Special)
3258	Annexation zoning (Special)
3259	Annexation (Special)
3260	Annexation (Special)
3261	Annexation zoning (Special)
3262	Amends Chapter 6, Art. III, animal control (6.12)
3263	Zones parcels of land (Special)
3264	Annexation (Special)
3265	Annexation zoning (Special)
3266	Annexation (Special)
3267	Annexation zoning (Special)
3268	Annexation (Special)
3269	Annexation zoning (Special)
3270	Annexation (Special)
3271	Annexation zoning (Special)
3272	Annexation (Special)
3273	Annexation zoning (Special)
3274	Zones parcels of land (Special)
3275	Amends Ord. 3220, salary of the city manager (Special)
3276	Zones parcel (Special)

3277	Sanitary Sewer Improvement District No. SS-43-99 assessments (Special)
3278	Annexation (Special)
3279	Annexation zoning (Special)
3280	Corrects zoning of Cherryhill Subdivision (Special)
3281	Amends Ch. 36, model traffic code (Repealed by 4110)
3282	Annexation (Special)
3283	Annexation zoning (Special)
3284	Annexation (Special)
3285	Annexation zoning (Special)
3286	Zoning of property (Special)
3287	Annexation zoning (Special)
3288	Rezone (Special)
3289	Rezone (Special)
3290	Alley Improvement District No. ST-99, Phase R assessments (Special)
3291	Alley Improvement District No. ST-00, Phase A assessments (Special)
3292	Street vacation (Special)
3293	Bond allocation, Colorado Housing and Finance Authority (Special)
3294	Street vacation (Special)
3295	Annexation (Special)
3296	Annexation zoning (Special)
3297	Annexation (Special)
3298	Annexation (Special)
3299	Annexation (Special)
3300	Annexation zoning (Special)
3301	Annexation (Special)
3302	Annexation zoning (Special)
3303	Adds zoning and development code § 3.4.J; amends §§ 3.2 and 3.5, 24 Road Corridor (Title 21)
3304	Adopts new zoning map, 24 Road Corridor Area (Special)
3305	Adds zoning and development code § 7.5, 24 Road Corridor Design Standards and Guidelines (25.04, 25.08, 25.12, 25.16, 25.20, 25.24, 25.28)
3306	Annexation (Special)
3307	Annexation zoning (Special)
3308	Temporary turnaround access and utility easement vacation (Special)
3309	Temporary turnaround easement vacation (Special)
3310	Right-of-way vacation (Special)
3311	Ingress-egress easement and utility easement vacation (Special)
3312	Amends § 24-18, indecent exposure (9.04)
3313	Annexation (Special)
3314	Amends zoning and development code Ch. 4, group living (Title 21)
3315	Annexation (Special)
3316	Annexation (Special)
3317	(Number not used)
3318	Adopts building codes (15.04, 15.08, 15.12, 15.16, 15.20, 15.24, 15.28, 15.32, 15.36, 15.40)
3319	Adopts 2000 Edition of the International Fire Code (15.44)
3320	Repeals and replaces Ch. 36, traffic and vehicles (Repealed by 4110)
3321	Amends 2000 budget (Special)
3322	Appropriation of funds (Special)
3323	Amends Redlands Mesa zoning ordinance (Special)
3324	Zones parcels of land (Special)
3325	Amends 2001 budget (Special)
3326	Amends § 10-87, contractors (5.16)
3327	Zones parcels of land (Special)
3328	Zones parcels of land (Special)
3329	Annexation (Special)
3330	Annexation zoning (Special)
3331	Amends zoning and development code, institutional and civic facility master plans (Title 21)
3332	Annexation (Special)
3333	Annexation (Special)
3334	Annexation zoning (Special)
3335	Amends § 36-38(b), traffic code (Repealed by 4110)
3336	Street vacation (Special)
3337	Annexation (Special)
3338	Annexation zoning (Special)
3339	Annexation (Special)
3340	Annexation (Special)
3341	Annexation (Special)
3342	Annexation (Special)
3343	Amends 2001 budget (Special)
3344	Annexation (Special)
3345	Annexation (Special)
3346	Annexation zoning (Special)
3347	Annexation (Special)
3348	Annexation zoning (Special)
3349	Annexation (Special)
3350	Right-of-way vacation (Special)
3351	Annexation (Special)
3352	Annexation (Special)
3353	Annexation zoning (Special)
3354	Right-of-way vacation (Special)
3355	Amends § 36-2, traffic and vehicles (Repealed by 4110)

3356	Right-of-way vacation (Special)
3357	Annexation (Special)
3358	Annexation zoning (Special)
3359	Redlands Mesa Golf Course optional premises license (Special)
3360	Rezone (Special)
3361	Creates Rimrock Marketplace general improvement district (Special)
3362	Rezone (Special)
3363	Annexation zoning (Special)
3364	Annexation zoning (Special)
3365	Annexation (Special)
3366	Annexation zoning (Special)
3367	Rezone (Special)
3368	Annexation (Special)
3369	Annexation (Special)
3370	Annexation (Special)
3371	Annexation zoning (Special)
3372	Bond allocation (Special)
3373	Sanitary sewer improvement district No. SS-44-00 assessments (Special)
3374	Alley improvement district No. St-00 assessments (Special)
3375	Alley improvement district No. St-01 assessments (Special)
3376	Annexation (Special)
3377	Annexation (Special)
3378	Annexation zoning (Special)
3379	Right-of-way vacation (Special)
3380	Rezone (Special)
3381	Rezone (Special)
3382	Right-of-way vacation (Special)
3383	Right-of-way vacation (Special)
3384	Right-of-way vacation (Special)
3385	Amends zoning and development code, transit shelters and benches (Title 21)
3386	Amends 2001 budget (Special)
3387	Adopts 2002 budget (Special)
3388	Rezone (Special)
3389	Annexation zoning (Special)
3390	Annual update of zoning and development code (Title 21)
3391	Rezone (Special)
3392	Annexation (Special)
3393	Annexation zoning (Special)
3394	Adopts amendments to retirement plans for specified city of Grand Junction employee groups (Special)
3395	Annexation (Special)
3396	Annexation (Special)
3397	Pine subdivision zoning (Special)
3398	Adds zoning and development code §§ 4.1.I.2.c and 4.3.D, salvage yards, recyclers and impound lots (Title 21)
3399	Rezone (Special)
3400	Right-of-way vacation (Special)
3401	Annexation zoning (Special)
3402	Amends city manager salary (Special)
3403	Approves loan, city water system improvements (Special)
3404	Annexation (Special)
3405	Annexation (Special)
3406	Annexation zoning (Special)
3407	Annexation zoning (Special)
3408	Zones parcels of land (Special)
3409	Rezone (Special)
3410E	Amends Ord. 3402, city manager salary (Special)
3411	Annexation (Special)
3412	Annexation zoning (Special)
3413	Street vacation (Special)
3414	Street vacation (Special)
3415	Annexation (Special)
3416	Annexation zoning (Special)
3417	Annexation (Special)
3418	Annexation (Special)
3419	Annexation (Special)
3420	Annexation (Special)
3421	Authorizes loan, joint sewer system improvements (Special)
3422	Amends Ch. 32, downtown sidewalk permit (12.24)
3423	Amends 2002 budget (Special)
3424	Annexation (Special)
3425	Annexation (Special)
3426	Annexation zoning (Special)
3427	Annexation (Special)
3428	Annexation zoning (Special)
3429	Annexation (Special)
3430	Annexation zoning (Special)
3431	Amends Chs. 36 and 40, parking (8.32)
3432	Annexation (Special)
3433	Annexation (Special)
3434	Annexation (Special)
3435	Annexation zoning (Special)
3436	Amends zoning and development code development review process (Title 21)
3437	Street vacations (Special)
3438	Street vacation (Special)
3439	Rezone (Special)
3440	Rezone (Special)
3441	Annexation (Special)
3442	Annexation (Special)
3443	Annexation (Special)

3444	Annexation zoning (Special)
3445	Annexation (Special)
3446	Annexation (Special)
3447	Annexation zoning (Special)
3448	Annexation (Special)
3449	Annexation (Special)
3450	Annexation (Special)
3451	Annexation zoning (Special)
3452	Annexation (Special)
3453	Annexation zoning (Special)
3454	Bonds issuance (Special)
3455	Annexation (Special)
3456	Annexation (Special)
3457	Annexation zoning (Special)
3458	Annexation (Special)
3459	Annexation (Special)
3460	Annexation (Special)
3461	Annexation (Special)
3462	Annexation zoning (Special)
3463	Alley improvement district No. ST-02 assessments (Special)
3464	Annexation (Special)
3465	Annexation (Special)
3466	Annexation zoning (Special)
3467	Annexation (Special)
3468	Annexation (Special)
3469	Annexation zoning (Special)
3470	Annexation zoning (Special)
3470	Annexation zoning (Special)
3471	Annexation (Special)
3472	Annexation zoning (Special)
3473	Annexation (Special)
3474	Annexation (Special)
3475	Annexation zoning (Special)
3476	Rezone (Special)
3477	Amends 2002 budget (Special)
3478	Creates Rimrock Marketplace special improvement district (Special)
3479	Rimrock Marketplace general improvement district bonds issuance (Special)
3480	Rimrock Marketplace special improvement district assessments (Special)
3481	Appropriation of funds (Special)
3482	Annexation (Special)
3483	Annexation (Special)
3484	Annexation zoning (Special)
3485	Annexation zoning (Special)
3486	Annexation (Special)
3487	Annexation (Special)
3488	Annexation zoning (Special)
3489	Annexation (Special)
3490	Annexation zoning (Special)
3491	Annexation (Special)
3492	Annexation zoning (Special)
3493	Zones parcel of land (Special)
3494	Annexation (Special)
3495	Annexation zoning (Special)
3496	Adopts amendments to retirement plans for specified employee groups (Special)
3497	Annexation (Special)
3498	Annexation zoning (Special)
3499	Annexation (Special)
3500	Annexation (Special)
3501	Annexation (Special)
3502	Annexation zoning (Special)
3503	Annexation (Special)
3504	Annexation zoning (Repealed by 3509)
3505	Amends Ord. 3481, city manager salary (Special)
3506	Right-of-way vacation (Special)
3507	Rezone (Special)
3508	Amends Ch. 24, tobacco products (9.04)
3509	Annexation zoning (Special)
3510	Annexation (Special)
3511	Annexation zoning (Special)
3512	Annexation (Special)
3513	Annexation (Special)
3514	Annexation zoning (Special)
3515	Annexation (Special)
3516	Annexation zoning (Special)
3517	Annexation (Special)
3518	Annexation (Special)
3519	Annexation zoning (Special)
3520	Annexation (Special)
3521	Annexation zoning (Special)
3522	Annexation (Special)
3523	Annexation zoning (Special)
3524	Right-of-way vacation (Special)
3525	Emergency access easement vacation (Special)
3526	Rezone (Special)
3527	Amends Ord. 3263, zoning of parcels of land (Special)
3528	Bonds issuance (Special)
3529	Adopts amendments to zoning and development code (Title 21)
3530	Amends 2003 budget (Special)
3531	Creates Rimrock Marketplace special improvement district (Special)
3532	Rimrock Marketplace special improvement district assessment bonds (Special)

3533	Rimrock Marketplace special improvement district assessment (Special)
3534	Zones parcels (Special)
3535	Annexation (Special)
3536	Annexation zoning (Special)
3537	Zones parcel of land (Special)
3538	Annexation (Special)
3539	Annexation zoning (Special)
3540	Prohibits smoking in workplaces and public places (8.20)
3541	Street vacation (Special)
3542	Annexation (Special)
3543	Annexation (Special)
3544	Annexation (Special)
3545	Annexation (Special)
3546	Annexation zoning (Special)
3547	Annexation (Special)
3548	Annexation (Special)
3549	Annexation (Special)
3550	Annexation zoning (Special)
3551	Amends Ord. 3532, Rimrock Marketplace special improvement district assessment (Special)
3552	Annexation (Special)
3553	Annexation (Special)
3554	Annexation (Special)
3555	Annexation zoning (Special)
3556	Annexation (Special)
3557	Annexation (Special)
3558	Right-of-way vacation (Special)
3559	Annexation (Special)
3560	Annexation (Special)
3561	Annexation (Special)
3562	Annexation (Special)
3563	Annexation zoning (Special)
3564	Rezone (Special)
3565	Annexation zoning (Special)
3566	Deannexation (Special)
3567	Right-of-way vacation (Special)
3568	Right-of-way vacation (Special)
3569	Annexation zoning (Special)
3570	Rezone (Special)
3571	Right-of-way vacation (Special)
3572	Annexation (Special)
3573	Annexation zoning (Special)
3574	Annexation (Special)
3575	Annexation zoning (Special)
3576	Annexation (Special)
3577	Annexation zoning (Special)
3578	Rezone (Special)
3579	Street vacation (Special)
3580	Annexation (Special)
3581	Annexation zoning (Special)
3582	Annexation (Special)
3583	Annexation (Special)
3584	Amends 2003 budget (Special)
3585	Bonds issuance (Special)
3586	Right-of-way vacation (Special)
3587	Appropriation of funds (Special)
3588	Bonds issuance (Special)
3589	Repeals and replaces § 6-61, dog disturbing the peace (6.12)
3590	Annexation (Special)
3591	Annexation zoning (Special)
3592	Amends Ord. 3585, bonds issuance (Special)
3593	Right-of-way vacation (Special)
3594	Zones land (Special)
3595	Bonds issuance (Special)
3596	Annexation (Special)
3597	Annexation zoning (Special)
3598	Rezone (Special)
3599	Alley improvement district No. ST-03 assessments (Special)
3600	Rezone (Special)
3601	Right-of-way vacation (Special)
3602	Annexation (Special)
3603	Annexation zoning (Special)
3604	Annexation (Special)
3605	Annexation zoning (Special)
3606	Annexation zoning (Special)
3607	Right-of-way vacation (Special)
3608	Rezone (Special)
3609	Amends Ch. 32, permits for activities in the downtown (12.24)
3610	Amends zoning and development code § 6.2.A.1.h, placement of utilities underground (Title 21)
3611	Annexation (Special)
3612	Annexation zoning (Special)
3613	Annexation (Special)
3614	Annexation zoning (Special)
3615	Amends Ch. 38, utilities (13.04, 13.08, 13.12)
3616	Right-of-way vacation (Special)
3617	Annexation (Special)
3618	Annexation zoning (Special)
3619	Zones land (Special)
3620	Amends § 4-52, hotel and restaurant liquor distance restriction (5.12)
3621	Establishes Horizon Drive business improvement district (Special)
3622	Rezone (Special)

3623	Amends Submittal Standards for Improvements and Development (SSID) manual (Title 22)
3624	Rezone (Special)
3625	Amends zoning and development code § 6.5, landscaping, buffering and screening standards (Title 21)
3626	Amends § 34-154, sales and use tax (3.12)
3627	Annexation (Special)
3628	Annexation (Special)
3629	Annexation zoning (Special)
3630	Annexation (Special)
3631	Annexation (Special)
3632	Annexation zoning (Special)
3633	Annexation (Special)
3634	Amends 2004 budget (Special)
3635	Annexation (Special)
3636	Annexation (Special)
3637	Annexation zoning (Special)
3638	Annexation (Special)
3639	Annexation (Special)
3640	Annexation zoning (Special)
3641	Amends zoning and development code § 6.2, transportation capacity payments (Title 21)
3642	Annexation (Special)
3643	Annexation zoning (Special)
3644	Annexation (Special)
3645	Annexation zoning (Special)
3646	Sanitary Sewer Improvement District No. SS-45-03 assessments (Special)
3647	Amends Ord. 3136, rezone (Special)
3648	Annexation (Special)
3649	Annexation zoning (Special)
3650	Amends §§ 32-62 and 32-63, permits for activities in the downtown (12.24)
3651	Annexation (Special)
3652	Annexation zoning (Special)
3653	Submits to electors question regarding Downtown Development Authority (Special)
3654	Annexation (Special)
3655	Annexation zoning (Special)
3656	Annexation (Special)
3657	Annexation zoning (Special)
3658	Annexation (Special)
3659	Annexation (Special)
3660	Annexation (Special)
3661	Annexation (Special)
3662	Rezone (Special)
3663	Right-of-way vacation (Special)
3664	Annexation zoning (Special)
3665	Annexation (Special)
3666	Annexation (Special)
3667	Annexation zoning (Special)
3668	Right-of-way vacation (Special)
3669	Rezone (Special)
3670	Alley Improvement Districts No. ST-04 and ST-04 Phase B assessments (Special)
3671	Sanitary Sewer Improvement District No. SS-46-04 assessments (Special)
3672	Annexation (Special)
3673	Annexation (Special)
3674	Annexation zoning (Special)
3675	Right-of-way vacation (Special)
3676	Annexation (Special)
3677	Annexation (Special)
3678	Annexation zoning (Special)
3679	Walker Field Airport property planned development zone district standards (Special)
3680	Amends Ord. 2644, Wilson Ranch planned residential development zoning (Special)
3681	Annexation (Special)
3682	Rezone (Special)
3683	Annexation (Special)
3684	Annexation zoning (Special)
3685	Annexation zoning (Special)
3686	Annexation (Special)
3687	Annexation (Special)
3688	Annexation (Special)
3689	Annexation (Special)
3690	Annexation (Special)
3691	Amends Ord. 3162, Meadowlark Garden planned development zoning (Special)
3692	Annexation (Special)
3693	Rezone (Special)
3694	Annexation zoning (Special)
3695	Right-of-way vacation (Special)
3696	Amends 2004 budget (Special)
3697	Appropriation of funds (Special)
3698	Annexation (Special)
3699	Annexation zoning (Special)
3700	Annexation (Special)
3701	Annexation zoning (Special)
3702	Annexation (Special)
3703	Annexation (Special)
3704	Annexation (Special)
3705	Annexation zoning (Special)
3706	Annexation (Special)
3707	Annexation zoning (Special)
3708	Annexation (Special)

3709	Annexation zoning (Special)
3710	Annexation (Special)
3711	Annexation zoning (Special)
3712	Annexation (Special)
3713	Annexation (Special)
3714	Annexation zoning (Special)
3715	Adds Art. IV to Ch. 38, facilities and construction in city rights-of-way (12.28)
3716	Adds Art. IV to Ch. 4, alcoholic beverages (5.12)
3717	Annexation (Special)
3718	Annexation zoning (Special)
3719	Annexation (Special)
3720	Adds §§ 32-72 through 32-78; amends §§ 32-62 and 32-63, commercial activities in the downtown (12.24)
3721	Amends § 32-10, drinking alcoholic beverages in public ways (12.16)
3722	Amends §§ 38-26, 38-29, 38-63, 38-65 and 38-70, utilities (13.04)
3723	City manager salary (Special)
3724	Annexation zoning (Special)
3725	Annexation (Special)
3726	Annexation zoning (Special)
3727	Annexation (Special)
3728	Annexation zoning (Special)
3729	Right-of-way vacation (Special)
3730	Right-of-way vacation (Special)
3731	Right-of-way vacation (Special)
3732	Zones land (Special)
3733	Zones land (Special)
3734	Annexation (Special)
3735	Annexation zoning (Special)
3736	Annexation (Special)
3737	Annexation (Special)
3738	Annexation (Special)
3739	Annexation (Special)
3740	Annexation (Special)
3741	Annexation zoning (Special)
3742	Annexation zoning (Special)
3743	Annexation zoning (Special)
3744	Annexation (Special)
3745	Annexation zoning (Special)
3746	Annexation (Special)
3747	Annexation zoning (Special)
3748	Annexation (Special)
3749	Annexation (Special)
3750	Annexation zoning (Special)
3751	Annexation (Special)
3752	Annexation (Special)
3753	Annexation zoning (Special)
3754	Zones land (Special)
3755	Amends Ord. 3088, zoning parcel of land (Special)
3756	Annexation (Special)
3757	Annexation zoning (Special)
3758	Right-of-way vacation (Special)
3759	Street and alley vacations (Special)
3760	Annexation (Special)
3761	Annexation zoning (Special)
3762	Annexation (Special)
3763	Annexation zoning (Special)
3764	Annexation (Special)
3765	Annexation (Special)
3766	Annexation (Special)
3767	Annexation (Special)
3768	Annexation zoning (Special)
3769	Annexation (Special)
3770	Annexation zoning (Special)
3771	Amends 2005 budget (Special)
3772	Amends § 4-54, alcoholic beverage licensing (5.12)
3773	Amends § 36-22, handicapped parking privilege (Repealed by 4110)
3774	Annexation (Special)
3775	Annexation (Special)
3776	Annexation zoning (Special)
3777	Annexation (Special)
3778	Annexation zoning (Special)
3779	Annexation (Special)
3780	Annexation zoning (Special)
3781	Annexation (Special)
3782	Annexation (Special)
3783	Annexation zoning (Special)
3784	Annexation (Special)
3785	Annexation zoning (Special)
3786	Right-of-way vacation (Special)
3787	Zones land (Special)
3788	Annexation (Special)
3789	Annexation (Special)
3790	Annexation zoning (Special)
3791	Annexation (Special)
3792	Annexation (Special)
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3794	Annexation zoning (Special)
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3796	Annexation zoning (Special)
3797	Annexation (Special)
3798	Annexation zoning (Special)
3799	Annexation (Special)
3800	Annexation (Special)
3801	Annexation (Special)
3802	Annexation zoning (Special)
3803	Amends § 4-52, brew pubs (5.12)
3804	Annexation zoning (Special)

3805	Annexation (Special)
3806	Annexation (Special)
3807	Annexation (Special)
3808	Annexation zoning (Special)
3809	Annexation (Special)
3810	Annexation (Special)
3811	Annexation zoning (Special)
3812	Amends zoning for parcel of land (Special)
3813	Right-of-way vacation (Special)
3814	Annexation zoning (Special)
3815	Establishes Downtown Grand Junction Business Improvement District (Special)
3816	Annexation (Special)
3817	Annexation zoning (Special)
3818	Zones land (Special)
3819	Annexation zoning (Special)
3820	Annexation (Special)
3821	Annexation zoning (Special)
3822	Rezone (Special)
3823	Right-of-way vacation (Special)
3824	Adds Art. VII to Ch. 16, storm water management program (13.28)
3825	Right-of-way vacation (Special)
3826	Right-of-way vacation (Special)
3827	Amends Art. III of Ch. 6, dogs (6.12)
3828	Rezone (Special)
3829	Amends § 16-127, smoking (8.20)
3830	Annexation (Special)
3831	Annexation (Special)
3832	Annexation (Special)
3833	Annexation zoning (Special)
3834	Annexation (Special)
3835	Annexation (Special)
3836	Alley Improvement Districts No. ST-05 and ST-05 Phase B assessments (Special)
3837	Amends § 20-29, disposal of property by the police department (2.44)
3838	Amends zoning and development code (Title 21)
3839	Annexation (Special)
3840	Annexation (Special)
3841	Annexation zoning (Special)
3842	Annexation (Special)
3843	Annexation zoning (Special)
3844	Right-of-way vacation (Special)
3845	Annexation (Special)
3846	Annexation zoning (Special)
3847	Amends 2005 budget (Special)
3848	Amends Ord. 2596, Ridges Planned Development zoning (Special)
3849	Right-of-way vacation (Special)
3850	Annexation (Special)
3851	Annexation zoning (Special)
3852	Adds § 24-22, alcohol and minors (9.04)
3853	Adds § 24-33, marijuana and minors (9.04)
3854	Appropriation of funds (Special)
3855	Zones land (Special)
3856	Names Downtown Development Authority Board as the Downtown Grand Junction Business Improvement District Board (Special)
3857	Annexation zoning (Special)
3858	Annexation (Special)
3859	Annexation zoning (Special)
3860	Annexation (Special)
3861	Annexation zoning (Special)
3862	Right-of-way vacation (Special)
3863	Rezone (Special)
3864	Amends §§ 16-26, 16-27, 16-30 and 16-31, junk, rubbish and weeds (8.04)
3865	Right-of-way vacation (Special)
3866	Right-of-way vacation (Special)
3867	Zones property (Special)
3868	Amends § 10-87, contractors (5.16)
3869	Adds § 14-2, amendments to Colorado Municipal Election Code of 1965 (2.20)
3870	Annexation (Special)
3871	Annexation zoning (Special)
3872	Rezone (Special)
3873	Amends Ord. 2725, annexation (Special)
3874	Sets city manager salary (Special)
3875	Amends § 36-6, abandoned vehicles (Repealed by 4110)
3876	Amends zoning and development code (21.04, 21.08, 21.12, 21.16, 21.20, 21.24, 21.28, 21.32, 21.36, 21.40, 21.44, 21.48, 21.52, 21.56, 21.60, 21.64, 21.68, 21.72, 21.76, 21.80, 21.84, 21.88)
3877	Annexation (Special)
3878	Annexation zoning (Special)
3879	Annexation (Special)
3880	Annexation (Special)
3881	Annexation (Special)
3882	Annexation (Special)
3883	Annexation zoning (Special)
3884	Sanitary Sewer Improvement District No. SS-47-05 assessments (Special)
3885	Amends Submittal Standards for Improvements and Developments

	("SSID") (22.04, 22.08, 22.12, 22.16, 22.20, 22.24, 22.28)
3886	Annexation (Special)
3887	Annexation zoning (Special)
3888	Approves and amends Master Plan for St. Mary's Hospital (Special)
3889	Amends PD zoning for land (Special)
3890	Annexation (Special)
3891	Right-of-way vacation (Special)
3892	Right-of-way vacation (Special)
3893	Rezone (Special)
3894	Rezone (Special)
3895	Right-of-way vacation (Special)
3896	Annexation (Special)
3897	Annexation zoning (Special)
3898	Right-of-way vacation (Special)
3899	Amends 2006 budget (Special)
3900	Annexation (Special)
3901	Annexation (Special)
3902	Annexation (Special)
3904	Amends zoning and development code § 3.4.J, mixed use (21.20)
3905	Zones property (Special)
3906	Annexation zoning (Special)
3907	Annexation (Special)
3908	Annexation (Special)
3909	Annexation (Special)
3910	Annexation zoning (Special)
3911	Annexation (Special)
3912	Annexation zoning (Special)
3913	Annexation (Special)
3914	Amends § 16-127, smoking (8.20)
3915	Repeals Ord. 1725, business and occupation tax on telephone exchange providers (Repealer)
3916	Right-of-way vacation (Special)
3917	Rezone (Special)
3918	Rezone (Special)
3919	Rezone (Special)
3920	Annexation zoning (Special)
3921	Annexation (Special)
3922	Annexation (Special)
3923	Annexation zoning (Special)
3924	Annexation (Special)
3925	Annexation zoning (Special)
3926	Establishes economic development assistance corporation (Special)
3927	Annexation zoning (Special)
3928	Right-of-way vacation (Special)
3929	Annexation (Special)
3930	Annexation (Special)
3931	Annexation (Special)
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3933	Annexation zoning (Special)
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3935	Annexation zoning (Special)
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3937	Annexation (Special)
3938	Annexation zoning (Special)
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3940	Annexation zoning (Special)
3941	Annexation zoning (Special)
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3944	Annexation zoning (Special)
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3946	Annexation (Special)
3947	Annexation zoning (Special)
3948	Annexation (Special)
3949	Annexation zoning (Special)
3950	Annexation (Special)
3951	Annexation (Special)
3952	Annexation zoning (Special)
3953	Right-of-way vacation (Special)
3954	Annexation (Special)
3955	Annexation zoning (Special)
3956	Amends zoning and development code §§ 3.2 and 3.4.C, downtown residential density (21.20)
3957	Annexation (Special)
3958	Annexation zoning (Special)
3959	Rezone (Special)
3960	Amends Ord. 3898, right-of-way vacation (Special)
3961	Watershed and water supply standards (13.32)
3962	Annexation (Special)
3963	Annexation (Special)
3964	Annexation zoning (Special)
3965	Annexation (Special)
3966	Annexation zoning (Special)
3967	Annexation (Special)
3968	Annexation zoning (Special)
3969	Alley Improvement District No. ST-06 assessments (Special)
3970	Annexation (Special)
3971	Annexation (Special)
3972	Annexation zoning (Special)
3973	Annexation (Special)
3974	Amends zoning and development code, multifamily development (21.48)
3975	Annexation zoning (Special)
3976	Rezone (Special)
3977	Annexation zoning (Special)
3978	Rezone (Special)
3979	Rezone (Special)

3980	Amends setbacks for Fuoco property planned development (Special)
3981	Rezone (Special)
3982	Annexation (Special)
3983	Annexation (Special)
3984	Annexation zoning (Special)
3985	Bonds issuance (Special)
3986	Annexation (Special)
3987	Annexation zoning (Special)
3988	Annexation zoning (Special)
3989	Annexation (Special)
3990	Annexation (Special)
3991	Annexation (Special)
3992	Approves St. Mary's Hospital Master Plan 2005 (Special)
3993	Amends 2006 budget (Special)
3994	Appropriation of funds (Special)
3995	Annexation (Special)
3996	Annexation (Special)
3997	Annexation zoning (Special)
3998	Annexation (Special)
3999	Annexation (Special)
4000	Annexation (Special)
4001	Annexation zoning (Special)
4002	Annexation (Special)
4003	Annexation (Special)
4004	Annexation (Special)
4005	Annexation zoning (Special)
4006	Annexation (Special)
4007	Rezone (Special)
4008	Annexation (Special)
4009	Annexation zoning (Special)
4010	Annexation (Special)
4011	Annexation zoning (Special)
4012	Amends Ch. 18, Art. III, fire code (15.44)
4013	Amends Ch. 8, Arts. II and III, building codes (15.08, 15.12, 15.16, 15.20, 15.24, 15.28, 15.32, 15.36, 15.40)
4014	Places charter amendments on ballot for April 2007 election (Special)
4015	Bonds issuance (Special)
4016	Annexation (Special)
4017	Annexation zoning (Special)
4018	Establishes standards for Fairway Villas subdivision (Special)
4019	Amends Ord. 3527, zoning of parcels of land (Special)
4020	Rezone (Special)
4021	Right-of-way vacation (Special)
4022	Right-of-way vacation (Special)
4023	Annexation (Special)
4024	Annexation zoning (Special)
4025	Right-of-way vacation (Special)
4026	Annexation (Special)
4027	Annexation (Special)
4028	Annexation (Special)
4029	Annexation (Special)
4030	Annexation (Special)
4031	Annexation zoning (Special)
4032	Annexation (Special)
4033	Annexation zoning (Special)
4034	Annexation (Special)
4035	Annexation (Special)
4036	Annexation zoning (Special)
4037	Annexation zoning (Special)
4038	Annexation zoning (Special)
4039	Rezone (Special)
4040	Right-of-way vacation (Special)
4041	Adds zoning and development code § 2.21; amends §§ 1.12 and 4.2 and Tables 2.1 and 2.3, sign regulations (21.04, 21.08, 21.36)
4042	Annexation (Special)
4043	Annexation zoning (Special)
4044	Annexation (Special)
4045	Annexation (Special)
4046	Annexation zoning (Special)
4047	Annexation (Special)
4048	Annexation (Special)
4049	Annexation (Special)
4050	Annexation (Special)
4051	Annexation zoning (Special)
4052	Annexation zoning (Special)
4053	Annexation zoning (Special)
4054	Annexation zoning (Special)
4055	Amends zoning and development code, nonconforming structures and sites, drive-through retail establishments, zoning of annexed property, residential zone designations, alternative surfacing of vehicular traffic areas, lot size, width and setbacks for lots abutting tracts, and Growth Plan amendments with planned development rezone requests (21.08, 21.12, 21.16, 21.24, 21.28, 21.32, 21.40, 21.52, 21.56, 21.60)
4056	Annexation (Special)
4057	Annexation (Special)
4058	Annexation zoning (Special)
4059	Annexation (Special)
4060	Annexation zoning (Special)
4061	Annexation (Special)
4062	Annexation zoning (Special)
4063	Annexation (Special)
4064	Annexation (Special)

4065	Annexation zoning (Special)
4066	Adds zoning and development code § 7.6, H Road/Northwest Area Plan policies and performance standards (21.48)
4067	Annexation (Special)
4068	Annexation (Special)
4069	Annexation (Special)
4070	Annexation (Special)
4071	Annexation (Special)
4072	Annexation zoning (Special)
4073	Annexation (Special)
4074	Annexation zoning (Special)
4075	Annexation (Special)
4076	Annexation (Special)
4077	Annexation (Special)
4078	Annexation zoning (Special)
4079	Approves amendment to Walker Field Airport Master Plan (Special)
4080	Rezone (Special)
4081	Annexation (Special)
4082	Annexation (Special)
4083	Annexation (Special)
4084	Annexation (Special)
4085	Annexation (Special)
4086	Amends 2007 budget (Special)
4087	Annexation (Special)
4088	Amends § 36-17, parking (Repealed by 4110)
4089	Repeals §§ 18-86 through 18-101, emergency medical services (Repealer)
4090	Rezone (Special)
4091	Right-of-way vacation (Special)
4092	Amends Ord. 2864, Niagara Village planned development zone (Special)
4093	Annexation (Special)
4094	Annexation (Special)
4095	Annexation zoning (Special)
4096	Annexation (Special)
4097	Annexation zoning (Special)
4098	Annexation (Special)
4099	Annexation zoning (Special)
4100	Rezone (Special)
4101	Annexation (Special)
4102	Annexation (Special)
4103	Annexation zoning (Special)
4104	Right-of-way vacation (Special)
4105	Annexation zoning (Special)
4106	Right-of-way vacation (Special)
4107	Annexation (Special)
4108	Annexation zoning (Special)
4109	Annexation zoning (Special)
4110	Repeals and replaces Ch. 36, traffic and vehicles (10.04)
4111	Rezone (Special)
4112	El Poso Street Improvement District No. ST-06 assessments (Special)
4113	Annexation (Special)
4114	Annexation zoning (Special)
4115	Salary of city manager (Special)
4116	Bluffs Sanitary Sewer Improvement District No. SS-48-06 assessments (Special)
4117	Right-of-way vacation (Special)
4118	Rezone (Special)
4119	Right-of-way and easement vacation (Special)
4120	Amends § 32-62, commercial use of public right-of-way in downtown area (12.24)
4121	Rezone (Special)
4122	Amends § 38-49, industrial pretreatment local limits (13.04)
4123	Alley Improvement District No. ST-07 assessments (Special)
4124	Annexation (Special)
4125	Annexation zoning (Special)
4126	Annexation (Special)
4127	Annexation zoning (Special)
4128	Right-of-way vacation (Special)
4129	Annexation (Special)
4130	Annexation zoning (Special)
4131	Annexation (Special)
4132	Annexation zoning (Special)
4133	Annexation (Special)
4134	Annexation zoning (Special)
4135	Annexation (Special)
4136	Annexation zoning (Special)
4137	Annexation (Special)
4138	Annexation zoning (Special)
4139	Annexation zoning (Special)
4140	Amends zoning and development code § 2.5.E, amendments to the growth plan and/or the future land use map (21.08)
4141	Amends zoning and development code §§ 1.11, 1.15, Table 2.1, §§ 2.2, 2.3, 3.3, 3.4, 3.6, 4.1, 5.4, 6.2, Table 6.2.B; §§ 7.2 and 9.32; deletes Table 6.2A, minor corrections (21.04, 21.08, 21.16, 21.20, 21.24, 21.32, 21.44, 21.48, 21.60, 21.88)
4142	Annexation (Special)
4143	Annexation (Special)
4144	Annexation (Special)
4145	Annexation (Special)

4146	Annexation zoning (Special)
4147	Annexation (Special)
4148	Annexation zoning (Special)
4149	Annexation (Special)
4150	Right-of-way vacation (Special)
4151	Annexation zoning (Special)
4152	Amends 2007 budget (Special)
4153	Adopts 2008 budget (Special)
4154	Annexation (Special)
4155	Annexation zoning (Special)
4156	Annexation (Special)
4157	Annexation zoning (Special)
4158	Annexation (Special)
4159	Annexation zoning (Special)
4160	Rezone (Special)
4161	Right-of-way vacation (Special)
4162	Annexation zoning (Special)
4163	Rezone (Special)
4164	Amends § 40-26, forestry board (2.36)
4165	Annexation (Special)
4166	Annexation zoning (Special)
4167	Annexation (Special)
4168	Annexation zoning (Special)
4169	Annexation (Special)
4170	Annexation (Special)
4171	Annexation (Special)
4172	Annexation (Special)
4173	Annexation (Special)
4174	Amends Weeminuche Estates subdivision planned development zone (Special)
4175	Annexation (Special)
4176	Annexation zoning (Special)
4177	Annexation (Special)
4178	Annexation zoning (Special)
4179	Annexation (Special)
4180	Rezone (Special)
4181	Annexation (Special)
4182	Annexation (Special)
4183	Annexation zoning (Special)
4184	Rezone (Special)
4185	Annexation zoning (Special)
4186	Annexation zoning (Special)
4187	Zones property (Special)
4188	Adds § 36-38; amends §§ 36-17 and 36-33, parking (10.04)
4189	Amends § 24-7, theft (9.04)
4190	Annexation (Special)
4191	Annexation (Special)
4192	Annexation (Special)
4193	Annexation (Special)
4194	Annexation (Special)
4195	Annexation zoning (Special)
4196	Annexation (Special)
4197	Annexation (Special)
4198	Annexation zoning (Special)
4199	Annexation (Special)
4200	Annexation (Special)
4201	Annexation zoning (Special)
4202	Annexation (Special)
4203	Right-of-way vacation (Special)
4204	Rezone (Special)
4205	Annexation (Special)
4206	Annexation (Special)
4207	Annexation (Special)
4208	Annexation (Special)
4209	Annexation zoning (Special)
4210	Amends § 38-63, industrial pretreatment regulations (13.04)
4211	Annexation (Special)
4212	Annexation zoning (Special)
4213	Annexation (Special)
4214	Annexation zoning (Special)
4215	Annexation (Special)
4216	Annexation zoning (Special)
4217	Annexation (Special)
4218	Annexation (Special)
4219	Annexation (Special)
4220	Annexation zoning (Special)
4221	Right-of-way vacation (Special)
4222	Annexation zoning (Special)
4223	Annexation (Special)
4224	Annexation zoning (Special)
4225	Annexation (Special)
4226	Annexation (Special)
4227	Annexation zoning (Special)
4228	Right-of-way vacation (Special)
4229	Annexation (Special)
4230	Annexation zoning (Special)
4231	Rezone (Special)
4232	Right-of-way vacation (Special)
4233	Adds Art. VI to Ch. 2 and §§ 16-61 through 16-64; amends §§ 16-60, 16-141 and 16-144(B); renumbers § 16-61 as 16-65, enforcement and abatement (1.12, 8.08, 13.28)
4234	Amends § 36-2, model traffic code (10.04)
4235	Expands boundaries of Grand Junction, Colorado Downtown Development Authority (Special)
4236	Annexation (Special)
4237	Annexation (Special)
4238	Annexation (Special)
4239	Rezone (Special)
4240	Annexation (Special)

4241	Annexation zoning (Special)
4242	Annexation zoning (Special)
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4245	Annexation (Special)
4246	Annexation zoning (Special)
4247	Annexation (Special)
4248	Annexation zoning (Special)
4249	Annexation (Special)
4250	Annexation (Special)
4251	Annexation zoning (Special)
4252	Street and alley vacation (Special)
4253	Amends Ord. 4115, salary of city manager (Special)
4254	Annexation (Special)
4255	Annexation zoning (Special)
4256	Annexation (Special)
4257	Annexation zoning (Special)
4258	Annexation (Special)
4259	Amends zoning and development code §§ 2.2, 2.3 and Tables 2.3 and 3.5 (21.08, 21.24)
4260	Adds zoning and development code § 4.2.G.4.e; amends §§ 4.2.E.3, 4.2.E.4 and Ch. 9, off-premises signs on or near the centerline of Riverside Parkway (21.36, 21.88)
4261	Right-of-way vacation (Special)
4262	Annexation (Special)
4263	Annexation zoning (Special)
4264	Annexation (Special)
4265	Annexation zoning (Special)
4266	Rezone (Special)
4267	Annexation (Special)
4268	Annexation zoning (Special)
4269	Rezone (Special)
4270	Annexation (Special)
4271	Annexation (Special)
4272	Annexation zoning (Special)
4273	Galley Lane Sanitary Sewer Improvement District No. SS-49-07 assessments (Special)
4274	Annexation (Special)
4275	Annexation zoning (Special)
4276	Annexation (Special)
4277	Annexation zoning (Special)
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4282	Annexation zoning (Special)
4283	Annexation (Special)
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4285	Annexation zoning (Special)
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4287	Annexation zoning (Special)
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4289	Annexation zoning (Special)
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4292	Annexation zoning (Special)
4293	Annexation zoning (Special)
4294	Annexation zoning (Special)
4295	Annexation zoning (Special)
4296	Amends § 16-127(7), placement of non-smoking signs in public parks and unenclosed public places (8.20)
4297	Rezone (Special)
4298	Amends zoning and development code §§ 2.2.D.4.d, 2.2.D.5.e, 2.8.B.5, 2.8.C.4.d, 2.8.E.4, 2.1.D.4.d, 2.13.F and Tables 3.5 (21.08, 21.24)
4299	Annexation zoning (Special)
4300	Annexation zoning (Special)
4301	Amends zoning and development code § 1.15, Table 2.1, § 2.2.E and Ch. 9, administrative development approval for a minor exemption subdivision (21.04, 21.08, 21.88)
4302	Rezone (Special)
4303	Annexation (Special)
4304	Annexation zoning (Special)
4305	Expands boundaries for Downtown Development Authority (Special)
4306	Amends the Submittal Standards for Improvements and Development (SSID), landscape plans (22.20, 22.28)
4307	Readopts Ord. 4140, amending zoning and development code § 2.5.E, amendments to the growth plan and/or the future land use map (21.08)
4308	Rezone (Special)
4309	Rezone (Special)
4310	Amends 2008 budget (Special)
4311	Appropriation of funds (Special)
4312	Annexation (Special)
4313	Annexation zoning (Special)
4314	Mesa State development zoning (Special)
4315	Annexation zoning (Special)
4316	Rezone (Special)
4317	Rezone (Special)
4318	Annexation (Special)
4319	Annexation (Special)
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4321	Amends §§ 24-22 and 24-23, purchase, possession or consumption of alcohol and marijuana by minors (9.04)
4322	Annexation (Special)
4323	Annexation zoning (Special)
4324	Adds Art. VII to Ch. 10, massage parlors (5.20)
4325	Rezone (Special)
4326	Approves expanding boundaries for Downtown Development Authority (Special)
4327	Rezone (Special)
4328	Annexation (Special)
4329	Annexation (Special)
4330	Annexation (Special)
4331	Annexation zoning (Special)
4332	Annexation (Special)
4333	Annexation (Special)
4334	Annexation zoning (Special)
4335	Annexation zoning (Special)
4336	Street vacation (Special)
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4338	Right-of-way vacation (Special)
4339	Rights-of-way vacation (Special)
4340	Right-of-way vacation (Special)
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4342	Annexation zoning (Special)
4343	Alley Improvement District No. ST-08 improvements (Special)
4344	Amends Ch. 38, Art. II, pretreatment regulations (13.04)
4345	Amends § 4-58, tasting of alcoholic beverages (5.12)
4346	Annexation (Special)
4347	Annexation zoning (Special)
4348	Annexation (Special)
4349	Annexation zoning (Special)
4350	Amends § 6-5, injuring or meddling with police dogs (6.04)
4351	Clarifies speed limit zone violations (10.04)
4352	Right-of-way vacation (Special)
4353	Right-of-way vacation (Special)
4354	Annexation (Special)
4355	Rezone (Special)
4356	Rights-of-way vacation (Special)
4357	Amends §§ 32-65, 32-67 and 32-68, mobile vending carts (12.24)
4358	Amends Ch. 38, Art. II, pretreatment regulations (13.04)
4359	Approves expanding boundaries for Downtown Development Authority (Special)
4360	Rezone; amends subdivision preliminary plan (Special)
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4362	Annexation zoning (Special)
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4365	Right-of-way vacation (Special)
4366	Amends zoning and development code §§ 2.2.D.2 and 4.3.L, temporary low-traffic storage yards (21.08, 21.40)
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4369	Annexation zoning (Special)
4370	Amends model traffic code and § 36-17(a), parking (10.04)
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4372	Annexation zoning (Special)
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4381	Annexation zoning (Special)
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