ORDINANCE NO. 2
SERIES 2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING TITLE 8 BUSINESS REGULATION, CHAPTER 8.50 MARIJUANA BUSINESS LICENSING REGULATIONS, SECTIONS 8.50.040 AND 8.50.080 OF THE CITY OF GUNNISON MUNICIPAL CODE

WHEREAS, the City Council of the City of Gunnison, Colorado passed Ordinance No. 5, Series 2015, establishing rules, standards and policies for licensing and regulating the use of land within the boundaries of the City of Gunnison for the retail sale, cultivation, manufacturing, and testing of marijuana and marijuana products; and

WHEREAS, to enhance communication with City residents living in and adjacent to marijuana establishments, Council desires to provide formal notice of public hearings through a certified mailing to adjoining residents and property owners within 100 feet of potential new medical and retail marijuana establishments; and

WHEREAS, a lack of consistency was identified between the public hearing requirements for a Transfer of Location License and for a Transfer of Ownership License; and

WHEREAS, currently, the Gunnison Municipal Code requires a public hearing for a Transfer of Ownership License, but not for a Transfer of Location License; and

WHEREAS, Council wishes to have consistency between Sections 8.50.080 and 8.50.090 of the Gunnison Municipal Code and better inform residents of changes in marijuana establishment ownership and locations by adding a public hearing requirement for Transfer of Location License.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF GUNNISON, COLORADO THAT:

Section 1. Title 8 Business Regulation, Chapter 8.50 Marijuana Business Licensing Regulation, Section 8.50.040 License application processing and procedure, is hereby amended to state:

A. Medical Marijuana Establishment.

1. Public Hearing – City Council. Upon receipt of a complete application and the fees required for a local license, the city shall set a public hearing on the application to be held not less than 30 days after the receipt by city council of the application. Notice of such hearing shall be given pursuant to Section 44-11-302, C.R.S. In addition, a certified mailing of the public hearing notice shall be accomplished by the City Clerk or assignee. The notice shall be sent by certified mail to all adjoining property owners at least 15 days prior to the public hearing. The list of all adjoining property owners’ names and addresses shall be created by the applicant, using the current Gunnison County Assessor’s records, and shall be submitted with the application. The list shall include all property owners within 100 feet of the subject property boundary. The applicant shall pay the certified postage for each name on the list to the City of Gunnison. Each mailed notice shall contain the name(s) and address(es) of the applicant(s), the address of proposed location, date and type of license application, date, time, and place of public hearing, name of the decision-making body conducting the hearing and such other information as may be required to fully apprise the public of the nature of the application. The public hearing shall be conducted in the following format:

a. Call to order.

b. Record of attendance.

c. Applicant identification.

d. Report from city clerk/city attorney.

e. Determination of the neighborhood within city limits.

f. Applicant’s testimony.

g. Testimony in favor.

h. Testimony in opposition.

i. Close public hearing.
2. No action shall be taken by city council following the public hearing.

3. Following receipt of proof by the state local licensing authority of conditional licensing of the applicant by the state licensing authority, the city shall proceed to make findings of fact and approve or deny the application as set forth in GMC 8.50.050.

B. Retail Marijuana Establishment.

1. If the state licensing authority receives an application for original licensing for any retail marijuana establishment, the state licensing authority shall provide, within seven days, a copy of the application to the city, and the city shall determine whether the application complies with the city’s time, place, and manner restrictions regarding retail marijuana businesses. All city-specific application requirements contained in GMC 8.50.030(B)(1) through (4) must be included in the application and must be completed in order for the city to inform the state licensing authority whether the application complies with such local restrictions as required by Section 44-12-301, C.R.S. The city clerk as the local licensing authority shall provide such determination to the state licensing authority.

2. Public Hearing. If the applicant receives conditional state licensure from the state licensing authority, the city shall set a public hearing before the city council on the application to be held following public notice as set forth in Section 44-12-302, C.R.S. In addition, a mailing of the public hearing notice shall be accomplished by the City Clerk or assignee. The notice shall be sent by certified mail to all adjoining property owners at least 15 days prior to the public hearing. The list of all adjoining property owners’ names and addresses shall be created by the applicant, using the current Gunnison County Assessor’s records, and shall be submitted with the application. The list shall include all property owners within 100 feet of the subject property boundary. The applicant shall pay the certified postage for each name on the list to the City of Gunnison. Each mailed notice shall contain the name(s) and address(es) of the applicant(s), the address of proposed location, date and type of license application, date, time, and place of public hearing, name of the decision-making body conducting the hearing and such other information as may be required to fully apprise the public of the nature of the application. The public hearing shall be conducted in the following format:

   a. Call to order.
   b. Record of attendance.
   c. Applicant identification.
   d. Report from city clerk/city attorney.
   e. Determination of the neighborhood within city limits.
   f. Applicant’s testimony.
   g. Testimony in favor.
   h. Testimony in opposition.
   i. Close public hearing.

3. Council Action Following Hearing. The city council may take action on the application following the public hearing, either on the same day as the public hearing, or at such regular session as determined by council. The city council shall make findings of fact and approve or deny the application as set forth in GMC 8.50.050.

Section 2. Title 8 Business Regulation, Chapter 8.50 Marijuana Business Licensing Regulations, Section 8.50.080 Transfer of location, is hereby amended to state:

A license for a marijuana establishment may be transferred to another location within the city pursuant to Section 44-11-310, C.R.S., for medical marijuana establishments, and pursuant to Section 44-12-309, C.R.S., for retail marijuana establishments. An application to transfer the location of a license must be accompanied by the transfer of license location fee set by city council by resolution. In addition, the applicant must comply with GMC 8.50.030(B)(1) through (4), except that no application fee is required, will be subject to any reasonable restrictions that exist or may be placed upon the new location by city council, and shall be subject to the procedures for licensure set forth in GMC 8.50.040.

Section 3. Severability. Should any section, clause, phrase, or provision of this ordinance be ruled invalid or unenforceable by any court of competent jurisdiction, it is hereby
declared the intent of the City Council of the City of Gunnison, Colorado, that the remaining provisions of this ordinance shall be given full force and effect if it is possible to do so.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this 5th day of March, 2020 on first reading, and introduced read, and adopted on second and final reading this 10th day of March, 2020.

(SEAL)

ATTEST:

Jim Gelwicks, Mayor

Erica Boucher, City Clerk

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