

To access the Agenda and Backup Materials electronically, go to www.gjcity.org



**CITY COUNCIL AGENDA
WEDNESDAY, APRIL 3, 2013
250 NORTH 5TH STREET
6:30 P.M. – PLANNING DIVISION CONFERENCE ROOM
7:00 P.M. – REGULAR MEETING – CITY HALL AUDITORIUM**

To become the most livable community west of the Rockies by 2025

Call to Order
(7:00 p.m.)

Pledge of Allegiance
A Moment of Silence

Proclamations

Proclaiming the Month of April as “Month of the Young Child” in the City of Grand Junction

Proclaiming the Month of April as “Child Abuse Prevention Month” in the City of Grand Junction

Proclaiming the Week of April 7 – 14, 2013 as “Days of Remembrance” in the City of Grand Junction

Proclaiming the Week of April 7 – 13, 2013 as “Barbershop Harmony Week” in the City of Grand Junction

Proclaiming April 9, 2013 as “Mayors Day of Recognition of National Service” in the City of Grand Junction

Proclaiming April 16, 2013 as “National Health Care Decisions Day” in the City of Grand Junction

Revised March 29, 2013

*** Indicates Changed Item*

**** Indicates New Item*

® Requires Roll Call Vote

Appointments

To the Visitor and Convention Bureau Board of Directors

To the Commission on Arts and Culture

Canvass Results of City of Grand Junction Regular Election

Council Comments

Citizen Comments

***** CONSENT CALENDAR *****

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

Action: Approve the Minutes of the March 11, 2013 Special Meeting and the March 20, 2013 Regular Meeting

2. **Setting a Hearing on Amending Sections 21.07.010 and 21.10.020 of the Grand Junction Municipal Code Adopting Changes to the Rules and Regulations for the Floodplain within the City** [File #ZCA-2013-107] [Attach 2](#)

The proposed ordinance amends Section 21.07.010, Flood Damage Prevention, and Section 21.10.020, Terms Defined, to update the floodplain regulations to be in compliance with State requirements.

Proposed Ordinance Amending Section 21.07.010, Flood Damage Prevention, and Section 21.10.020, Terms Defined, of the Grand Junction Municipal Code

Action: Introduce a Proposed Ordinance and Set a Hearing for April 17, 2013

Staff presentation: Greg Trainor, Public Works, Utilities, and Planning Director
Bret Guillory, Utility Engineer/Floodplain Manager

3. **Setting a Hearing Amending Chapter 6.12 of the Grand Junction Municipal Code Adopting Rules and Regulations Regarding Animals within the City** [Attach 3](#)

The proposed ordinance amends Chapter 6.12 of the Grand Junction Municipal Code (“GJMC”) to require a permit for rehoming of a dog or cat under certain conditions, allow for impoundment of the dog(s) and cat(s) when there is no permit as required, and disposition of the animals after impoundment due to no permit or due to an animal having been abused and/or neglected.

Proposed Ordinance Amending Parts of Chapter 6.12 of the Grand Junction Municipal Code Relating to Permits for Rehoming of Pets in the Public and Disposition of Animals

Action: Introduce a Proposed Ordinance and Set a Hearing for April 17, 2013

Staff presentation: John Shaver, City Attorney
Jamie Beard, Assistant City Attorney

4. **Janitorial Products, Supplies and Green Cleaning Program** [Attach 4](#)

This request is for the negotiation of a contract for the products, supplies, services, and training required to successfully maintain the City’s Green Cleaning Program, with three additional, one year renewal options.

Action: Authorize the Purchasing Division to Negotiate a Contract with Sanitary Supply Corporation, Grand Junction, to Provide Janitorial Products, Supplies, and Green Cleaning Program for the City’s Facilities, for an Estimated Annual Amount of \$79,400

Staff presentation: Jay Valentine, Internal Services Manager
Kathy Portner, Economic Development and Sustainability Division

5. **Aggregate and Road Materials for the Streets Division for 2013** [Attach 5](#)

This request is for the purchase of 3/8” aggregate for the City’s Streets Division for 2013. This aggregate will be used as chips for the 2013 Chip Seal project.

Action: Authorize the Streets Division to Enter into a Contract with Grand Junction Concrete and Pipe to Provide Aggregate and Road Materials for the Streets Division for an Estimated Amount of \$100,750

Staff presentation: Greg Trainor, Public Works, Utilities, and Planning Director

Darren Starr, Streets, Storm Water, and Solid Waste
Manager
Jay Valentine, Internal Services Manager

6. **Hot Mix Asphalt for Streets Division for 2013** [Attach 6](#)

This request is for the purchase up to 1,200 tons of hot mix asphalt for the Streets Division to be used for road work and repairs in 2013.

Action: Authorize the Purchasing Division to Purchase Approximately 1,200 Tons of Hot Mix Asphalt, on Behalf of the Streets Division, from Elam Construction, Inc. for an Amount not to Exceed \$90,000

Staff presentation: Greg Trainor, Public Works, Utilities, and Planning Director
Darren Starr, Streets, Storm Water, and Solid Waste
Manager
Jay Valentine, Internal Services Manager

7. **One Truck Mounted Jet Vacuum Unit** [Attach 7](#)

This purchase will provide a combination Jetter/Vacuum sewerline maintenance truck for the Persigo Collections Division. This vehicle is a replacement to the fleet.

Action: Authorize the City Purchasing Division to Purchase a Truck Mounted Jetter/Vacuum Unit from Faris Machinery of Grand Junction, CO in the Amount of \$294,552

Staff presentation: Greg Trainor, Public Works, Utilities, and Planning Director
Manager
Jay Valentine, Internal Services Manager

8. **Dump Truck Rentals with Drivers for the City Spring Cleanup Program 2013** [Attach 8](#)

This request is for the award of a contract for the rental of dump trucks with drivers to haul debris and refuse to designated collection sites as part of the City's Annual Spring Cleanup Program for 2013.

Action: Authorize the Purchasing Division to Enter into a Contract with Upland Companies to Provide Thirteen Dump Trucks with Drivers for the Duration of the Two Weeks for the City Spring Cleanup Program, for an Estimated Amount of \$65,000

Staff presentation: Greg Trainor, Public Works, Utilities, and Planning Director
Darren Starr, Streets, Storm Water, and Solid Waste Manager
Jay Valentine, Internal Services Manager

9. **Storage Area Network Systems (SANS) Replacement Purchase for City Hall and Public Safety Facility** [Attach 9](#)

As part of the City’s planned replacement program, the IT Division is requesting authorization to replace two (2) Xiotech Magnitude 3D 4000 SANS that have been in use at City Hall and the Public Safety data centers since 2008. Both systems are beyond their recommended capacity and at the end of their expected life. This upgrade will provide all departments in the City with a modern, centralized storage environment that provides highly scalable storage capacity and performance, robust fault tolerance, high availability and reliability and that is compatible with the City’s existing network and server environment.

Action: Authorize the City Purchasing Division to Negotiate a Contract with ISC of Englewood, Colorado for an Estimated Amount of \$987,000 to Provide and Install Two New Storage Area Network Systems

Staff presentation: Jim Finlayson, Information Technology Manager
Jay Valentine, Internal Services Manager

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

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

10. **Public Hearing—Amending Wastewater and Industrial Pretreatment Regulations in Title 13 of the Grand Junction Municipal Code** [Attach 10](#)

The City’s Wastewater and Industrial Pretreatment Ordinance (“Ordinance”) Chapter 13.04 has been revised to comply with federal Pretreatment requirements and to make the ordinance more user-friendly for the City’s regulated industrial and commercial customers. The changes also affect cross references in other sections of the Code.

Ordinance No. 4574—An Ordinance Repealing and Re-Enacting Section 13.04 of the Grand Junction Municipal Code Pertaining to Industrial Pretreatment Regulations to Incorporate Required Changes to the City’s Legal Authority; and

Amending Sections 13.12 and 13.16 to Reflect the Re-Enactment of Section 13.04

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication in Pamphlet Form of Ordinance No. 4574

Staff presentation: John Shaver, City Attorney
Eileen List, Industrial Pre Treatment Supervisor

11. **Public Hearing—Amend the Sales and Use Tax Code Exempting Subscription Magazines Produced and Distributed in Colorado from Sales and Use Tax** [Attach 11](#)

This is an amendment to the Grand Junction Municipal Code concerning the exemption of the sale, storage and use of magazines sold by subscription, produced and distributed in Colorado from sales and use tax.

Ordinance No. 4575—An Ordinance Amending Title 3, Section 3.12, Sales and Use Tax, of the Grand Junction Municipal Code Concerning Sales and Use Tax Exemptions for the Sale and Use of Magazines Sold by Subscription Produced and Distributed in Colorado

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication in Pamphlet Form of Ordinance No. 4575

Staff presentation: Jodi Romero, Financial Operations Director
Elizabeth Tice-Janda, Revenue Supervisor

12. **Public Hearing—Amend the Sales and Use Tax Code Exempting Sales Made by Schools, School Activity Booster Organizations, and Student Classes or Organizations from Sales Tax** [Attach 12](#)

This is an amendment to the Grand Junction Municipal Code concerning the exemption of sales made by schools, school activity booster organizations, and student classes or organizations from sales tax.

Ordinance No. 4576—An Ordinance Amending Title 3, Section 3.12, Sales and Use Tax, of the Grand Junction Municipal Code Concerning Sales Tax Exemptions for Sales Made by Schools, School Activity Booster Organizations, and Student Classes or Organizations

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication in Pamphlet Form of Ordinance No. 4576

Staff presentation: Jodi Romero, Financial Operations Director
Elizabeth Tice-Janda, Revenue Supervisor

13. **Public Hearing—Amend the Sales and Use Tax Code Exempting Manufacturing Equipment from Sales Tax** [Attach 13](#)

This is an amendment to the Grand Junction Municipal Code concerning the exemption of the sale of manufacturing equipment from sales tax.

Ordinance No. 4577—An Ordinance Amending Title 3, Section 3.12, Sales and Use Tax, of the Grand Junction Municipal Code Concerning Sales Tax Exemptions for the Sale of Manufacturing Equipment

®Action: Hold a Public Hearing and Consider Final Passage and Final Publication in Pamphlet Form of Ordinance No. 4577

Staff presentation: Jodi Romero, Financial Operations Director
Elizabeth Tice-Janda, Revenue Supervisor

14. **Public Hearing—Mesa County Workforce Annexation, Comprehensive Plan Future Land Use Designation Amendment, and Zoning, Located at 512 29 1/2 Road** [File #ANX-2013-10] [Attach 14](#)

Request to annex 10.29 acres consisting of 1 parcel which includes a portion of 29 1/2 Road right-of-way. Recommend to City Council a Comprehensive Plan Future Land Use designation amendment from Residential Medium to Village Center, and a zoning of C-1 (Light Commercial) for property located at 512 29 1/2 Road.

Resolution No. 22-13—A Resolution Accepting a Petition for Annexation, Making Certain Findings, Determining that Property Known as the Mesa County Workforce Annexation, Located at 512 29 1/2 Road and Including a Portion of the 29 1/2 Road Right-of-way, is Eligible for Annexation

Ordinance No. 4578—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Mesa County Workforce Annexation, Approximately 10.129 Acres, Located at 512 29 1/2 Road and Including a Portion of 29 1/2 Road Right-of-Way

Ordinance No. 4579—An Ordinance Amending the Comprehensive Plan from Residential Medium (4-8 DU/AC) to Village Center and Zoning the Mesa County Workforce Annexation to C-1 (Light Commercial), Located at 512 29 1/2 Road

®Action: Adopt Resolution No. 22-13 and Hold a Public Hearing and Consider Final Publication in Pamphlet Form of Ordinance Nos. 4578 and 4579

Staff Presentation: Senta Costello, Senior Planner

15. **Public Hearing—Rock Shop Enclave Annexation and Zoning, Located South of D Road, East of S. 15th Street, and South of the Riverside Parkway, on both sides of 27 1/2 Road, North of Las Colonias Park** [File # ANX-2012-574] [Attach 15](#)

A request to annex 53.66 acres of enclaved property, located south of D Road, east of S. 15th Street and south of the Riverside Parkway on both sides of 27 1/2 Road north of Las Colonias Park, and to zone the annexation, consisting of 68 parcels, to an I-1 (Light Industrial) zone district.

Ordinance No. 4580—An Ordinance Annexing Territory to the City of Grand Junction, Colorado, Rock Shop Enclave Annexation, Located South of D Road East of S. 15th Street, and South of the Riverside Parkway on Both Sides of 27 1/2 Road North of Las Colonias Park, Consisting of Approximately 53.66 Acres

Ordinance No. 4581—An Ordinance Zoning the Rock Shop Enclave Annexation to I-1 (Light Industrial) South of D Road, East of S. 15th Street and South of the Riverside Parkway on Both Sides of 27 1/2 Road, North of Las Colonias Park

®Action: Hold a Public Hearing and Consider Final Publication in Pamphlet Form of Ordinance Nos. 4580 and 4581

Staff presentation: Brian Rusche, Senior Planner

16. **Public Hearing—Rezoning a Portion of Heritage Estates, Located at the Southeast Corner of Property near 24 3/4 Road and North of the Future F 1/2 Road Alignment, the 2.78 Acres Directly West of and Abutting 651, 653 1/2, 653, and 655 25 Road** [File #RZN-2012-578] [Attach 16](#)

Request to rezone 2.78 acres, located at the southeast corner of property near 24 3/4 Road and north of the future F 1/2 Road alignment, directly west of and abutting 651, 653 1/2, 653, and 655 25 Road referred to herein as a portion of Heritage Estates Subdivision, from R-8 (Residential – 8 du/ac) zone district to R-12 (Residential – 12 du/ac) zone district.

Ordinance No. 4582—An Ordinance Rezoning a Portion of Lot 100 of the Heritage Estates Subdivision, Filing 1 from R-8 (Residential – 8 Units Per Acre) to R-12 (Residential – 12 Units Per Acre) Located at the Southeast Corner of

Property Near 24 3/4 Road and North of the Future F 1/2 Road Alignment,
Specifically the 2.78 Acres Immediately West of and Abutting 651, 653 1/2, 653,
and 655 25 Road

*®Action: Hold a Public Hearing and Consider Final Publication in Pamphlet Form
of Ordinance No. 4582*

Staff presentation: Lori V. Bowers, Senior Planner

17. **Non-Scheduled Citizens & Visitors**
18. **Other Business**
19. **Adjournment**

Attach1

GRAND JUNCTION CITY COUNCIL MINUTES OF THE REGULAR MEETING

March 11, 2013

The City Council of the City of Grand Junction, Colorado met in Special Session on Monday, March 11, 2013 at 6:00 p.m. in the City Auditorium. Those present were Councilmembers Bennett Boeschstein, Jim Doody, Tom Kenyon, Laura Luke, Sam Susuras, and Council President Bill Pitts. Councilmember Teresa Coons was absent. Also present were Deputy City Manager Tim Moore, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Pitts called the meeting to order.

Airport Authority Board Appointee

City Attorney John Shaver reviewed the purpose of the meeting as being to review the process and recommendation for appointment of the seventh member of the Airport Board of Directors. He referred the City Council to the packet of applications they received via email. City Attorney Shaver explained how the seventh member of the Airport Authority is appointed. He then asked Chair of the Airport Authority Tom LaCroix to add more information.

Mr. LaCroix explained the process the Airport Authority went through to make a recommendation for the seventh member of the Airport Authority. He spoke to how the committee ranked the finalists, and disclosed any relationship any of the interviewers had with the finalists.

Council President Pitts inquired about the next steps. City Attorney Shaver said the next steps have not yet been decided.

Councilmember Doody asked if the selected candidate will be appointed by the Board and that it will not come back to the City Council. City Attorney Shaver said the bylaws are not completely clear so that process has not yet been decided but the opportunity is being made to make sure the City Council did not have any objection to any of the candidates.

Councilmember Kenyon said as the City Council's representative he needs to know if there is anyone being considered who the City Council would object to.

Council President Pitts inquired if there has been a background check on the applicants. Mr. LaCroix said the credentials of the finalist are impeccable. Board member David Hibberd said that was done through the interview process.

Councilmember Susuras said he read through all the resumes and he came up with the same person the committee is recommending.

Councilmember Luke said she does not have any history of the person except what has been submitted so she doesn't know what she can object to.

Councilmember Boeschstein said the bylaws forbid any Airport Authority member to have real property interest in the airport. Was this applicant asked? Mr. LaCroix said the applicant was asked clarifying that it is a financial interest that is prohibited.

Councilmember Susuras said he does not have any objection to the Airport Board recommendation.

Councilmember Kenyon said he needs direction from the majority of Council.

Councilmember Doody said he was fine with the process.

Mr. Hibberd said once the four finalists were selected, each were told that if not selected for this at-large position, to apply with the City and County for their appointments. They felt the four were that strong of candidates.

Councilmember Susuras confirmed that the City Council will still have the final say on the appointment.

Mr. LaCroix said they had a similar meeting with the County last week and the Commissioners were comfortable with the recommendation.

Councilmembers Boeschstein and Luke both concurred with the process knowing they would have the opportunity to interview the appointee after they are appointed.

The Council gave Councilmember Kenyon the authority to go forward.

Other Business

Councilmember Kenyon said that on the news Parks and Recreation Director Rob Schoeber was saying the City would be entertaining the purchase of Glacier Ice Rink yet the owners do not have any knowledge of this intent. Councilmember Susuras concurred saying he too received a call in that regard.

Councilmember Kenyon said the City needs to take a step back and be in touch with the owners.

Councilmember Boeschstein said the purchase was brought up during budget discussions but it is not in the five year capital plan. He said that an ice skating rink could be a wonderful thing in the community.

Councilmember Susuras said the costs are unknown and all of that needs to be considered before any purchase is discussed.

Regional Public Safety Training Facility

Deputy City Manager Tim Moore addressed the Regional Safety Training Facility to be located at Highway 141 and US Highway 50. Colorado Mesa University (CMU)

obtained this property from the Bureau of Land Management (BLM). City Attorney Shaver advised that the City Council wrote a letter in support of the property acquisition.

Councilmember Kenyon said there was a proposal years ago about a regional training facility at the National Guard Armory. It was determined that location may not be suitable for all the training (like burning a building). He asked where the facility is to go.

Deputy City Manager Moore said the National Guard site was going to be difficult and this site along Highway 141, owned by CMU, is being explored as possibly a better location. It could be used by both police and fire.

Mesa County bid out the construction of the facility and it came in over budget by \$725,000. There is a \$400,000 grant from DOLA but that is in jeopardy if the project does not go forward. The Seizure Board is also planning on committing \$630,000. CMU offered to fund one third of the shortfall. The City and the County are also being asked to fund one-third of the shortfall each.

Councilmember Luke asked if this facility will include all the needs the Fire Department has expressed in the realm of a training facility. Deputy City Manager Moore said for the most part, although there may be a water issue. The Fire Department is currently training in Rifle.

Council President Pitts asked if other jurisdictions on the western slope would be able to use the facility. Deputy City Manager Moore said it will primarily be used for police training and they are looking at working fire training into the scope.

Council President Pitts asked if the shooting range will be open to the public. Deputy City Manager Moore said no, it will be for law enforcement only.

Deputy City Manager Moore explained what would be included in the reduced scope.

Councilmember Susuras asked if there should be an agreement in place first. City Attorney Shaver said there is a base agreement in place but with the change, an additional agreement would be advisable.

City Attorney Shaver said this will mostly be for law enforcement.

Councilmember Boeschstein asked if this will replace the current shooting range. Deputy City Manager Moore thought this one would be mostly for training, so likely both facilities would remain.

Councilmember Susuras agreed the facility is needed but there are not enough details worked out.

Council President Pitts summarized that the bottom line is the City would be committing around \$80,000.

Councilmember Susuras asked where the funds will come from. Deputy City Manager Moore said some of the \$120,000 allocated for the Pro Cycling Tour could be reallocated.

Deputy City Manager Moore clarified what was reduced in the scope of work noting it will be to standards but would be bare bones.

Councilmember Kenyon asked about the fire training. Deputy City Manager Moore said at a meeting today, the County and CMU are agreeable if there is enough real estate available to include the necessary facilities for fire training.

Councilmember Kenyon asked about other costs like pressurized water and capturing the water used to extinguish fires which could be considered a mini storm event.

Deputy City Manager Moore said those costs have not been addressed yet.

Councilmember Luke said it was mentioned during the last CMU request that the Council would be able to approach CMU with requests.

Councilmember Boeschstein was concerned about fire danger to the surrounding land, and protection of the drainages.

Deputy City Manager Moore said the partners have those same concerns.

Councilmember Boeschstein said there will also be a dust concern.

Councilmember Doody mentioned the lack of compliance with the County and the Orchard Mesa Pool maintenance contract that was broken; he wanted an iron clad agreement.

City Attorney Shaver said they will draft a suitable agreement. Deputy City Manager Moore needs direction to go forward.

Councilmember Kenyon said he would like to see plans and have more information from the Chiefs.

City Attorney Shaver said the agreement can be structured in any way the Council desires, last money in, includes value going forward, use of particular facilities, etc.

Council President Pitts said Deputy City Manager Moore needs a nod to go forward.

Councilmember Luke said it sounds like this will help public safety.

City Attorney Shaver said CMU will use the driving track to train students and the City use will be a secondary user.

Councilmember Susuras asked financial details. Deputy City Manager Moore said \$80,000 each unless the Communication Center also contributes, then it will be \$60,000 each.

Councilmember Kenyon suggested the City Council segregate the Orchard Mesa Pool issue from this negotiation. He also wants to know the whole vision. He is ok with exploring it, but needs to know the whole picture before the entire process is complete.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 6:55 p.m.

Stephanie Tuin, MMC
City Clerk

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

March 20, 2013

The City Council of the City of Grand Junction convened into regular session on the 20th day of March, 2013 at 7:00 p.m. in the City Auditorium. Those present were Councilmembers Bennett Boeschstein, Teresa Coons, Jim Doody, Tom Kenyon, Laura Luke, Sam Susuras, and Council President Bill Pitts. Also present were City Manager Rich Englehart, City Attorney John Shaver, and City Clerk Stephanie Tuin.

Council President Pitts called the meeting to order. Councilmember Luke led the Pledge of Allegiance, followed by a moment of silence.

Proclamation

Proclaiming the Week of February 24 through March 2, 2013 as “Peace Corps Week Honoring their 52nd Anniversary” in the City of Grand Junction

Councilmember Boeschstein read the proclamation. He recognized a returned Peace Corps volunteer, Dennis Stark, who came forward while Councilmember Boeschstein read the proclamation.

Mr. Stark said his experience was amazing and he continues to travel across the continents. He did return to where he once served and was delighted to find out that the program he started was still going on. Mr. Stark said one usually leaves behind the seeds of ideas and hopes that they grow.

Councilmember Boeschstein said he and his wife returned to the school where he taught many years ago and the school has expanded and he was pleased to revisit it.

Council Comments

Council President Pitts recognized the wonderful work of City Staff throughout different departments, including the Fire Chief, Police Chief, and the City Manager, for their work at the command center during the gas explosion incident on 7th Street and Orchard Avenue. He said it was amazing the way everything came together. He also recognized Fred Eggleston of Xcel Energy for his participation at the command center as well. He said all should be commended.

Councilmember Luke made the following statement:

“For those of you who don’t already know me, I’m Laura Luke. I’m a Councilmember for District D, and I’m also your Mayor Pro Tem. Its recently come to my attention that a board member with the Grand Junction Chamber of Commerce has seen fit to sling

unfounded accusations at me and threatened me in public in writing saying, “he is my worst enemy, my worst nightmare”, which is even worse. To set the record straight, unlike any member of the Chamber, I have taken an oath to represent all people, even you Mr. Anton. As a City Councilmember and Mayor Pro Tem for the citizens, I am obligated to fulfill the duties of the oath I swore to uphold; which includes communicating information that directly or indirectly impacts everyone’s interests in the City. No threatening message is going to alter my obligation to the people of Grand Junction, and if that’s how you intend to bully your citizens, I don’t think they’ll take kindly to it. Thank you Mayor.”

Councilmember Susuras objected to such a statement being made from that platform.

Citizen Comments

Council President Pitts asked if any citizens had signed up to comment.

There were none.

Financial Report

Jodi Romero, Financial Operations Director, said she and Tax Revenue Supervisor Elizabeth Tice-Janda will present the Financial Report. Financial Operations Director Romero said she would give some highlights on how 2012 ended, current economic indicators, and a look a where the City is currently. Financial Operations Director Romero said the City just received the Government Finance Officers Association Certificate of Excellence in Financial Reporting for year 2012 which the City has received for the last 28 years, and gave special recognition to Sonya Evans and Aeron White who are in the accounting department.

Financial Operations Director Romero said the year of 2012 ended better than anticipated with revenues better than expected. There were also across the board budget savings in labor and operations. The Capital Fund balances were carried forward to complete projects started in 2012. She then reviewed revenues where there were either additional revenues or savings in expenditures.

Financial Operations Director Romero then noted that the savings will result in a higher fund balance at the end of 2013. She explained the savings in each of the funds.

Financial Operations Director Romero invited Revenue Supervisor Tice-Janda to address the economic indicators.

Revenue Supervisor Elizabeth Tice-Janda said the first economic indicator addressed was foreclosure filings in Mesa County. The year 2012 was pretty much the same as 2011, but 2013 looks to be improving. The real estate and construction industry

transactions show the median home price has increased in the last year. In 2013, the inventory is down slightly. Revenue Supervisor Tice-Janda then addressed building permit valuation. The first quarter of 2013 is at a five year high and most of it are residential building permits. Employment was the next indicator. The employment rate is down but it is typical to see a decrease during this time of year. There were some layoffs, most notably were Choice Hotels and Halliburton.

Revenue Supervisor Tice-Janda addressed the retail and revenue report. There was a decrease in the gross retail activity in the 4th quarter of 2012. There are concerns, but the gross retail is higher than two years ago. The year 2012 ended with a 2.2% growth which is up over the last four years in retail sales tax collection. She then turned the presentation back to Financial Operations Director Romero.

Financial Operations Director Romero said in conclusion, there are stronger fund balances and they are monitoring revenues. There is conservative spending going on in all departments and they are moving forward with capital and economic development projects. First quarter budget reviews will begin next month.

Councilmember Luke asked for confirmation on the increase in fund balance due to the hard work of Staff and Council which was confirmed. She thanked Financial Operations Director Romero for the hard work.

Councilmember Susuras thanked Staff for their work and asked if the financial reports are on the website. Financial Operations Director Romero said the reports are posted after the presentation to City Council.

There were no other comments.

CONSENT CALENDAR

Councilmember Kenyon moved to adopt and then read Consent Calendar items #1-13 noting Item #11 was removed for individual consideration. Councilmember Susuras seconded the motion. Motion carried by roll call vote.

1. **Minutes of Previous Meetings**

Action: Approve the Minutes of the March 4, 2013 Special Meeting, and the March 6, 2013 Regular Meeting

2. **Setting a Hearing to Amend the Sales and Use Tax Code Exempting Subscription Magazines Produced and Distributed from Colorado Sales and Use Tax**

This is an amendment to the Grand Junction Municipal Code concerning the exemption of the sale, storage and use of magazines sold by subscription, produced and distributed in Colorado from sales and use tax.

Proposed Ordinance Amending Title 3, Section 3.12, Sales and Use Tax, of the Grand Junction Municipal Code Concerning Sales and Use Tax Exemptions for the Sale and Use of Magazines Sold by Subscription Produced and Distributed in Colorado

Action: Introduce a Proposed Ordinance and Set a Hearing for April 3, 2013

3. **Setting a Hearing to Amend the Sales and Use Tax Code Exempting Manufacturing Equipment from Sales Tax**

This is an amendment to the Grand Junction Municipal Code concerning the exemption of the sale of manufacturing equipment from sales tax.

Proposed Ordinance Amending Title 3, Section 3.12, Sales and Use Tax, of the Grand Junction Municipal Code Concerning Sales Tax Exemptions for the Sale of Manufacturing Equipment

Action: Introduce a Proposed Ordinance and Set a Hearing for April 3, 2013

4. **Setting a Hearing to Amend the Sales and Use Tax Code Exempting Sales Made by Schools, School Activity Booster Organizations, and Student Classes or Organizations from Sales Tax**

This is an amendment to the Grand Junction Municipal Code concerning the exemption of sales made by schools, school activity booster organizations, and student classes or organizations from sales tax.

Proposed Ordinance Amending Title 3, Section 3.12, Sales and Use Tax, of the Grand Junction Municipal Code Concerning Sales Tax Exemptions for Sales Made by Schools, School Activity Booster Organizations, and Student Classes or Organizations

Action: Introduce a Proposed Ordinance and Set a Hearing for April 3, 2013

5. **Setting a Hearing for the Mesa County Workforce Annexation Comprehensive Plan Future Land Use Designation Amendment and Zoning, Located at 512 29 1/2 Road** [File #ANX-2013-10]

Recommend to City Council a Comprehensive Plan future land use designation amendment from Residential Medium to Village Center and a zoning of C-1 (Light Commercial) for property located at 512 29 1/2 Road.

Proposed Ordinance Amending the Comprehensive Plan from Residential Medium (4 – 8 DU/AC) to Village Center and Zoning the Mesa County Workforce Annexation to C-1 (Light Commercial) Located at 512 29 1/2 Road

Action: Introduce a Proposed Ordinance and Set a Hearing for April 3, 2013

6. **Setting a Hearing on Rezoning a Portion of Heritage Estates, Located at the Southeast Corner of Property Located near 24 3/4 Road and North of the Future F 1/2 Road Alignment, the 2.78 Acres Directly West of and Abutting 651, 653 1/2, 653, and 655 25 Road** [File #RZN-2012-578]

Request to rezone 2.78 acres, located at the southeast corner of property located near 24 3/4 Road and north of the future F 1/2 Road alignment, directly west of and abutting 651, 653 1/2, 653, and 655 25 Road referred to herein as a portion of Heritage Estates Subdivision, from R-8 (Residential – 8 du/ac) zone district to R-12 (Residential – 12 du/ac) zone district.

Proposed Ordinance Rezoning a Portion of Lot 100 of the Heritage Estates Subdivision, Filing 1 from R-8 (Residential – 8 Units Per Acre) to R-12 (Residential – 12 Units Per Acre) Located at the Southeast Corner of Property Near 24 3/4 Road and North of the Future F 1/2 Road Alignment, Specifically the 2.78 Acres Immediately West of and Abutting 651, 653 1/2, 653, and 655 25 Road

Action: Introduce a Proposed Ordinance and Set a Hearing for April 3, 2013

7. **Setting a Hearing Zoning the Rock Shop Enclave Annexation, Located South of D Road, East of S. 15th Street and South of the Riverside Parkway on both sides of 27 1/2 Road, North of Las Colonias Park** [File #ANX-2012-574]

A request to zone the Rock Shop Enclave Annexation, located south of D Road, east of S. 15th Street and south of the Riverside Parkway on both sides of 27 1/2 Road, north of Las Colonias Park, which consists of 68 parcels, to an I-1 (Light Industrial) zone district.

Proposed Ordinance Zoning the Rock Shop Enclave Annexation to I-1 (Light Industrial) South of D Road, East of S. 15th Street and South of the Riverside Parkway on Both Sides of 27 1/2 Road, North of Las Colonias Park

Action: Introduce a Proposed Ordinance and Set a Hearing for April 3, 2013

8. **Pear Park Fire Station Grant Request**

This is a request to authorize the City Manager to submit a request to the Colorado Department of Local Affairs for a \$200,000 grant to partially fund the design and engineering of a proposed Pear Park Fire Station.

Action: Authorize the City Manager to Submit a Grant Request to the Colorado Department of Local Affairs' Energy and Mineral Impact Assistance Program for the Design and Engineering of a Proposed Pear Park Fire Station

9. **Purchase Crack-fill Material**

This request is to ratify a second year contract renewal to purchase 180,000 pounds of NUVO 500 crack-fill material in the amount of \$.53 per pound. This is the second and final contract renewal period for this contract award. Since this is a petroleum based product, prices are escalating daily. In an effort to secure prices, the Purchasing Division negotiated a price, which now reflects savings compared to the current market. The NUVO 500 crack-fill material was competitively bid in 2011 and found to be a superior material compared with other products previously tested.

Action: Ratify a Second Year Contract Renewal with Maxwell Products, Inc. to Provide 180,000 Pounds of NUVO 500 Crack-Fill Material, for an Amount of \$.53 per Pound for a Total of \$95,400

10. **Outdoor Dining Lease for Loree, LLC dba Loree's Seafood and Steakhouse, Located at 336 Main Street**

Loree, LLC, located at 336 Main Street, is a new tenant occupying the former location of Dolce Vita restaurant. As a new business entity, Loree, LLC, is requesting a first-time Outdoor Dining Lease for an area measuring 275 square feet directly in front of their building. The Outdoor Dining Lease would permit the business to have a revocable license from the City of Grand Junction to expand their licensed premise and allow alcohol sales in this area. The outdoor dining area comprises the same enclosed raised deck area that was occupied by Dolce Vita.

Resolution No. 18-13—A Resolution Authorizing the Lease of Sidewalk Right-of-Way to Loree, LLC, Located at 336 Main Street

Action: Adopt Resolution No. 18-13

11. **Funding of \$80,000 for the Regional Public Safety Training Facility**

REMOVED FROM THE CONSENT CALENDAR TO FIRST ON INDIVIDUAL CONSIDERATION

12. **Purchase of Real Property at 755 Struthers from Struth LLC**

The City has negotiated a purchase of property at 755 Struthers for \$189,125.20. The City Council is being asked to authorize the purchase and ratify actions taken.

Resolution No. 20-13—A Resolution Authorizing the Purchase by the City of Real Property Located at 755 Struthers Avenue from Struth LLC and Ratify Actions Heretofore Taken in connection Therewith

Action: Adopt Resolution No. 20-13

13. **Ratify an Appointment to the At Large Seat on the Grand Junction Regional Airport Authority**

The Grand Junction Regional Airport Authority bylaws provide that the seventh seat on the board of directors is filled by the other board members with the concurrence of the City and the County. The resolution proposed ratifies the recommendation put forward by the board of directors.

Resolution No. 21-13—A Resolution Ratifying the Appointment of Thomas T. Frishe to the Grand Junction Regional Airport Authority Board

Action: Adopt Resolution No. 21-13

ITEMS NEEDING INDIVIDUAL CONSIDERATION

Funding of \$80,000 for the Regional Public Safety Training Facility – Moved from Consent Calendar

Due to a funding shortfall, the City is being asked to contribute 1/3 of the \$240,000 difference between current funding level and the construction bid amount for the Regional Public Safety Training Facility. Colorado Mesa University and Mesa County will provide the remaining 2/3 of the shortfall.

Deputy City Manager Tim Moore presented this item, noting that Police Chief John Camper was also present and can answer questions.

Deputy City Manager Moore said the project is to create a training facility for public safety personnel and will include a driving track, shooting range, training for Police Officers and an endurance track; there is a consideration to add some fire training facilities also. The funding is coming from Department of Local Affairs (DOLA) grant, the Seizure Board, and Mesa County for Phase I, and includes modular space for classroom, utilities, and a road extension. When the project was bid, it came in over budget. The scope of the project was reduced to just the basics which included a track, skid pad, interior dirt track, and

ATV training, however, there was still a \$240,000 shortfall. In talking to the academy trainers through Colorado Mesa University (CMU), Mesa County and the City are being asked to fund the shortfall. The proposal is to split the shortfall between the three partners at \$80,000 each. The recommendation is to take the funds from the Pro Cycling allocation, since Grand Junction was not selected. Those funds are still in that fund and could go towards the City's portion for the project.

Councilmember Susuras asked for confirmation that this is Phase I. Deputy City Manager Moore said it is actually a pared down Phase I. Councilmember Susuras asked how many other phases would be needed. Deputy City Manager Moore said it depends on the funding; they are depending on grants but more funding would be required for additional facilities down the road.

Councilmember Susuras said this has been discussed for at least three years and although essential to have this facility, he cautioned where future funds will come from.

Councilmember Kenyon thanked Councilmember Susuras for clarifying this item. He asked about the history of the Fire Department training facilities. The previous site looked at for this project was at the Armory and that was determined not to be the best site. He was cautious about whether this site would be the best site. He said he would rather have the fire training facility at the right location even if it is part of the new station in the Pear Park area.

Deputy City Manager Moore said that this location was always thought to be exclusively a police training facility, but CMU was able to acquire more property so that resulted in them reconsidering that this site might be a good alternative for the fire training facility. However, water supply is an issue, and determination is still being made to confirm if this is an appropriate place for training for the Fire Department.

Councilmember Kenyon noted that currently the firefighters have to travel to Rifle for their training. Deputy City Manager Moore concurred, noting it is for required training.

Police Chief Camper said the project is really close, the planning has gone on for nearly a decade. The track is the first phase. The second leading contributor to line of duty officer deaths is traffic accidents. They spend thousands of hours training for driving and pursuit. There are no driving tracks nearby, the closest one is in Golden, Colorado. The project has been an incredible collaboration. The forfeiture board has been a very supportive partner. The driving track will be an enormous addition and there are plans for other facilities for training.

Councilmember Boeschstein asked if there will be utilities and restroom facilities. Deputy City Manager Moore said a two inch waterline will be extended to the facility. Wastewater disposal will be a septic system. Councilmember Boeschstein asked about fire protection. Deputy City Manager Moore said the Bureau of Land Management (BLM) provided the land and have been reviewing the plans including protection of the plant life. Councilmember Boeschstein asked about flash floods in the area. Deputy

City Manager Moore said the plans were run through the City's review process and the plans meet the City standards for stormwater.

Resolution No. 19-13—A Resolution Authorizing and Ratifying an Expenditure of Funds in Support of the Construction of the Regional Law Enforcement Training Center Emergency Driving Track and Other Improvements to the Campus

Councilmember Kenyon moved to adopt Resolution No. 19-13. Councilmember Coons seconded the motion. Motion carried.

Public Hearing—Library Alley Right-of-Way Vacation [File #VAC-2012-419]

Request to vacate all remaining alleys within Block 73, City of Grand Junction, located between Grand Avenue and Ouray Avenue and N. 5th Street and N. 6th Street as part of the expansion of the Library.

The public hearing was opened at 7:48 p.m.

Senta Costello, Senior Planner, presented this item. She described the site, the location, and the request. She identified the location of the utilities and said the project will combine all properties on the block into one property. There is a sewer line in the east alley and that will be relocated into 6th Street. One of the conditions of approval is that plat combining all the lots be recorded with the new utilities to protect any future buyers.

There were no public comments.

The public hearing was closed at 7:52 p.m.

Ordinance No. 4570—An Ordinance Vacating Right-of-Way for Mesa County Public Library Alley Located at 530/550 Grand Avenue and 443 N. 6th Street

Councilmember Susuras moved to adopt Ordinance No. 4570 and ordered it published in pamphlet form. Councilmember Coons seconded the motion. Motion carried by roll call vote.

Warehouse Special Permit, Located at 461 Glenwood Avenue [File #SPT-2013-66]

Application for a special permit to allow interim use of the property for an indoor storage and operations warehouse in a C-2 (General Commercial) zone district with a contradicting Comprehensive Plan Future Land Use designation of Neighborhood Center, in accordance with Section 21.02.120 of the Grand Junction Municipal Code.

Senta Costello, Senior Planner, presented this item. She described the site, the location, and the request as well as the surrounding uses. The future land use

designation is neighborhood center. She then identified the zoning and zoning of surrounding properties. The C-2 zoning is in conflict with the future land use designation, however the Code does allow for interim uses. The proposal is to use the property for a warehouse. The applicant intends to access the warehouse from the south and will only use the north access on an emergency basis, and will not use it during the high school lunch periods.

As part of their loading and unloading they will use the alley and the southern entry for traveling south. They will not travel north into the residential area and near the High School. City Staff recommended approval of the request.

Councilmember Coons asked about a time limit for the use. Senior Planner Costello said they are not proposing a time limit. The building has been vacant for a number of years and has been an attraction to high schoolers. The recommendation is to let the market drive the future use.

Councilmember Susuras asked if the tire company is purchasing the property. Senior Planner Costello said yes, and have agreed to a temporary permit, as long as there are no time limits. If sold, and if the use stays the same, the permit could stay in place.

Councilmember Susuras asked if it might be better to alter the Comprehensive Plan. Senior Planner Costello said that due to time constraints the applicant opted to go forward with a special permit.

Councilmember Kenyon agreed with Councilmember Susuras about possibly changing the Comprehensive Plan as more of a business friendly option. He suggested it be brought back by Staff.

Councilmember Boeschstein asked why they need a special permit in a C-2 zone district. Senior Planner Costello said that legal Staff has advised that a special permit is needed as it conflicts with the Comprehensive Plan.

Councilmember Boeschstein said this is burdensome for the applicant, and he does not think this should be required. It is not business friendly to make them go through such a process.

Councilmember Susuras asked Senior Planner Costello to confirm the Comprehensive Plan states Neighborhood Centers can be moved. Senior Planner Costello confirmed this.

Council President Pitts asked for public comment.

Rich Krohn, 744 Horizon Court, representing the applicant, said the owner and contractors are present. He said he and his client appreciate the Council's comments but Staff has been extremely cooperative and it is nice to be able to do something in a

short period of time when there are zoning conflicts. The building is in really good shape and it would be too expensive to tear it down. He appreciated the comments about changing the Comprehensive Plan and to be able to utilize the building for its life expectancy. He agreed there does need to be a process to make this work. In conclusion, they are in support of the permit and asked that it be approved.

Councilmember Luke thanked Mr. Krohn for his client's recognition of the fact that a number of high schoolers do travel past that operation to go to the Salvation Army for lunch, and it is appreciated.

Permit No. 2013-01—A Special Permit Pursuant to Section 21.02.120 of the Grand Junction Municipal Code (Zoning And Development Code) for an Interim Use of Warehouse with Indoor Storage and Indoor Operation on Property Located at 461 Glenwood Avenue in Grand Junction, Colorado

Councilmember Susuras moved to approve Special Permit No. 2013-01 to allow the interim use of the property for a warehouse. Councilmember Luke seconded the motion.

Councilmember Kenyon noted that Staff has been asked to bring forward any proposal for a business but suggested that it be brought forward in a Council work session to avoid the process. He asked the City Manager to have Planning Staff put on their agenda to change the Comprehensive Plan to avoid this permit process.

City Attorney Shaver said the proposal to change the Comprehensive Plan did come before Council but they deferred it until the North Avenue Plan process is completed.

Construction Contract for the 22 Road Realignment at Highway 6 Project

The 22 Road realignment at Highway 6 project will reconstruct the intersection of 22 Road with Highway 6 along with a one-third mile long section of 22 Road. The resulting increase in traffic capacity will accommodate projected traffic volumes through the year 2035, including traffic from two proposed truck stops in the area. These improvements work in harmony with an upcoming Colorado Department of Transportation (CDOT) traffic capacity and safety improvement project at the I-70 Exit 26 Interchange. Together they set the stage for long term future development in the northwest part of the City.

Trent Prall, Engineering Manager, introduced this item. He described the project and the specifications of the project which is called a diverging diamond design. Part of the project will also create a safer at grade railroad crossing. There will be two proposed truck stops which will each invest \$7.5 million in the area.

Councilmember Kenyon asked for an explanation of the selection of the contractor. Internal Services Manager Jay Valentine said it was a standard bid through the purchasing process with the low bidder being recommended. Part of the bid process

included an alternate bid for concrete and another alternate bid for the extension of 22 Road. Neither alternate was affordable.

Councilmember Boeschstein asked if the two truck stops have already gone through the process. Engineering Manager Prall said they are part way through the process and have provided letters of credit.

Councilmember Boeschstein asked if there are any pedestrian or bicycle lanes. Engineering Manager Prall said there will be bicycle lanes and an eight foot sidewalk along each truck stop to Otto's.

Councilmember Susuras said he wanted to mention for the public that \$4 million was budgeted for this project. He asked why eastbound and westbound traffic cross over and under each other. Engineering Manager Prall said they don't cross over and under, they are at grade signals which will allow a lot more capacity. The design also makes all left turns with no signals which makes for safer intersections.

Councilmember Luke asked about the transportation capacity payments. Engineering Manager Prall said the two developers will pay about \$170,000. Portions of one section for the Pilot Station will be constructed by the City, but Pilot will pay around \$300,000 towards that. These improvements are not just for the truck stops, it is for safety and capacity in the area. Councilmember Luke lauded the diverging diamond design.

Councilmember Coons moved to authorize the City Purchasing Division to enter into a construction contract with M.A. Concrete Construction, Inc., of Grand Junction, for the 22 Road Realignment at Highway 6 Project in the amount of \$3,882,457.55. Councilmember Luke seconded the motion. Motion carried.

Council President Pitts called for a recess at 8:26 p.m.

The meeting reconvened at 8:32 p.m.

Public Hearing—Adopting the Greater Downtown Plan [File #CPA-2011-1067, CPA-2012-216, RZN-2012-217, ZCA-2012-363]

The Greater Downtown area generally encompasses the original square mile of the City and the area between the Riverside Neighborhood to 28 Road and South Avenue to the Colorado River. The Greater Downtown Plan includes the following components:

- 1) Comprehensive Plan amendments to Future Land Use Map
- 2) Comprehensive Plan text amendment to add RO (Residential Office) as a zone district that can implement the Downtown Mixed Use Land Use Designation
- 3) Rezoning properties within the Greater Downtown Plan

- 4) Text amendment to the Zoning and Development Code to include RO (Residential Office) as a zone district that can implement the Downtown Mixed Use Land Use Designation
- 5) Adoption of zoning overlays for Corridors and the Downtown District

The public hearing was opened at 8:33 p.m.

Kathy Portner, Economic Development and Sustainability, introduced this item and provided an overview. She said the Greater Downtown Plan celebrates the core of the City starting with the original square mile. The riverfront has been reclaimed and its importance recognized with its cleanup over the last 25 years. The Greater Downtown Plan combines the City Comprehensive Plan and the South Downtown Plan. In addition to the original square mile, the Greater Downtown Plan encompasses the area to the river and west to the Riverside neighborhood.

Ms. Portner spoke to the public process to develop the Plan and detailed the number and types of meetings. The Plan establishes some goals and ways to achieve the vision to become the most livable community west of the Rockies. The goals include enhancing the multimodal transportation system and improving entry points, promoting downtown living, and others. Then there are goals for each of the three districts: downtown, rail, and river. The majority of the river district properties are government owned. There are a number of conflicts in the districts with the Comprehensive Plan. There are about 237 properties in conflict. The proposal is to change the Comprehensive Plan and leave the existing zoning in place. The proposal for the Jarvis property is to change the Future Land Use Designation to Business Park to allow for future development.

The second thing for consideration is the Greater Downtown Plan Zoning Overlay. It is to implement and to provide guidance and criteria for the planning, design, and building of public and private development. The overlay supplements the development regulations. The overlay addresses two topics: corridors and the Downtown District. The standards are not an option in the scenario because the framework and streets are already in place, in other words, the fabric is already there and the overlay will keep that fabric from being unraveled.

Ms. Portner then addressed the Corridor Zoning Overlay areas. There are two types: commercial and industrial. Each has its own standards, uses are an example of what is desired, provides options for achieving the vision, allows flexibility, and defines what is required for new construction versus remodels.

For the commercial corridor overlay, Ms. Portner provided numerous examples of possibilities. Another element is the allowance of residential regardless of zoning and emphasizes the location of parking and storage not being to the front. Regarding signage, only monument and flush signs would be allowed, no billboards.

For the industrial Corridor Zoning Overlay, Ms. Portner explained when the standards would be triggered. Some of the elements included loading and parking to the side and rear, and screening of outdoor storage. Implementation of some of these standards reduces things such as setback and landscaping requirements.

Next, she addressed the Downtown District Zoning Overlay. The 7th Street Historical District stays in place and the existing commercial downtown would not be affected. Ms. Portner identified when the standards would apply. They would not apply for additions less than 100% of the existing or a remodel that is less than 65% of the value or any interior remodel. The Director also has the ability to make exceptions on a case by case basis.

Ms. Portner said there are standards that apply just to the Central Business District: high density and mixed use is encouraged; minimizing single size surface parking; and encouraging gradual scale transitions between the Central Business District and the adjacent neighborhood. The goals are to emphasize pedestrian traffic by setting a maximum setback and encouraging high quality compatible designs using traditional building materials and a menu of architectural standards.

There are residential overlay guidelines which includes retaining the park strip along the roadway and maintaining existing housing styles. These guidelines still allow for multi-family development as long as it is in character with the neighborhood.

Within the Transitional Overlay area, Ms. Portner stated it uses the residential office standards and then enumerated those standards.

In conclusion, Ms. Portner identified the number of elements being considered with this adoption including Comprehensive Plan Amendments, an amendment to the Zoning Map, and an amendment to the Zoning Code.

Councilmember Kenyon asked for clarification regarding the opt-in or opt-out and how that affects an owner. Ms. Portner said existing structures do not have to do anything nor do interior remodels. A new building would have to implement the standards but a builder/developer would have a menu of options, many of which are low cost, and using the standards reduces some of the other requirements such as landscaping and setbacks.

Councilmember Kenyon said the standards feel a little regulatory. He asked about the impacts to property owners in the near future. Ms. Portner said development has slowed but the most recent projects have either met or exceeded the standards. It assures those coming in that there is a baseline for development.

Councilmember Kenyon proposed in an opt-in/opt-out feature which could be looked at in three years to see if there has been a negative impact over a period of time. Ms.

Portner said that would not give assurance to someone who wants to be an investor in the neighborhood.

Councilmember Susuras asked why the Comprehensive Plan was just not amended. Ms. Portner said the Comprehensive Plan is a broad based brush, whereas the items proposed provide implementation methods and strategies.

Councilmember Susuras said his concern is that anyone wanting to come in to this area would have to follow three layers of plans, and that may discourage business with so many regulations.

Councilmember Boeschstein said he thinks the plan is great and a great vision for the future. It is in line with Operation Foresight on Main Street from the 1960's.

Council President Pitts asked that the presentation continue.

Harry Weiss, Executive Director, Downtown Development Authority, acknowledged a number of Downtown Development Authority (DDA) board members and other members of downtown in attendance. He expressed his appreciation of City Staff and that it has been a pleasure to work with them. Mr. Weiss explained why the DDA has a role in the development of the Plan. The DDA's role is the redevelopment of, and continued vitality of, the downtown including the physical qualities of downtown.

Mr. Weiss said this Plan is a culmination of years of planning. The Greater Downtown Plan drills down in the areas where more details and standards are needed. He reviewed who was involved in the development of the Plan. He referred to the editorial in the newspaper that morning noting the importance of prosperity and future of the downtown area. He spoke to the City's ability to compete in the future, regarding new economic opportunities. He said it was essential that these planning tools be aligned with the vision to build a successful economy in order to be sustainable. These tools will help re-balance the development from an automobile-centered suburban design to a more pedestrian, urban design. He said it is difficult to make significant adjustments during boom times. Different areas in town are recognized as different. Downtown is characterized with its density, its multifunctional character, and its pedestrian orientation. The zoning overlay is a pretty standard device in planning and development. Basic zone districts are fairly blunt and the overlay zoning sets the base as to what can happen. It is a means to refine, drill down, and direct development for specific outcomes. The market has directed what exists downtown currently. North Avenue is completely different than downtown as it does not have a consistent theme, whereas downtown does have a traditional pattern. The zoning overlay does allow for a doubling of an existing business without requiring anything. The two story requirement is only for new buildings.

Councilmember Luke complimented the vision and the presentation. She could see how it fits in, but she doesn't see an example of a ninety story building. Mr. Weiss said

the only example is Alpine Bank, that allowance is already in the Code, the only new requirement is the minimum. Mr. Weiss said anything over 75 feet is what makes the building a “high rise”, and requires compliance with the High Rise Code.

Council President Pitts called for a recess at 9:40 p.m.
The meeting reconvened at 9:44 p.m.

Jim Golden, attorney representing his ownership and some other downtown property owners, provided a brief history of his background. He was concerned with restrictions placed on real estate, specifically in the core area. He addressed the restriction that the property must be developed as a two story building. He said it is a “taking”, and violates the Federal and State Constitutions. This restriction takes money out of the hands of the guy who needs it. It will affect the sale of properties. He referred to a number of court cases that apply to property ownership. He argued that the zoning regulations must be reasonable and restrictions can only be placed on property rights when public health and welfare is affected. He put the Council on notice that if these regulations are adopted, he will make every effort to seek the rights of the Constitution regarding property rights.

Councilmember Luke asked Mr. Golden to read the last few sentences again, which he did, noting that a restriction for a two story building is not included in the exemptions enumerated. He again read that it is a right for a man to use his property by his will. Mr. Golden added the citations.

Edith Tomlin, Director of Mesa County Public Library District, said the Library Board has reaffirmed their commitment to downtown and are enthusiastic about pursuing the Greater Downtown Plan. They were involved in the Catalyst Project idea a few years ago. Although the other partners left due to the recession, the Library is still committed and went forward with their new building. The planners helped with the library design to be in line with the Greater Downtown vision and still meet their parking needs as they do need a lot of parking. The new design did cost more but it will help re-anchor that part of downtown. The Mesa County Library does support the Greater Downtown Plan.

Duncan McArthur, 2837 Kelso Mesa Drive, acknowledged Mr. Golden’s comments but noted that zoning was upheld by the Supreme Court during the progressive era. However, he did object to the guidelines. Mr. McArthur then read an excerpt in the Plan about the need for affordable housing. He then referred to a number of authors that say smart growth makes housing unaffordable. There is a price to pay for these guidelines. He opposed forcing a residential element where there is no market. He referred to the 24 Road Corridor Plan which he thought was a bust. He rejects forcing housing downtown. He said the City should emphasize guidelines and eliminate restrictions. He said without a stimulus component the Greater Downtown Plan won’t work.

Kevin Reimer, owner of several downtown hotels, would normally be first in line to add restrictions, but instead he gave an example of what he faced. He built his hotel downtown because of the vitality and density of downtown and the urbaness of the amenities. When he visits the downtowns of Denver and Boulder, he is not looking for convenient parking, he is looking for the amenities found in the urban areas. He said there is a lot of room in the restrictions and he doesn't think it will be a detriment. He agreed that no one has built a one story in downtown in the last several years.

Greg Motz, representing the Chamber of Commerce, said the Chamber Board would agree with the area wide goals and policies as well as the specific goals for the rail and river district. However, they disagree with how the goals will be implemented, and whether they are mandated. The goals need to be market driven. The market has met or exceeded the standard so why are the standards needed? They agree the government needs to be involved but it also needs to be market driven and regulated. They appreciated the opportunity to be involved in some of the meetings, and the Chamber of Commerce appreciates the menu of options, but there are many concerns left unanswered. The Chamber was provided the latest version of the Greater Downtown Plan, but none of the Chamber comments (six pages worth) were addressed before tonight's presentation. He addressed form-based zoning which brings a new light on how the Plan is interpreted. This Plan is a new concept so there is a need for more time for review. Regarding the two story requirement in the downtown core area, they question the reason for this; why are government buildings exempt of this requirement, why does an exemption add months to a development, and why there is a 65% value for an expansion which is not that much, which will restrict expansion and growth. The Chamber of Commerce respectfully requests an opt-in provision. The two story requirement should be eliminated. The numerous revisions need time to be reviewed. He feels that although he has the experience to comprehend this Plan, it is hard to understand it. There should be more time given to review the changes and its interaction with the Zoning and Development Code. The City Council needs to have full understanding of the entire plan and its impact. If Council does not, they need to postpone adoption of the Greater Downtown Plan until it is fully understood.

Ron Maupin, Downtown property owner and on behalf of the Downtown Association Board, said he would like the Council to adopt the plan in its entirety without an opt-out. It will protect the existing owners and their investments. There have been meetings downtown along with questions and they are always concerned how it will affect properties. This Plan will not affect most of the existing owners. They have been working on the Plan for the last two years. He asked why the Chamber of Commerce has now chosen to get involved. It is a great plan and the Downtown needs a plan. North Avenue is a prime example of not having guidelines. He questioned the Chamber's motivation. They do not represent the majority of the business owners. He referred to their objection over the Transportation Capacity Payment (TCP) increase and thanked the City Council for passing the increase. He encouraged the City Council to pass the Greater Downtown Plan.

Janet Brink, owner of 500 Main Street, sat on the original group to formulate the Greater Downtown Plan. She went to the Central Business District meeting and she felt that there was no detailed information. She was here to learn some things and would like more time to learn and understand more about the Greater Downtown Plan. She asked the City Council take some more time and think about it.

Jason Farrington, 1110 Main Street, encouraged the City Council to pass the Plan. It provides investors the security for investing in downtown. The downtown has low vacancy rates and is walkable. He feels pushing the Plan forward provides security for the investors.

Sandra Alexander, 838 White Avenue, has been part of the planning process since 2008. She was in the planning meeting last week and wanted to repeat her concerns. She wants the Plan to be adopted to protect her property. Her neighborhood has become more owner occupied, however, she wants the process to go forward.

Rob Von Gogh, property owner of 618 and 620 Main Street, across from the Avalon Theatre, has traveled extensively in the United States and has seen many communities that have failed themselves. He has invested \$500,000 in his building for renovations and his intention is to open an enterprise that is complimentary to the Avalon Theatre. He said he supports the Plan and the protection of the investment. It is important to define the Downtown area. The opposing side supports deregulating; he did not think that was a good idea. Downtown is a lifestyle. He disagreed with the Chamber of Commerce's position and he has been a member for forty years. He said new business won't come if the Plan is not adopted. He thinks there may be some tweaks needed, but the decision should be made in favor of the Plan. Uncertainty stymies business growth. He encouraged the City Council to reject the Chamber of Commerce voice and the opposition arguments.

Diane Schwenke, Chamber of Commerce, 528 Greenbelt Court, clarified what Greg Motz presented on behalf of business. The Chamber of Commerce is the voice of business. She has been at the table since the beginning of this, and the Chamber does not disagree with all regulations; the Chamber is not against the Plan; they just want to make sure they understand the Plan and all the details. The Chamber is not the opposition in this discussion.

Les Miller, property owner at 826 N. 7th Street and Vice Chair of the Downtown Development Authority, spoke as a commercial property owner in the downtown area, urged the Council to adopt the Plan. It is a blueprint for the development of downtown and the downtown needs to be competitive. The Plan will protect the investment in the downtown infrastructure. Downtown owners have been overwhelmingly supportive of the Greater Downtown Plan.

There were no other public comments.

The public hearing was closed at 10:46 p.m.

Councilmember Coons asked if it is appropriate for her to comment and vote since she lives in the affected areas. City Attorney Shaver said with that disclosure, it would be up to her fellow City Councilmembers. He said he sees no problem from a legal perspective.

Council President Pitts asked the Council for their opinion regarding Councilmember Coons voting on this issue. There were no objections from Council.

Councilmember Doody asked if the Legal Department had reviewed the document and asked if they are comfortable with the Greater Downtown Plan moving forward. City Attorney Shaver said he has not reviewed the final document, but it is a Planning document, and can be amended to conform to City Council policy.

Ms. Portner said the changes in the redlined version did go through the City Attorney's Office. Regarding the Form-Based zone, the Form-Based Zone is in the Zoning and Development Code and the clarification is to provide that the zoning is available to property owners. She then explained what Form-Based Zoning is. It incorporates some of the types of standards but it is more proscriptive.

City Attorney Shaver said Form-Based zoning looks at the architectural and site elements rather than just site elements.

Councilmember Boeschstein said he likes the goals in the Greater Downtown Plan; the City has made huge investments in the downtown. There are incentives such as the Enterprise Zone. The DDA has been a redevelopment agent in the downtown. He is in favor of adopting the entire Plan. He quoted the court case that authorizes such.

Councilmember Coons said she is within a month of the end of her eight years on City Council and every year the Council has reviewed some Downtown Plan. She does not feel the Greater Downtown Plan is moving too quick. She understands the respect of property rights but all rights are subsumed to social rights for the community as a whole. She has traveled extensively and the downtowns with the most character were ones that had such planning elements as the one proposed tonight. She said she won't say she understands every element, however, she believes it codifies the vision and she feels they should go forward with the Plan.

Councilmember Susuras said there are some elements he agrees with but he disagrees with much of it. He thinks more input is needed. He said demeaning the Chamber of Commerce is uncalled for.

Councilmember Doody asked Ms. Portner about the options including the "other." Ms. Portner said the various standards have a number of elements and each has a category choice of "other" which could be anything that achieves the goals.

Council President Pitts noted all the elements include an “other” option and provides a lot of options. He looked at the surveys and noted how much they support the Plan.

Ordinance No. 4571—An Ordinance Adopting the Grand Junction Greater Downtown Plan and Amending the Future Land Use Map and Text of the Comprehensive Plan as an Element of the Comprehensive Plan for the Area Generally Including the Original Square Mile, South Avenue to the Colorado River and Riverside Neighborhood to 28 Road

Ordinance No. 4572—An Ordinance Amending the Zoning and Development Code to Add Section 21.07.080 to be known as the Greater Downtown Plan Overlay District and Amending Section 21.03.020(d) to Include the RO Zone in the Downtown District in the Downtown Mixed Use Land Use Designation

Ordinance No. 4573—An Ordinance Rezoning Properties within the Greater Downtown Plan Area

Councilmember Boeschstein moved to adopt Ordinance Nos. 4571, 4572, and 4573, and ordered them published in pamphlet form. Councilmember Doody seconded the motion. Motion carried by roll call vote 6 to 1 with Councilmember Susuras voting NO.

Non-Scheduled Citizens & Visitors

There were none.

Other Business

There was none.

Adjournment

The meeting adjourned at 11:03 p.m.

Stephanie Tuin, MMC
City Clerk



Date: 03-21-13
 Author: Jamie B. Beard
 Title/ Phone Ext: Assistant City Attorney/4032
 Proposed Schedule: April 3, 2013
 2nd Reading
 (if applicable): April 17, 2013
 File # (if applicable): ZCA-2013-107

**Attach 2
 CITY COUNCIL AGENDA ITEM**

Subject: Amending Sections 21.07.010 and 21.10.020 of the Grand Junction Municipal Code Adopting Changes to the Rules and Regulations for the Floodplain within the City
Action Requested/Recommendation: Introduce a Proposed Ordinance and Set a Public Hearing for April 17, 2013
Presenter(s) Name & Title: Greg Trainor, Public Works, Utilities, and Planning Director Bret Guillory, Utility Engineer/Floodplain Manager

Executive Summary:

The proposed ordinance amends Section 21.07.010, Flood Damage Prevention, and Section 21.10.020, Terms Defined, to update the floodplain regulations to be in compliance with State requirements.

Background, Analysis and Options:

The Colorado Water Conservation Board (CWCB) is the agency responsible for administering the National Flood Insurance Program (NFIP) in the State of Colorado. In 2010, the CWCB adopted revised Rules and Regulations for Floodplains in Colorado (Rules). The Rules became effective as of January 14, 2011. The Rules provide higher floodplain management standards that will help Colorado communities to reduce the risks to people and property caused by flooding.

All Colorado Communities that participate in the NFIP are required to adopt the new Rules by January 14, 2014. The City has been an active participant in the NFIP since 1983.

Mesa County adopted the new Rules and Regulations in October of 2012.

Changes are proposed to the Zoning and Development Code (“Code”) to include the Rules and are set forth in Exhibit A with strikethroughs being deletions from the sections indicated and the new additional language shown as underlined.

The main changes are to the following:

1. The “floodway” shall be defined with a one-half foot rise above the base flood elevation. This is a change from current definition with a one foot rise above the base flood elevation.
2. The addition of the definition for “Critical Facilities” and standards for critical facilities.
3. Additional terms are added in the definition section to define terms for easier understanding of the requirements.
4. Modification to Section 21.07.010(c)(5) to clarify restricted use of recreational vehicles for temporary dwellings within a special flood hazard area.

An Open House was held on March 7, 2013, for an opportunity to inform the community of the proposed changes and the need for the changes.

Please refer to Attachment A which shows the sections of Title 21 to be amended. Strikethroughs indicate deletions and additions are shown underlined.

How this item relates to the Comprehensive Plan Goals and Policies:

The proposed amendment is consistent with the following goals and policies of the Comprehensive Plan:

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County, and other service providers.

Policy: 1C. The City and Mesa County will make land use and infrastructure decisions consistent with the goal of supporting and encouraging the development of centers.

Mesa County adopted the Rules in October 2012.

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

The Rules provide necessary information for consideration of the appropriate type of development in different areas dependent upon the likelihood or not of flooding for that particular area.

Goal 10: Develop a system of regional, neighborhood and community parks protecting open space corridors for recreation, transportation and environmental purposes.

Policy:

10B. Preserve areas of scenic and/or natural beauty and, where possible, include these areas in a permanent open space system.

10C. The City and County support the efforts to expand the riverfront trail system along the Colorado River from Palisade to Fruita.

These Rules will help determine if development can be completed without creating too much risk, particularly along the river. Areas that are not appropriate for development or more intense development due to the greater risk of damage due to flooding can be better utilized in manners such as open space.

Goal 11: Public facilities and services for our citizens will be a priority in planning for growth.

Policy:

11A. The City and County will plan for the locations and construct new public facilities to serve the public health, safety and welfare, and to meet the needs of existing and future growth.

The Rules regarding development of flood hazard areas provide relevant information in determining where public facilities and services may be best located for efficiencies and effectiveness.

Critical Facilities are those that are necessary at times when flooding has created public health, safety, and welfare issues. Following the standards set forth will reduce the likelihood that the facilities would not be available and/or /ineffective during a flood.

The proposed Code amendment supports the vision and goals of the Comprehensive Plan by providing additional relevant information to be considered as the City grows and develops.

Board or Committee Recommendation:

None

Financial Impact/Budget:

Nominal costs for printed materials.

Legal issues:

The City Attorney has prepared the ordinance, reviewed and approved the proposed amendments.

Other issues:

NA.

Previously presented or discussed:

No

Attachments:

Exhibit A - Illustrated Changes to GJMC Sections 21.07.010 and 21.10.020
Proposed Ordinance

Exhibit A

Proposed changes:

Deletions shown with strikethroughs and additions are underlined.

21.07.010 Flood damage prevention.

(a) **Purpose.** Flood damage prevention regulations promote the public health, safety and general welfare and minimize public and private losses due to flooding. The regulations are designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to critical facilities, infrastructure and other public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

[Section (b) is intentionally not included as no changes are proposed to this section.]

(c) **General Provisions.**

- (1) This chapter applies to all areas of special flood hazard areas and areas removed from the floodplain by the issuance of a Federal Emergency Management Agency (FEMA) Letter of Map Revision Based on Fill (LOMR-F) within the City.
- (2) Basis for Establishing the Areas of Special Flood Hazard. The Federal Emergency Management Agency has identified areas of special flood hazard in a scientific and engineering report entitled, "The Flood Insurance Study for Mesa county and Incorporated AreasGrand Junction," dated October 16, 2012. The study together with the Flood Insurance Rate Maps (FIRMs) are hereby adopted by reference and declared to be a part of this code. The FIRMs may be superseded by local engineering studies

approved by the Director, provided such studies fully describe and analyze, based on the FIRMs and generally accepted engineering practice, design floodwater build-out conditions.

(3) Compliance. No structure shall be constructed, located, extended, converted or altered without full compliance with the terms of this section and other applicable regulations. No land shall be developed without full compliance with the terms of this section and other applicable regulations. For waterways with base flood elevations (BFEs) for which a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRMs, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the City. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, The City may approve certain development in Zones A1-30, AE, AH, on the City's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

(4) This section does not and it is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. If this section and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions on use and development shall prevail and be applied.

(5) All terms and provisions of this section shall be:

- (i) Considered as minimum requirements;
- (ii) Liberally construed in favor of the City; and
- (iii) Deemed neither to limit nor repeal any other powers granted or reasonably construed or interpreted under law, charter, rule or regulation.

(6) Warning and Disclaimer of Liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased because of manmade or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City, or any officer or employee thereof, or the ~~Federal Emergency Management Agency~~ for any flood damage that results from reliance on this section or any administrative decision lawfully made hereunder.

(7) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(8) The Director ~~of Public Works and Planning~~ shall maintain records obtained as part of a floodplain development permit, including but not limited to the lowest floor and floodproofing elevations for new and substantially improved construction.

(9) In riverine situations, notice shall be given by the Director ~~of Public Works and Planning~~ to an adjacent community(ies) prior to any alteration or relocation of a watercourse.

(d) **Provisions for Flood Hazard Reduction.**

(1) General Standards. The following standards shall apply to all property located in special flood hazard areas:

(i) Anchoring.

(A) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure and as anchored must be capable of resisting the hydrostatic and hydrodynamic loads.

(B) All manufactured homes shall be elevated and anchored to resist flotation, collapse or lateral movement and as anchored is capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, over the top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:

a. Over the top ties provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

b. Frame ties provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

c. Each component of the anchoring system shall be capable of carrying a force of 4,800 pounds; and

d. Any addition to the manufactured home shall be similarly anchored.

(ii) Construction Materials and Methods.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(C) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.

(iii) Utilities.

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood-waters into the system;

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood-waters into the systems and discharge from the systems into flood-waters; and

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(iv) Subdivision Proposals.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(D) [BFEbase flood elevation](#) data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

(2) Specific Standards. The following provisions, as determined from [BFEbase flood elevation](#) data, are required for all special flood hazard areas:

(i) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at least one foot above the [BFEbase flood elevation](#).

(ii) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated at least one foot above the level of the [BFEbase flood elevation](#); or, together with attendant utility and sanitary facilities, shall:

- (A) Be flood-proofed so that below the [BFEbase flood elevation](#) the structure is watertight with walls being substantially impermeable to the passage of water;
 - (B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (C) Be certified by a Colorado registered professional engineer. The certification shall state that the design and methods of construction are in accordance with accepted standards of practice and meet the minimum provisions of this code. Such certifications shall be provided to and reviewed by the Director.
- (iii) Openings in Enclosures Below the Lowest Floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall be certified by either a Colorado registered professional engineer or architect and must meet or exceed the following minimum criteria:
- (A) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (B) The bottom of all openings shall be no higher than one foot above grade;
 - (C) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
- (iv) Manufactured Homes.
- (A) All manufactured homes that are placed and/or substantially improved on a site:
 - a. Outside of a manufactured home subdivision;
 - b. In a new manufactured home park or manufactured home subdivision;
 - c. In an expansion to an existing manufactured home park or manufactured home subdivision; or
 - d. On an existing manufactured home park or manufactured home subdivision on which a manufactured home has incurred substantial damage as a result of a flood;
 - (B) Shall be anchored and elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the [BFEbase flood elevation](#);
 - (C) The manufactured home shall be securely anchored to an anchored foundation system in order to resist flotation, collapse and lateral movement; and

(D) Manufactured homes that are placed or substantially improved on sites in existing manufactured home parks or manufactured home subdivisions that are not subject to the provisions of this subsection shall be elevated so that either:

a. The lowest floor of the manufactured home is at least one foot above the BFEbase flood elevation; or

b. The manufactured home frame or chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and securely anchored to an anchored foundation system in order to resist flotation, collapse and lateral movement.

(v) Recreational Vehicles. Recreational vehicles occupied as a temporary dwelling in a special flood hazard area shall:

(A) Be permitted only where allowed in appropriate zone districts according to Section 21.04.010;

(B) Be authorized by an appropriate land use approval(s) from the City in accordance with the balance of this Code (if no appropriate land use approval has been granted, the use is not allowed);

(C) Not be on the site between April 1 and June 30 of each year;

(D) Be on the site for fewer than 180 consecutive days;

(E) Be fully licensed and ready for highway use;

(F) Be attached to the site only by quick disconnect type utilities and security devices;

(G) Include no permanently attached additions; and

(H) Meet the permit requirements, elevation and anchoring requirements for resisting wind forces as required for manufactured homes.

(3) Specific Standards for Areas of Shallow Flooding. Specific standards are required for special flood hazard areas associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(i) Residential Construction. All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer.

(ii) Nonresidential Construction. With the exception of critical facilities, all new construction and substantial improvements of nonresidential structures, must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification which shall state that the design and methods of construction are in accordance with accepted standards of practice and meet the minimum provisions of this code.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

(43) Specific Standards for Floodways. A floodway is an area within a special flood hazard area. The floodway is extremely hazardous due to the velocity of floodwaters, debris and erosion potential. To mitigate those hazards the following provisions apply:

(i) Encroachments, including fill, new construction, substantial improvements and other development are prohibited unless a Colorado registered professional engineer or architect certifies in writing with a No-Rise Certificate that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge. The supporting technical data for the No-Rise Certificate shall be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), unless otherwise approved by the Director.

~~(ii) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.~~

(5) Specific Standards for Alteration of a Watercourse. For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

(i) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

(ii) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

(iii) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

(iv) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.

(v) All activities within the regulatory floodplain shall meet all applicable Federal, State and City floodplain requirements and regulations.

(vi) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a No-Rise Certification.

(vii) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

(6) Specific Standards for Properties Removed From the Floodplain by Fill. A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), with a lowest floor elevation placed below the Base Flood Elevation with one foot of freeboard that existed prior to the placement of fill.

(7) Specific Standards for Critical Facilities. A critical facility is a structure or related infrastructure, but not the land on which it is situated, as classified below, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the City at any time before, during and after a flood.

(i) Classification of Critical Facilities. Critical facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

(A) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

- a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and nonambulatory surgical structures but excluding clinics, doctors offices, and nonurgent care medical structures that do not provide these functions);
- c. Designated emergency shelters;
- d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- f. Air transportation lifelines [airports (municipal and larger)], helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), nonpotable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it is demonstrated to the satisfaction of the Director that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are otherwise compliant with all floodplain regulations, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. A development approval includes the condition that evidence of ongoing redundancy be provided to the Director upon the Director's request.

(B) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities include:

- a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- c. Refineries;
- d. Hazardous waste storage and disposal sites; and
- e. Above ground gasoline or propane storage or sales centers.

Hazardous materials facilities shall be determined by the Director to be critical facilities if they produce or store materials in excess of threshold limits. If the owner and/or operator of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the threshold planning quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as extremely hazardous substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence as of (*insert date of effective ordinance*), but exclude later amendments to or editions of the regulations.

Specific exemptions to this category include:

- a. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the Director by hazard assessment and certification by a qualified professional as determined by the Director that a release of the subject hazardous material does not pose a major threat to the public.
- b. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities otherwise.

(C) At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

a. Elder care (nursing homes);

b. Congregate care serving 12 or more individuals (day care and assisted living);

c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

(D) Facilities vital to restoring normal services including government operations.

These facilities consist of:

a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);

b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Director that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are otherwise compliant with all floodplain regulations and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Director on an as-needed basis as determined by the Director upon request.

(ii) Protection for Critical Facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of critical facilities, protection shall include one of the following:

(A) Location outside the special flood hazard area; or

(B) Elevation or floodproofing of the structure to at least two feet above the BFE.

(iii) Ingress and Egress for New Critical Facilities. New critical facilities shall, when practicable as determined by the Director, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

The following additions and deletions are made to the Terms Defined in Section 21.10.020:

Area of shallow flooding means a designated Zone AO or AH on the City's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor subgrade (below ground level) on all sides.

Conditional letter of map revision (CLOMR) is FEMA's comment on a proposed project which does not revise an effective floodplain map that would upon construction affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the City at any time before, during and after a flood.

Five-hundred-year (500-year) flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood).

Five-hundred-year (500-year) floodplain means an area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source. (See graphic.)

(3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodway means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). (See graphic.)

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Material Safety Data Sheet (MSDS) – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

No-Rise Certification is a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado professional engineer.

One-hundred-year (100 year) flood means a flood having a recurrence interval that has a one percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood).

One-hundred-year (100-year) floodplain means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood, including the low land near a watercourse which has been, or may be, covered by water of a flood of 100-year frequency, as established by engineering practices of the U.S. Army Corps of

Engineers and/or the Colorado Water Conservation Board. ~~It shall also mean that a flood of this magnitude may have a one percent chance of occurring in any given year.~~

Special flood hazard area means the land in the floodplain within the City subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Threshold planning quantity (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE AMENDING SECTION 21.07.010, FLOOD DAMAGE PREVENTION,
AND SECTION 21.10.020, TERMS DEFINED,
OF THE GRAND JUNCTION MUNICIPAL CODE**

Recitals:

The Colorado Water Conservation Board (CWCB) is the agency responsible for administering the National Flood Insurance Program (NFIP) in the state of Colorado. In 2010, the CWCB adopted revised Rules and Regulations for Floodplains in Colorado (Rules). The Rules became effective as of January 14, 2011. The Rules provide higher floodplain management standards that will help Colorado communities to reduce the risks to people and property caused by flooding.

All Colorado Communities that participate in the NFIP are required to adopt the new Rules by January 14, 2014. The City has been an active participant in the NFIP since 1983.

Mesa County adopted the new Rules and Regulations in October of 2012.

On March 26, 2013 the Grand Junction Planning Commission reviewed the proposed changes and recommended that the City Council adopt the changes as presented.

The Grand Junction City Council encourages updating of the Zoning and Development Code in order to maintain its effectiveness and responsiveness to the citizens' best interests.

The City Council finds that adoption of the proposed amendments promotes the health, safety and welfare of the community.

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

Section 21.070.010(a) shall read as follows:

(a) **Purpose.** Flood damage prevention regulations promote the public health, safety and general welfare and minimize public and private losses due to flooding. The regulations are designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding;
- (4) Minimize prolonged business interruptions;

- (5) Minimize damage to critical facilities, infrastructure and other public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 21.070.010(c) shall read as follows:

(c) General Provisions.

- (1) This chapter applies to all areas of special flood hazard areas and areas removed from the floodplain by the issuance of a Federal Emergency Management Agency (FEMA) Letter of Map Revision Based on Fill (LOMR-F) within the City.
- (2) **Basis for Establishing the Areas of Special Flood Hazard.** FEMA has identified areas of special flood hazard in a scientific and engineering report entitled, "The Flood Insurance Study for Mesa County and Incorporated Areas," dated October 16, 2012. The study together with the Flood Insurance Rate Maps (FIRMs) are hereby adopted by reference and declared to be a part of this code. The FIRMs may be superseded by local engineering studies approved by the Director, provided such studies fully describe and analyze, based on the FIRMs and generally accepted engineering practice, design floodwater build-out conditions.
- (3) **Compliance.** No structure shall be constructed, located, extended, converted or altered without full compliance with the terms of this section and other applicable regulations. No land shall be developed without full compliance with the terms of this section and other applicable regulations. For waterways with base flood elevations (BFEs) for which a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRMs, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the City. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the NFIP regulations. The City may approve certain development in Zones A1-30, AE, AH, on the City's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

(4) This section does not and it is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. If this section and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions on use and development shall prevail and be applied.

(5) All terms and provisions of this section shall be:

(i) Considered as minimum requirements;

(ii) Liberally construed in favor of the City; and

(iii) Deemed neither to limit nor repeal any other powers granted or reasonably construed or interpreted under law, charter, rule or regulation.

(6) Warning and Disclaimer of Liability. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased because of manmade or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City, or any officer or employee thereof, or FEMA for any flood damage that results from reliance on this section or any administrative decision lawfully made hereunder.

(7) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(8) The Director shall maintain records obtained as part of a floodplain development permit, including but not limited to the lowest floor and floodproofing elevations for new and substantially improved construction.

(9) In riverine situations, notice shall be given by the Director to an adjacent community(ies) prior to any alteration or relocation of a watercourse.

Section 21.070.010(d) shall read as follows:

(d) **Provisions for Flood Hazard Reduction.**

(1) General Standards. The following standards shall apply to all property located in special flood hazard areas:

(i) Anchoring.

(A) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure and as anchored must be capable of resisting the hydrostatic and hydrodynamic loads.

(B) All manufactured homes shall be elevated and anchored to resist flotation, collapse or lateral movement and as anchored is capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, over the top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:

a. Over the top ties provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

b. Frame ties provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

c. Each component of the anchoring system shall be capable of carrying a force of 4,800 pounds; and

d. Any addition to the manufactured home shall be similarly anchored.

(ii) Construction Materials and Methods.

(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(C) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.

(iii) Utilities.

(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

(C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(iv) Subdivision Proposals.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(D) BFE data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

(2) Specific Standards. The following provisions, as determined from BFE data, are required for all special flood hazard areas:

(i) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at least one foot above the BFE.

(ii) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated at least one foot above the level of the BFE; or, together with attendant utility and sanitary facilities, shall:

(A) Be flood-proofed so that below the BFE the structure is watertight with walls being substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(C) Be certified by a Colorado registered professional engineer. The certification shall state that the design and methods of construction are in accordance with accepted standards of practice and meet the minimum provisions of this code. Such certifications shall be provided to and reviewed by the Director.

(iii) Openings in Enclosures Below the Lowest Floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall be certified by either a Colorado registered professional engineer or architect and must meet or exceed the following minimum criteria:

(A) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(B) The bottom of all openings shall be no higher than one foot above grade;

(C) Openings may be equipped with screens, louvers, or other coverings or devices; provided that they permit the automatic entry and exit of floodwaters.

(iv) Manufactured Homes.

(A) All manufactured homes that are placed and/or substantially improved on a site:

- a. Outside of a manufactured home subdivision;
 - b. In a new manufactured home park or manufactured home subdivision;
 - c. In an expansion to an existing manufactured home park or manufactured home subdivision; or
 - d. On an existing manufactured home park or manufactured home subdivision on which a manufactured home has incurred substantial damage as a result of a flood;
(B) Shall be anchored and elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the BFE;
- (C) The manufactured home shall be securely anchored to an anchored foundation system in order to resist flotation, collapse and lateral movement; and
- (D) Manufactured homes that are placed or substantially improved on sites in existing manufactured home parks or manufactured home subdivisions that are not subject to the provisions of this subsection shall be elevated so that either:
- a. The lowest floor of the manufactured home is at least one foot above the BFE; or
 - b. The manufactured home frame or chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and securely anchored to an anchored foundation system in order to resist flotation, collapse and lateral movement.
- (v) Recreational Vehicles. Recreational vehicles occupied as a temporary dwelling in a special flood hazard area shall:
- (A) Be permitted only where allowed in appropriate zone districts according to Section 21.04.010;
 - (B) Be authorized by an appropriate land use approval(s) from the City in accordance with the balance of this Code (if no appropriate land use approval has been granted, the use is not allowed);
 - (C) Not be on the site between April 1 and June 30 of each year;
 - (D) Be on the site for fewer than 180 consecutive days;
 - (E) Be fully licensed and ready for highway use;
 - (F) Be attached to the site only by quick disconnect type utilities and security devices;
 - (G) Include no permanently attached additions; and
 - (H) Meet the permit requirements, elevation and anchoring requirements for resisting wind forces as required for manufactured homes.

(3) Specific Standards for Areas of Shallow Flooding. Specific standards are required for special flood hazard areas associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(i) Residential Construction. All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer.

(ii) Nonresidential Construction. With the exception of critical facilities, all new construction and substantial improvements of nonresidential structures, must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the City's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification which shall state that the design and methods of construction are in accordance with accepted standards of practice and meet the minimum provisions of this code.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

(4) Specific Standards for Floodways. A floodway is an area within a special flood hazard area. The floodway is extremely hazardous due to the velocity of floodwaters, debris and erosion potential. To mitigate those hazards the following provisions apply:

(i) Encroachments, including fill, new construction, substantial improvements and other development are prohibited unless a Colorado registered professional engineer certifies in writing with a No-Rise Certificate that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge. The supporting technical data for the No-Rise Certificate shall be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM or Flood Boundary and Floodway Map (FBFM), unless otherwise approved by the Director.

(ii) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

(5) Specific Standards for Alteration of a Watercourse. For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

- (i) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (ii) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (iii) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
- (iv) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (v) All activities within the regulatory floodplain shall meet all applicable Federal, State and City floodplain requirements and regulations.
- (vi) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a No-Rise Certification.
- (vii) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

(6) Specific Standards for Properties Removed From the Floodplain by Fill. A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), with a lowest floor elevation placed below the Base Flood Elevation with one foot of freeboard that existed prior to the placement of fill.

(7) Specific Standards for Critical Facilities. A critical facility is a structure or related infrastructure, but not the land on which it is situated, as classified below, that if flooded

may result in significant hazards to public health and safety or interrupt essential services and operations for the City at any time before, during and after a flood.

(i) Classification of Critical Facilities. Critical facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

(A) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

- a. Public safety (police stations, fire and rescue stations, emergency -vehicle and equipment storage, and, emergency operation centers);
- b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and nonambulatory surgical structures but excluding clinics, doctors offices, and nonurgent care medical structures that do not provide these functions);
- c. Designated emergency shelters;
- d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- f. Air transportation lifelines [airports (municipal and larger)], helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), nonpotable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it is demonstrated to the satisfaction of the Director that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are otherwise compliant with all floodplain regulations, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. A development approval includes the condition that evidence of ongoing redundancy be provided to the Director upon the Director's request.

(B) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities include:

- a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- c. Refineries;
- d. Hazardous waste storage and disposal sites; and
- e. Above ground gasoline or propane storage or sales centers.

(C) At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- a. Elder care (nursing homes);
- b. Congregate care serving 12 or more individuals (day care and assisted living);
- c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

(D) Facilities vital to restoring normal services including government operations.

These facilities consist of:

- a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Director that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are otherwise compliant with all floodplain regulations and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Director on an as-needed basis as determined by the Director upon request.

(ii) Protection for Critical Facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of critical facilities, protection shall include one of the following:

- (A) Location outside the special flood hazard area; or
- (B) Elevation or floodproofing of the structure to at least two feet above the BFE.

(iii) Ingress and Egress for New Critical Facilities. New critical facilities shall, when practicable as determined by the Director, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

The following defined terms shall be changed to read as follows or added to Section 21.10.020:

Area of shallow flooding means a designated Zone AO or AH on the City's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood elevation (BFE) means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor subgrade (below ground level) on all sides.

Conditional letter of map revision (CLOMR) is FEMA's comment on a proposed project which does not revise an effective floodplain map that would upon construction affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the City at any time before, during and after a flood.

Five-hundred-year (500-year) flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood).

Five-hundred-year (500-year) floodplain means an area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source. (See graphic.)
- (3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodway means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). (See graphic.)

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Material Safety Data Sheet (MSDS) – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace

safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

No-Rise Certification is a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado professional engineer.

One-hundred-year (100 year) flood means a flood having a recurrence interval that has a one percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood).

One-hundred-year (100-year) floodplain means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood, including the low land near a watercourse which has been, or may be, covered by water of a flood of 100-year frequency, as established by engineering practices of the U.S. Army Corps of Engineers and/or the Colorado Water Conservation Board.

Special flood hazard area means the land in the floodplain within the City subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Threshold planning quantity (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

All other provisions of Section 21.07.010 and 21.10.020 not specifically referred to herein shall remain in full force and effect.

INTRODUCED on first reading the _____ day of _____, 2013 and ordered published in pamphlet form.

PASSED and ADOPTED on second reading the ____ day of _____, 2013 and ordered published in pamphlet form.

ATTEST:

President of the Council

City Clerk



Date: 03-21-13
 Author: Jamie B. Beard
 Title/ Phone Ext: Assistant City Attorney/4032
 Proposed Schedule: April 3, 2013
 2nd Reading
 (if applicable): April 17, 2013
 File # (if applicable): _____

**Attach 3
 CITY COUNCIL AGENDA ITEM**

Subject: Amendment to Chapter 6.12 of the Grand Junction Municipal Code Adopting Rules and Regulations Regarding Animals within the City
Action Requested/Recommendation: Introduce a Proposed Ordinance and Set a Hearing for April 17, 2013
Presenter(s) Name & Title: John Shaver, City Attorney Jamie B. Beard, Assistant City Attorney

Executive Summary:

The proposed ordinance amends Chapter 6.12 of the Grand Junction Municipal Code (“GJMC”) to require a permit for rehoming of a dog or cat under certain conditions, allow for impoundment of the dog(s) and cat(s) when there is no permit as required, and disposition of the animals after impoundment due to no permit or due to an animal having been abused and/or neglected.

Background, Analysis and Options:

People sell, trade, barter, transfer and/or give away (“rehome”) dogs and cats within the City limits. Many of these activities take place in the front of retail establishments or in the City’s parks and rights-of-way. The activities can be disruptive to other lawful activities. Permission is often not obtained by the person before attempting to rehome an animal from the parking lot of a business. Some of the animals being sold under these conditions are not from Grand Junction and have not always been bred in a manner that is optimal for the animal’s health. Many calls are made to the Mesa County Animal Services (“Animal Services”) and to the Grand Junction Police Department concerning the trespass actions, the concerns for the conditions of the animals, and/or notice that an animal that has been purchased has medical conditions.

The requirement for a permit will not eliminate the rehoming from happening, but will insure that the person has the permission to be rehoming the animal where the animal is being sold and require at least minimal examination of the animals by a veterinarian. The permit is only required in those instances where various concerns as described above have arisen frequently in the past few years. Where the risks are less, such as selling the animal from a residence, then a permit is not required. There will not be a fee charged for the permit.

The proposed changes also included the ability of Animal Services to impound the animal(s) when a permit has not been obtained and to otherwise dispose of the animals when the owner has violated the permit requirement on more than one occasion.

An additional change is proposed regarding animals that have been abused or neglected. The change gives Animal Services the ability to retain an animal(s) during the criminal proceedings or until the court orders otherwise and clarifies that the court may enjoin a person from having an animal in the person's care and control if determined appropriate for the safety of an animal.

A few minor changes have been proposed regarding what is required on the penalty assessment or summons issued. With the changes proposed, the information required meets the standards for any other penalty assessments and/or summons required under the Code. The information eliminated is still available to the person charged and to the prosecution. The information is just not included on the citation itself when issued to the alleged violator.

Please refer to Attachment A which shows the sections of Chapter 6.12 of the GJMC to be amended. Strikethroughs indicate deletions and additions are shown underlined.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County, and other service providers.

As the City and County have worked together to approve the same rules and regulations regarding animals, services may be provided more efficiently and the community has a clearer understanding of what is expected with the ownership of animals.

The County is expected to consider the same changes concerning the pet rehoming permits soon after the City has completed its consideration.

Board or Committee Recommendation:

The Board of Animal Control as the advisory board has reviewed and approved the substance of the changes.

Financial Impact/Budget:

Nominal costs for printed materials.

Legal issues:

The City Attorney has prepared the ordinance, reviewed and approved the proposed amendments.

Other issues:

NA

Previously presented or discussed:

The matter was discussed at the December 3, 2012 workshop,

Attachments:

Exhibit A - Illustrated Changes to GJMC Chapter 6.12
Proposed Ordinance

EXHIBIT A

6.12.090 Permit Required for Public Pet Rehoming. No person shall display any dog or cat for the purpose of selling, giving away, trading, bartering or adopting the animal without a Public Pet Rehoming Permit.

(a) A Public Pet Rehoming Permit is not required when:

(1) An owner is selling, giving away, trading, bartering or adopting an animal from a private residence; or

(2) An owner holds a current license issued by the Colorado Pet Animal Care and Facilities Act and is displaying the animals at that location; or

(3) The owner is a governmental or tax-exempt, not for profit animal welfare organization and is involved in an organized adoption event.

(b) The Public Pet Rehoming Permit can be obtained at Mesa County Animal Services. The permit process will require the following:

(1) The owner/applicant will complete and submit a Public Pet Rehoming Permit application no less than five business days prior to the date needed; and

(2) The owner/applicant will provide written documentation from a licensed veterinarian that the animals have been examined within seven days, are at least eight weeks old and current on all applicable vaccinations; and

(3) The owner/applicant will provide written authority and contact information from the owner of the property on which the animals will be displayed.

6.12.1090 Seizure and impoundment.

(a) **Impoundment of Dogs Authorized.**

(1) An Animal Services 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 Services 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 Services 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 Services Officer shall forthwith investigate any credible complaint that a dog is dangerous. If the officer reasonably believes the dog is dangerous or that the dog has previously been found to be a dangerous dog by any court and the dog is found to be confined in a manner inconsistent with the court's order or in violation of GJMC [6.12.060\(c\)](#), it shall be immediately seized and impounded. If impoundment of a dangerous dog cannot be made with safety to the Animal Services Officer or other persons, the dangerous dog may be summarily destroyed without notice to its owner, and the Animal Services Officer shall not be held liable for such action.

(c) **Impoundment of Habitual Offender Dogs.** An Animal Services Officer shall forthwith investigate any credible complaint that a dog is a habitual offender. In the event that the officer reasonably believes the dog is a public safety risk, it shall be immediately seized and impounded.

(d) **Impoundment of Animals for Violation of Public Pet Rehoming Permit.** An Animal Services Officer shall forthwith investigate any credible complaint that a person is in violation of the Permit Required for Public Rehoming. In the event that the officer reasonably believes that this is the second offense or more of GJMC 6.12.090, the animal(s) shall be immediately seized and impounded.

(e) **Notice of Impoundment and Disposition Alternatives.** When any animal has been impounded, Animal Services 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 Services personnel shall take all reasonable steps to identify the owner and provide such notification. If the animal's owner still cannot be established, Animal Services personnel may proceed with any disposition authorized by this chapter. Animal Services 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.

(f) **Length of Impoundment.**

(1) **Minimum Period.** Any animal impounded at Animal Services which is not reclaimed by the owner shall be held by Animal Services for a minimum of five days after acquisition by Animal Services, before it may become available for adoption or otherwise disposed of at the discretion of Animal Services, except that the Director may determine that an animal without identification, including but not limited to a microchip or collar, may be disposed of in three days if the Director 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 [6.12.1190](#).

(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 (i) in the opinion of a veterinarian the animal is experiencing extreme pain or suffering; and (ii) Animal Services 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 [6.12.060\(a\)](#). If no such action has been or will be commenced, such dog shall be disposed of pursuant to GJMC [6.12.1190](#).

[\(4\) Habitual Offender. A dog that meets the definition of habitual offender and is a public safety risk shall not be released from impoundment during the pendency of any criminal proceeding.](#)

[\(5\) Abused and/or Neglected. An animal that is or appears to be abused and/or neglected shall not be released from impoundment during the pendency of any criminal proceeding, except by order of the court.](#)

[\(6\) Public Pet Rehoming Permit. Animal\(s\) impounded for a second offense or more of violating GJMC 6.12.090 shall not be released from impoundment during the pendency of any criminal proceeding.](#)

[\(75\) 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 Services personnel. Additionally, the dog or cat shall not be vaccinated against rabies, have ownership transferred, or be destroyed or euthanized unless authorized by Animal Services personnel.](#)

[\(86\) 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 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.](#)

[\(97\) 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 Services Officer to quarantine such animal shall release such animal only to the Animal Services Officer according to the quarantine. The Animal Services 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 Services Center. The Animal Services 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 Services. No person or owner shall fail to meet the conditions established pursuant to subsection (e)(75) 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 Services and shall be a violation of this chapter.

(fg) Liability for Seizure and Impoundment Expenses. An owner or keeper shall be obligated to reimburse the Animal Services 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 Services Center at no cost to the owner.

(gh) Removal of Impounded Animals. No person shall remove any impounded animal from the Animal Services Center or from the official custody of an Animal Services Officer without the consent of the Director.

(hi) Impoundment Alternatives. Nothing in this section shall be construed to prevent an Animal Services Officer from taking whatever action is reasonably necessary to protect his person or members of the public from injury by any animal.

6.12.1190 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 Services Center only upon timely demand at the Animal Services 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 Services personnel or as provided in GJMC [6.12.120](#), concerning Animal Services 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 Services personnel by sale, transfer, donation, adoption to a suitable owner, or by humane euthanasia. No animal shall be released from the Animal Services Center for the purpose of medical research or experimentation.

(c) Disposition of Dangerous Dogs and Habitual Offenders.

(1) The owner of a dog which is found to be dangerous, 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, to abate a public nuisance, or to abate a public safety risk. 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.

(2) In the event of noncompliance with the conditions imposed pursuant to subsection (c)(1) of this section, the dog may be summarily impounded by Animal Services 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.

(3) 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.

(4) The owner or dog which is found to be a habitual offender shall be subject to any reasonable sentencing orders set by the court prior to or after redemption of the dog. These orders and conditions may include, but are not limited to, delayed release of the dog, construction of secure areas of confinement, neutering the dog, and any other terms or conditions deemed necessary to protect the public or the abate a public safety risk. These orders and conditions shall require payment of all fines and fees and expenses for seizure, impoundment, redemption, together with penalties and court costs, if any.

(d) Disposition of Animal(s) When Owner(s) Is Convicted of Cruelty to Animal(s) and/or Failure to Have the Permit Required for Public Pet Rehoming

(1) A person found to be guilty of cruelty shall be subject to any reasonable sentencing orders set by the court prior to or after redemption of the animal. These orders and conditions may include, but are not limited to, delayed release of the animal, construction of secure areas of confinement, neutering of the animal, enjoined from owning, caring, and/or caring for any animal and any other terms or conditions deemed necessary to protect animals from the person. If the court determines that an animal is not to be returned to the owner, then the court may order the animal to the care of Animal Services as owner of the animal and the animal may be disposed of by Animal Services personnel at their discretion. These orders and conditions shall require payment of all fines and fees and expenses for seizure, impoundment, redemption, together with penalties and court costs, if any.

(2) A person found guilty of a second violation or more of GJMC 6.12.090 may have ownership of the animal(s) terminated by the court to be ordered as property of Animal Services. These orders and conditions shall require payment of all fines and fees and expenses for seizure, impoundment, redemption, together with penalties and court costs, if any.

(de) Adoption of Dogs and Cats. No person may adopt a dog or cat from the Animal Services Center until such has guaranteed sterilization of the dog or cat. A deposit or adoption fee 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

Services 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 Services personnel and subject to reasonably prescribed conditions.

(ef) **Owner's Duty to Redeem Animal and Pay Fees.** No animal owner shall fail to make arrangements for the redemption or surrender of any animal impounded or to fail to pay any fees associated with the redemption or surrender of such animal.

6.12.1240 Enforcement.

(a) **Responsibility.** The provisions of this chapter shall be enforced within the City by the Director, Animal Services 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 Services 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 the Attorney's discretion any violation of this chapter.

(b) **Procedure.** Whenever an Animal Services 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, or 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 [6.12.060](#) involving a dangerous dog;

(ii) [Charged under GJMC 6.12.080](#) involving cruelty to an animal;

(iii) [Charged under GJMC 6.12.090 as a second violation or more for GJMC 6.12.090;](#)

(iv) Charged under GJMC [6.12.1190](#) 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

(vi) 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 Services 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; and

~~(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 or any Animal Services 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 Services Officer upon lawful demand by the officer to seize and impound the animal.

(f) **Search and Seizure of Dogs.** An Animal Services 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 and/or public safety risk as defined in this chapter, a court may issue an ex parte order requiring the owner to immediately surrender the dog to an Animal Services 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 and/or public safety risk dog or abandoned, abused, or neglected animals in order to preserve evidence or to protect the public safety and welfare. An Animal Services Officer seizing a public nuisance and/or public safety risk 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.

6.12.1650 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 Services Center all applicable fees and charges pursuant to GJMC [6.12.1320](#), 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 [6.12.1190\(c\)](#).

6.12.1870 Violations not involving bodily injury.

Any violation of GJMC [6.12.030](#), [6.12.040](#), [6.12.050](#), [6.12.060](#), [6.12.070](#), [6.12.080](#), [6.12.090\(f\)](#), [6.12.100\(d\)](#), [6.12.110\(d\)](#), (e) or (f) or 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.

6.12.1980 Violations involving bodily injury.

Any violation of GJMC [6.12.030](#), [6.12.040](#), [6.12.050](#), [6.12.060](#), [6.12.070](#), [6.12.090\(f\)](#), [6.12.100\(d\)](#), [6.12.110\(d\)](#), (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.

Any section not [specifically modified herein shall remain in full force and effect as written except that numbering shall be administratively changed in accordance with the changes made herein.](#)

**CITY OF GRAND JUNCTION, COLORADO
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING PARTS OF CHAPTER 6.12 OF THE
GRAND JUNCTION MUNICIPAL CODE RELATING TO PERMITS FOR REHOMING
OF PETS IN THE PUBLIC AND DISPOSITION OF ANIMALS**

RECITALS:

The City Council of the City of Grand Junction has reviewed and approved changes to Chapter 6.12 of the City of Grand Junctions Code of Ordinances relating to public safety and welfare of the public and the animals within the City and found the changes as proposed are beneficial to the health, safety, and welfare of the citizens of the community.

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

The following sections in Chapter 6.12 are hereby amended as follows:

**Chapter 6.12
DOGS AND CATS**

6.12.090 Permit Required for Public Pet Rehoming. No person shall display any dog or cat for the purpose of selling, giving away, trading, bartering or adopting the animal without a Public Pet Rehoming Permit.

(a) A Public Pet Rehoming Permit is not required when:

- (1) An owner is selling, giving away, trading, bartering or adopting an animal from a private residence; or
- (2) An owner holds a current license issued by the Colorado Pet Animal Care and Facilities Act and is displaying the animals at that location; or
- (3) The owner is a governmental or tax-exempt, not for profit animal welfare organization and is involved in an organized adoption event.

(b) The Public Pet Rehoming Permit can be obtained at Mesa County Animal Services. The permit process will require the following:

- (1) The owner/applicant will complete and submit a Public Pet Rehoming Permit application no less than five business days prior to the date needed; and
- (2) The owner/applicant will provide written documentation from a licensed veterinarian that the animals have been examined within seven days, are at least eight weeks old and current on all applicable vaccinations; and

(3) The owner/applicant will provide written authority and contact information from the owner of the property on which the animals will be displayed.

6.12.100 Seizure and impoundment.

(a) Impoundment of Dogs Authorized.

(1) An Animal Services 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 Services 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 Services 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 Services Officer shall forthwith investigate any credible complaint that a dog is dangerous. If the officer reasonably believes the dog is dangerous or that the dog has previously been found to be a dangerous dog by any court and the dog is found to be confined in a manner inconsistent with the court's order or in violation of GJMC [6.12.060\(c\)](#), it shall be immediately seized and impounded. If impoundment of a dangerous dog cannot be made with safety to the Animal Services Officer or other persons, the dangerous dog may be summarily destroyed without notice to its owner, and the Animal Services Officer shall not be held liable for such action.

(c) Impoundment of Habitual Offender Dogs. An Animal Services Officer shall forthwith investigate any credible complaint that a dog is a habitual offender. In the event that the officer reasonably believes the dog is a public safety risk, it shall be immediately seized and impounded.

(d) **Impoundment of Animals for Violation of Public Pet Rehoming Permit.** An Animal Services Officer shall forthwith investigate any credible complaint that a person is in violation of the Permit Required for Public Rehoming. In the event that the officer reasonably believes that this is the second offense or more of GJMC 6.12.090, the animal(s) shall be immediately seized and impounded.

(e) **Notice of Impoundment and Disposition Alternatives.** When any animal has been impounded, Animal Services 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 Services personnel shall take all reasonable steps to identify the owner and provide such notification. If the animal's owner still cannot be established, Animal Services personnel may proceed with any disposition authorized by this chapter. Animal Services 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.

(f) **Length of Impoundment.**

(1) **Minimum Period.** Any animal impounded at Animal Services which is not reclaimed by the owner shall be held by Animal Services for a minimum of five days after acquisition by Animal Services, before it may become available for adoption or otherwise disposed of at the discretion of Animal Services, except that the Director may determine that an animal without identification, including but not limited to a microchip or collar, may be disposed of in three days if the Director 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 [6.12.110](#).

(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 (i) in the opinion of a veterinarian the animal is experiencing extreme pain or suffering; and (ii) Animal Services 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 [6.12.060\(a\)](#). If no such action has been or will be commenced, such dog shall be disposed of pursuant to GJMC [6.12.110](#).

(4) Habitual Offender. A dog that meets the definition of habitual offender and is a public safety risk shall not be released from impoundment during the pendency of any criminal proceeding.

(5) Abused and/or Neglected. An animal that is or appears to be abused and/or neglected shall not be released from impoundment during the pendency of any criminal proceeding, except by order of the court.

(6) Public Pet Rehoming Permit. Animal(s) impounded for a second offense or more of violating GJMC 6.12.090 shall not be released from impoundment during the pendency of any criminal proceeding.

(7) 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 Services personnel. Additionally, the dog or cat shall not be vaccinated against rabies, have ownership transferred, or be destroyed or euthanized unless authorized by Animal Services personnel.

(8) 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 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.

(9) 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 Services Officer to quarantine such animal shall release such animal only to the Animal Services Officer according to the quarantine. The Animal Services 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 Services Center. The Animal Services 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 Services. No person or owner shall fail to meet the conditions established pursuant to subsection (e)(7) 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 Services and shall be a violation of this chapter.

(g) **Liability for Seizure and Impoundment Expenses.** An owner or keeper shall be obligated to reimburse the Animal Services 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 Services Center at no cost to the owner.

(h) **Removal of Impounded Animals.** No person shall remove any impounded animal from the Animal Services Center or from the official custody of an Animal Services Officer without the consent of the Director.

(i) **Impoundment Alternatives.** Nothing in this section shall be construed to prevent an Animal Services Officer from taking whatever action is reasonably necessary to protect his person or members of the public from injury by any animal.

6.12.110 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 Services Center only upon timely demand at the Animal Services 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 Services personnel or as provided in GJMC [6.12.120](#), concerning Animal Services 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 Services personnel by sale, transfer, donation, adoption to a suitable owner, or by humane euthanasia. No animal shall be released from the Animal Services Center for the purpose of medical research or experimentation.

(c) Disposition of Dangerous Dogs and Habitual Offenders.

(1) The owner of a dog which is found to be dangerous, 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, to abate a public nuisance, or to abate a public safety risk. 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.

(2) In the event of noncompliance with the conditions imposed pursuant to subsection (c)(1) of this section, the dog may be summarily impounded by Animal Services 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.

(3) 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.

(4) The owner or dog which is found to be a habitual offender shall be subject to any reasonable sentencing orders set by the court prior to or after redemption of the dog. These orders and conditions may include, but are not limited to, delayed release of the dog, construction of secure areas of confinement, neutering the dog, and any other terms or conditions deemed necessary to protect the public or to abate a public safety risk. These orders and conditions shall require payment of all fines and fees and expenses for seizure, impoundment, redemption, together with penalties and court costs, if any.

(d) Disposition of Animal(s) When Owner(s) Is Convicted of Cruelty to Animal(s) and/or Failure to Have the Permit Required for Public Pet Rehoming.

(1) A person found to be guilty of cruelty shall be subject to any reasonable sentencing orders set by the court prior to or after redemption of the animal. These orders and conditions may include, but are not limited to, delayed release of the animal, construction of secure areas of confinement, neutering of the animal, enjoined from owning, caring, and/or caring for any animal and any other terms or conditions deemed necessary to protect animals from the person.

If the court determines that an animal is not to be returned to the owner, then the court may order the animal to the care of Animal Services as owner of the animal and the animal may be disposed of by Animal Services personnel at their discretion. These orders and conditions shall require payment of all fines and fees and expenses for seizure, impoundment, redemption, together with penalties and court costs, if any.

(2) A person found guilty of a second violation or more of GJMC 6.12.090 may have ownership of the animal(s) terminated by the court to be ordered as property of Animal Services. These orders and conditions shall require payment of all fines and fees and expenses for seizure, impoundment, redemption, together with penalties and court costs, if any.

(e) **Adoption of Dogs and Cats.** No person may adopt a dog or cat from the Animal Services Center until such has guaranteed sterilization of the dog or cat. A deposit or adoption fee 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 Services 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 Services personnel and subject to reasonably prescribed conditions.

(f) **Owner's Duty to Redeem Animal and Pay Fees.** No animal owner shall fail to make arrangements for the redemption or surrender of any animal impounded or to fail to pay any fees associated with the redemption or surrender of such animal.

6.12.120 Enforcement.

(a) **Responsibility.** The provisions of this chapter shall be enforced within the City by the Director, Animal Services 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 Services 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 the Attorney's discretion any violation of this chapter.

(b) **Procedure.** Whenever an Animal Services 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, or 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 [6.12.060](#) involving a dangerous dog;
- (ii) Charged under GJMC [6.12.080](#) involving cruelty to an animal;
- (iii) Charged under GJMC 6.12.090 as a second violation or more for GJMC 6.12.090;
- (iv) Charged under GJMC [6.12.110](#) involving failure to comply with impound/quarantine requirements;
- (v) Known to have been issued three or more penalty assessment notices for violation of this chapter within the last two years; or
- (vi) 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 Services 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;
- (iii) Name of the alleged offender;
- (iv) Specific offense;
- (v) Applicable fine; and
- (viii) A brief summary 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 or any Animal Services 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 Services Officer upon lawful demand by the officer to seize and impound the animal.

(f) **Search and Seizure of Dogs.** An Animal Services 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 and/or public safety risk as defined in this chapter, a court may issue an ex parte order requiring the owner to immediately surrender the dog to an Animal Services 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 and/or public safety risk dog or abandoned, abused, or neglected animals in order to preserve evidence or to protect the public safety and welfare. An Animal Services Officer seizing a public nuisance and/or public safety risk 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.

6.12.160 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 Services Center all applicable fees and charges pursuant to GJMC [6.12.130](#), 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 [6.12.110\(c\)](#).

6.12.180 Violations not involving bodily injury.

Any violation of GJMC [6.12.030](#), [6.12.040](#), [6.12.050](#), [6.12.060](#), [6.12.070](#), [6.12.080](#), [6.12.090\(f\)](#), [6.12.100\(d\)](#), [6.12.110\(d\)](#), (e) or (f) or 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.

6.12.190 Violations involving bodily injury.

Any violation of GJMC [6.12.030](#), [6.12.040](#), [6.12.050](#), [6.12.060](#), [6.12.070](#), [6.12.090\(f\)](#), [6.12.100\(d\)](#), [6.12.110\(d\)](#), (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.

Any section not specifically modified herein shall remain in full force and effect as written except that numbering shall be administratively changed in accordance with the changes made herein.

INTRODUCED on first reading the _____ day of _____, 2013 and ordered published in pamphlet form.

PASSED and **ADOPTED** on second reading the ____ day of _____, 2013 and ordered published in pamphlet form.

President of City Council

ATTEST:

City Clerk



Date: 03/21/13
 Author: Duane Hoff Jr
 Title/ Phone Ext: X-1545
 Proposed Schedule: 04/03/13
 2nd Reading
 (if applicable): _____
 File # (if applicable): _____

**Attach 4
 CITY COUNCIL AGENDA ITEM**

Subject: Contract for Janitorial Products, Supplies and Green Cleaning Program
Action Requested/Recommendation: Authorize the Purchasing Division to Negotiate a Contract with Sanitary Supply Corporation, Grand Junction, to Provide Janitorial Products, Supplies, and Green Cleaning Program for the City’s Facilities, for an Estimated Annual Amount of \$79,400
Presenter(s) Name & Title: Jay Valentine, Internal Services Manager Kathy Portner, Economic Development and Sustainability Division

Executive Summary:

This request is for the negotiation of a contract for the products, supplies, services, and training required to successfully maintain the City’s Green Cleaning Program, with three additional, one year renewal options.

Background, Analysis and Options:

In 2007, the Grand Junction City Council signed a Resolution committing to conservation efforts whenever and wherever feasible in the City of Grand Junction and formed a resource conservation team, GJ CORE (Conserving Our Resources Efficiently) to assess and monitor the progress of proposed initiatives and current conservation practices, work to introduce new practices, and explore new conservation opportunities from other communities and outside entities. In 2009 the CORE team assisted in developing an RFP for green janitorial services to further the resource management goals and provide for a healthier work place. The CORE team fully supports the continuation of this successful program.

Green Cleaning is defined as cleaning to protect health without harming the environment. A Green Cleaning program goes beyond chemical and equipment choices. It includes policies, procedures, training, and shared responsibility efforts that minimize the impact of cleaning materials on the health of building occupants and protect the environment as a whole.

Through a formal proposal process in 2008, Sanitary Supply was selected to implement the City's first Green Cleaning Program. Through the past four years, they have successfully outfitted all City facilities, implemented the required green initiative training for all City custodial staff, and have provided exceptional service to support this initiative. The final renewal contract expires in March of this year.

A new formal Request for Proposal was issued via BidNet (an on-line site for government agencies to post solicitations), advertised in The Daily Sentinel, posted on the City's website, sent to the Grand Junction Chamber of Commerce, and to a source list of vendors. Seven proposal responses were received for this solicitation and evaluated by a committee consisting of representatives from the Facilities Division, Purchasing, Stores and CORE.

The evaluation committee narrowed the selection to the top three proposals received, to invite for interviews and presentations. After reviews, the committee unanimously selected Sanitary Supply Corp, Inc. as the preferred proposer followed by Staples, and Central Distributing. Sanitary Supply was selected based on past performance, superior service levels and technology, in addition to keeping with the current standards for compatibility and conformity with City-owned equipment or materials.

How this item relates to the Comprehensive Plan Goals and Policies:

N/A

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

These products will be purchased and stocked in the City Stores warehouse. As needed, City departments will purchase these products from Stores using the budgeted funds allocated to the various divisions for this purpose.

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

N/A

Attachments:

N/A



Date: March 12, 2013
 Author: Darren Starr
 Title/ Phone Ext: Solid Waste & Streets Manager/ x-1493
 Proposed Schedule: April 3, 2013
 2nd Reading
 (if applicable): _____

**Attach 5
 CITY COUNCIL AGENDA ITEM**

Subject: Aggregate and Road Material for the Streets Division for 2013
Action Requested/Recommendation: Authorize the Streets Division to Enter into a Contract with Grand Junction Concrete and Pipe to Provide Aggregate and Road Materials for the Streets Division for an Estimated Amount of \$100,750.
Presenter(s) Name & Title: Greg Trainor, Public Works, Utilities, and Planning Director Darren Starr, Streets, Storm Water, and Solid Waste Manager Jay Valentine, Internal Services Manager

Executive Summary:

This request is for the purchase of 3/8” aggregate for the City’s Streets Division for 2013. This aggregate will be used as chips for the 2013 Chip Seal project.

Background, Analysis and Options:

Each year the City’s Streets Division conducts repairs and maintenance of numerous streets and roads in its jurisdiction. The aggregate and road materials are used for chip sealing as well as providing a stronger longer lasting base on which to apply the chip seal process. This method of maintenance and repair not only extends the life of the existing road or street at a greatly reduced price compared with re-asphalting process, but also provides citizens and tourists safer roads.

A formal Invitation for Bids was issued via BidNet (an on-line site for government agencies to post solicitations), advertised in The Daily Sentinel, posted on the City’s website, sent to the Western Colorado Contractors Association (WCCA), and the Grand Junction Chamber of Commerce. Three companies submitted a formal bid for the 3/8” aggregate, which were found to be responsive and responsible, in the following amounts:

Firm	Location	Amount
GJ Pipe & Supply	Grand Junction, CO	\$ 100,750
Whitewater Building Materials	Grand Junction, CO	\$ 112,125
United Companies	Grand Junction, CO	\$ 130,000

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 9: Develop a well-balanced transportation system that supports automobile, local transit, pedestrian, bicycle, air, and freight movement while protecting air, water and natural resources.

Providing chip seal repair to distressed street areas will help to ensure smooth and safer traffic flow, while extending the life of the roadways and realizing significant cost savings.

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

\$725,000 budgeted in the Sales Tax Capital Improvement Fund for the Chip Seal Program. Program costs are as follows:

Estimated Chip Seal Project Costs:

3/8 inch Chips (Grand Junction Pipe & Supply)	\$ 100,750.00
Chip Seal Oil (Est.)	\$ 499,250.00
Crack-fill material Est.)	\$ 125,000.00
Total Estimated Project Cost	\$ 725,000.00

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

N/A

Attachments:

N/A



Date: 3-13-13
 Author: Darren Starr
 Title/ Phone Ext: Manager/ #1493
 Proposed Schedule: 4-3-2013
 2nd Reading
 (if applicable): _____
 File # (if applicable): _____

**Attach 6
 CITY COUNCIL AGENDA ITEM**

Subject: Purchase Hot Mix Asphalt for Streets Division for 2013
Action Requested/Recommendation: Authorize the Purchasing Division to Purchase Approximately 1,200 Tons of Hot Mix Asphalt, on Behalf of the Streets Division, from Elam Construction, Inc. for an Amount Not to Exceed \$90,000
Presenter(s) Name & Title: Greg Trainor, Public Works, Utilities, and Planning Director Darren Starr, Streets, Storm Water, and Solid Waste Manager Jay Valentine, Internal Services Manager

Executive Summary:

This request is for the purchase up to 1,200 tons of hot mix asphalt for the Streets Division to be used for road work and repairs in 2013.

Background, Analysis and Options:

Each year the City’s Streets Division is required to pave, re-pave, and repair numerous streets throughout the City. As part of our Utility cuts, pot hole patching, and street repairs needed to prepare for this year’s chip seal program an estimated amount of hot mix was bid out.

A formal Invitation to Bid was issued via BidNet (an on-line site for government agencies to post solicitations), advertised in The Daily Sentinel, posted on the City’s website, sent to the Western Colorado Contractors Association (WCCA), and the Grand Junction Chamber of Commerce. Two companies submitted formal bids, which were found to be responsive and responsible, in the following amounts:

Company	Location	Price/Ton
Elam Const. Inc.	Grand Junction, CO	\$70.75
Oldcastle SW Group, Inc. dba United Co.	Grand Junction, CO	\$73.00

Elam Construction, as the lowest bidder, is the recommended provider however, certain situations may dictate that material also be purchased from Oldcastle SW Group.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 9: Develop a well-balanced transportation system that supports automobile, local transit, pedestrian, bicycle, air, and freight movement while protecting air, water and natural resources.

Providing hot asphalt repair to distressed street areas, pot holes, and utility cuts will help to ensure smooth and safer traffic flow, while extending the life of the roadways and realizing a long term cost savings.

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

\$90,000 is budgeted in the General Fund-Streets Division for this expenditure. The exact amount of material that is needed for the season is still unknown, but will not exceed the amount budgeted.

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

N/A

Attachments:

N/A



**Attach 7
CITY COUNCIL AGENDA ITEM**

Date: 03/11/2013
Author: Larry Brown
Title/ Phone Ext: WW Ops and Maint
Supervisor x 4168
Proposed Schedule: April 3, 2013
2nd Reading
(if applicable): _____

File # (if applicable):

Subject: Purchase One Truck Mounted Jet Vacuum Unit
Action Requested/Recommendation: Authorize the City Purchasing Division to Purchase a Truck Mounted Jetter/Vacuum Unit from Faris Machinery of Grand Junction, CO in the Amount of \$294,552.
Presenter(s) Name & Title: Greg Trainor, Public Works, Utilities, and Planning Director Jay Valentine, Internal Services Manager

Executive Summary:

This purchase will provide a combination Jetter/Vacuum sewerline maintenance truck for the Persigo Collections Division. This vehicle is a replacement to the fleet.

Background, Analysis and Options:

This truck is used to clean out lift station wet wells, catch basins, storm and sanitary sewer lines.

Two major considerations were reviewed for these proposals, the type of vacuum system and the ability to keep all of the hydraulic actuators, hoses and fittings outside of the debris tank. There are two types of vacuum systems, fan and positive displacement. Previous experience with a Positive displacement vacuum system has proven to be negative in both cost and productivity. These systems break frequently, are expensive and time consuming to repair, putting the unit out of service for extended periods of time.

Where both of the lowest cost units meet our minimum requirements both Waste Water operations, and Fleet Services agree that the best and most responsible purchase would be the Faris Machinery Vactor unit on a Freightliner truck because of the proven Fan style vacuum system not offered by the lowest proposal. The Faris truck was also evaluated for 29 additional items to ensure that it met the City's needs. Faris Machinery is a local dealer with a full service shop employing factory trained technicians to handle any warranty and support needs.

A formal Request for Proposals was issued via the Rocky Mountain Bid System, an on-line site for government agencies to post solicitations, and advertised in The Daily Sentinel. Fourteen responses were received. Prices reflect cost after trade-in.

FIRM	LOCATION	COST
Kois Brothers/2014 Stock Freightliner	Commerce City, CO	\$282,867.00
Faris Machinery/Freightliner	Grand Junction, CO	\$294,552.00
Faris Machinery/International	Grand Junction, CO	\$294,875.00
Faris Machinery/Mack	Grand Junction, CO	\$295,771.00
Faris Machinery/Peterbilt	Grand Junction, CO	\$298,300.00
Kois Brothers/Freightliner + Camel	Commerce City, CO	\$312,913.00
Grand Junction Peterbilt/367	Grand Junction, CO	\$318,538.00
Kois Brothers/Bid No. 3	Commerce City, CO	\$322,883.00
Grand Junction Peterbilt/B10	Grand Junction, CO	\$324,708.70
Grand Junction Peterbilt/F10	Grand Junction, CO	\$340,244.70
Williams Equipment LLC/Vac Con	Henderson, CO	\$350,655.00
Western Colorado Truck/MacDonald	Fruita, CO	\$365,360.00
Hanson International/International	Grand Junction, CO	\$369,109.70
Western Colorado Truck/Aquatech	Fruita, CO	\$380,896.00

The lowest price unit was not chosen due to its utilization of a positive displacement vacuum system. The recommendation is to award to Faris Machinery a local dealer in the amount of \$294,552.

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

This purchase is budgeted and will be funded out of the Fleet Replacement Fund.

Legal issues:

N/A

Other issues:

A CNG option was not looked at on this unit because of the need to store the truck indoors to prevent freezing as well as the distance between Persigo and the CNG time fill location at Fleet.

Previously presented or discussed:

N/A

Attachments:

N/A



Date: 3-21-13
 Author: Darren Starr
 Title/ Phone Ext: Manager/
#1493
 Proposed Schedule: 4-3-2013

 2nd Reading
 (if applicable): _____

**Attach 8
 CITY COUNCIL AGENDA ITEM**

Subject: Dump Truck Rentals with Drivers for the City Spring Cleanup Program 2013
Action Requested/Recommendation: Authorize the Purchasing Division to Enter into a Contract with Upland Companies to Provide Thirteen Dump Trucks with Drivers for the Duration of the Two Weeks for the City Spring Cleanup Program, for an Estimated Amount of \$65,000
Presenter(s) Name & Title: Greg Trainor, Public Works, Utilities, and Planning Director Darren Starr, Streets, Storm Water, and Solid Waste Manager Jay Valentine, Internal Services Manager

Executive Summary:

This request is for the award of a contract for the rental of dump trucks with drivers to haul debris and refuse to designated collection sites as part of the City’s Annual Spring Cleanup Program for 2013.

Background, Analysis and Options:

Each year the City’s Streets Division conducts its Annual City Spring Cleanup Program. The Cleanup program provides hauling and disposal of debris and refuse that citizens wish to dispose of, at no cost to the citizens. The renting of dump trucks with drivers is required to complete the two week cleanup, which runs from April 15, 2013 – April 27, 2013 (with the 1st week being dedicated to the north half of the City and the 2nd week being dedicated to the south half of the City). It is estimated we will need each truck and driver 40 hours each week for an estimated total of 867 hours at straight time.

A formal Invitation for Bid was issued via BidNet (an on-line site for government agencies to post solicitations), advertised in The Daily Sentinel, posted on the City’s website, sent to the Western Colorado Contractors Association (WCCA), and the Grand Junction Chamber of Commerce. There were no bids received for this solicitation. The Purchasing Division then actively sought out quotes from five known sources, two of which responded, but both quotes received were over budget. The Purchasing Division then entered negotiations with the Contractor with lowest quote received. A negotiated price was agreed upon for an estimated amount of \$75.00 per hour for an estimated total of \$65,000

Company	City, State	Straight Time Per/hr	Over Time Per/hr
Upland Companies	Grand Junction, CO	\$75.00	\$75.00

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

Spring Clean-up Project Costs:

Dump Truck/Driver Rental (current request)	\$ 65,000.00
City Labor and Benefits (est.)	\$ 55,000.00
Printing and Postage (est.)	\$ 5,400.00
Operating Supplies (est.)	\$ 5,900.00
Land Fill Costs (est.)	\$ 45,000.00
Rental of Skid Loaders (previously bid)	\$ 27,810.00
<u>Roll-Off Dumpster Service (previously bid)</u>	<u>\$ 45,700.00</u>

Total Estimated Spring Clean-up Project Cost **\$249,810.00**

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

N/A

Attachments:

N/A



Date: March 18, 2013
 Author: Jim Finlayson
 Title/ Phone Ext: IT Manager/1525
 Proposed Schedule: April 3, 2013

 2nd Reading
 (if applicable): _____

**Attach 9
 CITY COUNCIL AGENDA ITEM**

Subject: Storage Area Network Systems (SANS) Replacement Purchase for City Hall and Public Safety Facility
Action Requested/Recommendation: Authorize the City Purchasing Division to Negotiate a Contract with ISC of Englewood, Colorado for an Estimated Amount of \$987,000 to Provide and Install Two New Storage Area Network Systems
Presenter(s) Name & Title: Jim Finlayson, Information Technology (IT) Manager Jay Valentine, Internal Services Manager

Executive Summary:

As part of the City’s planned replacement program, the IT Division is requesting authorization to replace two (2) Xiotech Magnitude 3D 4000 SANS that have been in use at City Hall and the Public Safety data centers since 2008. Both systems are beyond their recommended capacity and at the end of their expected life. This upgrade will provide all departments in the City with a modern, centralized storage environment that provides highly scalable storage capacity and performance, robust fault tolerance, high availability and reliability, and that is compatible with the City’s existing network and server environment.

Background, Analysis and Options:

In today’s world of virtual servers and high volume storage requirements, maintaining fast, efficient storage devices is critical. The City’s computer infrastructure supports a highly diversified set of department and agency requirements that include the 24 x 7 Life Critical systems used by 26 Public Safety Agencies in the City and County and a significant number of Mission Critical systems that support every function in the City. Virtually every City service activity provided to our citizens, begins with, is tracked by, or is reported on by, one of more than 200 software systems that store data on the SANS.

The two SANS being replaced with this procurement are truly the data hub of our computer infrastructure. The two new systems will provide automatic backup for each other and store the data used by more than 700 Personal Computers and 250 Servers. Operating in our 24 X 7 environment, the systems are designed to provide disaster

recovery and continuity of operations capabilities for each other to ensure that no single failure will make our systems unusable. If either system were to fail, the other system will automatically provide the necessary access to data.

Given the explosive rate of data growth the City has experienced, the new systems are configured with 40TB of usable storage and are capable of being expanded as the City's needs grow. The two systems should provide a solid data storage foundation for at least five years.

To select a vendor for these sophisticated systems, City IT and Purchasing staff spent almost a year researching the latest technologies and trends in the data storage industry. A formal Statement of Qualifications (SOQ) was developed and issued by the team that solicited cost and technical information from vendors specializing in the manufacture and installation of SANS equipment. Seven vendors participated in the mandatory pre bid conference call. Five vendors made on-site visits to evaluate our computing environment and to collect technical statistics that would be used to properly size and configure their proposed system.

Five responses were received from interested vendors, including multiple options from several vendors that included technical proposals describing system functionality, configuration options, software, equipment, supplies and implementation services. The proposals were evaluated using best value criteria by a technical team of City network and infrastructure professionals. After review, the top two vendors were asked to provide an oral proposal and demonstration of their products.

At the end of the evaluation process, ISC of Englewood, Colorado was unanimously chosen as the vendor offering the best overall value. The selection was based on the reliability, performance, scalability and security capabilities of the equipment manufacturer and the proven installation and data migration capabilities of the proposer. The recommended system and services will allow a seamless transition from the old to the new equipment and provide the City with a flexible, reliable and expandable system for the expected life of the system.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 11: Public safety facilities and services for our citizens will be a priority in planning for growth.

While supporting all of the computing resources and activities across the City, the new SANS are critical to the ongoing operations of the 911 Center and all Public Safety agencies in the valley. A failure at the SANS level would make operations extremely difficult and inefficient. The SANS devices provide the same capabilities for all City departments.

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

\$1,100,000 was planned for and included in the capital budget for 2013. It is funded by replacement fees accrued in the IT fund over the past five years for equipment replacement.

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

N/A

Attachments:

N/A



Date: 03-21-13
 Author: Eileen List
 Title/ Phone Ext: Industrial
Pretreatment Supv. 970-256-4164
 Proposed Schedule: 02-20-13 First
Reading
 2nd Reading
 (if applicable): 04-03-13

**Attach 10
 CITY COUNCIL AGENDA ITEM**

Subject: Amending Wastewater and Industrial Pretreatment Regulations in Title 13 of the Grand Junction Municipal Code
Action Requested/Recommendation: Hold a Public Hearing and Consider Final Passage and Final Publication in Pamphlet Form of the Proposed Ordinance. Adopt Proposed Ordinance (contingent upon USEPA final approval)
Presenter(s) Name & Title: John Shaver, City Attorney Eileen List, Industrial Pre Treatment Supervisor

Executive Summary:

The City’s Wastewater and Industrial Pretreatment Ordinance (“Ordinance”) Chapter 13.04 has been revised to comply with federal Pretreatment requirements and to make the ordinance more user-friendly for the City’s regulated industrial and commercial customers. The changes also affect cross references in other sections of the Code.

Background, Analysis and Options:

The United States Environmental Protection Agency (USEPA) requires the City’s Persigo Wastewater Treatment Facility to have an Industrial Pretreatment Program (Pretreatment) to prevent certain pollutants from entering the wastewater system. The pollutants of concern are those that can interfere with the operation of the wastewater treatment process, pass through the wastewater treatment system without adequate treatment or contaminate treatment plant biosolids.

The Industrial Pretreatment program was delegated approval authority from USEPA in 1984. The initial version of the City’s Pretreatment Regulations were included in the City’s Wastewater Ordinance and approved by USEPA at that time. There are currently over 5,000 businesses included in the Pretreatment Program’s Industrial Waste Survey. City Industrial Discharge Permits are issued to 16 industries and 14 waste haulers.

The Grand Junction Municipal Code (GJMC) has been revised numerous times to address new federal requirements found in 40 CFR 403, with the latest revision in 2009. The 2013 revision is a major revision of the GJMC, necessary for the City to come fully into compliance with federal Pretreatment requirements and to increase the enforceability of Industrial Discharge Permits. The revision separates Wastewater and

Industrial Pretreatment requirements into better-defined sections, which should result in an easier comprehension of the City's regulations by the regulated community; corrects typographical errors (i.e., cadmium mass-based local limit corrected from 0.057 to 3.057 pounds per day); lowers the pH limit from 5.5 s.u. to 5.0 s.u. to be consistent with federal regulations; adds a requirements section for new Categorical Users; clarifies sample collection and testing method requirements; adds the authority to prosecute criminal activities; and provides the authority to establish and enforce specific section control programs through the use of Best Management Practices. The revisions are primarily administrative with no major impacts anticipated to the local regulated community.

The City's 30 permitted industrial stakeholders, who are the most affected by the Ordinance, were sent copies of the proposed revisions for a 30-day stakeholder review period to request written comment on the revisions. All stakeholders confirmed their receipt of the proposed revisions. Of that review process only one written comment from a permitted industrial user was received.

AlSCO / American Linen requested that the City remove historical Total Recoverable Petroleum Hydrocarbons and Fats, Oils and Grease limits from the City's Ordinance. AlSCO claims that the City's limits for these parameters were not properly developed or defensible and requests the limits be removed until more technically-based and defensible limits can be developed. Council should be aware that the USEPA and the City addressed this issue with AlSCO in July 2012 and denied AlSCO's request to set aside or relax these limits at that time. The USEPA and the City determined that the limits were indeed appropriate, defensible and enforceable and consistent with the Federal Pretreatment Program discharge regulations. Copies of AlSCO's comment letter for this hearing as well as the USEPA and City July, 2012 response letters to AlSCO are attached. Staff is recommending that Council not consider the removal of these historical limits from the City's Ordinance.

After City Council's First Reading the revised Ordinance was sent to USEPA for formal approval. USEPA has already performed an informal review of the Ordinance and it met their approval. Per federal requirement the USEPA placed a 30-day public notice of the revised Ordinance in the Grand Junction Daily Sentinel on March 21. Staff recommends that Council adopt the proposed Ordinance contingent upon USEPA final approval, which is expected to be issued in May, 2013.

How this item relates to the Comprehensive Plan Goals and Policies:

The proposed Ordinance complements the Comprehensive Plan Vision, "Becoming the Most Liveable Community West of the Rockies," by helping to ensure a community that is organized, functioning and orderly, promotes a healthy life style and is safe. This is done with the proposed Ordinance by ensuring the City's wastewater and industrial pretreatment regulations meet federal and local requirements in order to protect the health and well-being of the public as well as the precious environment of Grand Junction and Mesa County.

Board or Committee Recommendation:

Not Applicable

Financial Impact/Budget:

There may be minor increased analytical testing required of regulated industries; this will be determined on an individual basis at the time of individual discharge permit renewal in 2013.

Legal issues:

This revision results in full compliance with federal 40 CFR 403 Pretreatment regulations.

Other issues:

None

Previously presented or discussed:

None

Attachments:

1. ALSCO Comment Letter
2. 2012 City Basis for FOG_TRPH limits
3. 2012 EPA response letter to AlSCO
4. Proposed Ordinance



**ENVIRONMENTAL
ENGINEERING & CONTRACTING, INC.**

501 Parkcenter Drive, Santa Ana, CA 92705
Phone (714) 667-2300 Fax (714) 667-2310

February 4, 2013

Ms. Eilene List
City Of Grand Junction
2145 River Rd
Grand Junction, Co. 81505

Subject: Comments on the Draft Sewer Use Ordinance -
13.04.370 Industrial Pretreatment Program

Dear Ms. List,

Pursuant to your request, ALSCO is submitting the following comments specific to the following discharge limits contained in 13.04.370 - Industrial Pretreatment Program – Prohibited Discharge and Limitations:

Total Recoverable Petroleum Hydrocarbons (TRPH) (Oil and Grease Petroleum) = 50 mg/L
Fats, Oils and Grease (FOG) (animal/vegetable) = 200 mg/L

As noted in the EPA 2004 Local Limits Development Guidance Document Guidance, local limits must be technically-based on site-specific factors. See, e.g., 2004 Local Limits Guidance Chapters 1 and 6 generally, and Sections 5.3.3 and 8.3 more specifically with regard to the development of oil and grease local limits. Of particular relevance to ALSCO's request to EPA Headquarters, EPA specifically discusses in Section 5.3.3 of the 2004 Local Limits Guidance the historical use by POTWs of a 100 mg/l limit for petroleum-based oil and grease, noting that the basis for this 100 mg/l limit is *not* site-specific and that additional information would need to be considered before such limit would become a technically-based limit:

The basis of the 100 mg/L limit is an April 1975 EPA document titled *Treatability of Oil and Grease Discharged to Publicly Owned Treatment Works*. This study found a dilution of at least two occurs in collection systems and that influent to biological treatment systems should contain less than 75 mg/L and preferably less than 50 mg/L oil and grease of mineral or petroleum origin to prevent interference. *The 100 mg/L was recommended as the value that prevents interference based on dilution. However, the basis for the 100 mg/L [fats, oil, and grease] FOG limit is not site specific. The limit should be justified with additional information in order to be considered a technically based limit.* 2004 Local Limits Guidance at page 5-24 (Emphasis added).¹

To illustrate its point, EPA described in the 2004 Local Limits Guidance how the City of Richland, Washington reconsidered and eliminated a laundry facility's FOG effluent limit in their permit. See 2004 Local Limits Guidance, Section 5.3.3, Exhibit 5-6.

The City of Grand Junction explained the bases for its FOG (animal/vegetable) and TRPH limits in its July 6th letter to ALSCO. With regard to its TRPH numeric limit of 50 mg/l, the City explained that "Other pretreatment programs have similar petroleum oil and grease (TRPH) limits" and referred to the 1975 EPA Study - *Treatability of Oil and Grease Discharged to Publicly Owned Treatment Works*.^{2 1} These bases clearly illustrate why such limits are neither technically-based nor site-specific. See Section 5.3.3 of the 2004 Local Limits Guidance Document which states that numeric oil and grease limits must be site-specific and technically based. Section 5.3.3 provides a technically-based maximum allowable headworks loading (MAHL) method (and Exhibit 5-7) for developing a petroleum oil and grease limit which is appropriately based on site-specific factors.

With regard to the referenced 1975 EPA Study, it is worth noting that the 100 mg/l petroleum oil and grease limit (which is stated in the 2004 Local Limits Guidance) is based on a dilution factor of at least two occurring in collection systems. This two times dilution effect of the collection system is most likely referring to a two times dilution of the maximum industrial loading, and a limit above 100 mg/l would be appropriate for any collection system that has more than a two times dilution effect of the collection system. Based on the amount of industry in the City of Grand Junction, the collection system dilution is most likely greater than five; therefore, the appropriate petroleum oil and grease (or TRPH) limit for the City of Grand Junction would be greater than 250 mg/l using the 1975 EPA Study as a basis for calculating the limit

With regard to its FOG (animal/vegetable) limit, the City noted that it “once had a FOG limit of 100 mg/l, but increased the limit to 200 mg/l based on the successful implementation of the City’s Grease Reduction Program.” We do not know how the City determined that 200 mg/l was an appropriate limit, but in our experience, this is not consistent with technically-based methods for developing local limits. As discussed more specifically in Section 8.3 of the 2004 Local Limits Guidance with regard to developing a FOG limit, “To develop a technically-based FOG limit for protecting the collection system, empirical data (observations and measurements) are needed to document problems and contributing factors. The empirical data along with generally available pretreatment and control measures for FOG become the basis for the proposed local limit. To collect data, the POTW first identifies collection system sections that have a critical low slope (i.e., relatively flat) profile and may be subject to low temperatures. Data are collected that identify FOG levels corresponding to deposition rates of solidified oil and grease. The level of oil and grease at which deposition is negligible would be the basis for the collection system MAHL”. As previously noted, Section 5.3.3 of the 2004 Local Limits Guidance describes how the City of Richland, Washington reconsidered and eliminated a laundry facility’s FOG effluent limit in their permit. See 2004 Local Limits Guidance Section 5.3.3, Exhibit 5-6.

The City also referenced the 2007 EPA Document – *Controlling Fats, Oils, and Grease (FOG) Discharges from Food Service Establishments*. This 2007 EPA document applies to regulating food service establishments and is not applicable to industries.

As the 2004 Local Limits Development Guidance makes clear, particularly as to the development of numeric oil and grease limits, such limits must be technically-based and site-specific. Based on the information that the City presented, its numeric oil and grease limits are neither technically-based nor site-specific; therefore, ALSCO requests that the City remove these limits from the ordinance until more technically-based and defensible limits can be developed.

On behalf of ALSCO, thank you for your consideration of these comments.

Thank you,

James Jonely
General Manager
AlSCO

Attach: July 6, 2012 Letter from Eileen List, City of Grand Junction, to ALSCO

cc: Dan Tonello, City of Grand Junction Pretreatment



UTILITY AND STREET SYSTEMS
STREET SYSTEMS

July 6, 2012

Mr. James Jonely, General Manager
c/o ALSCO – American Linen Division
702 South 9th Street
Grand Junction, CO 81501

Dear Mr. Jonely,

Your consultant, Mr. John Schaffer, of Environmental Engineering & Contracting, Inc., has requested on behalf of ALSCO that the City of Grand Junction (City) provide additional information on the basis for the adoption of the specific prohibitions of total recoverable petroleum hydrocarbons (TRPH) and fats, oils and grease (FOG) in process wastewater.

It is our understanding that Mr. Schaffer has made the request because he/ALSCO does not believe the City's FOG and TRPH prohibitive discharge limits ensure that the objectives of the federal pretreatment program (40 CFR Section 403.2) are met. It is further our understanding that he/ALSCO has concluded that the limits do not meet the specific requirements of 40 CFR 403.5 paragraphs (c)(1) and (d). If I misunderstand the basis for the request please let me know as soon as possible.

The Grand Junction City Council adopted the FOG limit of 200 mg/l and the 50 mg/l TRPH limit after providing public notice and the opportunity to comment for at least 30 days as required by local, state and federal law. As well, at the completion of the local adoption process the limits were reviewed, publicly noticed and approved by USEPA Region 8; the limits and the process by which they were adopted are consistent with federal industrial pretreatment regulations.

Having been properly public noticed and adopted, the City is required to enforce the limits as required by the City ordinance, the Mesa County/City of Grand Junction Colorado Discharge Permit System (CDPS) permit and the City's EPA approved pretreatment program.

ALSCO Discharge Permit and Compliance History

The City first issued ALSCO an Industrial Discharge Permit (IDP) to allow the discharge of non-domestic wastewater to the POTW in August 1990. The ALSCO discharge permit has been renewed multiple times since 1990.

In January 2010 the IDP was renewed. The City provided ALSCO a 30-day public review period for the 2010 draft permit. The IDP required, among other things, that ALSCO comply with discharge permit limitations, Chapter 13.04 of the City Ordinance and all applicable Pretreatment Standards and Requirements.

The IDP permit issued in 2010 included the prohibitive discharge prohibition for FOG due to previous ALSCO FOG discharges that had exceeded the prohibitive discharge limit. In other words the limit is not new; it has been specifically in effect, by reference since early 2010 and on the books well before that.

The TRPH prohibited discharge limit of 50 mg/L will, as you know, be specifically referenced in ALSCO's 2013 IDP renewal. We understand that you desire the City to relax/not impose that limit; however, the limit will be imposed because sampling data shows that under your current processes that ALSCO has the high potential to exceed the TRPH limit.

The City has found ALSCO in violation of its oil and grease discharge permit limits since at least September 2011 and has issued informal and formal enforcement actions for violations through 2012. The City required ALSCO to install a new sampling location in March 2012 in order to ensure consistent sampling; effluent violations continued to be observed in 2012 even after installation of the new sampling location.

On June 26, 2012 ALSCO provided a plan that describes actions that you will take to reduce FOG concentrations in order to achieve compliance with the discharge permit and the City's discharge limitations. Based on that plan and to ensure compliance the City expects that ALSCO investigate and reduce the introduction from raw materials or the discharge of any pollutants in the wastewater that exceed discharge limits, including petroleum based oils or solvents.

History of City Ordinance Prohibitive Pretreatment Limits

In 1949, the Federation of Sewage Works Associations (now known as the Water Environment Federation (WEF)) published a Manual of Practice (MOP) in which it recommended 100 mg/L as a maximum limit of oil and grease. In 1973, MOP-3 was published and cited FOG domestic concentrations to be in the range of 16 mg/L to 105 mg/L. The Water Environment Federation further recommended a limit of 25 mg/L for petroleum based oil.

In 1975 USEPA published a manual entitled *Treatability of Oil and Grease Discharged to Publicly Owned Treatment Works* (EPA 440/1-75/066 Pretreatment Requirements for Oil and Grease). The USEPA established that the "influent to biological treatment systems should contain less than 75 mg/L and preferable less than 50 mg/L oil and grease of mineral or petroleum origin to prevent interference."

The City's FOG and TRPH general prohibitive discharge limits are based on the recommended limits in the WEF and USEPA manuals and direct observation of industrial users. It is clear that industrial users that meet these limits do not appear to be causing or contributing to Pass Through, Interference or other system limiting/damage causing problems.

Oil and Grease: The Grand Junction City Council first adopted the City's FOG general prohibitive discharge limit in 1980 at a level of 100 mg/L. The FOG limit was revised to 200 mg/L in 1998 as a result of the successful implementation of the City's 1995 Grease Reduction Program. That program significantly reduced the number of grease blockages in the collection system and allowed the less restrictive limitation of 200 mg/L to be adopted.

A 2007 USEPA guidance document titled *Controlling Fats, Oils, and Grease (FOG) Discharges from Food Service Establishments* states:

"A growing number of control authorities are using their existing authority (e.g., general pretreatment standards in Part 403 or local authority) to establish and enforce more FOG regulations (e.g., numeric pretreatment limits...)". This same USEPA document further states "EPA identified typical numeric local limits controlling oil and grease in the range of 50 mg/l to 450 mg/l with 100 mg/l as the most common reported numeric pretreatment limit (emphasis added)."

As a commercial laundry facility, a large portion of the grease in your discharge is coming from washing washcloths and towels from food service customers, as documented in reports provided by ALSCO. As such it is appropriate to consider the USEPA Food Service Establishment guidance.

TRPH: The Grand Junction City Council adopted the TRPH limit as a general prohibitive pretreatment limit in 1993 at a level of 50 mg/L per recommendations in the previously cited WEF and USEPA manuals.

The USEPA 2004 *Local Limits Development Guidance* states:

“Although animal and vegetable based FOG (fats, oils and grease) at reasonable concentrations are easily broken down, petroleum-based, non-polar FOG (fats, oil and grease) can interfere with both aerobic and anaerobic treatment. Petroleum-based oils can coat the organisms responsible for biological treatment and result in less effective oxygen transfer rates. In anaerobic processes, excessive concentrations of solid grease in digesters can reduce the effectiveness of the process, lead to structural damage to pipes and supports as a result of the weight of scum and grease, and present accumulation problems when the supernatant is recycled.” (Section 5.3.3)

TPH is a broadly-defined compound consisting of complex mixtures of hydrocarbons of varying chemical composition and toxicity. Several hundred to over a thousand individual hydrocarbon compounds are identified in TPH.¹ Very little is known about the toxicity of many of the TPH compounds. Only a relatively small number of TPH compounds have been characterized for toxicity to humans and aquatic organisms.¹ The toxicological interactions of TPH compounds, together and in the presence of other chemicals, are uncertain. As such, it is highly appropriate to regulate TPH as a constituent of industrial process water under the IPT regulations.

In a 2008 study entitled *Toxic Chemicals in Puget Sound: The Impact of Mixing Zones on Permitted Discharges* (People for Puget Sound, June 2008) it is indicated that polyaromatic hydrocarbons, a TPH chemical faction, can cause liver lesions and reproductive impairment in fish. Given the concerns for the native fish in the Colorado River, some of which are federally designated as threatened and endangered, the consideration of TPH is well within the purview of local, state and federal regulation.

A U.S. Department of Health and Human Services report, *Toxicological Profile for Total Petroleum Hydrocarbons (TPH)* indicates that many TPH chemical factions can cause acute and chronic health effects on humans, including cancer and non-cancerous health effects caused by inhalation, oral and dermal exposures. Exposure to certain TPH factions have been known to result in adverse health effects such as respiratory, neurological, kidney, blood and immunological ailments.¹

Persons exposed to TPH in the environment, such as sewer collection systems, are exposed to complex chemical mixtures that are not restricted to TPH alone. It is reasonable to expect that components of such complex mixtures may interact to produce effects that can influence the toxicity of individual components.

¹ Toxicological Profile for Total Petroleum Hydrocarbons (TPH), U.S. Department of Health and Human Services, September 1999

Determination of Pretreatment Limits: The City's prohibitive limits for FOG and TRPH were adopted as general prohibitive discharge limits and apply to all non-domestic sewer users. The City adopted these limits to protect the POTW (including the collection system), to ensure sludge can be beneficially reused, to protect worker health and safety and to protect the environment and receiving streams.

The City's prohibitive discharge limits are not local limits, although they are Pretreatment Standards. Local Limits are generally developed by following the framework in the 2004 EPA Local Limits Guidance Manual. In that process, limits are calculated based upon an applicable Standard and applied to Significant Industrial Users in the case of the City.

Prohibitive discharge limits are developed and adopted to protect the collection system, the treatment works and worker health and safety. These prohibitions are often developed based upon actual observations. In the case of TRPH and FOG, the City concludes that, if all non-domestic users meet these limits, the objectives are met. If the POTW finds that non-domestic users are in compliance with these prohibitive discharge limits and Pass Through or Interference are occurring due to the discharges from non-domestic users, the City would re-evaluate whether or not new or additional limits are needed. There is no expectation under 40 CFR Part 403 that all available loading be allocated to non-domestic users. In fact, even when calculating local limits, EPA supports the concept of a safety and expansion factor.

Additional considerations

Colorado Pretreatment Limits: A survey of other Colorado municipalities found that the majority of numeric pretreatment limits in the State for FOG and TRPH are prohibitive discharge limits. The average FOG limits are 163 mg/L with a range of 25 to 500 mg/L. The average TRPH limits in Colorado are 39 mg/L with a range of 10 to 75 mg/L. The City believes that its current FOG and TRPH limits are within the range observed in other municipalities, which does not indicate an inherent strict application of limits.

Persigo NPDES permit requirements and POTW operations: Persigo began treatment operations at 2145 River Road in 1984. Persigo discharges into Persigo Wash and the Colorado River, which are designated critical aquatic habitat under the Endangered Species Act (ESA) to protect four federally ESA-listed fish. Because of the discharge into ESA critical habitat, Persigo is required to meet stringent end-of-pipe discharge limits in its National Pollutant Discharge Elimination System (NPDES) permit. The stringent limits in the NPDES permit are designed to protect the aquatic habitat of the four ESA-listed fish. Per Colorado regulation, no dilutive mixing zone is allowed in ESA critical habitat.

The Persigo NPDES permit was renewed by the Colorado Department of Public Health and Environment (CDPHE) in 2012. Persigo is required to meet stringent chronic WET (whole effluent toxicity) test limits in the NPDES permit. Because of the strict permitting requirements on the City it would be irresponsible to relax prohibitive discharge limits that may affect the City's ability to meet either the stringent discharge permit limits or meet the stringent chronic WET test limits.

Conclusion

ALSCO's request for the City to set aside or relax applicable limits must be denied. The City's prohibitive limits have been properly publicly noticed for comment and approved by the City and the USEPA. During the review and adoption process public comments/public participation was solicited; there is no record of ALSCO submitting any comments to the proposed limits.

The City currently spends over \$2,000,000 per year on sewer line maintenance. In 2011, there were 32 blockages in the collection system directly attributed to grease. It is easily predictable that a relaxation

of the prohibitive limits would cause a direct increase in those problems and the expenditure to repair them.

The City has determined that the FOG and TRPH prohibitive pretreatment discharge limits are appropriate, defensible and enforceable. The limits are consistent with prohibitive discharge regulations established to protect the objectives of the Federal Pretreatment Program and were adopted with appropriate public notice and opportunity for participation.

It would be irresponsible to relax pretreatment limits that have been properly adopted, implemented and designed to protect the City Publicly Owned Treatment Works (POTW), its municipal workers and the environment due to the desire of a Significant Industrial User not to install treatment to meet such limits.

If you have any questions I can be reached at (970) 256-4164.

Thank you,

Eileen List
Industrial Pretreatment Supervisor
City of Grand Junction

cc: Al Garcia, USEPA Region 8 Pretreatment Coordinator
James Martin, USEPA Region 8 Administrator
Jan Pickrel, USEPA National Pretreatment Coordinator
John Shaver, City Attorney
Dan Tonello, Wastewater Services Manager
John Schaffer, EEC

From: Al Garcia <Garcia.Al@epamail.epa.gov>
To: James Jonely
CC: Dan Tonello, Eileen List, 'John Shaffer', Jim Martin, Jan Pickrel
Date: Tuesday - July 3, 2012 3:54 PM
Subject: Request for EPA Intervention in ALSCO's Challenge of the Technical Basis of the City of Grand Junction's Oil and Grease Limits
Attachments: TEXT.htm (4437 bytes)
graycol.gif (105 bytes)
Mime.822 (10663 bytes)

Hello James,

EPA has reviewed your June 26, 2012 letter requesting EPA to intervene in the City of Grand Junction's establishment of an Oil and Grease numeric limit expressed in its municipal ordinance. The EPA, as the Approval Authority, established the Pretreatment Program and approves local programs (Control Authority) to implement and enforce the National Pretreatment Standards and Requirements in addition to any more stringent local requirements necessary to protect its POTW. The Control Authority is responsible for implementing the Pretreatment Program, while EPA as the Approval Authority retains oversight.

The National Pretreatment Program consists of three types of national Pretreatment Standards established by regulation that apply to industrial users.

- Categorical Pretreatment Standards
- General and Specific Prohibited Discharge Standards
- Local Limits - Site-specific limits developed by the Control Authority to enforce the general and specific prohibitions.

The control authorities can implement narrative and numeric conditions based on local concerns, above and beyond the National Pretreatment program and Standards, to protect its POTW. These narrative conditions and numeric limits are enforceable if they have been locally approved and have provided an opportunity for public comment. The Oil and Grease limit for Grand Junction has been approved locally and the public has been provided the opportunity to comment during this approval process. My understanding is that the City of Grand Junction's oil and grease limit has been in effect for a significant number of years. As previously stated, the City of Grand Junction (the Control Authority) is responsible for implementing the Pretreatment program, including enforcing all narrative conditions and numeric limits in its municipal ordinance. As a result, EPA will not intervene in this matter.

If you have any further questions, please feel free to contact me.

Al Garcia
Region 8 Pretreatment Coordinator

303.312.6382
garcia.al@epa.gov

USEPA Region 8 (8P-W-WWW)
1595 Wynkoop
Denver, CO 80202-1129

www.epa.gov/region8/water/pretreatment

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. __

AN ORDINANCE REPEALING AND RE-ENACTING SECTION 13.04 OF THE GRAND JUNCTION MUNICIPAL CODE PERTAINING TO INDUSTRIAL PRETREATMENT REGULATIONS TO INCORPORATE REQUIRED CHANGES TO THE CITY'S LEGAL AUTHORITY; AND AMENDING SECTIONS 13.12 AND 13.16 TO REFLECT THE RE-ENACTMENT OF SECTION 13.04

RECITALS:

The United States Environmental Protection Agency (USEPA) requires the City's Persigo Wastewater Treatment Facility to have an Industrial Pretreatment Program to prevent certain pollutants from entering the wastewater system. The pollutants of concern are those that can interfere with the operation of the wastewater treatment process, pass through the wastewater treatment system without adequate treatment or contaminate treatment plant biosolids.

The City's Wastewater and Industrial Pretreatment Regulations in Section 13.04 of the Grand Junction Municipal Code (Code) is being repealed and re-enacted to comply with federal Pretreatment requirements and to make the Code more user-friendly for the City's regulated industrial and commercial customers.

The re-enactment of Code Section 13.04 is a major revision of the Industrial Pretreatment Chapter. The re-enactment is necessary for the City to come fully into compliance with federal Pretreatment requirements and to increase the enforceability of Industrial Discharge Permits. The re-enactment separates Wastewater and Industrial Pretreatment requirements into better-defined sections, which should result in an easier comprehension of the City's regulations by the regulated community; corrects typographical errors (i.e., cadmium mass-based local limit corrected from 0.057 to 3.057 pounds per day); lowers the pH limit from 5.5 s.u. to 5.0 s.u.; adds a requirements section for new Categorical Users; clarifies sample collection and testing method requirements; adds the authority to prosecute criminal activities; and provides the authority to establish and enforce specific section control programs through the use of Best Management Practices. The re-enactment is primarily administrative with no major impacts anticipated to the local regulated community.

Code Sections 13.12 and 13.16 are also being amended based on the revisions and renumbering of Section 13.04.

In compliance with the USEPA Pretreatment requirements, City staff has made the required revisions relating to Industrial Pretreatment to the City Code of Ordinances and now requests that the City Council approve the proposed changes to the Code.

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

1. Section 13.04 of the Grand Junction Municipal Code is hereby repealed and re-enacted as follows:

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 Connection to sewer mandatory - construction, use and/or repair of privies and/or septic tanks disallowed.
- 13.04.100 Reserved
- 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 Service charges – Assessed.
- 13.04.260 Service charges – New service fee.
- 13.04.270 Service charges – Charge for reconnecting after disconnection for sewer service charge delinquency – Penalty for unauthorized reconnections.
- 13.04.280 Plant investment fees and connection procedures – Purpose of fee.
- 13.04.290 Plant investment fees and connection procedures – Payment of fee.
- 13.04.300 Plant investment fees and connection procedures – Amount of fee.
- 13.04.310 Service charges – Declared lien – Collection.
- 13.04.320 Billing procedure.
- 13.04.330 Billing procedure – Review.
- 13.04.340 Disposition, use of sewer revenues.
- 13.04.350 Industrial Pretreatment Program: Applicability, Objectives, Authority
- 13.04.360 Industrial Pretreatment Program –Definitions and Abbreviations.

- 13.04.370 Industrial Pretreatment Program – Prohibited Discharges and Limitations.
- 13.04.380 Industrial Pretreatment Program – Pretreatment and Monitoring Facilities, Right of Entry and Search Warrants.
- 13.04.390 Industrial Pretreatment Program – Industrial Discharge Permits.
- 13.04.400 Industrial Pretreatment Program – Industrial Discharge Permit Conditions.
- 13.04.410 Industrial Pretreatment Program – Industrial Discharge Permit Modification.
- 13.04.420 Industrial Pretreatment Program – Industrial Discharge Permit Revocation.
- 13.04.430 Industrial Pretreatment Program – Recordkeeping.
- 13.04.440 Industrial Pretreatment Program – Sample Collection and Analytical Methods.
- 13.04.450 Industrial Pretreatment Program – Reporting and Notification Requirements.
- 13.04.460 Industrial Pretreatment Program – Sector Control Programs.
- 13.04.470 Industrial Pretreatment Program – Fees.
- 13.04.480 Industrial Pretreatment Program – Compliance and Enforcement.
- 13.04.490 Industrial Pretreatment Program – Pretreatment authority outside of City.
- 13.04.500 Industrial Pretreatment Program – Affirmative Defenses to Discharge Violations.

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 GJMC 13.04.360 or in this Code, the following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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. 1251 et seq.

Biochemical Oxygen Demand₅ (BOD₅) 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 (mg/L).

Building drain means that part of the lowest horizontal piping of a drainage system that receives the discharge from 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 for the City of Grand Junction or his/her designee.

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

Domestic Sewage or Domestic / Sanitary wastes is wastewater from residential sources including, but not limited, to wastewater from kitchen, bath and laundry facilities; or

wastewater from the personal sanitary conveniences (toilets, showers, bathtubs, fountains, noncommercial sinks and similar structures) of commercial, industrial or institutional buildings, provided that the wastewater exhibits characteristics that are similar to those of wastewater from residential activities.

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

Equivalent residential unit (EQU) means the unit of measurement determined by the average monthly water use per single family residence, or 280 gallons per day.

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

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

Normal domestic strength wastewater means that wastewater, when analyzed in accordance with procedures established by EPA pursuant to 40 CFR Part 136, as amended, contains no more than two hundred (200) mg/L BOD₅ and/or two hundred and fifty (250) mg/L TSS.

Person is any individual, partnership, firm, company, association, joint stock company, trust, estate, society, corporation, group, government, governmental agency or other legal entity, or their legal representatives, agents or assigns. The definition includes all federal, state and local government entities.

Properly shredded garbage means the wastes from the preparation, cooking and discharging 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.

Publicly Owned Treatment Works (POTW): A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the City and County. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature and any sewers, pipes or other conveyances which convey wastewater to the treatment plant. The term also means the municipality having jurisdiction over the Indirect Discharge as defined in GJMC 13.04.360(a) made to and from the wastewater treatment plant. As used herein, it shall include wastewater facilities that form the POTW and any sewers that convey wastewaters to the POTW 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 WWTP.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from the residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally. This definition shall also include, but not be limited, to the terms "public sewer," "sewer system," "sewer" and "collection line."

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 POTW.

State means the State of Colorado and the Colorado Department of Public Health and Environment.

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 40 CFR Part 136, as amended.

Wastewater or *sewage* means the liquid and water-carried domestic or nondomestic wastes from residences, commercial buildings, industrial facilities and institutions whether treated or untreated, which are contributed into or permitted to enter the POTW.

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 POTW 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.

Waters of the State mean any and all surface waters and subsurface waters that have a direct hydrologic connection with surface waters which are contained in or flow in or through the State, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.

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 Code shall apply to all users of the sewer and/or facilities served by the wastewater facilities and POTW.

(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 POTW. Any person violating this section shall be subject to 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 shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Code. The City has additional Right of Entry provisions for the regulation of Industrial Users in GJMC 13.04.380(b).

(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 shall observe all safety rules applicable to the premises established by the company; the company shall be held harmless for injury or death to the City employee(s) except as such may be caused by negligence or failure of the company to maintain safe conditions as required in GJMC 13.04.380 (a) and as allowed by law the City shall indemnify the company against loss or damage to its property by the City employee(s) and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation(s).

(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 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 POTW lying within such easement. All entry and subsequent work, if any, on such easement shall be done in 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 wastewater to any storm sewer or natural outlet within the City and County, or in any area under the jurisdiction of the City and County, unless the discharger has received written approval or a permit from both the City and the Colorado Department of Health and Environment.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-33; Code 1965 § 25-16)

13.04.090 Connection to sewer mandatory - construction, use and/or repair of privies and/or septic tanks disallowed.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation and/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.

It shall be unlawful to construct, use or maintain and/or repair any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater when the same site is within 400 feet of an existing public sewer with sufficient capacity and official notice disallowing the use of the same shall have been given to the owner of the house, building or property.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Code 1994 § 38-35; Code 1965 § 25-18)

13.04.100 Reserved

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 Code.

- (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 Colorado Department of Public Health and Environment and any and all conditions, requirements or standards of the City.
- (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 Code 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.
- (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 Code.

(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 in writing 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 free from rock, dirt and debris throughout its entire length, and the ends of all pipes not to be immediately used must be securely guarded against the introduction of earthen material by brick and cement or other watertight and impervious metal, or seal.

(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 POTW 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 POTW 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 POTW.

(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.

No person shall discharge or cause to be discharged substances, materials, waters or waste(s) if it appears likely in the opinion of the City Manager that such wastes may harm the POTW, 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 waste(s), the City Manager will give consideration to such factors as the nature and source of the wastes, quantities of waste(s) in relation to flows and velocities in the sewage treatment process, toxicity of the waste(s), capacity of the POTW and degree of treatability of waste(s) at the WWTP and other pertinent factors.

13.04.250 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) Greater than twelve hour operation to 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. When 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 up or 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 shall be computed by dividing the expected flows by 280 gallons per day.
- (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 EQU for each employee.
 - (2) Industries which exceed the established limit of 200 mg/L for BOD₅ and 250 mg/L for TSS shall be charged at a rate calculated to represent the actual cost to treat a pound of BOD₅ and TSS; this charge shall be in addition to the rate of 0.05 EQU for each employee.
 - (3) In those instances when an industry may discharge a wastewater which exceeds the limit for BOD₅ and TSS allowed by other sections of this Code, its basic rate shall be calculated and an additional surcharge added to that calculated amount.
- (e) 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 POTW until a permit has been obtained from 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 POTW shall be borne by the property owner.
 - (h) Tank truck operators disposing of wastewater will be assessed a treatment charge based on tank size or gallons discharged. Loads are measured by tank size or gallons. Acceptable water and waste for disposal shall exclude waste enumerated in GJMC 13.04.240 and GJMC 13.04.370 or which is otherwise regulated by a valid permit or similar regulated guideline.
 - (i) Users of the POTW 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 that are greater, i.e., of higher strength or concentration, 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 shall be reviewed by the City from time to time and as determined by the City Manager.

- (k) The pro rata cost of connection shall constitute a sewer rental charge subject to lien under GJMC 13.04.330.

(Ord. 4476, 7-20-11; 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)

13.04.260 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. If water service is being commenced or changed a separate fee shall be charged therefore.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-56; Code 1965 § 25-47(a))

13.04.270 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 1) reconnect such water supply without the consent of the City, and/or 2) use hauled water in lieu of a permanent water supply. Any person violating this provision shall be deemed guilty of a misdemeanor.
- (c) A violation of this Code 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 Code exists shall constitute a separate offense.

(Ord. 4424 § 3, 5-5-10; Ord. 4358, 6-3-09; Ord. 4344, 4-15-09. Code 1994 § 38-57; Code 1965 §§ 25-49, 25-51)

13.04.280 Plant investment fees and connection procedures – Purpose of fee.

The plant investment fee shall be charged 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)

13.04.290 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 Basic Plant Investment fee (BPIF) to the City.

- (b) BPIFs shall be paid within 120 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.
- (c) The Basic Plant Investment Fee (BPIF) shall be as adopted by resolution of the City Council.

(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)

13.04.300 Plant investment fees and connection procedures – Amount of fee.

- (a) The Plant Investment Fee 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 PIF for any building, lot or premises shall not be less than the BPIF.

Formula for PIF:

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

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

(1)	Any single-family 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) Greater than twelve hour operation to 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

- (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 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.
- (c) 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 daily flow by 280 gallons per day or by dividing the expected organic load in pounds of BOD₅ per day by 0.47 pound of BOD₅. The higher EQU obtained by the two methods shall be used in computing the PIF.
- (d) 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)

13.04.310 Service charges – Declared lien – Collection.

All sewer 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 further notice, by shutting off the water supply therefrom, or, in other areas of the 201 sewer service area, the POTW, 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.

13.04.320 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 13.04.310.
- (b) The owner of the premises, as well as the occupants thereof, shall have 30 days to notify the City 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 POTW neglects, fails or refuses to pay the rates, fees or charges imposed or levied by this Code for the connection or use of the POTW 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))

13.04.330 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; 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)

13.04.340 Disposition, use of sewer revenues.

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

(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)

13.04.350 Industrial Pretreatment Program - Applicability, Objectives, Authority.

- (a) **Applicability:** This Code sets forth uniform requirements for all Industrial Users discharging to the POTW and enables the City to comply with all applicable State and Federal laws including the Clean Water Act and the General Pretreatment Regulations (40 CFR Part 403). Any Industrial User, the discharge from which directly or indirectly enters the POTW from areas within or without the boundaries of the City of Grand Junction or Mesa County, shall be bound by this Code as it now exists or may hereafter be amended. This Code may be enforced against any Industrial User.
- (b) **Objectives:** The objectives of this Code are:
 - (1) To prevent the introduction of pollutants into the Publicly-Owned Treatment Works (POTW) that will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) To prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
 - (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;

- (4) To provide for and promote the general health, safety and welfare of the citizens residing within the City or County and connecting jurisdictions;
 - (5) To enable the City to comply with its Colorado Discharge Permit System (CDPS) permit conditions, sewage sludge use and disposal requirements, and any other applicable federal or state laws or regulations to which the POTW is subject;
 - (6) To prevent adverse impacts to worker health and safety due to the discharge of pollutants from Industrial Users; and
 - (7) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW.
- (c) Non-Domestic Industrial Users: It shall be unlawful for any Industrial User to discharge any domestic or non-domestic wastewater into any natural waterway, any surface drainage, or storm drain in any area under the jurisdiction of the City. No industrial wastewater shall be discharged to the POTW unless done so in compliance with the provisions of this Code.
- (d) Responsibility and Authority of the City
- (1) Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this Code. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to other City personnel.
 - (2) The City shall attempt to notify in writing any Industrial User whom they have cause to believe is subject to a National Categorical Pretreatment Standard or Requirement, or other applicable requirements promulgated by the EPA under the provisions of Section 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solid Waste Disposal Act. Failure of the City to so notify Industrial Users shall not relieve said Industrial Users from the responsibility of complying with applicable Pretreatment Standards and Requirements. It is the responsibility of Significant Industrial Users to apply for and receive a permit prior to discharge, whether or not the Industrial User has been identified and formally requested to do so.
 - (3) If wastewaters containing any pollutant, including excess flow, or as otherwise defined in this Code, are discharged or proposed to be discharged to the POTW, the City may take any action necessary to:
 - (i) Prohibit the discharge of such wastewater;
 - (ii) Require an Industrial User to demonstrate that in-plant facility modifications will reduce or eliminate the discharge of such substances in conformity with this Code;

- (iii) Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the potential for a discharge to violate this Code;
- (iv) Require the Industrial User making, causing or allowing the discharge to pay any additional cost or expense incurred by the City for handling, treating, disposing or remediation costs as a result of wastes discharged to the wastewater treatment system;
- (v) Require the Industrial User to apply for and obtain a permit;
- (vi) Require timely and factual reports from the Industrial User responsible for such discharge; or
- (vii) Take such other action as may be necessary to meet the objectives of this Code.

(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)

13.04.360 Industrial Pretreatment Program – Definitions and Abbreviations.

- (a) In addition to the definition of terms in GJMC 13.04.010, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approval Authority is the State Director in an NPDES state with an approved State Pretreatment Program or the Regional Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

Authorized Representative of the Industrial User is:

- (i) If the Industrial User is a corporation:
 - (A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
 - (B) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Industrial Discharge Permit

requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (ii) If the Industrial User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (iii) If the Industrial User is a federal, state, or local government facility: A city or district or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.
- (iv) The individuals described in paragraphs (i) through (iii), above, may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Best Management Practices (BMPs) are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the General and Specific Prohibitions listed in GJMC 13.04.370 of this Code. BMPs may also include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs shall be considered local limits and Pretreatment Standards for the purposes of this Code and Section 307(d) of the Act (40 CFR Section 403.5(c)(4)).

Categorical Industrial User means an Industrial User subject to a Categorical Pretreatment Standard.

Categorical Pretreatment Standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. Section 1317) that apply to a specific category of Industrial Users and that appear in 40 CFR Code I, subCode N, Parts 405-471.

City Manager means the City Manager for the City of Grand Junction or his/her designee.

Colorado Discharge Permit System or CDPS: The State of Colorado program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into waters of the state implemented by the Colorado Department of Public Health and Environment pursuant to Section 402 of the Clean Water Act.

Composite sample refers to a representative flow proportioned sample generally collected within a twenty-four (24) hour period and combined according to flow. Time proportional sampling may be approved or used by the City where time-proportional samples are believed representative of the discharge.

Control Authority refers to the City of Grand Junction and Mesa County, co-permittees on the CDPS Permit # CO0040053. Mesa County has delegated the authority to implement and enforcement the Pretreatment Program required by the CDPS Permit to the City of Grand Junction.

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. Cooling water includes:

- (i) Contact. Water used for cooling purposes which comes in contact with any raw material, intermediate product, waste product or finished product.
- (ii) Noncontact. Water used for cooling purposes which does not come in contact with any raw material, intermediate product, waste product or finished product and the only pollutant added is heat.

Discharge. See Indirect Discharge.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency or, where appropriate, the Administrator or other duly authorized official of such Agency.

Existing Source is a source of discharge by an Industrial User, the construction of which commenced prior to the publication of a proposed Categorical Pretreatment Standard which is subsequently promulgated in accordance with Section 307 of the Clean Water Act, or as otherwise specified in the applicable Categorical Pretreatment Standard.

Fats, Oil and Grease (animal / vegetable) (FOG) is equivalent to the non-petroleum organic polar fraction of Hexane Extractable Material (HEM, polar material) derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules using methods approved in 40 CFR Part 136 as amended.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow and over a period of time not to exceed fifteen (15) minutes.

Holding tank waste means any waste from a holding tank such as vessels, chemical toilets, campers or trailers, septic tanks and vacuum pump tank trucks.

Indirect Discharge or Discharge means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act (including holding tank waste discharged to the system).

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

Industrial Discharge Permit means a permit issued to an Industrial User by the City that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW as set forth in GJMC 13.04.390 of this Code.

Industrial User or User means a source of Indirect Discharge.

Instantaneous limit is the maximum or minimum concentration or measurement of a pollutant property allowed to be discharged at any time for any length of time. For pollutants, compliance is typically determined by use of a grab sample.

Interference is a Discharge, which alone or in conjunction with a discharge or discharges from other sources, both:

- (i) Inhibits or disrupts the POTW treatment processes or operations or its sludge processes, use or disposal; and
- (ii) Therefore, is a cause of violation of any requirement of the City's CDPS permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resources Conservation and Recovery Act (RCRA); any State regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solids Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limits means any regulation containing pollution discharge limits promulgated by the City in accordance with 40 CFR Section 403.5(c) and (d), which are deemed to be Pretreatment Standards and contained in GJMC 13.04.370 of this Code.

National Pollutant Discharge Elimination System or NPDES. See Colorado Discharge Permit System.

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) and incorporated herein by reference.

Pass Through means a Discharge which exits the POTW 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 POTW's CDPS permit including an increase in the magnitude or duration of a violation.

pH is the intensity of acid or base condition of the solution expressed as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution and reported as Standard Units (SU).

Pollutant means any dredged spoil, 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 man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR Section 403.6(d). Appropriate pretreatment technology includes control equipment, such as flow equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in a flow equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the flow equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR Section 403.6(e).

Pretreatment Requirement(s) means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

Pretreatment Standard, National Pretreatment Standard, or Standard mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial Users. The term includes prohibitive discharge limits, local limits, and Best Management Practices that are or may be established by the City. In cases of differing standards or regulations, the more stringent shall apply.

Sector Control Program is any program designed to control specific pollutants from Industrial Users with similar operations, waste generation or treatment through the implementation of Pretreatment Standards and Requirements, including Best Management Practices. Sector Control Program requirements may be found at GJMC 13.04.460 of this Code.

Shall, will, may: “shall” and “will” are mandatory; “may” is permissive.

Significant Industrial User (SIU): Except as provided in paragraphs (iii) and (iv) of this definition, a Significant Industrial User is:

- (i) An Industrial User subject to Categorical Pretreatment Standards; or
- (ii) An Industrial User that:
 - (A) Discharges an average of twenty-five thousand gallons per day (25,000 gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (B) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (C) Is designated as such by the City on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
- (iii) The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than one hundred gallons per day (100 gpd) of total Categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (A) The Industrial User, prior to the City's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;
 - (B) The Industrial User annually submits the certification statement as found in 40 CFR 403.12(g), together with any additional information necessary to support the certification statement; and
 - (C) The Industrial User never discharges any untreated concentrated wastewater.
- (iv) Upon finding by the City that an Industrial User meeting the criteria in Section (ii) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Pretreatment Requirement the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with 40 CFR 403.8(f)(2), determine that such Industrial User is not a Significant Industrial User.

Slug Discharge refers to any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, or a discharge which exceeds the hydraulic or design of a Industrial

Users treatment system or any part of the treatment unit which has a reasonable potential to cause Interference or Pass Through, or in any other way violate an applicable Pretreatment Standard or Pretreatment Requirement, this Code, or an Industrial User permit issued by the City.

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.

Total Recoverable Petroleum Hydrocarbon (TRPH) is equivalent to the non-polar fraction of Silica-Gel Treated Hexane Extractable Material (SGT-HEM, Non-polar material) using methods approved under 40 CFR Part 136 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 Act or as otherwise listed at 40 CFR Part 122, Appendix D.

User means Industrial User.

(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.

(b) The following abbreviations shall have the meanings designated in this section:

BMP: Best Management Practices
BOD₅: Biochemical Oxygen Demand₅
BTEX: Benzene, toluene, ethylbenzene and xylene
CDPHE: Colorado Department of Public Health and Environment
CDPS: Colorado Discharge Permit System
CFR: Code of Federal Regulations
CWA: Clean Water Act
EPA: Environmental Protection Agency
FOG: Fats, Oils and Grease (animal / vegetable)
mg/L: milligrams per liter
O&M: Operation and Maintenance
POTW: Publicly-Owned Treatment Works
NPDES: National Pollutant Discharge Elimination System
RCRA: Resource Conservation and Recovery Act
SIC: Standard Industrial Classification
SIU: Significant Industrial User
SMR: Self-Monitoring Report
SNC: Significant Noncompliance
TRPH: Total Recoverable Petroleum Hydrocarbons
TSS: Total Suspended Solids
U.S.C.: United States Code

WWTP: Wastewater treatment plant.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 2892, 2-21-96. Code 1994 § 38-64; Code 1965 § 25-59)

13.04.370 Industrial Pretreatment Program – Prohibited Discharges and Limitations.

(a) General Discharge Prohibitions.

An Industrial User may not introduce into a POTW any pollutant(s) which cause(s) Pass Through or Interference. These General Prohibitions and the Specific Prohibitions in paragraph (b) of this Section apply to each Industrial User, unless otherwise specified, introducing pollutants into a POTW whether or not the Industrial User is subject to other Pretreatment Standards or Requirements.

(b) Specific Prohibitions

- (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR Section 261.21. The City Manager may require Industrial Users with the potential to discharge flammable, combustible or explosive substances to install and maintain an approved combustible gas detection meter or explosion hazard meter. No two successive readings on an explosion hazard meter at the point of discharge shall be more than five percent (5%), or any one reading more than ten percent (10%), of the Lower Explosive Limit (LEL) of the meter.
- (2) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 S.U., unless the works is specifically designed to accommodate such discharges.
- (3) Any solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in Interference.
- (4) Any pollutant, including oxygen demanding pollutants (BOD₅, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.
- (5) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 degrees Celsius (104°F) unless the EPA, upon request of the POTW, approves alternate temperature limits. No liquid or vapor having a temperature higher than 150 degrees Fahrenheit or exceeding any lower limit fixed by the City Manager to prevent odor nuisance shall be discharged.

- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the City. The discharge of any trucked or hauled waste originating outside of Mesa County is prohibited.
- (9) The following nondomestic discharge limitations are established to protect sludge quality and prevent Pass Through and Interference with the proper operation of the POTW. 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

- (10) Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants, unless agreed to by the City Manager.
- (11) 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 Manager.
- (12) Bulk, expired, outdated or concentrated prescription or non-prescription drugs.
- (13) Any waters or wastes containing grease or oil or other substances that will solidify or become discernibly viscous at temperatures between 32 degrees Fahrenheit (32°F) and 150 degrees Fahrenheit (150°F).
- (14) 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 POTW.
- (15) 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.

- (16) 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.
- (17) A Slug Discharge as defined in GJMC 13.04.360(a).
- (18) Stormwater drainage from ground resulting in infiltration and inflow (I&I) through the Industrial User's service line(s) or surface, roof drains, catch basins, unroofed area drains (e.g. commercial car washing facilities) or any other source unless otherwise approved by the City Manager. Specifically prohibited is the connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to the City's wastewater collection system. No Industrial User shall connect or discharge water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction activities.
- (19) Any pollutant or Discharge directly into a manhole or other opening in the POTW unless specifically authorized by the City Manager or as otherwise permitted under this Code. Prohibited is the opening of a manhole or discharging into any opening in violation of this Code.
- (20) Liquid wastes from chemical toilets and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the POTW except at locations authorized by the City to collect such wastes.
- (21) No chemicals, materials, or substances, including but not limited to, paints, solvents, boiler or water treatment chemicals, sludges, chemicals, or wastes shall be stored in proximity to a floor drain or other sewer openings. Containers shall be clearly labeled and stored in a place where the chemicals, materials, substances or wastes, in case of leakage or rupture of the container, cannot enter the wastewater collection system. The storage of any chemicals, materials, substances or wastes that leak or have potential to leak or discharge into the wastewater collection system which may create an explosion hazard or in any way have a deleterious effect to the POTW or constitute a nuisance or a hazard to POTW personnel, the general public, the environment, or the receiving stream shall be prohibited.
- (22) Any water contaminated as a result of discharge from aboveground and/or underground gasoline, diesel fuels, fuel oil, kerosene, and jet fuel tanks, tank accessories, and/or pipelines without applying for and obtaining a permit prior to discharge.

- (23) Any wastes containing detergents, surface-active agents, or other substances in concentrations which causes or may cause excessive foaming in the POTW or cause or contribute to Interference or Pass Through.
 - (24) Any pollutant or wastewater containing pollutants with UV (254 nm) absorbing substances which causes or may cause interference with UV disinfection at the WWTP.
 - (25) Wastes that have been collected and/or held in a tank or other container and where such wastes fail to comply with any Pretreatment Standard or Requirement.
 - (26) Discharge of nonylphenol from the use of bulk or concentrated nonylphenol containing detergents as employed by some industrial or commercial laundries, car washes or asphalt manufacturers or other Industrial Users.
 - (27) Discharge of any wastewater containing perchloroethylene (PCE) (also known as tetrachloroethene and tetrachloroethylene) from any Industrial User involved in the dry cleaning business.
- (c) Dilution is prohibited as a substitute for treatment; dilution when used or attempted as a substitution for treatment shall be a violation of this Code. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water or in any other way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Pretreatment Requirement. The City may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the imposition of mass limitations is appropriate.
- (d) Specific Discharge Limitations - Mass-Based Local Limits.

The following mass loadings reflect the total pounds per day that can be allocated to all Significant Industrial Users and other permitted Industrial Users by the City. The City, at its sole discretion, includes the industry specific allocation in the Industrial User's Industrial Discharge Permit as a mass or concentration-based limit.

Pollutant	Pounds Per Day
Arsenic	12.300
Cadmium	3.057
Chromium (Total)	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

- (e) Surcharge. Industrial Users that discharge wastewater that exceeds Normal Domestic Strength Wastewater as defined in GJMC 13.04.010 may be surcharged in accordance with adopted surcharge rates for flow, BOD₅ and/or TSS (see GJMC 13.04.250). In no case shall a surcharge be allowed that causes a violation of the General or Specific Prohibitions, an Industrial Discharge Permit, results in a Mass-Based Local Limit to be exceeded, causes the WWTP hydraulic or treatment capacity to be exceeded or results in a violation of a Categorical Pretreatment Standard.
- (f) All Industrial Users subject to a Categorical Pretreatment Standard shall comply with all requirements of such Standard, and shall also comply with any limitations contained in this Code. Where the same pollutant is limited by more than one Pretreatment Standard, the limitations which are more stringent shall prevail. Compliance with Categorical Pretreatment Standards shall be in the timeframe specified in the applicable Categorical Pretreatment Standard.
- (g) The City may establish more stringent pollutant limits, additional site-specific pollutant limits, Best Management Practices, and/or additional Pretreatment Requirements when, in the judgment of the City, such limitations are necessary to implement the provisions of this Code.
- (h) Promulgation of Standards.
 - (1) Upon the promulgation of the Federal Categorical Pretreatment Standard for a particular industrial subcategory, the Federal standard, if more stringent than limitations imposed by this Code for sources in that subcategory, shall immediately supersede the limitations imposed by this Code as required by the applicable Categorical Pretreatment Standard.
 - (2) State requirements and limitations on discharges shall apply in any case where they are more stringent than federal Pretreatment Standard and Pretreatment Requirements or those in this Code.

(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)

13.04.380 Industrial Pretreatment Program – Pretreatment and Monitoring Facilities, Right of Entry and Search Warrants.

(a) Pretreatment and Monitoring Facilities

- (1) Treatment Required: An Industrial User shall provide necessary wastewater treatment at the Industrial User's expense as required to comply with this Code and shall achieve compliance with all Pretreatment Standard and Pretreatment Requirement(s) within the time limitations specified by the EPA, the State, or the City, whichever is more stringent. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City Manager for review and shall be deemed acceptable by the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the Industrial User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Code.
- (2) Wastewater Discharge Control: The City may require an Industrial User to restrict discharge during peak flow periods, designate that certain wastewater be discharged only into specified sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and demonstrate the Industrial User's compliance with the requirements of this Code.
- (3) Flow Equalization: The City may require any Industrial User discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An Industrial Discharge Permit may be issued solely for flow equalization.
- (4) Monitoring Facilities: The City may require an Industrial User to install at the Industrial User's expense, a manhole and suitable monitoring facilities or equipment that allows for the representative sampling and accurate observation of wastewater discharges and be maintained by the Industrial User so as to be safe and accessible at all times. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the City's requirements and all applicable construction standards and specifications. Monitoring equipment and structures shall be maintained in proper working order and kept safe and accessible at all times to City personnel. The monitoring equipment shall be located and maintained on the Industrial User's premises outside of the building unless otherwise approved by the City. When such a location would be impractical, the City may allow such facility to be constructed in the public street or easement area, with the approval of the agency having

jurisdiction over such street or easement, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.

- (5) Multi-tenant Buildings: When more than one Industrial User is able to discharge into a common service line, the City may require installation of separate monitoring and/or metering equipment for each Industrial User.
- (6) Flow, pH and Lower Explosive Limit (LEL) Meters: If the City determines that an Industrial User needs to measure and report wastewater flow and/or discharge process wastewaters necessitating continuous pH measurement and/or discharge wastewater that may contain flammable substances, they may be required to install and maintain, at the Industrial User's expense, approved meters, structures and equipment.
- (7) Unless approved by the City Manager in writing, no Industrial User shall cover any manhole, sewer cleanout, or other openings in the wastewater collection system with earth, paving, or otherwise render it inaccessible.

(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)

(b) Right of Entry.

- (1) Whenever it shall be necessary for the purposes of this Code, the City may enter upon any Industrial User's facility, property or premises for the purposes of:
 - (i) Performing all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Pretreatment Requirements by an Industrial User. Compliance monitoring and inspection shall be conducted at a frequency as determined by the City and may be announced or unannounced;
 - (ii) Examining and copying any records required to be kept under the provisions of this Code or of any other local, state or federal regulation;
 - (iii) The City may use electronic means of its choosing to photograph, videotape and/or digitally collect and preserve images and sound of any areas of any facility as deemed necessary by the City for carrying out the duties of the industrial pretreatment program including, but not limited to, documentation of the Industrial User's compliance status and for reinforcement of required written reports. The Industrial User shall be allowed to review copies of data the City obtains so that the Industrial User may assert confidentiality.

- (iv) Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation;
 - (v) Sampling any discharge of wastewater into POTW; and/or
 - (vi) Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under this Code, could originate, be stored, or be discharged to the POTW.
- (2) The occupant of such property or premises shall render all proper assistance in such activities. Where an Industrial User has security measures in place which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements with its security personnel so that authorized representatives of the City will be permitted to enter without delay to perform their specified functions.
- (3) The City Manager and other duly authorized agents and employees of the City are entitled to enter all private properties through which the City or any connecting jurisdiction holds an easement.
- (4) Failure to allow entry or unreasonable delays: In the event the City or other duly authorized representative of the City is refused admission or unreasonably delayed is a violation and may result in enforcement action as allowed for under this Code including revocation of the Industrial Discharge Permit.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the City Manager and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User.
- (c) Search Warrants.

If the City Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Code or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the City Manager may, with the assistance of the City Attorney, seek issuance of a search warrant from the Grand Junction Municipal Court.

(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)

13.04.390 Industrial Pretreatment Program – Industrial Discharge Permits.

(a) Permits Required.

All Significant Industrial Users proposing to connect to, or discharge into, any part of the wastewater system shall apply for and obtain an Industrial Discharge Permit prior to commencing discharge to the POTW. A separate permit may be required for each Industrial User, building or complex of buildings. Such Significant Industrial Users shall immediately contact the City and obtain an Industrial Waste Discharge Permit.

(b) New Industrial Users: Applying for an Industrial Discharge Permit.

Any Industrial User required to obtain an Industrial Discharge Permit who proposes to begin or recommence discharging into the POTW must apply for and obtain such permit prior to the beginning or recommencing of such discharge. The Industrial User shall file a permit application on forms provided by the City containing the information specified in GJMC 13.04.390(f) below. The completed application for the Industrial Discharge Permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence. The City may issue a permit at any time after receipt of the completed permit application.

(c) Existing Industrial Users: Applying for an Industrial Discharge Permit Re-issuance.

An Industrial User with an expiring Industrial Discharge Permit shall apply for a new permit by submitting a complete permit application at least ninety (90) days prior to the expiration of the Industrial User's existing discharge permit. The Industrial User shall file a permit application on forms provided by the City containing the information specified in GJMC 13.04.390(f) below. An Industrial User with an existing permit that has filed a complete and timely application may continue to discharge as approved in writing by the City through an administrative extension of the existing permit if the delay in permit issuance is not due to any act or failure to act on the Industrial User's part.

(d) Other Industrial Users.

The City may require other Industrial Users to apply for and obtain wastewater discharge permits or similar control mechanisms necessary to carry out the purposes of this Code. The City may issue a zero discharge permit to prohibit the discharge of some or all non-domestic process wastewater from an Industrial User.

(e) Enforceability.

Any violation of the terms and conditions of an Industrial Discharge Permit, failure to apply for a permit as required, or discharging without a required permit shall be deemed a violation of this Code and subjects the Industrial User to enforcement by the City. Obtaining an Industrial Discharge Permit does not

relieve a permittee of its obligation to comply with all State and federal Pretreatment Standards or Requirements.

(f) Permit Application Contents.

In support of the application, the Industrial User shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name of business, address of the facility, location of the discharge if different from the facility address, and contact information of the Authorized Representative of the Industrial User.
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations.
 - (i) A thorough and detailed description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production);
 - (ii) The Standard Industrial Classification(s) of the operation(s) carried out by such Industrial User;
 - (iii) A schematic process diagram, which indicates all process tanks, process lines, treatment systems, drains, and points of discharge to the POTW from the regulated process;
 - (iv) Types of wastes generated;
 - (v) A list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (vi) A list of hazardous waste(s) generated and a description of the storage area and procedures for the wastes;
 - (vii) Number of employees; and
 - (viii) Hours of operation, and proposed or actual hours of operation.
- (4) Time and duration of discharges including the date the Industrial User first began discharge or plans to discharge to the POTW.
- (5) The location for sampling the wastewater discharges from the Industrial User.
- (6) Flow measurement. Information showing the average daily and maximum daily flow, in gallons per day, to the POTW from regulated process

streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR Section 403.6(e). For New Sources and new permittees not currently discharging, an estimate of flows may be used for meeting the requirements of the Baseline Monitoring Report required in GJMC 13.04.450(b).

- (7) Measurement of Pollutants.
 - (i) The Pretreatment Standards applicable to each regulated process;
 - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass of regulated pollutants in the discharge from each regulated process where required by the Standard or by the City;
 - (iii) Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported;
 - (iv) The sample shall be representative of daily operations and shall be collected in accordance with procedures set out in GJMC 13.04.440 or GJMC 13.04.450(b)(3) as appropriate. Where the Standard requires compliance with a BMP or pollution prevention alternative, the Industrial User shall submit documentation as required by the City for the applicable Standards to determine compliance with the Standard; and
 - (v) Analyses must be performed in accordance with procedures set out in GJMC 13.04.440(c).
- (8) A list of hazardous waste(s) generated and a description of the storage area and procedures for the wastes.
- (9) Slug Discharge Control Plan for Significant Industrial Users as described in GJMC 13.04.450(d) shall be submitted and for Non-Significant Industrial User as required by the City.
- (10) Compliance Schedule. If additional pretreatment and/or Operation and Maintenance (O&M) will be required to meet the Pretreatment Standards, the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

- (i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable Pretreatment

Standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No such increment shall exceed nine (9) months.

- (ii) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the City Manager including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the City Manager.
 - (11) Certification. A statement, reviewed by an Authorized Representative of the Industrial User and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional Pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements.
 - (12) Signatory Certification. All Industrial Discharge Permit applications and certification statements must be signed by an Authorized Representative of the Industrial User and contain the applicable certification statement(s) in GJMC 13.04.450(g).
 - (13) Any other information as may be deemed by the City Manager to be necessary to evaluate the permit application.
- (g) Industrial Discharge Permit Issuance.
- (1) Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than five (5) years at the City's discretion or may be stated to expire on a specific date.
 - (2) Where the City is establishing enforceable permit specific Pretreatment Standard or Pretreatment Requirements that are not otherwise contained in this Code, the Industrial Discharge Permit shall be noticed for public comment for thirty (30) days in a newspaper of general circulation that provides meaningful public notice.
 - (3) The City shall issue an Industrial Discharge Permit to the applicant if the City finds that all of the following conditions are met:
 - (i) The applicant has provided a timely and complete permit application to the City;

- (ii) The proposed discharge by the applicant is in compliance with the limitations established in this Code;
 - (iii) The proposed operation and discharge of the applicant would permit the normal and efficient operation of the POTW; and
 - (iv) The proposed discharge by the applicant would not result in a violation by the City of the terms and conditions of its CPDS Permit or cause Pass Through or Interference.
 - (4) If the City finds that the condition set out in Subsection (3)(ii) of this Section is not met, the City may, at their discretion, issue an Industrial Discharge Permit to the applicant if the conditions set out in subsections (3)(i), (3)(iii) and (3)(iv) of this Section have been met and if the applicant submits, and the City approves, a compliance schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to insure compliance with applicable Pretreatment Standards. At no time shall a discharge be allowed to cause a violation of any General or Specific Prohibition established in GJMC 13.04.370 nor shall the final compliance date for a Categorical Pretreatment Standard be extended.
 - (5) Any Industrial User, may petition the City to reconsider the terms of an Industrial Discharge Permit within 10 working days of the permit issuance date. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal. In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the Industrial Discharge Permit. The effectiveness of the Industrial Discharge Permit shall not be stayed pending the appeal. If the City does not act on such appeal within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider, not to issue an Industrial Discharge Permit, or not to modify a permit, shall be considered final administrative action for purposes of judicial review.
- (h) Denial by City to Issue a Permit
- (i) In the event the City denies an Industrial User's request for a permit to discharge, the City Manager shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.
 - (ii) Upon receipt of notification of denial of permit issuance, the applicant may request a hearing to be held by the City Manager, provided the request is submitted in writing to the City Manager within 10 working days of receipt of the City's original notification. At such hearing the applicant shall have the burden of establishing that the conditions set out in GJMC 13.04.390(g) above are met.

(iii) Upon review of the evidence, the City Manager shall make written findings of fact. Thereupon the City may issue an order issuing an Industrial Discharge Permit, or directing that such permit shall not be issued, or giving such other or further orders and directives as are necessary and appropriate.

(i) Transferability. Industrial Discharge Permits are issued to a specific Industrial User for a specific operation. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new Industrial User, different premises, or a new or changed operation without the prior written approval of the City. Any succeeding owner shall comply with the terms and conditions of the existing permit until a new permit is issued. The Permittee shall notify the City at least ten (10) working days prior to any change of ownership.

(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)

13.04.400 Industrial Pretreatment Program – Industrial Discharge Permit Conditions.

Industrial Discharge Permits shall be expressly subject to all provisions of this Code and all other applicable regulations, user charges and fees established by the City. Permits may contain the following:

- (a) A statement that indicates the permit's issuance date, expiration date and effective date;
- (b) A statement on permit transferability;
- (c) The unit charge or schedule of user charges and fees for the wastewater to be discharged into a public sewer;
- (d) Limits on the average and/or maximum wastewater constituents and characteristics including, but not limited to, effluent limits, including Best Management Practices, based upon applicable Pretreatment Standards;
- (e) Limits on average and maximum rate and time of discharge or requirements for flow;
- (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (g) Self-monitoring, sampling, reporting, notification and record-keeping requirements including, but not limited to, identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on federal, state and local law;

- (h) Best Management Practices (BMPs) to control specific pollutants as necessary to meet the objectives of this Code;
- (i) Compliance Schedules;
- (j) Requirements for notification of the City of any new introduction of wastewater constituents or any significant change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (k) Requirements to control and report any slug discharges and notify the City immediately of any changes at its facility affecting potential for a Spill or Slug Discharge and to notify the POTW immediately in the event of a slug, spill or accidental discharge to the POTW;
- (l) Statements of applicable administrative, civil and criminal penalties for the violation of Pretreatment Standards and Requirements, the permit, this Code, and any applicable compliance schedule;
- (m) Requirements to reapply for a new permit prior to expiration of the existing permit;
- (n) Additional monitoring to be reported;
- (o) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (p) Closure requirements for permitted facilities undergoing partial or complete closure activities to ensure closure activities are completed and wastes have been properly disposed and remaining access to sanitary and storm sewers are protected;
- (q) Other conditions as deemed appropriate by the City Manager to ensure compliance with this Code.

(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)

13.04.410 Industrial Pretreatment Program – Industrial Discharge Permit Modification.

The Industrial User shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. The notification of an Industrial Discharge Permit Modification does not stay any wastewater discharge permit condition. The City may modify an Industrial Discharge Permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;

- (b) To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of the Industrial Discharge Permit issuance;
- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) Information indicating that the permitted discharge may pose a threat to the POTW, City personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the Industrial Discharge Permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the Industrial Discharge Permit application or in any required reporting;
- (g) To reflect a transfer of the facility ownership and/or operation to a new owner/operator; or
- (h) To correct typographical or other errors in the Industrial Discharge Permit.
- (i) Upon request of the Permittee, provided such request does not result in a violation of any applicable Pretreatment Standards or Requirements, or this Code. The filing of a request by the Permittee for a permit modification does not stay any permit condition.

(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)

13.04.420 Industrial Pretreatment Program – Industrial Discharge Permit Revocation.

A violation of the conditions of a permit or of this Code or of applicable State and federal regulations shall be reason for revocation of such permit by the City. Upon revocation of the permit, any wastewater discharge from the affected Industrial User shall be considered prohibited and in violation of this Code. Grounds for revocation of a permit include, but are not limited to, the following:

- (a) Failure of an Industrial User to accurately and/or truthfully report any information on any City required form and/or application and/or disclose and/or report the wastewater constituents and characteristics of any discharge; or
- (b) Failure of the Industrial User to report significant changes in operations or wastewater constituents and characteristics as required; or
- (c) Refusal of access to the Industrial User's premises for the purpose of inspection or monitoring; or
- (d) Falsification of records, reports or monitoring results; or

- (e) Tampering with monitoring equipment; or
- (f) Misrepresentation or failure to fully disclose all relevant facts in the Industrial Discharge Permit application; or
- (g) Failure to pay fines or penalties; or
- (h) Failure to pay sewer charges, surcharges, or pretreatment programs fees; or
- (i) Failure to meet compliance schedules; or
- (j) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (k) Failure to provide required reports, including but not limited to, a wastewater survey, baseline monitoring report, 90-day compliance report, permit application, self-monitoring report or other permit required reports or notifications within the timeframe required by the City; or
- (l) Violation of any Pretreatment Standard or Requirement, or any terms of the Industrial Discharge Permit or this Code.

(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)

13.04.430 Industrial Pretreatment Program – Recordkeeping.

- (a) All Industrial Users shall retain, and make available for inspection and copying, all records, reports, monitoring or other data, applications, permits and all other information and documentation required by this Code including documentation associated with Best Management Practices.
- (b) Industrial Users shall retain such records and shall keep such records available for inspection for at least three (3) years. This recordkeeping period shall be extended automatically for the duration of any litigation concerning the Industrial User's compliance with any provision of this Code, or when the Industrial User has been specifically and expressly notified of a longer records retention period by the City Manager.
- (c) Written reports will be deemed to have been submitted on the date postmarked by the public or private delivery service. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

Reports received by fax or email shall be deemed submitted only if:

- (1) The report that is faxed or emailed is deemed complete by the City;

- (2) The report contains an affirmative statement and signature of the Authorized Representative that such report being faxed or emailed is being sent by the Authorized Representative; and
- (3) The original, signed report is mailed and received within five (5) days by the City.

(Ord. 4358, 6-3-09; Ord. 4344, 4-15-09; Ord. 3615, 4-7-04; Ord. 2892, 2-21-96. Code 1994 § 38-68; Code 1965 § 25-62)

13.04.440 Industrial Pretreatment Program – Sample Collection and Analytical Methods.

(a) Sample Collection.

Compliance determinations with respect to prohibitions and limitations in this Code may be made on the basis of either grab or composite samples of wastewater as specified by the City. Such samples shall be taken at a point or points which the City in its sole discretion determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty-four (24) hour period, or over a longer or shorter time span, as determined by the City to meet specific circumstances.

(b) Sample Type.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, and based on data that is representative of conditions occurring during the reporting period.

- (1) Except as indicated in subparagraph (2) below, the Industrial User must collect representative wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is required by the City. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the permitted discharge. For the reports required by GJMC 13.04.450(a), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.
- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, total recoverable petroleum hydrocarbons and volatile organic compounds must be obtained using grab collection techniques. Using protocols, including appropriate preservation, specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory.

Composited samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous local limits, including pH.

(c) Analytical Requirements.

All pollutant analysis, including sampling techniques, to be submitted as part of an Industrial Discharge Permit application, report, permit or other analyses required under this Code shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures specified and approved by the City and/or EPA.

(d) Records shall include for all samples:

- (1) The date, exact place, method, and time of sampling and the name of the person(s) taking the samples; and
- (2) The number, size and bottle type (plastic or glass) for each analyses; and
- (3) The sample type (grab or composite); and
- (4) The date and time the sample was relinquished to and received by the testing laboratory; and
- (5) The date, time and type of sample preservative added; and
- (2) The date(s) and time analyses were performed; and
- (3) The name of the person performing the analyses; and
- (4) The analytical techniques/methods used, including method detection limits and Quality Assurance /Quality Control (QA/QC) sample results; and
- (5) Calibration and maintenance records; and
- (6) All chain-of-custody records; and
- (7) The results of such analyses.

(e) The laboratory performing the sample analyses that certifies the validity of the sample analyses with EPA criteria required to be submitted to the City must sign and attach the following certification statement with each such lab report or information to the City:

"I certify that these analyses and resulting report(s) were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly analyze all samples and accurately report the results. I further certify that all analyses were performed in accordance with methods approved for wastewater analyses under the latest version of 40 CFR Part 136. Based on my inquire of the person or persons who manage the system, or those persons directly responsible for analyzing the wastewater samples and generating the report(s), the analyses, report and information

submitted is, to the best of my knowledge and belief, true, accurate and complete.”

(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)

13.04.450 Industrial Pretreatment Program – Reporting and Notification Requirements.

- (a) Self-Monitoring Reports (SMR) for all Significant Industrial Users.
 - (1) Any Significant Industrial User or other Industrial User required by the City, subject to a federal, state, or City Pretreatment Standard or Requirement must submit Self-Monitoring Reports (SMR), at a frequency determined by the City but no less than once per six (6) months, indicating the nature, concentration (e.g. minimum, average and maximum) of pollutants in the discharge which are limited by Pretreatment Standards and the flow (e.g. minimum, average and maximum daily flows) for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the Industrial User must submit documentation required by the City or the Pretreatment Standard necessary to determine compliance status of the Industrial User. All Self-Monitoring Reports must be signed and certified in accordance with GJMC 13.04.450(g).
 - (2) All wastewater samples must be representative of the Industrial User’s discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that the sample results are unrepresentative of its discharge.
 - (3) If an Industrial User monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City, using the methods and procedures prescribed in GJMC 13.04.440, the results of this monitoring shall be included in the Self-Monitoring Report.
 - (4) The sampling and analyses required for the reporting outlined above may be performed by the City in lieu of the permittee. Where the City itself makes arrangements with the Industrial User to collect all the information required for the report, the Industrial User will not be required to submit the report.
- (b) Requirements for New Categorical Industrial Users
 - (1) Baseline Monitoring Reports (BMR) – Categorical Industrial Users.

- (i) Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR Section 403.6(a)(4), whichever is later, existing Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the City a Baseline Monitoring Report (BMR) which contains the information listed in GJMC 13.04.390(f).
- (ii) At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Pretreatment Standard, shall submit to the City a Compliance Report which contains the information listed in GJMC 13.04.390(f). A New Source shall report the method of pretreatment it intends to use to meet applicable Pretreatment Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged from regulated process streams and other non-process streams.

(2) 90-Day Compliance Reports – Categorical Industrial Users.

- (i) New Sources: All New Sources subject to existing Categorical Pretreatment Standards shall submit a report to the City within ninety (90) days from the date of first discharge to the POTW demonstrating actual and continuing compliance with those Standards.
- (ii) Existing Sources: All Existing Sources required to comply with newly promulgated Categorical Pretreatment Standards shall submit a report to the City within ninety (90) days of the date on which compliance is required with those Standards demonstrating that actual and continuing compliance with such Standards has been achieved.
- (iii) Such 90-day Compliance Report shall contain at a minimum the information required in GJMC 13.04.390(f), subparagraphs (6), (7), (10), (11), (12) and (13).

(3) Sampling and Monitoring Requirements

For sampling required in support of Baseline Monitoring and 90-day Compliance Reports in paragraph (b)(1) and (b)(2) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical representative sampling data do not exist. Where historical data are available, the City may authorize a lower minimum.

(c) 24 Hour Notice and 30 Day Re-sampling.

If sampling performed by an Industrial User indicates a violation of the Industrial Discharge Permit or this Code, the Industrial User shall notify the City within twenty-four (24) hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation. The Industrial User is not required to resample if the following occurs:

- (1) The City performs sampling at the Industrial User's facility at a frequency of at least once per month.
 - (2) The City performs sampling at the Industrial User's facility between the time when the Industrial User performs its initial sampling and the time when the Industrial User receives the results of this sampling. It is the sole responsibility of the Industrial User to verify if the City has performed this sampling.
- (d) Slug and Spill Discharges - Notification and Plan Development.
- (1) Each Industrial User shall provide protection from spills and slug discharges of pollutants regulated under this Code. Facilities to prevent the discharge of spills or slug discharges shall be provided and maintained at the Industrial User's expense.
 - (2) It is the responsibility of the Industrial User to comply with the reporting requirements in this section
 - (3) Each permitted Industrial User shall immediately report all spills to the City that occurs within the boundaries of the Industrial User's facility and property whether or not the spill results in a discharge to the POTW.
 - (4) The City shall evaluate whether each Significant Industrial User needs a Slug/Spill Discharge Control Plan or other action to control spills and slug discharges. The City may require an Industrial User to develop, submit for approval, and implement a Slug/Spill Discharge Control Plan or take such other action that may be necessary to control spills and slug discharges.
 - (5) A Slug/Spill Discharge Control Plan shall address, at a minimum, the following:
 - (i) Detailed plans (schematics) showing facility layout and plumbing representative of operating procedures;
 - (ii) Description of contents and volumes of any process tanks;
 - (iii) Description of discharge practices, including non-routine batch discharges;

- (iv) Listing of stored chemicals, including location and volumes;
 - (v) Procedures for immediately notifying the City of any spill or Slug Discharge;
 - (vi) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, 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; and
 - (vii) Any other information as required by the City.
- (6) Notice to employees. A prominent notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of an accidental or slug discharge. Employers shall ensure that all employees who work in any area where an accidental or slug discharge may occur or originate are advised of the emergency notification procedures.
- (e) Reports of Potential Problems – Slug Discharges.
- (1) In the case of any changes at its facility affecting the potential for a Slug Discharge as defined in GJMC 13.04.360(a), or any actual discharge, including, but not limited to, spills, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a discharge that may cause potential problems for the POTW, the Industrial User shall immediately telephone and notify the City of the incident. This notification shall include all of the following:
- (i) Name of the facility
 - (ii) Location of the facility
 - (iii) Name of the caller
 - (iv) Date and time of discharge
 - (v) Date and time discharge was halted
 - (vi) Location of the discharge
 - (vii) Estimated volume of discharge
 - (viii) Estimated concentration of pollutants in discharge
 - (ix) Corrective actions taken to halt the discharge
 - (x) Method of disposal if applicable
- (2) Within five (5) working days following such discharge, the Industrial User shall, unless waived by the City, submit a detailed written report that includes all of the information contained in (e)(1) above and any other information describing the cause(s) of the discharge and the measures to be taken 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 might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, penalties, or other liability which may be imposed pursuant to this Code.

(f) Reports for Industrial Users other than Significant Industrial Users.

If the City deems it necessary to assure compliance with provisions of this Code, any Industrial User of the POTW may be required to submit an Industrial Discharge Permit Application, questionnaire or other reports and notifications in a format and timeframe as specified by the City.

(g) Signatory Certification.

All reports and other submittals required to be submitted to the City shall include the following statement and signatory requirements:

- (1) The Authorized Representative of the Industrial User signing any application, questionnaire, any report or other information required to be submitted to the City must sign and attach the following certification statement with each such report or information submitted to the City.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or the persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations."

- (2) If the Authorized Representative 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 this Section and meeting the definition in GJMC 13.04.360(a) must be submitted to the City prior to or together with any reports to be signed by an Authorized Representative.

(h) Compliance Schedules.

Should any schedule of compliance be established in accordance with the requirements of this Code, the compliance schedule shall be as specified in GJMC 13.04.390(f)(10).

(i) Change in Discharge or Operations.

- (1) Every permitted Industrial User shall file a notification with the City a minimum of ten (10) working days prior to any planned significant change or within 24 hours of any unplanned significant change in operations or wastewater characteristics. A significant change shall be a change equal to or greater than twenty percent (20%) in the mass of a pollutant or volume of flow discharged to the POTW. In addition, this notification shall include changes to:
 - (i) Adding or removing processing, manufacturing or other production operations;
 - (b) New pollutants used which may be discharged; and
 - (c) Changes in the listed or characteristic hazardous waste for which the Industrial User has submitted or is required to submit information to the City under this Code and 40 CFR Section 403.12 (p) as amended.
- (2) Known or anticipated facility closure. The Industrial User is required to notify the City at least thirty (30) days prior to facility shutdown or closure which might alter the character, nature, quality or volume of its wastewater.

(j) Notification of the Discharge of Hazardous Wastes

- (1) Any Industrial User shall notify the City of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification to the City shall be made immediately, but not to exceed twenty-four (24) hours, after becoming aware of the discharge.

Such notification must include all of the following:

- (i) The name of the hazardous waste as set forth at 40 CFR Part 261;
- (ii) The EPA hazardous waste number;
- (iii) The type of discharge (continuous, batch, or other);
- (iv) An identification of the hazardous constituents contained in the wastes;
- (v) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
- (vi) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;

- (vii) Certification that the Industrial User has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and
 - (viii) Signatory certification as required by GJMC 13.04.450(g).
 - (2) Within five (5) working days following such discharge, the Industrial User shall, unless waived by the City, submit a detailed written report that includes all of the information contained in (j)(1)(i) – (viii) above and any other information describing the cause(s) of the discharge and the measures to be taken 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 might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, penalties, or other liability which may be imposed pursuant to this Code.
 - (2) Any Industrial User shall notify the EPA Regional Waste Management Division City Manager, and state hazardous waste authorities, in writing, of the discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261 and meets the reporting criteria specified at 40 CFR 403.12(p). Notification to the State and EPA is the responsibility of the Industrial User and shall be made as required under 40 CFR Section 403.12(p). The Industrial User shall copy the City on all notifications made to the State and EPA.
 - (3) In the case of any new regulation under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the Industrial User must notify the City, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 - (4) This provision does not create a right to discharge any substance not otherwise approved by the City or allowed to be discharged by this Code, a permit issued hereunder, or any applicable federal or State law.
- (k) Requests for Information
- (1) A permittee shall furnish to the City, within the timeframe set by the City Manager, any information which the City may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating an Industrial Discharge Permit, or to determine compliance with the Industrial Discharge Permit or this Code. A permittee shall also, upon request, provide to the City, within the timeframe required by the City Manager, copies of any records that are required by the Industrial

Discharge Permit or this Code. Failure to provide information within the timeframe specified shall be a violation of this Code.

- (2) When requested by the City, any Industrial User shall submit information to the City Manager regarding industrial processes, nature and characteristics of wastes and wastewaters generated at the industrial facility, method of disposal of wastes, or other information required by the City Manager to meet the responsibilities under this Code, State law and 40 CFR Part 403. Failure to provide information within the timeframe specified shall be a violation of this Code.

(l) Confidential Information - Disclosure of Information and Availability to the Public.

- (1) All records, reports, data or other information supplied by any person or Industrial User as a result of any disclosure required by this Code or information and data from inspections shall be available for public inspection except as otherwise provided in this section, 40 CFR Section 403.14 and the Colorado Open Records Act (C.R.S. 24-72-201, et. seq.).
- (2) These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include, but shall not be limited to, processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted by the Industrial User which is desired to be considered a trade secret shall have the words, "Confidential Business Information," stamped on each page containing such information. The Industrial User must demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Industrial User.

Information designated as a trade secret pursuant to this Section shall remain confidential and shall not be subject to public inspection. Such information shall be available only to officers, employees or authorized representatives of the City charged with implementing and enforcing the provisions of this Code and properly identified representatives of the U.S. Environmental Protection Agency, the Colorado Department of Public Health and Environment and the State of Colorado Attorney General's Office.

Effluent data from any Industrial User whether obtained by self-monitoring, monitoring by the City or monitoring by any state or federal agency, shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.

(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)

13.04.460 Industrial Pretreatment Program – Sector Control Programs.

(a) Authority.

The City may establish specific sector control programs for Industrial Users to control specific pollutants as necessary to meet the objectives of this Code. Pollutants subject to these sector control programs shall generally be controlled using Best Management Practices (BMPs).

(b) Facility Identification and Compliance.

The City shall implement procedures to identify Industrial Users for inclusion into applicable sector control programs. Once identified and included into one or more sector control program, the facility shall be required to comply with the applicable sector control program requirements.

(c) Notification to the City by the Industrial User and Management Review.

The City shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other change that could change the nature, properties, or volume of wastewater discharge, to ensure that current sector control program requirements are incorporated and implemented.

(d) The Industrial User subject to a Sector Control Program shall inform the City prior to:

- (1) Sale or transfer of ownership of the business; or
- (2) Change in the trade name under which the business is operated; or
- (3) Change in the nature of the services provided that affect the potential to discharge Sector Control Program pollutants; or
- (4) Remodeling of the facility that may result in an increase in flow or pollutant loading or that otherwise requires the facility to submit plans or specifications for approval through a building or zoning department, or any other formal approval process of a city, county or other jurisdiction.

(e) Inspections.

- (1) The City may conduct inspections of any facility with or without notice for the purpose of determining applicability and/or compliance with Sector Control Program requirements.
- (2) If any inspection reveals non-compliance with any provision of a Sector Control Program requirement, corrective action shall be required pursuant to the applicable Sector Control Program.
- (3) Inspection results will be provided in writing to the facility upon request.

(f) Closure.

The City may require closure of plumbing, treatment devices, storage components, containments, or other such physical structures that are no longer required for their intended purpose. Closure may include the removal of equipment, the filling in and/or cementing, capping, plugging, etc.

(g) Enforcement and Compliance.

(i) These requirements form a part of this Code. Enforcement of this regulation is governed by the express terms herein and the enforcement provisions of GJMC 13.04.480.

(ii) Any extraordinary costs incurred by the City due to Interference, damage, Pass Through, or maintenance necessary in the treatment and/or collection system shall be paid by the Industrial User to the City. The direct costs of all labor, equipment and materials incurred in rectifying the Interference or damage, including reasonable attorney's fees, shall be billed directly to the owner or the Industrial User by the City, and such costs shall become part of the total charges due and owing to the City and shall constitute a lien on the Industrial User until paid in full.

13.04.470 Industrial Pretreatment Program – Fees.

(a) There shall be a fee imposed by the City to provide for the payment to the sewer fund, by Industrial Users of the POTW, of 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) Applicable charges and fees include, but are not limited to:

- (1) Industrial Discharge Permit applications;
- (2) Industrial Discharge Permits;
- (3) Reimbursement of costs of implementing the Industrial Pretreatment Program;
- (4) Monitoring, inspection and surveillance activities;
- (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)

13.04.480 Industrial Pretreatment Program – Compliance and Enforcement.

(a) Enforcement Response Plan.

The City may adopt policies and procedures as set forth in the City's Enforcement Response Plan for carrying out the provisions of this Code.

(b) Publication of Industrial Users in Significant Noncompliance.

The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Significant Industrial Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. In addition, any Industrial User found to be in Significant Noncompliance with (3), (4) or (8) shall also be published in the newspaper.

The following criteria shall be used to define Significant Noncompliance:

- (1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, a numeric Pretreatment Standard or Requirement, including instantaneous limits;
- (2) Technical Review Criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD₅, TSS, FOG and 1.2 for all other pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the City Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of City personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide, within thirty (30) days after the due date, required reports such as Baseline Monitoring Reports, ninety-day Compliance

Reports, periodic Self-Monitoring Reports and reports on compliance with compliance schedules;

- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations which may include a violation of Best Management Practices, which the City Manager determines may adversely affect the operation or implementation of the local pretreatment program.

(c) Administrative Enforcement Actions.

(1) Notice of Violation (NOV).

When the City finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon the Industrial User a written Notice of Violation. Within ten (10) working days of the receipt of such notice, or at a time period specified by the City, an explanation of the violation and a plan for the satisfactory correction of prevention thereof, to include specific required actions, shall be submitted by the Industrial User to the City. Submission of such a plan in no way relieves the Industrial User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(2) Suspension of Service.

- (i) Endangerment to Health or Welfare of the Community: The City, through other than a formal notice to the affected Industrial User, may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW of the City or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.
- (ii) Endangerment to Environment or Treatment Works: The City, after written notice to the discharger may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW, wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.

- (iii) Any Industrial User notified of a suspension of the wastewater treatment service and/or revocation of an Industrial Discharge Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The City may reinstate the Industrial Discharge Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge.

A detailed written statement submitted by the Industrial User describing the causes of the harmful contribution and the measure taken to prevent any future occurrence shall be provided to the City within five (5) days of the date of occurrence. Suspension of service shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

(3) Administrative Order.

When the City finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, or Order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an Administrative Order to the Industrial User responsible for the discharge directing that the Industrial User come into compliance within a specific time. If the Industrial User does not come into compliance within the time provided, sewer service may be discontinued unless and until adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. An Order also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. An Administrative Order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does an Administrative Order relieve the Industrial User of liability for any violation, including any continuing violation. Issuance of an Administrative Order shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

(4) Consent Order.

The City may enter into a Consent Order, assurances of compliance, or other similar documents establishing an agreement with any Industrial User responsible for noncompliance. Such documents shall include specific actions to be taken by the Industrial User to correct the noncompliance within a time period specified by the document. A Consent Order may include penalties, supplemental environmental projects, or

other conditions and requirements as agreed to by the City and the Industrial User. Issuance of an Consent Order shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

(5) Cease and Desist Order

- (i) When the City Manager finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, an Order issued hereunder or any other Pretreatment Standard or Requirement, or that the Industrial User's past compliance history indicates that violations are likely to recur, the City Manager may issue an Order to the Industrial User directing it to cease and desist all such violations and directing the Industrial User to:
 - (A) Immediately comply with all requirements;
 - (B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (ii) Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

(6) Administrative Fines.

- (i) When the City finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, Order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such Industrial User in an amount not to exceed ten thousand dollars (\$10,000) per day per violation. Such fines shall be assessed on a per-violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (ii) A lien against the Industrial User's property shall be sought for unpaid charges, fines, and penalties.
- (iii) Industrial Users desiring to appeal such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Such notice or appeal shall set forth the nature of the Order or determination being appealed, the date of such Order or determination, the reason for the appeal, and request a hearing

pursuant to procedures outlined in GJMC 13.04.480 paragraphs (h) and (i).

- (iv) Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the Industrial User.

(d) Judicial Enforcement Remedies.

(1) Injunctive Relief.

When the City finds that an Industrial User has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, or Order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition a Court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Industrial Discharge Permit, Order, or other requirement imposed by this Code on activities of an Industrial User. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the Industrial User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

(2) Civil Penalties.

- (i) An Industrial User who has violated, or continues to violate, any provision of this Code, an Industrial Discharge Permit, or Order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty not to exceed ten thousand dollars (\$10,000) per day per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.
- (ii) The City may recover reasonable attorneys' fees (including the value of in-house counsel), court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (iii) In determining the amount of civil liability, the Court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the Industrial User's violation, corrective actions by the Industrial User, the compliance history of the Industrial User, and any other factor as justice requires.

- (iv) Actions for civil penalties shall be civil actions brought in the name of the City. The City must prove alleged violations by a preponderance of the evidence.
- (v) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

(3) Civil/Administrative Fine Pass Through.

In the event that an Industrial User discharges such pollutants which cause the City to violate any condition of its CPDS permit and the City is fined by the EPA or the State for such violation, then such Industrial User shall be fully liable for the total amount of the fine assessed against the City by the EPA and/or the State.

(4) Criminal Prosecution

- (i) Any Industrial User that willfully or negligently violates any provision of this Code, any Orders or an Industrial Discharge Permit issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed twenty-five thousand dollars (\$25,000) and be subject to imprisonment for not more than one (1) year or both. Each day in which any such violation occurs or persists shall be deemed a separate and distinct offense.
- (ii) Any Industrial User that knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained pursuant to this Code, an Industrial Discharge Permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Code shall, upon conviction, be punishable by a fine not to exceed twenty-five thousand dollars (\$25,000) and be subject to imprisonment for not more than one (1) year, or both. In addition, these penalties may be sought for any person who maliciously, willfully, or negligently breaks, destroys, uncovers, defaces, tampers with, or otherwise destroys, or who prevents access to, any structure, appurtenance or equipment, or any part to the POTW. Each day in which any such violation occurs or persists shall be deemed a separate and distinct offense
- (iii) The City may refer violations that warrant criminal prosecution to the U.S. Attorney General's Office, State Attorney General's Office or USEPA Criminal Investigation Division or other appropriate agency. This referral shall not preclude the City from taking a parallel administrative or civil enforcement action.

- (iv) 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 in addition to any other penalties assessed.

(e) Remedies Nonexclusive.

The remedies provided for in this Code are not exclusive of any other remedies that the City may have under the provisions of Colorado law. The City may take any, all, or any combination of these actions against a noncompliant Industrial User. Enforcement of pretreatment violations will generally be in accordance with the Enforcement Response Plan. However, the City may take other action against any Industrial User when the circumstances warrant and may take more than one enforcement action against any noncompliant Industrial User.

(f) Public Nuisance.

Any violation of this Code, an Industrial Discharge Permit, or order issued hereunder, is hereby declared a Public Nuisance and shall be corrected or abated as directed by the City Manager or their designee. Any person(s) creating a Public Nuisance shall be subject to the provisions of GJMC 8.08.010 of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

- (g) 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.

(h) Administrative Appeal Procedure.

An Industrial User may appeal the issuance of an Administrative Order and/or Administrative Fine within 10 working days of issuance of the Administrative Order or fine. Such appeal shall be filed with the City Manager and include written documentation setting forth in detail the factual and legal basis for the appeal by the Industrial User. The City Manager shall review the appeal within 10 working days of receipt. The City Manager may request further information from the Industrial User and/or City staff. The City Manager may, after review of the information, issue an Order requiring the Industrial User to comply, require modification to the existing enforcement action or hold a Show Cause Hearing as specified in GJMC 13.04.480(i). The enforcement action and/or fine shall remain in effect and fully enforceable during this administrative review process.

(i) Show Cause Hearing.

- (1) The City Manager is authorized to order any Industrial User who violates any Pretreatment Standard or Requirement, an Industrial Discharge Permit, an enforcement action or any provision of this Code POTW to show cause why appropriate enforcement action should not be taken. In such case, a notice shall be served on the Industrial 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 Industrial User to show cause why the proposed enforcement action should not be taken.
- (2) The notice of the hearing shall be served upon the Industrial User personally or by certified mail, return receipt requested, at least 10 working days before the hearing. Service may be made on any agent or the Authorized Representative of the Industrial User.
- (3) The City Manager may conduct the Hearing or may appoint a Hearing Officer or may instead convene a Utility Hearing Board to conduct the hearing. 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, Utilities and Planning, and a connector district representative if the appellant or respondent Industrial User is located within the jurisdiction of that District.
- (4) 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 Code. 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 shall be upon the Industrial User. The standard of proof to be utilized by the City Manager or Utility Hearing 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.

(5) Effect of Hearing.

- (i) Findings and recommendations of the City Manager or Utility Hearing Board 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 City Manager or Utility Hearing Board within 30 days thereof, the City Council may conduct its own hearing, make its own findings, and issue its own Orders.
- (ii) An Order consistent with findings and recommendations of the City Manager or Utility Hearing Board, 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 Industrial 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 and in compliance with all local, State and federal statutes and regulations. The Order may provide for imposition of appropriate charges for the cost to the City of the enforcement action, applicable liquidated damages and administrative fines. Further Orders and directives, as are necessary and appropriate to enforce Industrial Discharge Permits and provisions of this Code, 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)

13.04.490 Industrial Pretreatment Program – 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 POTW 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 the one established by this Code or have incorporated by reference the provisions of this Code.
- (b) The connector districts and the County shall also be requested to approve necessary revisions to existing sewer service agreements, joint agreements or enter into an Industrial Pretreatment Program-only agreement granting the City

the right to administer and enforce the connector's pretreatment program on behalf of and as agent for the connector district or County.

(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)

13.04.500 Industrial Pretreatment Program – Affirmative Defenses to Discharge Violations.

(a) Upset.

- (1) For the purposes of this Code, *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- (2) An Upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (3) below are met.
- (3) An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
 - (ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (iii) The Industrial User has submitted the following information to the City within twenty-four (24) hours of becoming aware of the Upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - (A) A description of the Indirect Discharge and cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (C) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

- (4) In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an Upset shall have burden of proof.
- (5) Industrial Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.
- (6) Industrial Users shall control (decrease) production of all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(b) Prohibited Discharge Standards.

An Industrial User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the specific prohibitions in any action brought against it alleging a violation of the Specific Prohibitions in GJMC 13.04.370, paragraphs (3), (4), (5), (6) or (7) where the Industrial User demonstrates that:

- (1) It did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference; and
- (2) The Industrial User had accurately disclosed the concentration of the pollutant(s) causing the Pass Through or Interference in applications, reports, or other required documents as required; and either:
 - (i) A local limit designed to prevent Pass Through and/or Interference, as the case may be was developed for each pollutant in the Industrial User's discharge that caused Pass Through or Interference, and the Industrial User was in compliance with each such local limit directly prior to and during the Pass Through or Interference; or
 - (ii) If a local limit designed to prevent Pass Through and/or Interference, as the case may be, has not been developed for the pollutant(s) that caused the Pass Through or Interference, the Industrial User's discharge directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the Industrial User's prior discharge activity when the POTW was regularly in compliance with the POTW's CPDS permit requirements and, in the case of Interference, applicable requirements for sewage sludge use or disposal.

(c) Bypass.

- (1) For purposes of this Subsection:
 - (i) Bypass means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.
 - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (2) Bypass not violating applicable Pretreatment Standards or Requirements. An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this Section but are reportable under Section 13.040.450 (a), (c), (d), (i) and (j), as appropriate.
- (3) Notice.
 - (i) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the City Manager, if possible, at least ten (10) days before the date of the bypass.
 - (ii) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the City Manager within twenty four (24) hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.
- (4) Prohibition of Bypass.
 - (i) Bypass is prohibited, and the City Manager may take enforcement action against an Industrial User for a bypass, unless;
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment

downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) The Industrial User submitted notices as required under paragraph 3 of this Section.

(ii) The City Manager may approve an anticipated bypass, after considering its adverse effects, if the City Manager determines that it will meet the three (3) conditions listed in paragraph (4)(i) of this Section.

2. Section 13.12.230, Appeals procedure, is hereby amended as follows:

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 13.04.480.

3. Section 13.16.020, Definitions, is hereby amended as follows:

13.16.020 Definitions.

Industrial pretreatment. "Pretreatment" as defined in GJMC 13.04.360.

Industrial pretreatment program. Administration of uniform requirements to prevent the introduction of pollutants into the system pursuant to GJMC 13.04.350 through 13.04.500.

Permit. "Colorado Discharge Permit System" (CDPS 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 CDPS 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 13.04.280 through 13.04.300, which sections describes payment, amount, and formula for computing the fee.

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 13.04.250 through 13.04.270 and 13.04.310 through 13.04.340, which sections describes such charges, their computation, and administration.

All other definitions contained within this section shall remain in full force and effect.

4. Section 13.16.030, Financial requirements and accounting, subsection (k) Rate setting, is hereby amended as follows:

13.16.030 Financial requirements and accounting.

(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 13.04.300).

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 13.04.250 and 13.04.300 et seq. shall govern rate administration.

Introduced on first reading and ordered published in pamphlet form this 20th day of March, 2013.

Passed, adopted and ordered published in pamphlet form this _____ day of _____, 2013.

President of the Council

ATTEST:

City Clerk



Date: March 25, 2013
 Author: Elizabeth Tice-Janda
 Title/ Phone Ext: Revenue Supervisor,
1598
 Proposed Schedule: First Reading,
3/20/13
 2nd Reading
 (if applicable): 4/3/13

**Attach 11
 CITY COUNCIL AGENDA ITEM**

Subject: Amendment to the Sales and Use Tax Code Exempting Subscription Magazines Produced and Distributed in Colorado from Sales and Use Tax
Action Requested/Recommendation: Hold a Public Hearing and Consider final Passage and Final Publication in Pamphlet Form of the Proposed Ordinance
Presenter(s) Name & Title: Jodi Romero, Financial Operations Director Elizabeth Tice-Janda, Revenue Supervisor

Executive Summary:

This is an amendment to the Grand Junction Municipal Code concerning the exemption of the sale, storage and use of magazines sold by subscription, produced and distributed in Colorado, from sales and use tax.

Background, Analysis and Options:

Grand Valley Magazine is a local business who publishes a magazine 10 times per year highlighting Western Colorado. The magazine covers culture, outdoors, living, and entrepreneur profiles and is described by its publisher as an “ambassador media for tourism marketing and economic development recruitment efforts.”

The publisher recently petitioned the City to consider exempting magazine subscriptions from sales tax. Currently the sale of magazines is subject to City, State, and County sales tax. Other magazines that are produced and published in Colorado include 5280 Magazine, Colorado Homes & Lifestyles and the Colorado Biz Magazine.

The City Council is committed to a fair and responsible tax code. The City Council is also committed to the principles of economic development and local prosperity. Part of that commitment is the recognition that tax policy is an effective way to sustain and grow our local economy and that from time to time that adjustments must be made to it for the betterment of the community.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 12: Being a regional provider of goods and services the City and County will sustain, develop and enhance a healthy, diverse economy.

This exemption encourages the sale and distribution of locally produced magazines that provide important communications and literature about the community, and correspondingly supports local business.

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

The annual loss of City tax revenue from the sales of magazines produced and distributed in Colorado is estimated to be less than \$5,000.

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

N/A

Attachments:

Letter from Grand Valley Magazine
Proposed Ordinance

Date: March 11, 2013
Subject: **Sales Tax Exemption Request for Colorado-Based Magazines**
To: **Rich Englehart**, City Manager City of Grand Junction
From: **Krystyn Hartman**, Publisher Grand Valley Magazine Inc.
CC: Diane Schwenke and Betsy Blair, Governmental Affairs Committee
Grand Junction Chamber of Commerce:
Attachment: Colorado C.R.S. 1973, 24-70-102 Tax Payer Service Division circular "Special Regulation: Newspapers, Magazines and Other Publications"



Thank you for your proactive interest in and timely attention to this sales tax issue that continues to have a negative impact on our business. I'm glad your office was represented at the Grand Junction Chamber of Commerce Governmental Affairs Committee meeting last week to learn about our issue; thank you for giving it a level of consideration to warrant immediate support locally.

I understand that City Council will consider granting the same sales tax exemption for Grand Junction-based magazines that newspapers have per Colorado C.R.S. 1973, 24-70-102 (attached). The City exemption provides a strong starting point toward obtaining the full exemption all the way through the State level. The following addresses the specifics you requested on the issue. Please let me know if you need more information.

GOAL:SALES TAX EXEMPTION

Our goal is to obtain the same sales tax exemption in the State of Colorado for Colorado-based magazines that Colorado-based newspapers have in both print and digital editions.

Colorado-based magazines are required to collect and pay sales taxes based on Colorado **C.R.S. 1973, 24-70-102** (see Tax Payer Service Division circular "**Special Regulation: Newspapers, Magazines and Other publications**" attached), which specifies that magazine subscriptions sold to customers with Colorado addresses are subject to State, County, and City sales tax. Newspaper subscriptions, however, are exempt from collecting and paying these taxes.

According to the Colorado Dept. of Revenue, online/digital magazine subscriptions are also subject to the sales taxes in Colorado whereas online/digital newspaper subscriptions, again, are not.

Today's publishing environment is very different than it was in 1973. For starters, there was no such thing as digital publishing in 1973.

Both magazines and newspapers are dependent upon subscription, newsstand, and advertising revenue. However, the cost to magazines in time, technology, and manpower to collect and administer the City, County, and State sales taxes in Colorado exceeds the amount of the taxes—a burden not shared by our regional print and digital competitors.

ABOUT GV MAGAZINE

Grand Valley Magazine is the award-winning showcase publication celebrating the dynamic life, landscape and people of Western Colorado.



Published 10 times per year in glossy print, as well as iPad, Kindle, Android, Nook, iPhone, iPod, and Smartphone editions, GV Magazine is available for sale by subscription or retail outlets.

The magazine also serves as a valuable economic development tool for our greater community—from corporate and private jets, to out-of-area subscribers with financial interests in our area, to local soldiers away who feel the comfort of home with every issue of GV they receive.

GV Magazine launched with a print-only edition beginning with the October 2008 issue. The market crash followed immediately but we persevered —despite the sales taxes, Apple's iPad introduction in 2010 that locked up all access to the technology, clobberings by the national distributor (local newspapers don't have the same system restrictions by the distributors that magazines do as a result of their tax exempt status), and rising postage costs—until we finally had to suspend publication with the May 2011 issue.

In the meantime, the technology and legal battles between the big publishers and Apple finally settled out; there were and are growing signs of movement in the local economy relative to our business; and we used that time to analyze our business piece by piece.

We re-launched GV Magazine with the November 2012 issue in our traditional glossy print but we added iPad, Kindle, Android, Nook, iPod, Smartphone, and iPhone editions —all of which required a tremendous investment in technology.

We chose a phase-in comeback strategy for the magazine to allow us the opportunity to work through the bugs in beta and make adjustments in the digital systems. This is why the sales tax issue is such a pressing and immediate challenge to our ability to grow.

We are apprehensive about launching our big subscription drive locally until we can adequately handle processing the sales taxes on the incoming orders.

Furthermore, we are launching a weekly GV digital edition later this year; the release date directly dependent on if and when we are able to get the full State sales tax exemption.

GV Magazine is proud to be the showcase publication by, for, and about our greater Grand Valley. And we are ready and eager to grow.

COSTS TO ADMINISTER THE SALES TAXES

The cost to us in dollars, time, and labor relative to the amount of sales tax owed/paid is staggering —burdens not shared by our competitors (newspapers) per Colorado statute.

After a significant investment in time, money and manpower to develop a sophisticated digital infrastructure that allows for the addition of new features, technologies, and avenues for expansion as our business grows, we are immediately hampered by the cost and logistics of the programming, additional time and manpower needed to accommodate the Colorado sales taxes.

Our digital systems – from subscriber passwords to start dates and end dates to iPad and Kindle Apps to giftor and giftee subscriber addresses – are all layered and linked together. We're not selling screw drivers or computer chips; we can't use standard shopping cart packages.



The cost of software and programmers to incorporate the specific sales tax requirements into our digital systems is far beyond our financial reach.

We're also under stricter rules with the credit card processors and authorizing payment gateways than a business selling gift baskets or blankets via the internet.

The direct cost to us to administer the City, County, and State sales taxes (not including employee taxes, benefits, lunch breaks, and the sales taxes themselves) is more than \$2,500 per 1,000 subscribers or \$2.50 per subscriber no matter the subscription price – and we do it again every time the customers renew their subscriptions (and we most certainly do want them to renew their subscriptions.)

An annual print subscription to GV from a subscriber who lives in Grand Junction, Mesa County, Colorado then looks something like this to us:

40.00 Subscription
(30.00) Postage and packaging
(2.50) Tax administration
(2.00) Sales Tax [average]
5.50

As you can see, we haven't even gotten to the costs to actually produce and print the magazine, (which is why advertising and newsstand sales are so critical to support the subscriptions). We are already at the limit of what this market will pay for a subscription and advertisers want to see larger number of subscribers in order to increase their ad buys.

Or we can just eat the tax and guess. But that too is against the law. We have to collect the taxes from the subscribers.

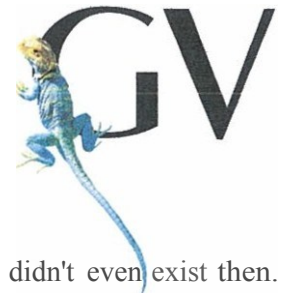
So do we back the tax out of the subscription price? No, because to do that would mean one subscription price for Grand Junction addresses, one subscription price for Mesa County addresses, and another price for Colorado addresses, and another for out-of-state so that they all end up as the same price at the end of the transaction. Now multiply that times four subscription package prices.

At this time, a government-type entity in some form (post office, city, county, state) gets or causes that we pay out nearly 86 % of our subscription price. (The postage and delivery are costs of doing business; postage and delivery cost per unit will decrease some as we reach certain volume mileposts. This is why advertising revenue is so important to a magazine's ability to produce and deliver its stories and features to its subscribers.)

As you can see, all of this hand entry negates a major part of the efficiency gains we should have benefited by investing in and incorporating all the new technology into a fully integrated system.

1973 STATUTE IS OUTMODED

The publishing landscape today would likely be unrecognizable to publishers in 1973 when the Colorado State legislature determined the sales tax status for newspapers and magazines.



And, there was no such thing as digital in the 1970s. Denver's *5280* magazine didn't even exist then.

As a result of the 1973 statute, newspapers still enjoy two government-backed competitive advantages over magazines in the state of Colorado even though both are directly dependent upon advertising, subscription and newsstand sales revenue in order to exist –and profit.

1. Legal notices – direct revenue
2. Exemption from City, County, and State tax–no cost, no impact

We can only assume that newspapers pressed for the exemptions in 1973 because they recognized the logistical and financial burden to administer those taxes. Even without digital, the logistics were then and are now horrendous.

Why magazines were not granted the same exemption is a mystery in that we have not been able to find anyone so far from 40 years ago who has any memory of the ruling much less the whys and wherefores of it. In any case, as everyone knows, the world, Colorado, and Grand Junction have all changed –a lot –since 1973.

STRATEGY FOR FULL STATE EXEMPTION

As *5280* publisher/founder Dan Brogan and I began digging into the C.R.S., we were astonished at how inapplicable it is when considered in a modern publishing environment. Magazines, especially regional magazines, have gone from fledgling blips in the 1970's to a huge category when viewed collectively today. Those 1973 definitions and bases no longer apply. I am eager to let Dan know about Grand Junction's consideration of this issue as I'm sure he'll want to approach Denver with your precedent.

Anchoring Grand Junction and Denver with the magazine exemptions should provide the proactive and real-time momentum needed to get the full State exemption for Colorado-based magazines. And I'm proud that Grand Junction is taking the lead on this.

If the Cities and Counties –in a domino effect–can set that precedent as it makes its way to the State, there is also less risk to the newspaper industry of the State legislators revoking their exemption rather than granting ours. (Therefore, we can only assume that the Colorado newspaper lobby would see tremendous value in championing our request for the exemptions as part of their lobbying effort.)

Also, should the Grand Junction City Council grant this exemption, can you offer any recommendations on how best to proceed with the County in this matter? We are eager to get this resolved.

Thank you again for taking a proactive interest in our cause through consideration of this sales tax exemption for magazines based in Grand Junction-and for encouraging the County to do the same as we press onward for the full State exemption.



Please let me know if you have any additional questions or wish to discuss further. Again, thank you so very much for your consideration and support of this timely and pressing matter.

A handwritten signature in black ink, appearing to read 'Kryota'.

970.241.3310

gvpublisher@gmail.com

FYI – For Your Information

Special Regulation: Newspapers, Magazines and Other Publications

The sale of newspapers as defined in C.R.S. 1973, 24-70-102, is exempt from sales and use tax. The referenced section reads as follows:

"Every newspaper printed and published daily, or daily except Sundays and legal holidays, or which shall be printed and published on each of any five days in every week excepting legal holidays and including or excluding Sundays, shall be considered and held to be a daily newspaper; every newspaper printed and published at regular intervals three times each week shall be considered and held to be a tri-weekly newspaper; every newspaper printed and published at regular intervals twice weekly shall be considered and held to be a semi-weekly newspaper; and every newspaper printed and published at regular intervals once a week shall be considered and held to be a weekly newspaper."

This exemption on sale of newspapers may not be extended to include: magazines, trade publications or journals, credit bulletins, advertising pamphlets, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing service or listings, publications that include an updating or revision service, book or pocket editions of books or other newspapers not otherwise qualifying under the above paragraph.

A publisher who only makes sales of newspapers is not required to obtain a store license or a sales tax license. The publisher shall pay sales or use tax upon all purchases of tangible personal property, except newsprint, printers ink, and electricity or gas used in the production of the newspaper product. If the newspaper publisher makes retail sales of other articles delivered in Colorado, he shall obtain a store license or a sales tax license and collect sales tax, and may purchase such articles tax-free for resale.

Magazines, periodicals, trade journals, etc., are tangible personal property whose retail sale is taxable.

Subscriptions to such publications taken within this state and sent to a publishing house outside the state, where the publication is mailed directly to the subscriber, are subject to the retailer's use tax. Where such publications are printed and sold within this state, the selling price (subscription price) is taxable. If the publication is printed in Colorado and delivery is made out of Colorado, the sale is not taxable.

Trade journals, advertising pamphlets, circulars, etc., which are to be distributed free of charge and are distributed by means of house to house delivery are not exempt from sales tax. Sales tax must be paid to the printer by the advertiser at



Colorado Department
of Revenue
Taxpayer Service Division
1375 Sherman St.
Denver, Colorado 80261

Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238SERV (7378)
Fuel Tax: (303) 205-5602
www.taxcolorado.com

PAGE 1 OF 2
SALES 44 (07/93)

the time that these are prepared by the printer. If these items are purchased out of state and no sales tax has been paid in that state, the advertiser must pay a Colorado use tax. Preprinted newspaper supplements which become attached to or inserted in and distributed with newspapers are exempt.

Organizations which produce and distribute free trade publications, etc. are deemed to be purchasers for their use or consumption and are subjected to tax based on the purchase price of the tangible personal property used.

Citation:

Newspapers, Magazines and Other Publications, Special Regulations for Specific Businesses, 1 CCR 201-5.

page 29.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 3, SECTION 3.12, SALES AND USE TAX, OF THE GRAND JUNCTION MUNICIPAL CODE CONCERNING SALES AND USE TAX EXEMPTIONS FOR THE SALE AND USE OF MAGAZINES SOLD BY SUBSCRIPTION PRODUCED AND DISTRIBUTED IN COLORADO

RECITALS:

This ordinance creates an exemption from the application of sales and use tax to magazines produced and distributed in Colorado.

The City Council is committed to a fair and responsible tax code. The City Council is also committed to the principles of economic development and local prosperity. Part of that commitment is the recognition that tax policy is an effective way to sustain and grow our local economy and that from time to time that adjustments must be made to it for the betterment of the community. The City Council finds that this ordinance is consistent with those purposes and is protective of the City's health and general welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION: (Additions are shown in ALL CAPS)

That Section 3.12.070 of the Grand Junction Municipal Code is amended by adding the as following to 3.12.070 Exemptions from sales tax:

(OO) THE SALE, STORAGE AND USE OF MAGAZINES SOLD BY SUBSCRIPTION AND PRODUCED AND DISTRIBUTED IN COLORADO.

That Section 3.12.080 of the Grand Junction Municipal Code is amended by adding the following to 3.12.080 Exemptions from use tax

(I) THE SALE, STORAGE AND USE OF MAGAZINES PRODUCED AND DISTRIBUTED IN COLORADO.

That Section 3.12.020 of the Grand Junction Municipal Code is amended by adding the following to 3.12.020 Definitions.

MAGAZINE INCLUDES PRINT AND ELECTRONIC VERSIONS OF PUBLICATIONS THAT APPEAR AT STATED INTERVALS AT LEAST FOUR TIMES PER YEAR, AND CONTAINS NEWS OR INFORMATION OF GENERAL INTEREST TO THE PUBLIC OR TO SOME PARTICULAR ORGANIZATION OR GROUP OF PEOPLE.

MAGAZINE DOES NOT INCLUDE BOOKS PUBLISHED OR ISSUED AT STATED INTERVALS, ADVERTIZING PAMPHLETS, CIRCULARS, FLIERS, GUIDES OR HANDBOOKS, CATALOGS, PROGRAMS, SCORECARDS, MAPS, REAL ESTATE BROKERS' LISTINGS, PRICE OR ORDER BOOKS, PRINTED SALES MESSAGES, SHOPPING GUIDES, CORPORATE REPORTS ISSUED TO STOCKHOLDERS, MEDIA ADVERTIZING OR DIRECT MAIL ADVERTIZING SERVICES.

MAGAZINES THAT SELL FOR MORE THAN THE ORIGINAL SELLING PRICE ARE CONSIDERED COLLECTIBLE ITEMS AND ARE SUBJECT TO SALES TAX. FOR EXAMPLE, A FIRST EDITION OF A COMIC BOOK, SOLD FOR MORE THAN THE ORIGINAL PRICE, WOULD BE SUBJECT TO SALES TAX AS A COLLECTIBLE.

Introduced on first reading this 20th day of March 2013 and ordered published in pamphlet form.

Passed and adopted on second reading this _____ day of _____ 2013 and ordered published in pamphlet form.

President of the Council

ATTEST:

City Clerk



Date: March 23, 2013
 Author: Elizabeth Tice-Janda
 Title/ Phone Ext: Revenue
Supervisor, 1598
 Proposed Schedule: First Reading,
3/20/13
 2nd Reading
 (if applicable): 4/3/13

Attach 12
CITY COUNCIL AGENDA ITEM

Subject: Amendment to the Sales and Use Tax Code Exempting Sales Made by Schools, School Activity Booster Organizations, and Student Classes or Organizations from Sales Tax
Action Requested/Recommendation: Hold a Public Hearing and Consider final Passage and Final Publication in Pamphlet Form of the Proposed Ordinance
Presenter(s) Name & Title: Jodi Romero, Financial Operations Director Elizabeth Tice-Janda, Revenue Supervisor

Executive Summary:

This is an amendment to the Grand Junction Municipal Code concerning the exemption of sales made by schools, school activity booster organizations, and student classes or organizations from sales tax.

Background, Analysis and Options:

In 2008, the State adopted a sales tax exemption for sales made by schools, school activity booster organizations, and student classes or organizations if all proceeds of the sale are for the benefit of a school or school-approved student organization. A “school” includes both public and private school for students in kindergarten through twelfth grade or any portion of those school grades.

Currently the City’s tax code allows for the exemption of occasional sales made by charitable organizations for fund raising activities as long as the sales occur for no more than 12 days and gross sales do not exceed \$25,000. Most of the School District's sales already fall under this exemption. However, the Career Center, which conducts ongoing sales throughout the year, does not qualify for the exemption. The Career Center has culinary and floral shop that makes retail sales. The City received a request by School District #51 to consider adopting the State’s exemption.

The City Council is committed to a fair and responsible tax code. The City Council is also committed to the principles of economic development and local prosperity. Part of that commitment is the recognition that tax policy is an effective way to sustain and grow our local economy and that from time to time that adjustments must be made to it for the betterment of the community, including in certain circumstances conforming the City tax code with that of the State to meet specific demands.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County, and other service providers.

This exemption would promote consistency between the State and City's sales tax ordinances.

Goal 12: Being a regional provider of goods and services the City and County will sustain, develop and enhance a healthy, diverse economy.

This exemption also supports the community's education system in furthering its goals of developing knowledge and job skills of the youth in the community.

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

The annual loss of City tax revenue from the sales made by schools is estimated to be less than \$5,000.

Legal issues:

N/A

Other issues:

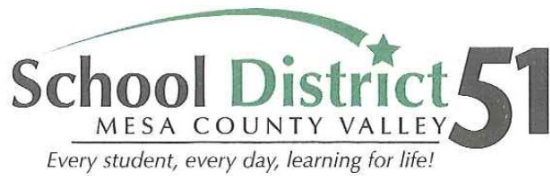
N/A

Previously presented or discussed:

N/A

Attachments:

Letter from School District #51
Proposed Ordinance



RECEIVED

FEB 25 2013

February 21, 2013

City of Grand Junction
Attn: Mr. Rich Englehart, City Manager
250 North 5th Street
Grand Junction, CO 81501

Dear Mr. Englehart:

Please consider our request for the City Council to adjust the City of Grand Junction's Sales and Use Tax Ordinances to exempt sales made by schools, for the benefit of the schools, from sales tax. At this point in time, such sales have been exempted by both the State of Colorado (2008) and Mesa County (2012).

Most fundraising sales of the District schools are already exempt from sales taxes, as they meet the criteria of "occasional sales", less than 12 days and less than \$25,000. At this time, there is only one school, the Career Center, which conducts ongoing sales that are non-exempt. These sales are made from this school's culinary and floral operations. During calendar year 2012, the school collected and remitted a total of \$1,752 sales taxes to the City of Grand Junction.

The District has previously requested the City pass an exemption to align with sales tax rules of the State of Colorado. In her letter dated August 11, 2009, Jodi Romero stated the City of Grand Junction would not adopt an exemption for the School District based on two factors:

1. "...the end user or consumer in these instances does not have an exempt status, and while the proceeds benefit the School District, the consumer still has an obligation to pay sales tax."
2. "...if adopted, the ordinances would establish a different treatment for only one type of non-profit organization."

We ask you to reconsider based on the following:

1. While it is true the end user or consumer is the one paying the taxes, it is still the District that is responsible to collect the tax, file the returns, and remit the tax. The City is the only remaining entity

- that requires this effort. The secretary at the Career Center estimates she spends 40 hours per year managing the sales tax collections, reporting and remittances. Based on her hourly rate, the District spends approximately \$800 in staff time for the City to receive \$1,700 in sales tax revenue.
2. While many non-profits conduct ongoing sales to raise funds to support their mission (for example, Habitat Re-Store and Heirlooms for Hospice), the sales from the culinary and floral shop of the Career Center are integral to the mission of the District, in that the primary purpose is educational experience for vocational and special ed high school students. One visit to these small, student run operations at the school site would convincingly show they are not storefronts that draw in a large public of consumers.

Thank you once again for your kind consideration of this request to align the City of Grand Junction's Sales and Use Tax Ordinances with the State of Colorado and Mesa County. While this is a very small issue in the scope of the City's issues, it is a burdensome issue for the staff of the Career Center High School. If you have any questions regarding this request, please don't hesitate to contact me.

Steven D. Schultz
Superintendent

Attachments
Schools • 970.254.5193

Steven D. Schultz, Superintendent of

Administrative Services • 2115 Grand Avenue • Grand junction, Colorado 81501 • Fax: 970.254.5282 •
www.d51schools.org

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 3, SECTION 3.12, SALES AND USE TAX, OF THE GRAND JUNCTION MUNICIPAL CODE CONCERNING SALES TAX EXEMPTION FOR SALES MADE BY SCHOOLS, SCHOOL ACTIVITY BOOSTER ORGANIZATIONS, AND STUDENT CLASSES OR ORGANIZATIONS

RECITALS:

This ordinance creates an exemption from the application of sales tax to sales made by schools, school activity booster organizations, and student classes or organizations from sales tax.

The City Council is committed to a fair and responsible tax code. The City Council is also committed to the principles of economic development and local prosperity. Part of that commitment is the recognition that tax policy is an effective way to sustain and grow our local economy and that from time to time that adjustments must be made to it for the betterment of the community, including in certain circumstances conforming the City tax code with that of the State to meet specific demands. The City Council finds that this ordinance is consistent with those purposes and is protective of the City's health and general welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION: (Additions are shown in ALL CAPS)

That Section 3.12.070 of the Grand Junction Municipal Code is amended by adding the following to 3.12.070 Exemptions from sales tax:

(QQ) SALES MADE BY SCHOOLS, SCHOOL ACTIVITY BOOSTER ORGANIZATIONS, AND STUDENT CLASSES OR ORGANIZATIONS IF ALL PROCEEDS OF THE SALE ARE FOR THE BENEFIT OF A SCHOOL OR SCHOOL-APPROVED STUDENT ORGANIZATION.

That Section 3.12.020 of the Grand Junction Municipal Code is amended by adding the following to 3.12.020 Definitions.

SCHOOL FOR THE PURPOSES OF 3.12.030 (QQ) INCLUDES BOTH PUBLIC AND PRIVATE SCHOOLS FOR STUDENTS IN KINDERGARTEN THROUGH TWELFTH GRADE OR ANY PORTION OF THOSE SCHOOL GRADES. PRESCHOOLS, TRADE SCHOOLS, AND POST-SECONDARY SCHOOLS ARE NOT ELIGIBLE FOR THIS EXEMPTION.

Introduced on first reading this 20th day of March 2013 and ordered published in pamphlet form.

Passed and adopted on second reading this _____ day of _____ 2013 and ordered published in pamphlet form.

President of the Council

ATTEST:

City Clerk



Date: March 12, 2013
 Author: Elizabeth Tice-Janda
 Title/ Phone Ext: Revenue Supervisor, 1598
 Proposed Schedule: First Reading, 3/20/13
 2nd Reading
 (if applicable): 4/3/13

**Attach 13
 CITY COUNCIL AGENDA ITEM**

Subject: Amendment to the Sales and Use Tax Code Exempting Manufacturing Equipment from Sales Tax
Action Requested/Recommendation: Hold a Public Hearing and Consider final Passage and Final Publication in Pamphlet Form of the Proposed Ordinance
Presenter(s) Name & Title: Jodi Romero, Financial Operations Director Elizabeth Tice-Janda, Revenue Supervisor

Executive Summary:

This is an amendment to the Grand Junction Municipal Code concerning the exemption of the sale of manufacturing equipment from sales tax.

Background, Analysis and Options:

The City’s tax code has numerous manufacturing exemptions including but not limited to the exemption of raw and consumable materials used in manufacturing, and energy sold to businesses engaged in manufacturing. Currently the use of manufacturing equipment is exempt from City tax. It has been the intent of the City’s tax policy to exempt manufacturing equipment from all sales, storage, and use. This ordinance clarifies this tax policy within the code.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 12: Being a regional provider of goods and services the City and County will sustain, develop and enhance a healthy, diverse economy.

This exemption continues to support and foster manufacturing industry.

Board or Committee Recommendation:

N/A

Financial Impact/Budget:

The annual loss of City tax revenue from the sales of manufacturing equipment is estimated at less than \$5,000 per year.

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

N/A

Attachments:

Proposed Ordinance

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 3, SECTION 3.12, SALES AND USE TAX, OF
THE GRAND JUNCTION MUNICIPAL CODE CONCERNING SALES TAX
EXEMPTIONS FOR THE SALE OF MANUFACTURING EQUIPMENT**

RECITALS:

This ordinance creates an exemption from the application of sales tax to manufacturing equipment.

The City Council is committed to a fair and responsible tax code. The City Council is also committed to the principles of economic development and local prosperity. Part of that commitment is the recognition that tax policy is an effective way to sustain and grow our local economy and that from time to time that adjustments must be made to it for the betterment of the community. The City Council finds that this ordinance is consistent with those purposes and is protective of the City's health and general welfare.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION: (Additions are shown in ALL CAPS)

That Section 3.12.070 of the Grand Junction Municipal Code is amended by adding the following under 3.12.070 Exemptions from sales tax:

(PP) THE SALE OF MANUFACTURING EQUIPMENT.

Introduced on first reading this 20th day of March 2013 and ordered published in pamphlet form.

Passed and adopted on second reading this _____ day of _____ 2013 and ordered published in pamphlet form.

President of the Council

ATTEST:

City Clerk



Date: March 19, 2013

Author: Senta Costello

Title/ Phone Ext: Senior Planner / x1442

Proposed Schedule: Referral / Land Use

February 20, 2013; 1st Reading of Zoning

March 20, 2013

2nd Reading (if applicable): April 3, 2013

File # (if applicable): ANX-2013-10

**Attach 14
CITY COUNCIL AGENDA ITEM**

Subject: Mesa County Workforce Annexation, Comprehensive Plan Future Land Use Designation Amendment and Zoning, Located at 512 29 1/2 Road
Action Requested/Recommendation: Adopt a Resolution Accepting the Petition for the Mesa County Workforce Center Annexation, Hold a Public Hearing to Consider Final Passage and Final Publication in Pamphlet Form of the Proposed Annexation and Zoning Ordinances
Presenter(s) Name & Title: Senta Costello, Senior Planner

Executive Summary:

Request to annex 10.29 acres consisting of 1 parcel which includes a portion of 29 1/2 Road right-of-way. Recommend to City Council a Comprehensive Plan Future Land Use designation amendment from Residential Medium to Village Center, and a zoning of C-1 (Light Commercial) for property located at 512 29 1/2 Road.

Background, Analysis and Options:

The property requesting annexation into the City is located at 512 29 1/2 Road. Mesa County plans to build the new Mesa County Workforce Center on the property in the near future. The property owners have requested annexation into the City, a Comprehensive Plan Future Land Use designation amendment via an adjacency review from Residential Medium to Village Center and a zoning of C-1 (Light Commercial).

Under the 1998 Persigo Agreement with Mesa County all proposed development within the Persigo Wastewater Treatment Facility boundary requires annexation and processing in the City, and the City shall zone newly annexed areas with a zone that is either identical to current County zoning or conforms to the Comprehensive Plan Future Land Use Map.

The requested zone (C-1) does not implement the current future land use designation of Residential Medium. The adjacency review, however, allows an amendment to a Village Center designation in this case because the property is adjacent to land that is designated Village Center. Therefore the applicant seeks to amend the Comprehensive Plan from Residential Medium to Village Center, which allows a C-1 zone district.

The existing County zoning is RSF-R (Residential Single Family – Rural 5-25 ac/du). Section 21.02.160(f) of the Grand Junction Municipal Code, states that the zoning of an annexation area shall be consistent with the adopted Comprehensive Plan and the criteria set forth. Generally, future development should be at a density equal to or greater than the allowed density of the applicable County zoning district. The request is consistent with the Comprehensive Plan with use of an adjacency review to amend the Comprehensive Plan Future Land Use designation.

Municipal Code Section 21.02.130(d) (Zoning and Development Code) allows for the processing of a zone of annexation application without a plan amendment when the proposed zoning is inconsistent with the Comprehensive Plan and the property is adjacent to the land use designation that would support the requested zone district. The property to the south of the Mesa County Workforce Annexation has a designation of Village Center and a zoning of C-1.

How this item relates to the Comprehensive Plan Goals and Policies:

The request furthers the following goals and policies of the Comprehensive Plan:

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County, and other service providers.

Policy A: City and County land use decisions will be consistent with the Comprehensive Plan Future Land Use Map.

Policy C: The City and Mesa County will make land use and infrastructure decisions consistent with the goal of supporting and encouraging the development of centers.

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

Policy A: To create large and small “centers” throughout the community that provides services and commercial areas.

Policy B: Create opportunities to reduce the amount of trips generated for shopping and commuting and decrease vehicle miles traveled thus increasing air quality.

The proposed Comprehensive Plan Future Land Use Map amendment and zone of annexation meets Goals 1 and 3 of the Comprehensive Plan by implementing land use decisions that are consistent with the Comprehensive Plan and by the creation of “centers” throughout the community that provide services and commercial areas. Mesa County has found that many of their customers at the Workforce Center are also customers at the Human Services Division as well. Combining the two in a campus like setting would eliminate the need for multiple destinations, creating a “one-stop shopping” experience for the customer.

Board or Committee Recommendation:

Planning Commission forwarded a recommendation of approval at its February 26, 2013 meeting.

Financial Impact/Budget:

N/A

Legal issues:

N/A

Other issues:

N/A

Previously presented or discussed:

A Resolution Referring the Petition for Annexation was adopted on February 20, 2013.

Attachments:

Staff Report/Background Information
Site Location Map / Aerial Photo Map
Comprehensive Plan Future Land Use Map / Zoning Map
Annexation Ordinance
Zoning Ordinance

STAFF REPORT / BACKGROUND INFORMATION			
Location:		512 29 1/2 Road	
Applicants:		Mesa County	
Existing Land Use:		Vacant	
Proposed Land Use:		Construct new Workforce Center	
Surrounding Land Use:	North	Residential	
	South	Mesa County Health Dept & Human Services	
	East	Cemetery	
	West	Residential	
Existing Zoning:		County – RSF-R (Residential Single Family – Rural)	
Proposed Zoning:		C-1 (Light Commercial)	
Surrounding Zoning:	North	County RMF-5 (Residential Multi-Family 5 du/ac)	
	South	C-1 (Light Commercial)	
	East	County – RSF-R (Residential Single Family – Rural)	
	West	County RMF-8 (Residential Multi-Family 8 du/ac)	
Future Land Use Designation:		Residential Medium	
Requested Land Use Designation:		Village Center	
Zoning within density range?		<input checked="" type="checkbox"/> Yes, if amendment approved	<input type="checkbox"/> No

Staff Analysis:

ANNEXATION:

This annexation area consists of 10.29 acres of land and is comprised of 1 parcel and includes a portion of 29 1/2 Road right of way. The property owners have requested annexation into the City to allow for development of the property. Under the 1998 Persigo Agreement all proposed development within the Persigo Wastewater Treatment boundary requires annexation and processing in the City.

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

- a) A proper petition has been signed by more than 50% of the owners and more than 50% of the property described;
- b) Not less than one-sixth of the perimeter of the area to be annexed is contiguous with the existing City limits;
- c) A community of interest exists between the area to be annexed and the City. This is so in part because the Central Grand Valley is essentially a single

- demographic and economic unit and occupants of the area can be expected to, and regularly do, use City streets, parks and other urban facilities;
- d) The area is or will be urbanized in the near future;
 - e) The area is capable of being integrated with the City;
 - f) No land held in identical ownership is being divided by the proposed annexation;
 - g) No land held in identical ownership comprising 20 contiguous acres or more with an assessed valuation of \$200,000 or more for tax purposes is included without the owner's consent.

The following annexation and zoning schedule is being proposed.

<i>ANNEXATION SCHEDULE</i>	
February 20, 2013	Referral of Petition (30 Day Notice), Introduction Of A Proposed Ordinance, Exercising Land Use
February 26, 2013	Planning Commission considers Zone of Annexation
March 20, 2013	Introduction Of A Proposed Ordinance on Zoning by City Council
April 3, 2013	Acceptance of Petition and Public Hearing on Annexation and Zoning by City Council
May 5, 2013	Effective date of Annexation and Zoning

MESA COUNTY WORKFORCE ANNEXATION SUMMARY		
File Number:	ANX-2013-10	
Location:	512 29 1/2 Road	
Tax ID Number:	2943-084-23-931	
# of Parcels:	1	
Estimated Population:	0	
# of Parcels (owner occupied):	0	
# of Dwelling Units:	0	
Acres land annexed:	10.129	
Developable Acres Remaining:	9.217	
Right-of-way in Annexation:	0.986 acres (42,958 sf)	
Previous County Zoning:	RSF-R (Residential Single Family – Rural)	
Proposed City Zoning:	C-1 (Light Commercial)	
Current Land Use:	Vacant	
Future Land Use:	Future Mesa County New Workforce Center	
Values:	Assessed:	\$151,590
	Actual:	\$522,720
Address Ranges:	512 29 ½ Road	
Special Districts:	Water:	Ute Water
	Sewer:	City
	Fire:	Grand Junction Rural Fire District
	Irrigation/Drainage:	Grand Valley Irrigation / Grand Valley Drainage Dist.
	School:	Mesa Co School Dist #51
	Pest:	N/A

Approval criteria – Zone of Annexation (Section 21.02.140 GJMC); Comprehensive Plan Future Land Use Map Amendment (Section 21.02.130 GJMC):

In order to zone the property and amend the Comprehensive Plan Future Land Use map, the following questions must be answered and one or more of the criteria found to be met:

- (1) *Subsequent events have invalidated the original premises and findings.*

The current zoning of RSF-R is a Mesa County designation used for rural large, acre residential properties. This neighborhood has been developing with urban

type development. The construction of the Mesa County Human Services building to the south and higher residential densities averaging 10+ du/ac to the west make the original premises for the RSF-R zone district invalid.

When the Comprehensive Plan Future Land Use designations were determined, many areas were not considered on a lot by lot basis, instead a broad brush analysis was used. The lines defining the boundaries between designations were not intended to be exact but to have some flexibility to allow a natural development of the area, consistent with the broad strokes of the Plan, to occur.

The property was acquired by Mesa County with the intent of developing future office facilities that are complementary to the neighboring Human Services and Health Department facility and to other uses in the general area. This is the kind of organic progress that the Comprehensive Plan intends, and an adjacency review allows that to occur, given that it was not really possible to draw a “blurry” line on the future land use map. Subsequent events that have invalidated the premises behind the Residential Medium designation include the recent commercial/office development in the immediate area, such as the Human Services facility.

(2) The character and/or condition of the area has changed such that the amendment is consistent with the Plan.

The area has developed in a more urban and commercial manner in the recent years, changing the character from a suburban or rural residential area to a more commercial / village center area. This has brought more people, businesses and traffic to the neighborhood.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed.

The public and community facilities are adequate to provide services to the site for Village Center and C-1 type uses. There is an 8” Ute Water line and an 8” sanitary sewer line within the 29 1/2 Road right-of-way. Storm sewer is available at the southwest corner of the property and trash service is available in the neighborhood. The property is also located on a Grand Valley Transit bus route with a stop located at the northern part of the Human Services site on 29 1/2 Road.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use.

There is a suitable supply of land currently designated Village Center and zoned C-1 in the community that could support the proposed development; however, this property is directly north of the existing Mesa County Human Services and

Health Department Building and the proposed development will be complementary and supportive of the existing Mesa County use to the south.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

Response: The community will benefit from the proposed Comprehensive Plan Future Land Use Map designation amendment and zone of annexation as these changes will allow for development of the property in a manner that will aid citizens by consolidating similar uses in one location, eliminating additional vehicle trips. The site is on a major transportation corridor and a GVT bus route making access to and from the site convenient. Consolidating similar uses benefits the community as a whole by eliminating the need for multiple vehicle trips.

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

If the Comprehensive Plan Future Land Use Map is amended to Village Center:

- a. R-8
- b. R-12
- c. R-16
- d. R-24
- e. R-O
- f. B-1
- g. C-1
- h. MXR – 3, 5
- i. MXG – 3, 5
- j. MXS – 3, 5

If the Comprehensive Plan Future Land Use Map remains Residential Medium:

- a. R-4
- b. R-5
- c. R-8
- d. R-12
- e. R-16
- f. R-O

If the City Council chooses to recommend an alternative zone designation, specific alternative findings must be made supporting the alternative zone designation.

FINDINGS OF FACT/CONCLUSIONS:

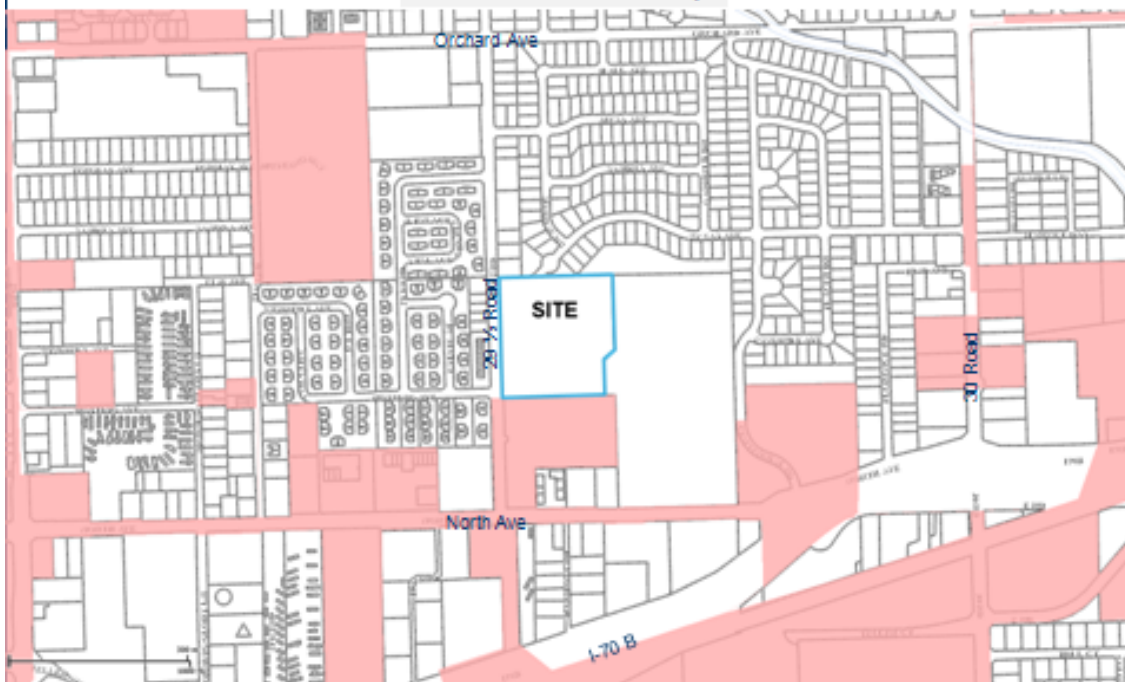
After reviewing the Mesa County Workforce Annexation, ANX-2013-10, a request to amend the comprehensive plan future land use designation from Residential Medium to Village Center and a zone of annexation for the property from RSF-R (Residential Single Family – Rural 5-25 ac/du) to C-1 (Light Commercial), the Planning Commission made the following findings of fact and conclusions:

1. The requested zone is consistent with the goals and policies of the Comprehensive Plan as stated in the staff report.
2. The review criteria in Sections 21.02.140 and 21.02.130 of the Grand Junction Municipal Code have been met; specifically criteria 1, 2, 3 and 5 have been met.

Attachments:

Annexation - Site Location Map / Aerial Photo Map
Comprehensive Plan Map / Existing City and County Zoning Map
Annexation Ordinance
Zoning Ordinance

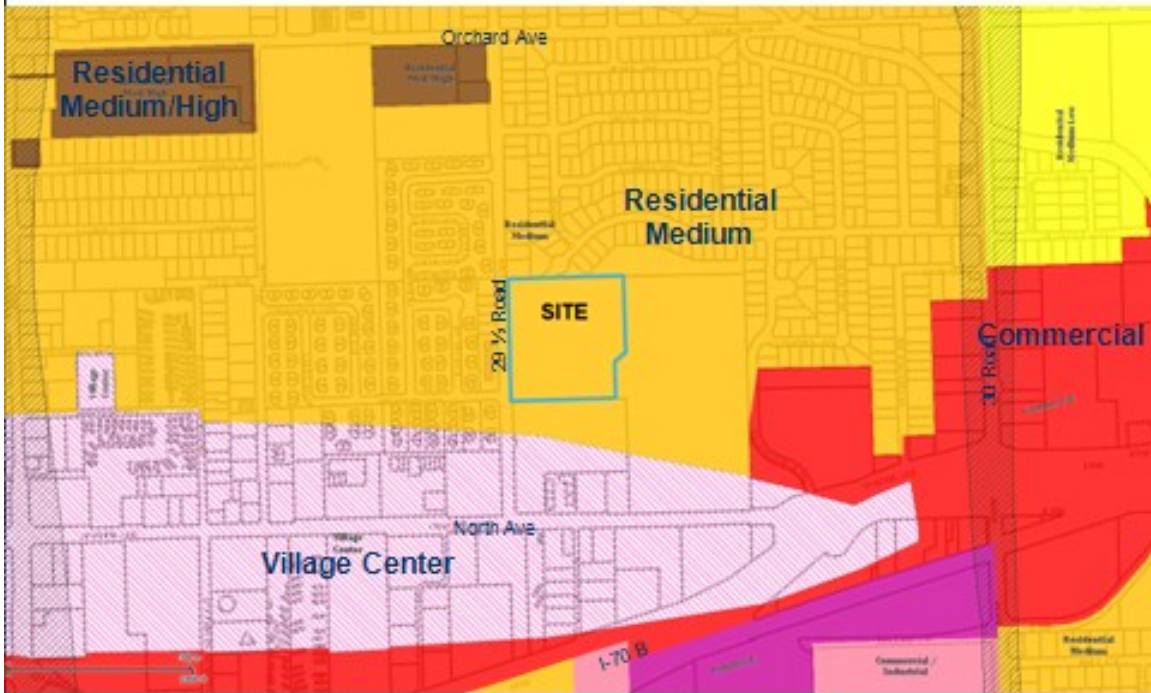
Site Location Map



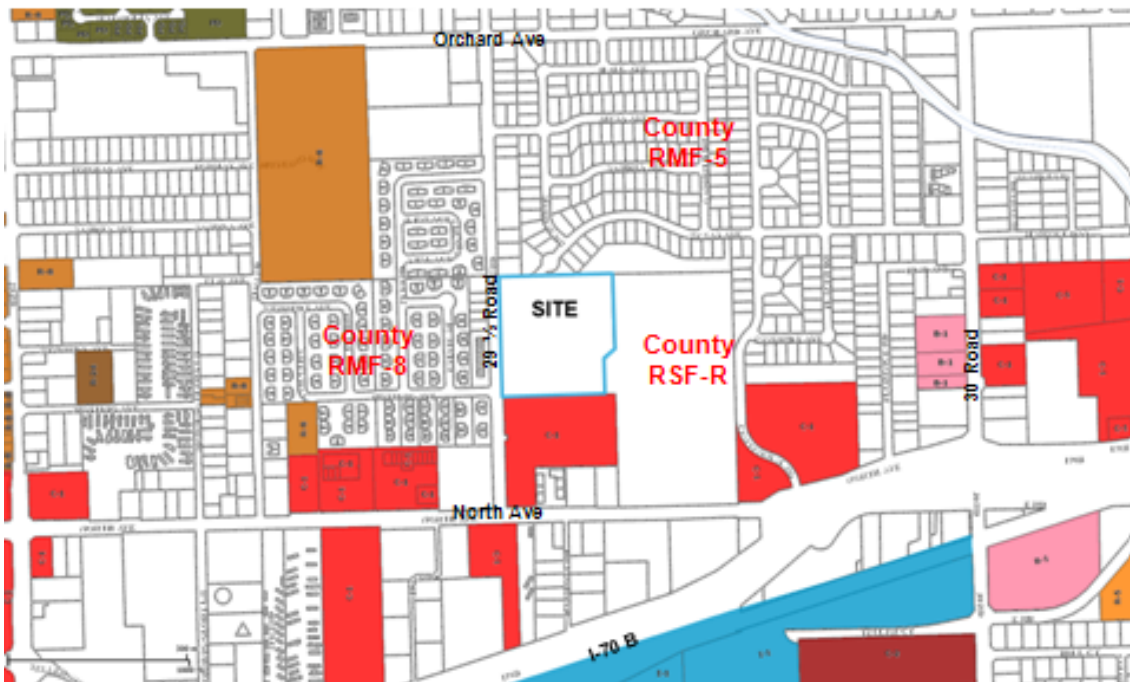
Aerial Photo Map



Comprehensive Plan Future Land Use Map



Existing Zoning Map



CITY OF GRAND JUNCTION, COLORADO

RESOLUTION NO. ____

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

MESA COUNTY WORKFORCE ANNEXATION

**LOCATED AT 512 29 1/2 ROAD AND INCLUDING A PORTION OF
THE 29 1/2 ROAD RIGHT-OF-WAY**

IS ELIGIBLE FOR ANNEXATION

WHEREAS, on the 20th day of February, 2013, a petition was submitted to the City Council of the City of Grand Junction, Colorado, for annexation to said City of the following property situate in Mesa County, Colorado, and described as follows:

MESA COUNTY WORKFORCE ANNEXATION

A certain parcel of land lying in the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) and the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 8, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

BEGINNING at the Northwest corner of the SW 1/4 SE 1/4 of said Section 8 and assuming the North line of the SW 1/4 SE 1/4 of said Section 8 bears S 89°55'43" E with all other bearings contained herein being relative thereto; thence from said Point of Beginning, S 89°55'43" E along the North line of the SW 1/4 SE 1/4 of said Section 8, also being the South line of Centennial '76 Filing No. Two, as same is recorded in Plat Book 11, Pages 228 and 229 and the North line of Lot 2, Memorial Gardens Minor Subdivision, as same is recorded in Plat Bok 19, Page 379, all in the Public Records of Mesa County, Colorado, a distance of 656.70 feet to a point being the Northeast corner of Lot 2 of said Memorial Gardens Minor Subdivision; thence S 00°03'39" E along the East line of said Lot 2, a distance of 415.07 feet; thence continuing along said East line, S 44°56'21" W, a distance of 82.02 feet; thence continuing along said East line, S 00°03'39" E, a distance of 187.55 feet, more or less, to a point being the Southeast corner of said Lot 2; thence N 89°56'42" W, along the South line of said Lot 2 and its Westerly extension, a distance of 628.62 feet; thence N 00°04'03" W, along a line 30.00 feet West of and parallel with, the East line of the SE 1/4 SW 1/4 of said Section 8, a distance of 660.88 feet to a point on the North line of the SE 1/4 SW 1/4 of said Section 8; thence N 89°58'35" E along the North line of the SE 1/4 SW 1/4 of said Section 8, a distance of 30.00 feet, more or less, to the Point of Beginning.

CONTAINING 441,201 Square Feet or 10.129 Acres, more or less, as described above.

WHEREAS, a hearing on the petition was duly held after proper notice on the 3rd day of April, 2013; and

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

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

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

ADOPTED this ____ day of _____, 2013.

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

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

MESA COUNTY WORKFORCE ANNEXATION

APPROXIMATELY 10.129 ACRES

**LOCATED AT 512 29 1/2 ROAD AND INCLUDING A PORTION
OF 29 1/2 ROAD RIGHT-OF-WAY**

WHEREAS, on the 20th day of February, 2013, the City Council of the City of Grand Junction considered a petition for the annexation of the following described territory to the City of Grand Junction; and

WHEREAS, a hearing on the petition was duly held after proper notice on the 3rd day of April, 2013; and

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

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

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

MESA COUNTY WORKFORCE ANNEXATION

A certain parcel of land lying in the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) and the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section 8, Township 1 South, Range 1 East of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

BEGINNING at the Northwest corner of the SW 1/4 SE 1/4 of said Section 8 and assuming the North line of the SW 1/4 SE 1/4 of said Section 8 bears S 89°55'43" E with all other bearings contained herein being relative thereto; thence from said Point of Beginning, S 89°55'43" E along the North line of the SW 1/4 SE 1/4 of said Section 8, also being the South line of Centennial '76 Filing No. Two, as same is recorded in Plat Book 11, Pages 228 and 229 and the North line of Lot 2, Memorial Gardens Minor Subdivision, as same is recorded in Plat Bok 19, Page 379, all in the Public Records of

Mesa County, Colorado, a distance of 656.70 feet to a point being the Northeast corner of Lot 2 of said Memorial Gardens Minor Subdivision; thence S 00°03'39" E along the East line of said Lot 2, a distance of 415.07 feet; thence continuing along said East line, S 44°56'21" W, a distance of 82.02 feet; thence continuing along said East line, S 00°03'39" E, a distance of 187.55 feet, more or less, to a point being the Southeast corner of said Lot 2; thence N 89°56'42" W, along the South line of said Lot 2 and its Westerly extension, a distance of 628.62 feet; thence N 00°04'03" W, along a line 30.00 feet West of and parallel with, the East line of the SE 1/4 SW 1/4 of said Section 8, a distance of 660.88 feet to a point on the North line of the SE 1/4 SW 1/4 of said Section 8; thence N 89°58'35" E along the North line of the SE 1/4 SW 1/4 of said Section 8, a distance of 30.00 feet, more or less, to the Point of Beginning.

CONTAINING 441,201 Square Feet or 10.129 Acres, more or less, as described above.

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

INTRODUCED on first reading on the 20th day of February, 2013, and ordered published.

ADOPTED on second reading the ____ day of _____, 2013.

Attest:

President of the Council

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN FROM RESIDENTIAL
MEDIUM (4 – 8 DU/AC) TO VILLAGE CENTER AND ZONING
THE MESA COUNTY WORKFORCE ANNEXATION
TO C-1 (LIGHT COMMERCIAL)**

LOCATED AT 512 29 1/2 ROAD

Recitals

The property requesting annexation into the City is located at 512 29 1/2 Road. The property is anticipated to be developed as the new Mesa County Workforce Center in the near future. The property owners have requested annexation into the City, a Comprehensive Plan Future Land Use designation amendment via an adjacency review from Residential Medium to Village Center and a zoning of C-1, (Light Commercial). Under the 1998 Persigo Agreement with Mesa County all proposed development within the Persigo Wastewater Treatment Facility boundary requires annexation and processing in the City.

Under the 1998 Persigo Agreement with Mesa County, the City shall zone newly annexed areas with a zone that is either identical to current County zoning or to a zone district that implements the City's Comprehensive Plan Future Land Use Map.

Although C-1 is not one of the zones that implements the current future land use designation, the adjacency review allows an amendment to a Village Center designation in this case because the property is adjacent to land that is designated Village Center. Therefore the applicant seeks to amend the Comprehensive Plan from Residential Medium to Village Center, which allows a C-1 zone district.

Municipal Code Section 21.02.130(d) (Zoning and Development Code) allows for the processing of a zone of annexation application without a Future Land Use Map amendment when the proposed zoning is inconsistent with the Comprehensive Plan and the property is adjacent to the land use designation that would support the requested zone district. The property to the south of the Mesa County Workforce Annexation had a designation of Village Center and a zoning of C-1.

With the amendment of the Future Land Use designation of the Comprehensive Plan to Village Park via an adjacency review, the C-1 (Light Commercial) zone district meets the recommended land use category, and the Comprehensive Plan's goals and policies and/or is generally compatible with appropriate land uses located in the surrounding area.

After public notice and public hearing as required by the Grand Junction Municipal Code, the Grand Junction Planning Commission recommended approval of amending the Comprehensive Plan Future Land Use designation from Residential Medium to Village Center and zoning the Mesa County Workforce Annexation to the C-1 (Light Commercial) zone district.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the C-1 (Light Commercial) zone district is in conformance with the stated criteria of Section 21.02.140 of the Grand Junction Municipal Code.

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

The following property be zoned C-1 (Light Commercial):

MESA COUNTY WORKFORCE ANNEXATION

Lot 2 Memorial Gardens Minor Subdivision Sec 8 T1S R1E, County of Mesa, State of Colorado

and amending the Future Land Use Map to Village Center.

INTRODUCED on first reading the 20th day of March, 2013 and ordered published in pamphlet form.

ADOPTED on second reading the ____ day of _____, 2013 and ordered published in pamphlet form.

ATTEST:

President of the Council

City Clerk



Date: March 21, 2013
 Author: Brian Rusche
 Title/ Phone Ext: Sr. Planner/4058
 Proposed Schedule:
January 16: 1st reading of annexation
March 20: 1st reading of zoning
 2nd Reading (if applicable):
Wednesday, April 3, 2013
File #: ANX-2012-574

**Attach 15
 CITY COUNCIL AGENDA ITEM**

Subject: Annexation and Zoning of the Rock Shop Enclave, Located South of D Road, East of S. 15 th Street and South of the Riverside Parkway on both sides of 27 1/2 Road North of Las Colonias Park
Action Requested/Recommendation: Hold a Public Hearing to Consider Final Passage and Final Publication in Pamphlet Form of the Proposed Annexation and Zoning Ordinances
Presenters Name & Title: Brian Rusche, Senior Planner

Executive Summary: A request to annex 53.66 acres of enclaved property, located south of D Road, east of S. 15th Street and south of the Riverside Parkway on both sides of 27 1/2 Road north of Las Colonias Park, and to zone the annexation, consisting of 68 parcels, to an I-1 (Light Industrial) zone district.

Background, Analysis and Options:

The 53.66 acre Rock Shop Enclave Annexation consists of 68 parcels and 3.84 acres of public right-of-way. The annexation has been initiated by the City pursuant to the 1998 Persigo Agreement with Mesa County (“Agreement”). With the annexation of the property included in the Brady Trucking Annexation on May 20, 2007, the area is enclaved. The terms of the Agreement state that an “enclaved” area shall be annexed into the City. (“Enclaved” means that an unincorporated area is completely surrounded by the City.)

The City has also agreed to zone newly annexed areas using either the current County zoning or a zone district that implements the Comprehensive Plan. The proposed zoning of I-1 (Light Industrial) implements the Comprehensive Plan Future Land Use Map, which has designated the enclaved area as Industrial, and Commercial/Industrial south of Ruby/Winters Avenue.

The approved Greater Downtown Plan (CPA-2011-1067) did not change these land use designations and, in fact, identified the opportunity for increasing heavy commercial and industrial uses within the enclaved area, as it relates to the remainder of the planning area.

Review criteria # 1, 2, and 5 in Section 21.02.140 of the Grand Junction Municipal Code have been met.

See attached Staff Report/Background Information for additional detail.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County, and other service providers.

The proposed I-1 (Light Industrial) zone district conforms to the Comprehensive Plan Future Land Use Map, which has designated the enclaved area as Industrial and, south of Ruby/Winters Avenue, Commercial/Industrial.

The approved Greater Downtown Plan (CPA-2011-1067) did not change these land use designations and, in fact, identified the opportunity for increasing heavy commercial and industrial uses within the enclaved area, as it relates to the remainder of the planning area.

Goal 12: Being a regional provider of goods and services the City and County will sustain, develop and enhance a health, diverse economy.

Policy B: The City and County will provide appropriate commercial and industrial development opportunities.

The proposed I-1 zone district will provide the opportunity for future (re)development within a transitional industrial neighborhood with access to the Riverside Parkway.

Board or Committee Recommendation: On February 26, 2013 the Planning Commission forwarded a unanimous recommendation of approval of the I-1 (Light Industrial) zone district.

Financial Impact/Budget: The provision of municipal services will be consistent with adjacent properties already in the City. Property tax levies and municipal sales/use taxes will be collected within the enclaved area upon annexation.

Legal issues: None.

Other issues: None.

Previously presented or discussed: A Resolution of Intent to Annex was adopted on January 16, 2013. First reading of the Zoning Ordinance was on March 20, 2013.

Attachments:

1. Staff report/Background information
2. Annexation Summary
3. Annexation Map
4. Aerial Photo
5. Comprehensive Plan - Future Land Use Map
6. Existing City and County Zoning Map

7. Existing Land Use table
8. Annexation Ordinance
9. Zoning Ordinance

STAFF REPORT / BACKGROUND INFORMATION

Location:		see annexation map		
Applicants:		City of Grand Junction		
Existing Land Use:		Commercial / Industrial / Residential		
Proposed Land Use:		Industrial		
Surrounding Land Use:	North	Union Pacific Railroad		
	South	Las Colonias Park		
	East	Industrial		
	West	Industrial		
Existing Zoning:		County RSF-R (Residential Single-Family Rural) County I-2 (General Industrial)		
Proposed Zoning:		I-1 (Light Industrial)		
Surrounding Zoning:	North	I-1 (Light Industrial)		
	South	CSR (Community Services and Recreation) I-1 (Light Industrial)		
	East	I-1 (Light Industrial) / I-2 (General Industrial)		
	West	I-2 (General Industrial) CSR (Community Services and Recreation)		
Future Land Use Designation:		Industrial Commercial/Industrial (south of Ruby/Winters Ave)		
Zoning within density range?		X	Yes	No

Staff Analysis:

ANNEXATION: The annexation area is 53.66 acres, consisting of 68 parcels and 3.84 acres of public right-of-way.

Under the 1998 Persigo Agreement with Mesa County, the City is required to annex all enclaved areas within five (5) years. State law allows a municipality to annex enclave areas unilaterally after they have been enclaved for a period of three (3) years. The property has been enclaved since May 20, 2007 by the Brady Trucking Annexation.

The following annexation and zoning schedule is being proposed:

ANNEXATION SCHEDULE	
January 16, 2013	Notice of Intent to Annex (30 Day Notice), Exercising Land Use
February 26, 2013	Planning Commission considers Zone of Annexation
March 20, 2013	Introduction Of A Proposed Ordinance on Zoning by City Council
April 3, 2013	Public Hearing on Annexation and Zoning by City Council
May 5, 2013	Effective date of Annexation and Zoning

ROCK SHOP ENCLAVE ANNEXATION SUMMARY		
File Number:	ANX-2012-574	
Location:	see annexation map	
Tax ID Numbers:	see annexation map	
# of Parcels:	68	
Estimated Population:	59 (2010 Census)	
# of Parcels (owner occupied):	19	
# of Dwelling Units:	33	
Acres land annexed:	53.66	
Developable Acres Remaining:	49.82	
Right-of-way in Annexation:	3.84 acres (167,402 square feet)	
Previous County Zoning:	County RSF-R (Residential Single-Family Rural) County I-2 (General Industrial)	
Proposed City Zoning:	I-1 (Light Industrial)	
Current Land Use:	Commercial / Industrial / Residential	
Future Land Use:	Industrial	
Values:	Assessed:	\$ 2,338,750
	Actual:	\$10,234,370
Address Ranges:	multiple	
Special Districts:	Water:	City of Grand Junction (4 parcels) Ute Water Conservancy District
	Sewer:	Persigo 201
	Fire:	Grand Junction Rural Fire District
	Irrigation:	Grand Valley Irrigation Company
	Drainage:	Grand Valley Drainage District
	School:	Mesa County Valley School District #51
	Pest:	Grand River Mosquito Control District

ZONE OF ANNEXATION:

Enclave:

The 53.66 acre Rock Shop Enclave Annexation consists of 68 parcels and 3.84 acres of public right-of-way. The annexation has been initiated by the City pursuant to the 1998 Persigo Agreement with Mesa County ("Agreement"). With the annexation of the property included in the Brady Trucking Annexation on May 20, 2007, the area is enclaved. The terms of the Agreement state that an "enclaved" area shall be annexed into the City. ("Enclaved" means that an unincorporated area is completely surrounded by the City.)

The City has also agreed to zone newly annexed areas using either the current County zoning or a zone district that implements the Comprehensive Plan. The proposed zoning of I-1 (Light Industrial) implements the Comprehensive Plan Future Land Use Map, which has designated the enclaved area as Industrial, and Commercial/Industrial south of Ruby/Winters Avenue.

Development pattern and existing conditions:

A summary of existing land uses within the enclave is attached to this report.

The earliest known development in this area began with homes built between 1900 and 1910, some of which are still present. The majority of the residential structures along 27 ½ Road and Bonny Lane were built in the late 1930s and 1940s. The enclaved area includes 33 dwelling units, about 2/3 of which appear to be owner occupied. The proposed zoning will render all existing dwelling units nonconforming. The residences can remain and would be permitted limited expansion as well as rebuilding if destroyed, pursuant to the standards for nonconforming residential uses found in GJMC Section 21.08.020(c), as may be amended.



The right-of-way (ROW) for Bonny Lane (incorrectly labeled as Bonny Street), was platted by the Amelang Subdivision in 1963 but has not been engineered or constructed and is considered “unimproved”. Its condition has led four (4) property owners to create their own unimproved, dirt-surface access across one another’s’ properties via rear yard driveways. There are several encroachments into Bonny Lane as well, including fences and personal property. If it became necessary to improve this roadway, encroachments would need to be removed.

In 1955 the Pleasant View Subdivision, along 27 ½ Road and Bonny Street south of the residential area, was platted. However, industrial development did not occur until the late 1970s and early 1980s. The existing land uses in this subdivision include auto repair, cabinet shops, warehousing and personal storage, along with light



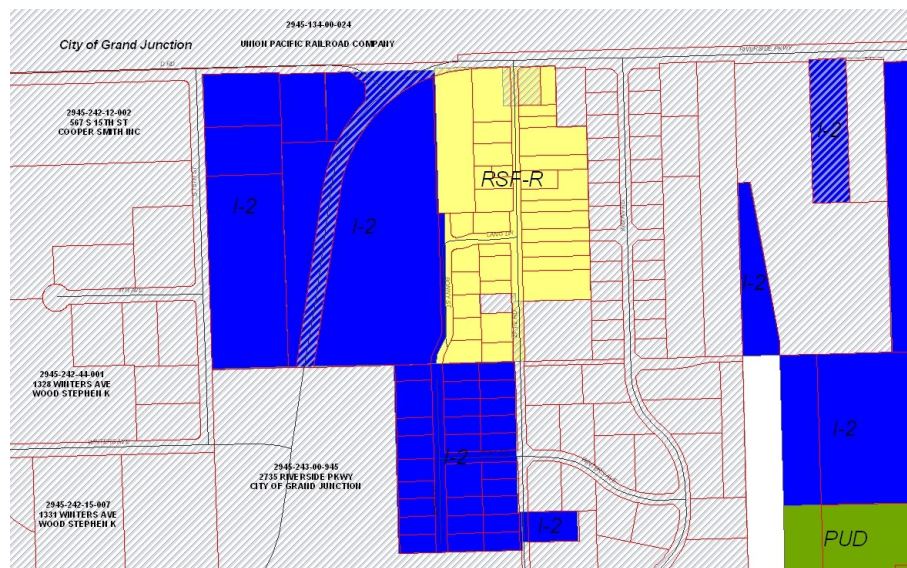
manufacturing. These properties vary in condition and improvements, but once annexed would be considered nonconforming sites due to the lack of landscaping and, in some cases, paved parking lots. Nonconforming sites may be used for any purposes permitted in the zone, with provisions for incremental site improvements triggered by building expansions and/or significant changes of use, as discussed in GJMC Section 21.080.040, as may be amended.

Between S. 15th Street and Bonny Lane lies approximately 24 acres of property now bisected by the Riverside Parkway and identified as The Rock Shop. The primary building at 710 S. 15th Street was built in 1986. The adjacent properties to the east, except for the building at 2733 D Road, were rezoned in 1982 to be developed as the Garlitz Industrial Park, but the development plan lapsed in 1987. The bulk of these properties are utilized for outdoor storage. While permitted in the

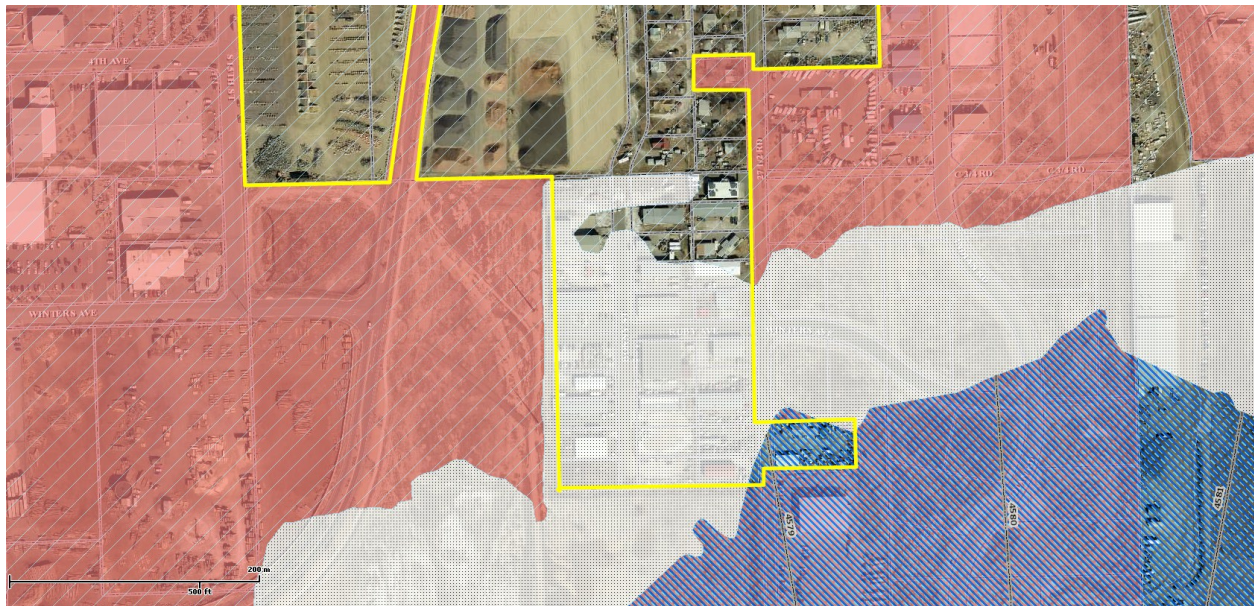


proposed zone district, the existing outdoor storage yards do not have the required street frontage landscaping and/or fencing setback that the zoning code now requires. As these properties are redeveloped, the standards in place at the time of new development will be applied.

Portions of the enclave along 27 ½ Road and Bonny Lane are zoned County RSF-R (Residential Single-Family Rural). Some of these properties are already utilized for commercial purposes, despite their zoning. As these properties redevelop or otherwise transition to other non-residential uses, the City will utilize the development review process to determine upgrades that may be necessary to each site. The remainder of the enclave is zoned County I-2 (General Industrial).



Three (3) parcels within the enclaved area appear to be impacted by the 100 year floodplain, as shown on the incorporated map. These parcels can still be developed in accordance with floodplain regulations, outlined in GJMC Section 21.07.010.



Consistency with the Comprehensive Plan

Goal 1: To implement the Comprehensive Plan in a consistent manner between the City, Mesa County, and other service providers.

The proposed I-1 (Light Industrial) zone district conforms to the Comprehensive Plan Future Land Use Map, which has designated the enclaved area as Industrial and, south of Ruby/Winters Avenue, Commercial/Industrial.

The approved Greater Downtown Plan (CPA-2011-1067) did not change these land use designations and, in fact, identified the opportunity for increasing heavy commercial and industrial uses within the enclaved area, as it relates to the remainder of the planning area.

Goal 12: Being a regional provider of goods and services the City and County will sustain, develop and enhance a health, diverse economy.

Policy B: The City and County will provide appropriate commercial and industrial development opportunities.

The proposed I-1 zone district will provide the opportunity for future (re)development within a transitional industrial neighborhood with access to the Riverside Parkway.

2. Grand Junction Municipal Code – Chapter 21.02 – Administration and Procedures:

Section 21.02.160(f) of the Grand Junction Municipal Code (GJMC) states: Land annexed to the City shall be zoned in accordance with GJMC Section 21.02.140 to a district that is consistent with the adopted Comprehensive Plan and the criteria set forth.

The requested zone of annexation to the I-1 (Light Industrial) zone district is consistent with the Comprehensive Plan Future Land Use Map, which has designated the enclaved area as Industrial and, south of Ruby/Winters Avenue, Commercial/Industrial.

Section 21.02.140(a) states: *In order to maintain internal consistency between this code and the zoning maps, map amendments must only occur if:*

1) *Subsequent events have invalidated the original premises and findings; and/or*

In 1998, Mesa County and the City of Grand Junction adopted the Persigo Agreement. Under this agreement, the City is required to annex all enclaved areas within five (5) years. The enclave was created by the Brady Trucking Annexation on May 20, 2007.

The proposed zoning of I-1 (Light Industrial) implements the Comprehensive Plan Future Land Use Map, adopted in 2010, which has designated the enclaved area as Industrial and, south of Ruby/Winters Avenue, Commercial/Industrial.

The Comprehensive Plan and the annexation of the property into the City of Grand Junction invalidate the original premises of the existing unincorporated Mesa County zoning. Therefore, this criterion has been met.

2) *The character and/or condition of the area has changed such that the amendment is consistent with the Plan; and/or*

Some homes built between 1900 and 1910 are still present within the enclaved area, with the majority of residences along 27 ½ Road and Bonny Lane built in the late 1930s and 1940s. The enclaved area includes 33 dwelling units.

In 1955 the Pleasant View Subdivision, along 27 ½ Road and Bonny Street south of the residential area, was platted. However, industrial development did not occur until the late 1970s and early 1980s. Some additional development has occurred in the mid-1990s.

The remainder of the enclave is zoned County I-2 (General Industrial). Refer to the County Zoning Map and Detail included in this report.

Recent changes to the character of the area include the completion of the Riverside Parkway in 2008, which bisects the enclave.

The adoption of the Comprehensive Plan Future Land Use Map in 2010 designated the enclaved area as Industrial and Commercial/Industrial south of Ruby/Winters Ave.

New industrial development has occurred to the south of the enclave with the Brady Trucking building at 356 27 ½ Road built in 2007. Also, new industrial construction has occurred within the Indian Road Industrial Park to the east of the enclave.

Recently a business has been established on a property within the enclave that, although previously used for a contractor, was still zoned County RSF-R. This owner would need to be zoned industrial in order to expand the business.

The proposed I-1 zone district allows a variety of industrial and heavy commercial uses, including personal storage, outdoor storage, manufacturing, auto repair, and contractor and trade shops. This zoning fits with many of the existing businesses within the enclaved area. As discussed above, existing residential uses would still be permitted as nonconformities and provisions are in place for incremental upgrades to property depending on the scale/scope of the use.

It is apparent that the area is transitioning into a centrally located industrial area, consistent with the goals of the Comprehensive Plan.

This criterion has been met.

3) *Public and community facilities are adequate to serve the type and scope of land use proposed; and/or*

The enclave area is bisected by the Riverside Parkway, designated as a minor arterial from S. 7th Street to 29 Road. Completed in 2008, the Parkway connects the east and west sides of the City. The enclaved properties already benefit from this access.

The right-of-way (ROW) for Bonny Lane (incorrectly labeled as Bonny Street), was platted by the Amelang Subdivision in 1963 but has not been engineered or constructed and is considered “unimproved”. Its condition has led four (4) property owners to create their own unimproved, dirt-surface access across one another’s properties via rear yard driveways. There are several encroachments into Bonny Lane as well, including fences and personal property. If it became necessary to improve this roadway, encroachments would need to be removed. Roadway improvements not required as part of future property development would require participation of the benefitting properties in a street improvement district.

Adequate utility infrastructure, including water and sanitary sewer, exists to accommodate, with upgrades as necessary, future industrial (re)development within the enclaved area. These upgrades would be completed and paid for in

accordance with City and/or the appropriate utility provider(s) policies at the time of development.

This criterion has not been met but can be met with incremental upgrades paid for by new development.

- 4) *An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use; and/or*

Approximately 41 acres within the enclaved area are already utilized for commercial or industrial purposes, representing 77% of the total annexation area. Therefore, the proposed I-1 (Light Industrial) zoning is consistent with the majority of the existing land uses.

This criterion has not been met.

- 5) *The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.*

The annexation of enclaved unincorporated areas adjacent to the City is critical to providing efficient urban services and infrastructure, minimizing costs to the City and therefore the community.

The proposed I-1 (Light Industrial) zone district will provide the opportunity for future (re)development within a transitional industrial neighborhood with access to the Riverside Parkway. Additional industrial development opportunities are consistent with Goal 12 of the Comprehensive Plan, which states: "Being a regional provider of goods and services the City and County will sustain, develop and enhance a health, diverse economy".

This criterion has been met.

Alternatives: The following zone districts would also implement the Comprehensive Plan Future Land Use Map designation of Industrial:

1. M-U (Mixed Use)
2. I-O (Industrial / Office Park)
3. I-2 (General Industrial)

The following zone districts would also implement the Comprehensive Plan Future Land Use Map designation of Commercial/Industrial (south of Ruby and Winters Ave):

1. C-2 (General Commercial)
2. M-U (Mixed Use)
3. BP (Business Park Mixed Use)
4. I-O (Industrial / Office Park)

If the City Council chooses an alternative zone designation, specific alternative findings must be made.

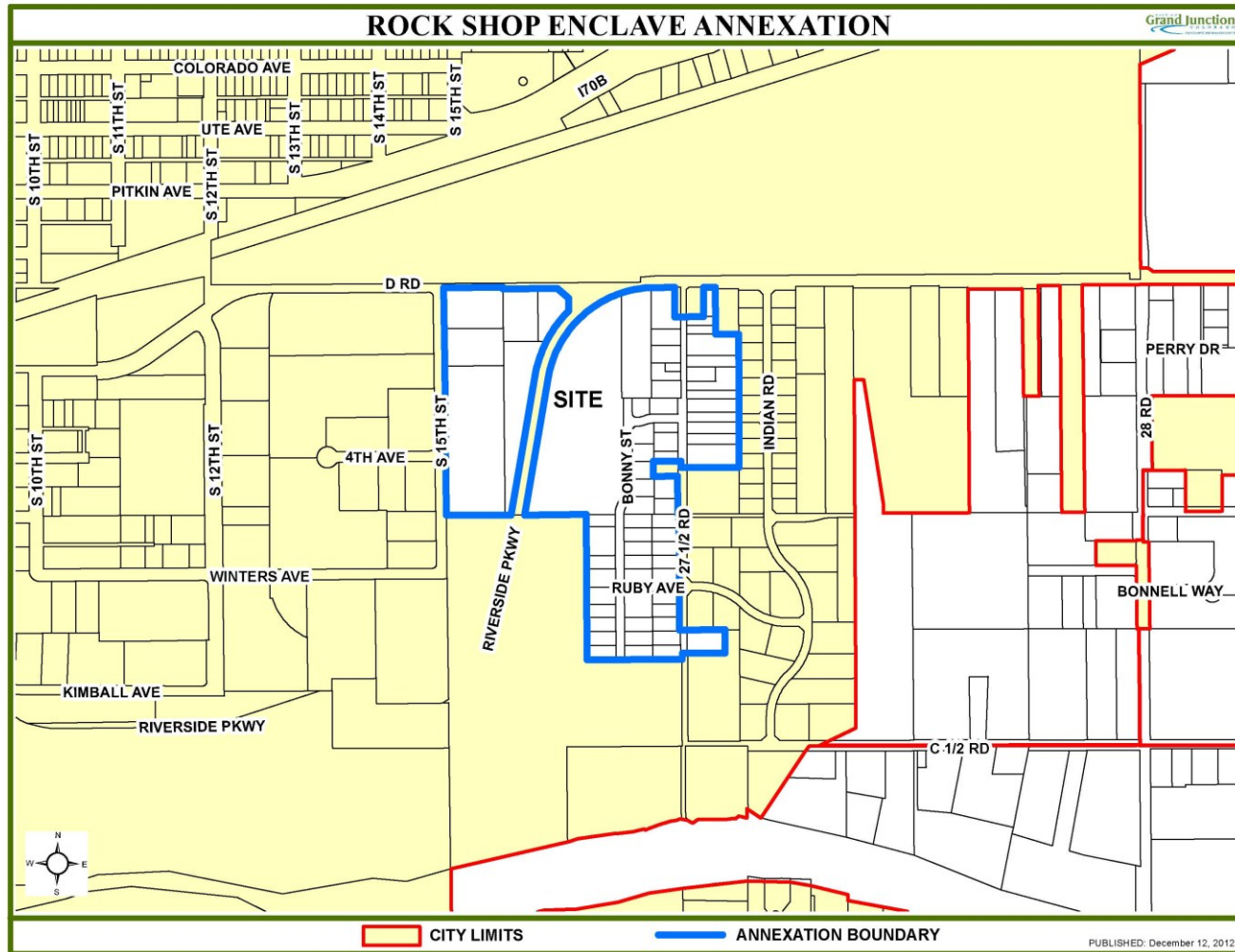
PLANNING COMMISSION RECOMMENDATION:

After reviewing the Rock Shop Enclave Zone of Annexation, ANX-2012-574, the Planning Commission made the following Findings of Fact and Conclusions:

1. The proposed I-1 (Light Industrial) zone district is consistent with the goals and policies of the Comprehensive Plan.
2. Review criteria # 1, 2, and 5 in Section 21.02.140 of the Grand Junction Municipal Code have been met.

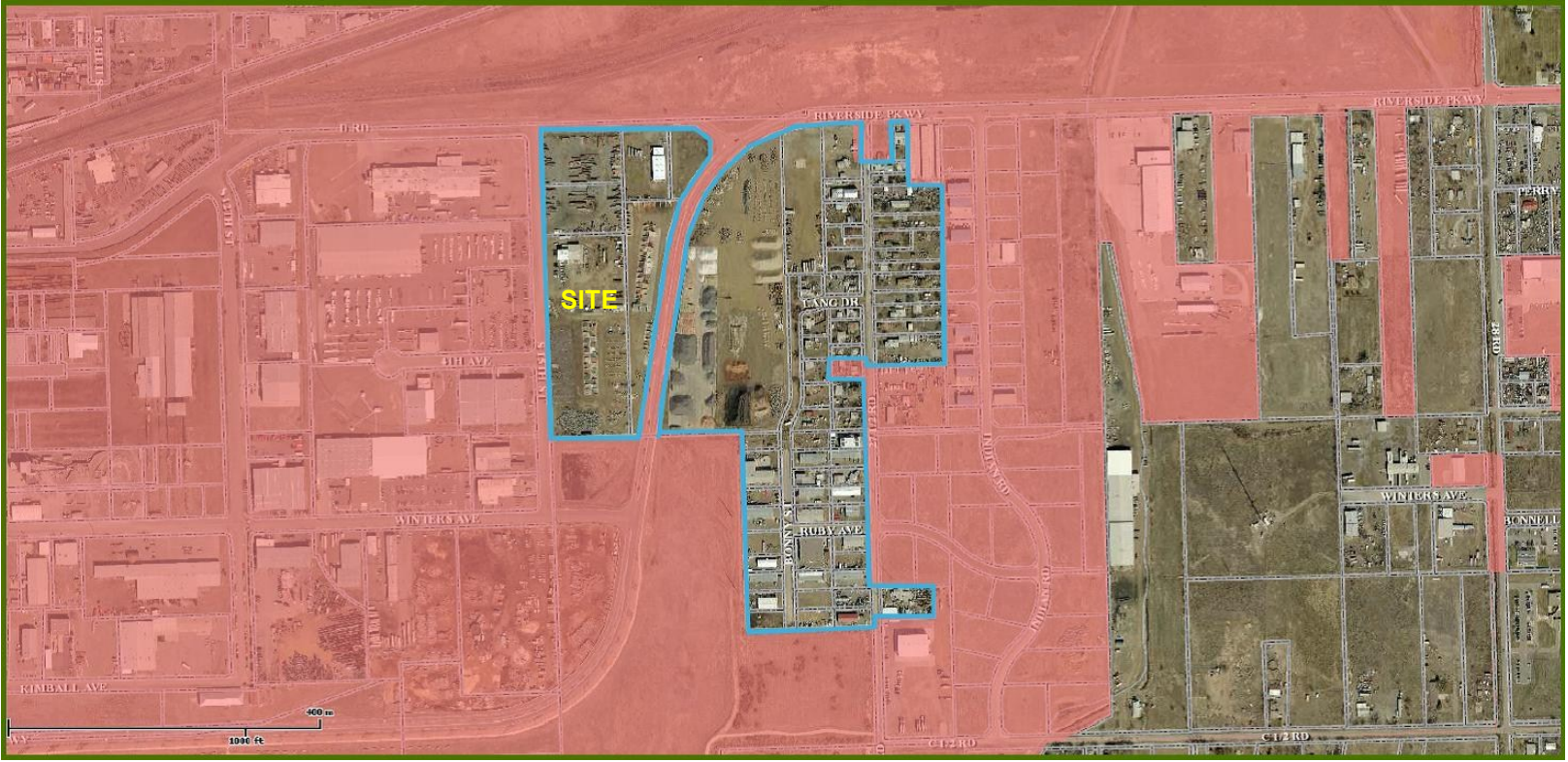
Annexation Map

Figure 1



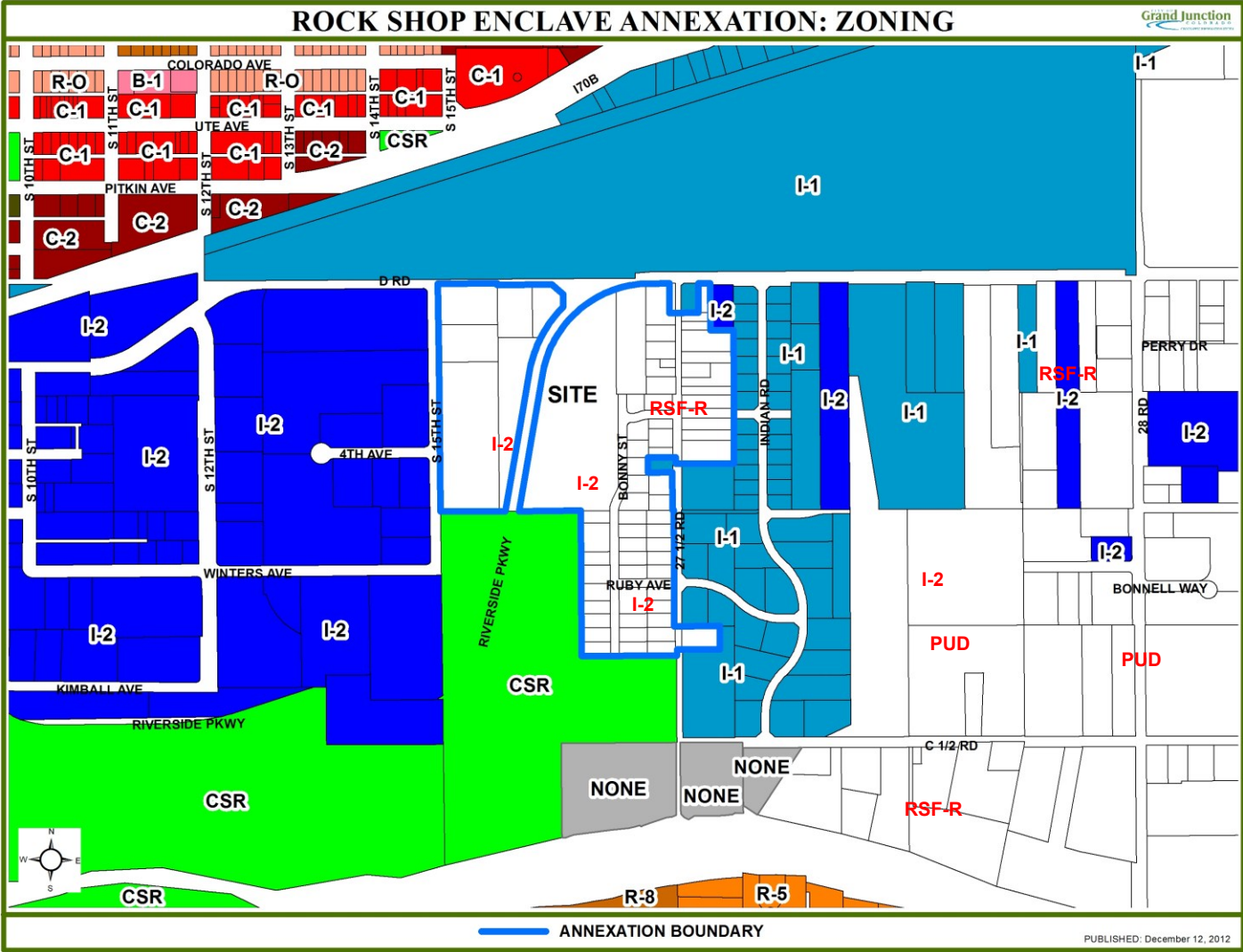
Aerial Photo Map

Figure 2



Existing City and County Zoning Map

Figure 4



Parcel Number	Location	Land Use?	Parcel Number	Location	Land Use?
2945-242-00-042	393 27 1/2 RD	accessory garage	2945-241-00-025	398 27 1/2 RD	SFD
2945-242-01-060	357 27 1/2 RD	boat repair	2945-241-00-026	398 1/2 27 1/2 RD	SFD
2945-242-01-039	361 27 1/2 RD	cabinet shop	2945-241-00-027	394 1/2 27 1/2 RD	SFD
2945-242-00-233	710 S 15TH ST	construction and material sales	2945-241-00-028	394 27 1/2 RD	SFD
2945-242-01-046	369 1/2 27 1/2 RD	contractor shop	2945-241-00-029	392 27 1/2 RD	SFD
2945-242-01-061	373 27 1/2 RD	contractor shop	2945-241-00-032	390 27 1/2 RD	SFD
2945-242-01-064	356 BONNY ST	contractor shop	2945-241-00-037	384 1/2 27 1/2 RD	SFD
2945-242-01-068	353 27 1/2 RD	contractor shop	2945-241-00-176	2753 RIVERSIDE PKWY	SFD
2945-242-02-018	359 BONNY ST	contractor shop	2945-241-00-244	390 1/2 27 1/2 RD	SFD
2945-242-02-019	357 BONNY ST	contractor shop	2945-241-00-264	388 1/2 27 1/2 RD	SFD
2945-242-00-230	2733 D RD	industrial service	2945-242-00-040	391 27 1/2 RD	SFD
2945-242-01-041	364 BONNY ST	industrial service	2945-242-00-041	393 1/2 27 1/2 RD	SFD
2945-242-01-057	368 BONNY ST	industrial service	2945-242-00-046	399 27 1/2 RD	SFD
2945-242-01-058	366 BONNY ST	industrial service	2945-242-00-259	397 27 1/2 RD	SFD
2945-242-00-047	2745 RIVERSIDE PKWY	outdoor storage	2945-242-00-260	395 27 1/2 RD	SFD
2945-242-00-229	2727 D RD	outdoor storage	2945-242-01-002	388 BONNY LN	SFD
2945-242-00-234	Null	outdoor storage	2945-242-01-003	385 1/2 27 1/2 RD	SFD
2945-242-00-262	Null	outdoor storage	2945-242-01-004	384 BONNY ST	SFD
2945-242-00-263	2741 RIVERSIDE PKWY	outdoor storage	2945-242-01-006	382 BONNY ST	SFD
2945-242-01-059	Null	outdoor storage	2945-242-01-008	380 BONNY ST	SFD
2945-242-01-063	BONNY ST	outdoor storage	2945-242-01-010	378 BONNY ST	SFD
2945-242-01-065	354 BONNY ST	outdoor storage	2945-242-01-011	379 27 1/2 RD	SFD
2945-242-01-067	Null	outdoor storage	2945-242-01-012	376 BONNY LN	SFD
2945-242-02-020	361 BONNY ST	outdoor storage	2945-242-01-013	377 27 1/2 RD	SFD
2945-242-02-025	Null	outdoor storage	2945-242-01-035	385 27 1/2 RD	SFD
2945-242-01-051	360 BONNY ST	plastics shop	2945-242-01-045	369 27 1/2 RD	SFD
2945-242-01-044	371 27 1/2 RD	retail	2945-242-01-066	383 27 1/2 RD	SFD
2945-241-00-058	360 27 1/2 RD	SFD / auto repair	2945-241-00-036	386 27 1/2 RD	two SFD
2945-241-00-038	384 27 1/2 RD	SFD / construction	2945-242-01-001	389 27 1/2 RD	two SFD
2945-242-01-037	365 27 1/2 RD	warehouse	2945-241-00-035	Null	vacant
2945-242-01-056	370 BONNY ST	warehouse	2945-242-00-267	Null	vacant
2945-242-02-015	355 BONNY ST	warehouse	2945-242-01-062	374 BONNY ST	vacant
2945-242-02-024	365 BONNY ST	warehouse	2945-242-02-014	373 BONNY ST	vacant
2945-242-02-026	369 BONNY ST	warehouse	2945-242-02-016	353 BONNY ST	vacant

Existing Land Use inventory

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. ____

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

ROCK SHOP ENCLAVE ANNEXATION

**LOCATED SOUTH OF D ROAD, EAST OF S. 15TH STREET,
AND SOUTH OF THE RIVERSIDE PARKWAY, ON BOTH SIDES OF 27 1/2 ROAD,
NORTH OF LAS COLONIAS PARK**

CONSISTING OF APPROXIMATELY 53.66 ACRES

WHEREAS, on the 16th day of January, 2013, the City Council of the City of Grand Junction gave notice that they will consider for annexation to the City of Grand Junction the following described territory, commonly known as the Hernandez Enclave; and

WHEREAS, a hearing and second reading on the proposed annexation ordinance was duly held after proper notice on the 3rd day of April, 2013; and

WHEREAS, the area proposed to be annexed is entirely contained within the boundaries of the City of Grand Junction and said area has been so surrounded for a period of not less than three (3) years, pursuant to C.R.S. 31-12-106(1); and

WHEREAS, the requirements of Section 30, Article II of the Colorado Constitution have been met, specifically that the area is entirely surrounded by the annexing municipality.

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

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

ROCK SHOP ENCLAVE ANNEXATION

A certain enclaved parcel of land lying in the West One-half (W 1/2) of the Northeast Quarter (NE 1/4) and the East One-half (E 1/2) of the Northwest Quarter (NW 1/4) of Section 24, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL the lands contiguous with and bounded on all sides by the following City of Grand Junction Annexations recorded in the Public Records of Mesa County, Colorado:

1. Riverside Parkway Annexation No. 1, City of Grand Junction Ordinance No. 4319, as same is recorded in Book 4782, Page 921
2. Reimer Annexation, City of Grand Junction Ordinance No. 4341, as same is recorded in Book 4831, Page 495
3. D Road Annexation, City of Grand Junction Ordinance No. 3683, as same is recorded in Book 3766, Page 536
4. Indian Road Industrial Subdivision Annexation No. 2, City of Grand Junction Ordinance No. 3677, as same is recorded in Book 3763, Page 740
5. Foster Industrial Annexation, City of Grand Junction Ordinance No. 4175, as same is recorded in Book 4598, Page 556
6. Indian Wash Rentals Annexation, City of Grand Junction Ordinance No. 4147, as same is recorded in Book 4562, Page 641
7. South Fifteenth Street Annexation, City of Grand Junction Ordinance No. 2312, as same is recorded in Book 1615, Page 949
8. Brady Trucking Annexation, City of Grand Junction Ordinance No. 4067, as same is recorded in Book 4407, Page 413

CONTAINING 2,337,457 Square Feet or 53.66 Acres, more or less, as described.

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

INTRODUCED on first reading the 16th day of January, 2013 and ordered published in pamphlet form.

PASSED and ADOPTED on second reading the ____ day of _____, 2013 and ordered published in pamphlet form.

Attest:

Council

President of the

City Clerk

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE ZONING THE ROCK SHOP ENCLAVE ANNEXATION
TO I-1 (LIGHT INDUSTRIAL)**

**SOUTH OF D ROAD, EAST OF S. 15TH STREET AND
SOUTH OF THE RIVERSIDE PARKWAY ON BOTH SIDES OF 27 1/2 ROAD,
NORTH OF LAS COLONIAS PARK**

Recitals

The Rock Shop Enclave Annexation has been initiated by the City of Grand Junction ("City") pursuant to the 1998 Persigo Agreement with Mesa County ("Agreement"). With the annexation of the property included in the Brady Trucking Annexation on May 20, 2007, the area is enclaved. The terms of the Agreement state that an "enclaved" area shall be annexed into the City. ("Enclaved" means that an unincorporated area is completely surrounded by the City.)

The City has also agreed to zone newly annexed areas using a zone district that implements the Comprehensive Plan. The proposed zoning of I-1 (Light Industrial) implements the Comprehensive Plan Future Land Use Map, which has designated the enclaved area as Industrial, and Commercial/Industrial south of Ruby/Winters Avenue.

After public notice and public hearing as required by the Grand Junction Municipal Code, the Grand Junction Planning Commission recommended approval of zoning the Rock Shop Enclave Annexation to the I-1 (Light Industrial) zone district, finding conformance with the recommended land use category as shown on the Future Land Use Map of the Comprehensive Plan and the Comprehensive Plan's goals and policies and is compatible with land uses located in the surrounding area. The zone district meets criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

After public notice and public hearing before the Grand Junction City Council, City Council finds that the I-1 (Light Industrial) zone district is in conformance with criteria found in Section 21.02.140 of the Grand Junction Municipal Code.

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

The following property be zoned I-1 (Light Industrial):

ROCK SHOP ENCLAVE ANNEXATION

A certain enclaved parcel of land lying in the West One-half (W 1/2) of the Northeast Quarter (NE 1/4) and the East One-half (E 1/2) of the Northwest Quarter (NW 1/4) of Section 24, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

ALL the lands contiguous with and bounded on all sides by the following City of Grand Junction Annexations recorded in the Public Records of Mesa County, Colorado:

1. Riverside Parkway Annexation No. 1, City of Grand Junction Ordinance No. 4319, as same is recorded in Book 4782, Page 921
2. Reimer Annexation, City of Grand Junction Ordinance No. 4341, as same is recorded in Book 4831, Page 495
3. D Road Annexation, City of Grand Junction Ordinance No. 3683, as same is recorded in Book 3766, Page 536
4. Indian Road Industrial Subdivision Annexation No. 2, City of Grand Junction Ordinance No. 3677, as same is recorded in Book 3763, Page 740
5. Foster Industrial Annexation, City of Grand Junction Ordinance No. 4175, as same is recorded in Book 4598, Page 556
6. Indian Wash Rentals Annexation, City of Grand Junction Ordinance No. 4147, as same is recorded in Book 4562, Page 641
7. South Fifteenth Street Annexation, City of Grand Junction Ordinance No. 2312, as same is recorded in Book 1615, Page 949
8. Brady Trucking Annexation, City of Grand Junction Ordinance No. 4067, as same is recorded in Book 4407, Page 413

CONTAINING 2,337,457 Square Feet or 53.66 Acres, more or less, as described.

LESS 3.84 acres (167,402 square feet) of Public Right-of-Way

INTRODUCED on first reading the 20th day of March, 2013 and ordered published in pamphlet form.

PASSED and ADOPTED on second reading the ____ day of _____, 2013 and ordered published in pamphlet form.

ATTEST:

President of the Council

City Clerk

In an R-8 zoning district the maximum density is 8 dwelling units per acre and the minimum density is 5.5 dwelling units per acre. The overall density approved for Heritage Estates is 5.5 dwelling units per acre. Because single family units have been platted in Filing 1 and are proposed to be platted for Filings 2 and 3, the only way to achieve the overall density in the Preliminary Plan is to include multifamily housing. The amount of multifamily dwelling units needed to achieve the overall density however, will exceed the maximum density allowed in an R-8 zone. If the developer completed the subdivision at R-8 density levels, there will not be enough land remaining in the Preliminary Plan area to attain the required overall minimum density; therefore a rezone to R-12 has been requested for the subject area.

The R-12 zone district minimum density is 8 units per acre; the maximum is 12 units per acre. R-12 implements the Residential Medium High land use designation of the Comprehensive Plan for the subject property. The anticipated housing type for the area of the rezone will result in a density of 10.07 units per acre. The proposed rezone will allow the housing type and density levels necessary to achieve the overall density of the Heritage Estates Preliminary Plan.

The community will benefit from an alternative housing type other than single family detached units in this desirable area that is close to many amenities such as shopping, employment and Canyon View Park.

R-12 zoning implements the Residential Medium High land use designation and is intended to encourage a mix of residential types including duplexes, townhomes and low intensity multi-family development. Other zoning districts that implement the Residential Medium High land use designation include, but are not limited to, R-8, R-16, R-O (Residential Office) and B-1 (Neighborhood Business). It is my opinion that R-12 is the best fit for this area because there are no offices or businesses contemplated for this subdivision, and this is a solidly residential area completely surrounded by residentially zoned land with residential uses. The RO and B-1 allow multifamily development but are not as good a fit for this area because they also allow nonresidential development. The R-16 minimum density is 12 units per acre which would require more density than is approved for the Heritage Estates Preliminary Plan and therefore would not be an appropriate choice for the subject property.

How this item relates to the Comprehensive Plan Goals and Policies:

Goal 3: The Comprehensive Plan will create ordered and balanced growth and spread future growth throughout the community.

The rezone of this area to R-12 will reduce the travel time and distance for trips generated for shopping and commuting because this area is located near existing commercial and public spaces. By decreasing the vehicle miles traveled this will help increase air quality.

Goal 5: To provide a broader mix of housing types in the community to meet the needs of a variety of incomes, family types and life stages.

Rezoning the property to R-12 will increase the opportunity for housing to meet the differing housing demands of the community and enable a mix of housing types for different levels of incomes, family types and life stages.

Board or Committee Recommendation:

The Planning Commission recommended approval of the requested rezone at their February 26, 2013 meeting.

Financial Impact/Budget:

N/A

Legal issues:

None.

Other issues:

None.

Previously presented or discussed:

First reading and consideration of the zoning ordinance was on March 20, 2013..

Attachments:

Site Location Map / Aerial Photo Map
Comprehensive Plan Map / Existing City Zoning Map
Blended Residential Map
Rezone Exhibit
Ordinance

BACKGROUND INFORMATION			
Location:	Southeast corner of property located near 24 ¾ Road and north of the future F ½ Road alignment, to wit the 2.78 acres directly west of and abutting 651, 653 ½ 653, and 655 25 Road		
Applicants:	Robert Jones, representative Vortex Engineering & Architecture; Kim Kerk, applicant for Blue Star Industries; Heritage Estates LLC, owner		
Existing Land Use:	Vacant residential		
Proposed Land Use:	Multi-family residential		
Surrounding Land Use:	North	Large lot residential	
	South	Large lot residential	
	East	Large lot residential	
	West	Large lot residential	
Existing Zoning:	R-8 (Residential – 8 du/ac)		
Proposed Zoning:	R-12 (Residential - 12 du/ac)		
Surrounding Zoning:	North	R-8 (Residential – 8 du/ac)	
	South	R-8 (Residential – 8 du/ac)	
	East	R-8 (Residential – 8 du/ac)	
	West	R-8 (Residential – 8 du/ac)	
Future Land Use Designation:	Residential Medium High (8 to 16 du/ac)		
Zoning within density range?	X	Yes	No

Section 21.02.140(a) of the Grand Junction Municipal Code

Zone requests must meet at least one of the following criteria for approval:

(1) *Subsequent events have invalidated the original premise and findings.*

The original premises and findings are still valid. This criterion has not been met.

(2) *The character and/or condition of the area has changed such that the amendment is consistent with the Plan.*

The subject parcel is in an area where growth is occurring. The up-zone will provide an opportunity for a mix in housing types and more concentrated density close to shopping and employment areas of the City. The Comprehensive Plan encourages a higher density range for this area of the community. The future land use designation allows a

density range of 8 to 16 dwelling units per acre. The Comprehensive Plan supports the requested increase in density. This criterion has been met.

(3) Public and community facilities are adequate to serve the type and scope of land use proposed.

There are adequate facilities in this area to serve the proposed residential development. The ability to extend sewer, water and power through the subdivision currently exists. Utilities may be extended from Brookwillow Village, located directly west of the proposed subdivision and 25 Road located 300 feet to the east of the property. 25 Road contains a 12 inch Ute Water line; Brookwillow Village has a 10 inch water line. Excel Energy has an existing gas line in the right-of-way. As Heritage Estates subdivision develops from the north, in a southerly progression, utilities will become closer to the subject area of the requested rezone. Sanitary sewer easements have been obtained to serve this area of the subdivision. All utility extensions will be provided by the developer. This criterion has been met.

(4) An inadequate supply of suitably designated land is available in the community, as defined by the presiding body, to accommodate the proposed land use.

The “community” for purposes of this criterion, is a 4 ½ mile radius around the subject property. There is no property zoned R-12 within this area, the majority of property is zoned R-8. Overall, the City has limited areas of R-12 zoning. The Comprehensive Plan Future Land Use Map provides direction for redevelopment and growth of the City. With the designation of Residential Medium High, the applicant may request a rezone from R-8 to R-12. The applicant could also request a rezone to R-16, R-O or B-1, but R-16’s minimum density requirement exceeds the developer’s proposed multifamily density. R-O and B-1 allow limited office and non-retail uses, which are not a part of the approved preliminary plan. The R-12 zoning will serve as a transition to future commercial development on the south side of the future F ½ Road Parkway and is therefore the most appropriate zone district for the subject area. This criterion has been met.

(5) The community or area, as defined by the presiding body, will derive benefits from the proposed amendment.

The community will derive the benefit of more density in a highly desirable area with the opportunity for varied housing types. R-12 zoning is intended to serve as a transitional district between single-family and trade zone districts. This zone district allows a mix of residential unit types and densities to provide a balance of housing opportunities in the neighborhood. Considering the location of the subject rezone area, near the future F ½ Road Parkway, this density and housing type will be desirable. South of the subject parcel there are plans for the future F ½ Road Parkway. The future parkway will bring the opportunity and ability to serve more multifamily uses or trade/commercial uses; therefore the R-12 zoning will serve as a transition between the single-family and future trade districts supporting the Comprehensive Plan. This criterion has been met.

Alternatives: In addition to the zoning that the petitioner has requested and the planning division recommends, the following zone districts would also implement the Comprehensive Plan Residential Medium High land use designation for the subject property.

- a) R-8 (Residential -8 units per acre)
- b) R-16 (Residential – 16 du/ac)
- c) R-O (Residential Office)
- d) B-1 (Neighborhood Business)

If the City Council chooses to approve one of the alternative zone designations, specific alternative findings must be made as to why the City Council is approving an alternative zone designation.

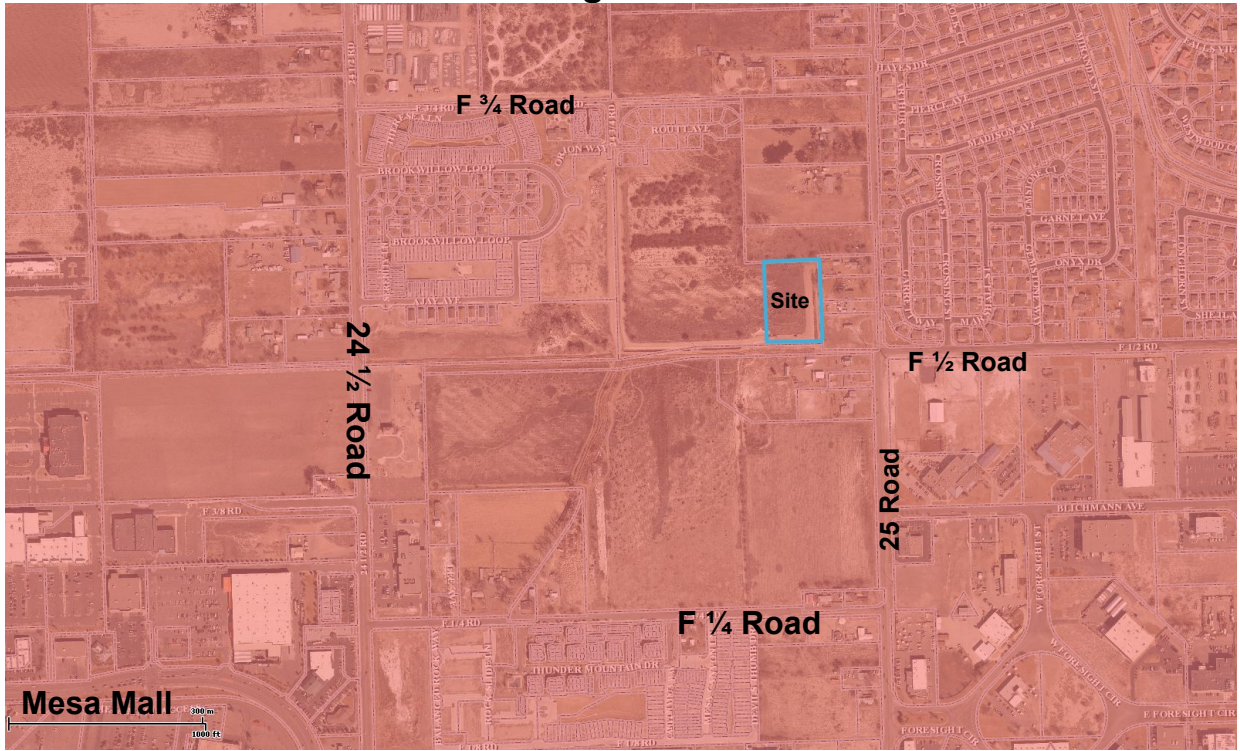
FINDINGS OF FACT/CONCLUSIONS:

After reviewing the Heritage Estates Subdivision, Filing 8 Rezone, RZN-2012-578, a request to rezone property from R-8 (Residential – 8 units) to R-12 (Residential – 12 units), the following findings of fact and conclusions have been determined:

1. The requested zone is consistent with the goals and policies of the Comprehensive Plan and the Residential Medium High land use designation.
2. The review criteria in Section 21.02.140(a), specifically criteria 2, 3, 4 and 5 of the Grand Junction Municipal Code have been met.

Site Location Map

Figure 1



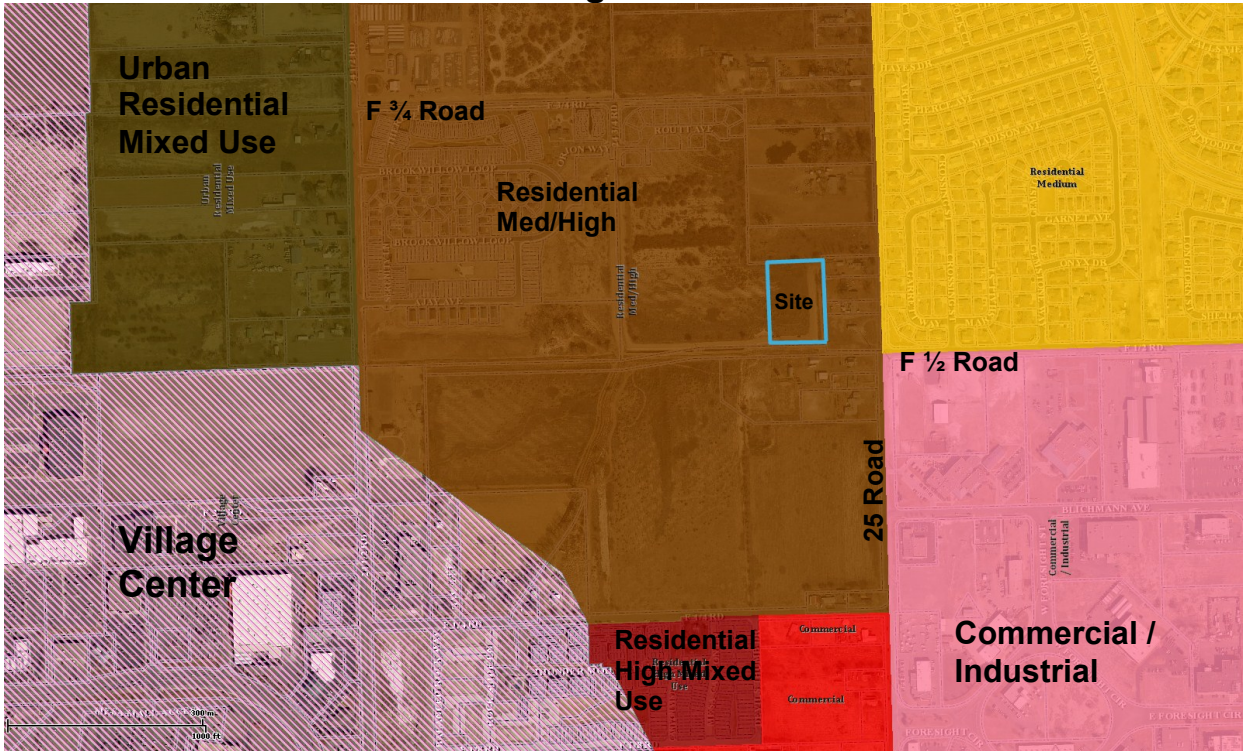
Aerial Photo Map

Figure 2



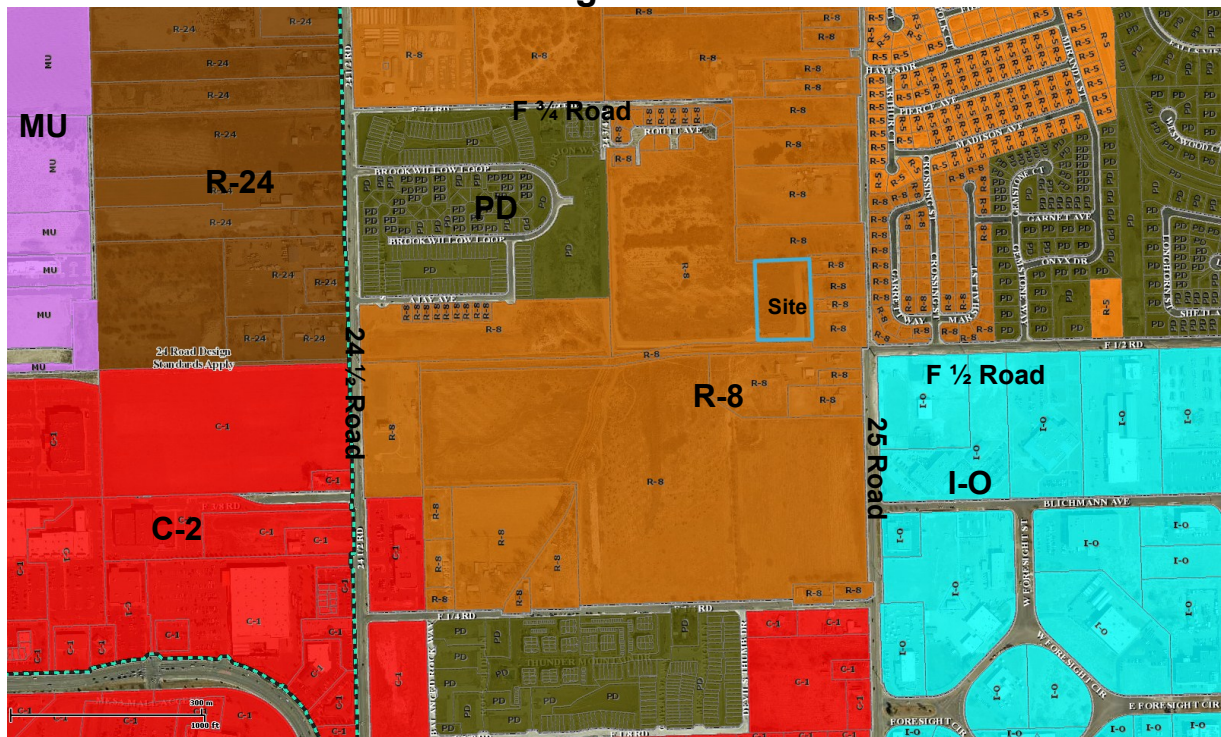
Comprehensive Plan Map

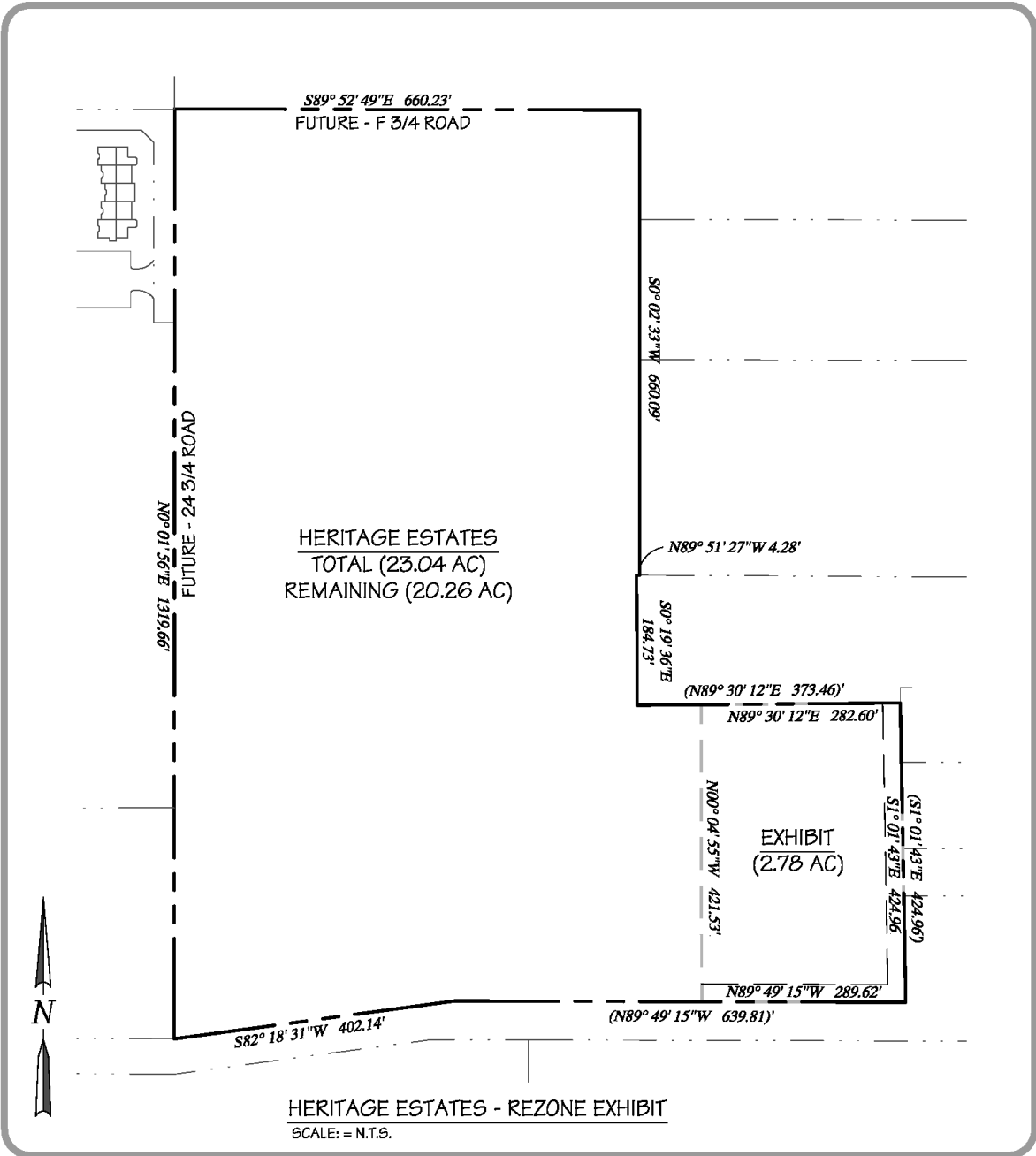
Figure 3



Existing City Zoning Map

Figure 4





Rezone Exhibit
Heritage Estates
Grand Junction, Colorado

PROJECT NO:
F12-050
DATE:
03/13/13
DRAWN BY:
DLS/JB
CHECKED BY:
RWJII

Prepared By
VORTEX
ENGINEERING & ARCHITECTURE, INC.
2394 Patterson Rd., Ste. 201
Grand Junction, CO 81505
(970) 245-9051

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO.

**AN ORDINANCE REZONING A PORTION OF LOT 100 OF THE
HERITAGE ESTATES SUBDIVISION, FILING 1
FROM R-8 (RESIDENTIAL – 8 UNITS PER ACRE) TO
R-12 (RESIDENTIAL – 12 UNITS PER ACRE)**

**LOCATED AT THE SOUTHEAST CORNER OF PROPERTY NEAR 24 3/4 ROAD AND
NORTH OF THE FUTURE F 1/2 ROAD ALIGNMENT, SPECIFICALLY THE 2.78
ACRES IMMEDIATELY WEST OF AND ABUTTING 651, 653 1/2, 653, AND 655 25
ROAD**

Recitals:

In May, 2012, a Preliminary Plan was approved to develop 23.03 acres in an R-8 (Residential 8 du/ac) zone district for Heritage Estates Subdivision. The approved Preliminary Plan consists of eight (8) filings with 127 units. Ninety-nine units are planned as single family detached and 28 units are planned for multifamily. The proposed multifamily area requires a rezone to R-12 to allow for more density and unit types to be developed per the approved density for the Heritage Estates Preliminary Plan. The community will benefit from more opportunity for alternative housing types other than single-family detached units in this desirable area close to many amenities such as shopping, employment and Canyon View Park.

The property owner requests a rezone from R-8 to R-12. After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended rezoning the property described below from R-8 (Residential – 8 units per acre) to the R-12 (Residential – 12 units per acre) zone district for the following reasons:

The zone district implements the Residential Medium High (8 to 16 du/ac) land use designation as shown on the Future Land Use map of the Comprehensive Plan, the Comprehensive Plan's goals and policies, and is generally compatible with appropriate land uses located in the surrounding area.

After the public notice and public hearing before the Grand Junction City Council, City Council finds that the R-12 zone district be established.

The Planning Commission and City Council find that the R-12 zoning is in conformance with the stated criteria of Section 21.02.140 of the Grand Junction Municipal Code.

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

The following property shall be rezoned R-12 (Residential – 12 units per acre).

A parcel of land situate in Lot 100, Heritage Estates, Filing 1, as same is recorded in Book 5397, Page 316, Public Records of Mesa County, Colorado, being a part of the SE 1/4 NE 1/4 of Section 4, Township 1 South, Range 1 West of the Ute Principal Meridian, Mesa County, Colorado, being described as follows:

Beginning at the southeast corner of said Lot 100;
thence N89°49'15"W a distance of 289.62 feet along the south line of said Lot 100;
thence N00°04'55"W a distance of 421.53 feet to the north line of said Lot 100;
thence N89°30'12"E a distance of 282.60 feet to a northeast corner of said Lot 100;
thence S01°01'43"E a distance of 424.96 feet to the point of beginning.

Said parcel contains 2.78 acres more or less, as described.

Introduced on first reading this 20th day of March, 2013 and ordered published in pamphlet form.

Adopted on second reading this _____ day of _____, 2013 and ordered published in pamphlet form.

ATTEST:

City Clerk

Mayor