



## **A G E N D A**

**Delta City Council  
Work Session**

**August 4, 2015  
5:00 p.m.**

- A. Audit Report for 2014**
- B. 2<sup>nd</sup> Quarter Financial Report**
- C. Model Traffic Code**
- D. Liquor Tastings in Retail Liquor Stores**



## MEMO

To Mayor and City Council

From: Tod DeZeeuw, Finance Director

Date: June 30<sup>th</sup>, 2015

Subject: Audit 2014

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Timothy Mayberry, CPA from Holscher, Mayberry & Company, L.L.C. will be presenting the audited financial statements for the period ended December 31, 2014 at the work session on August 4<sup>th</sup>, 2015.



## MEMO

To: Mayor and City Council

From: Tod DeZeeuw, Finance Director

Date: June 30<sup>th</sup>, 2015

Subject: 2015 Second Quarter Revenue/Expense Report

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I will be presenting items of interest regarding the 2015 2<sup>nd</sup> Quarter Revenue/Expense Report at the work session on August 4<sup>th</sup>, 2015. Last week I emailed you the 2<sup>nd</sup> Quarter Report.

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*Haley Carmer*  
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July 28, 2015

## MEMORANDUM

TO: Delta City Council Members

FROM: Haley Carmer, Assistant City Attorney

RE: Ordinance No. 6, 2015 Adopting the 2010 Model Traffic Code (First Reading)

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The City of Delta has adopted the Model Traffic Code for Colorado, 2003 Edition. The Colorado Department of Transportation (CDOT) has since promulgated the 2010 Edition of the Model Traffic Code (MTC), a copy of which can be viewed at the following link: <https://www.codot.gov/library/traffic/traffic-manuals-guidelines/fed-state-co-traffic-manuals/model-traffic-code>. In order to adopt the MTC by reference, a copy of the MTC must be available in the City Clerk's office. The City police chief and municipal court judge recommended that the Town adopt the 2010 Edition of the MTC with appropriate amendments to the Municipal Code, and you authorized us to prepare a proposed ordinance for the Council's consideration. Accordingly, enclosed is proposed Ordinance No. 6, 2015, adopting the 2010 Model Traffic Code and amending Chapter 10 of the Delta Municipal Code.

As promulgated, the 2010 MTC contains numerous citation errors. The proposed ordinance corrects those citations as set forth in Exhibit A to the ordinance. Ordinance No. 6, 2015 also deletes certain provisions of the MTC that are inapplicable to the Town and/or conflict with other provisions of the Municipal Code. Finally, the ordinance amends existing sections of Chapter 10.04 of the City's municipal code and adds new sections thereto. The new Chapter 10.04 sections address deletions from and alterations to the MTC that tailor the MTC to fit the City's needs. Additionally, Section 10.04.017 clarifies the penalty procedures applicable to MTC violations.

We have reviewed the proposed MTC and Municipal Code changes with the City police chief and municipal court judge, and they support the proposed changes. Accordingly, we recommend that Council adopt Ordinance No. 6, 2015 on first reading.

Enclosure (Ord. No. 6, 2015)

**CITY OF DELTA, COLORADO**

**ORDINANCE #6, 2015**

**AN ORDINANCE OF THE CITY OF DELTA, COLORADO, ADOPTING THE 2010 MODEL TRAFFIC CODE AND AMENDING CHAPTER 10.04 OF THE DELTA MUNICIPAL CODE.**

WHEREAS, the Delta City Council (“Council”) has adopted by reference the Model Traffic Code for Colorado, 2003 Edition; and

WHEREAS, Colorado Department of Transportation (“CDOT”) has revised the Model Traffic Code and promulgated the Model Traffic Code for Colorado, 2010 Edition (“2010 Model Code”); and

WHEREAS, the Council is authorized to adopt by reference the 2010 Model Code, as provided in Part 2 of Article 16 of Title 31, C.R.S.; and

WHEREAS, to properly implement the 2010 Model Code, it is necessary to amend Chapter 10 of the Delta Municipal Code; and

WHEREAS, the Council finds and determines that adopting the 2010 Model Code is in the best interest of the public health, safety, and welfare of the citizens of the City.

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

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the City Council.

2. Adoption by Reference. The Council hereby adopts by reference the 2010 Model code, and appendices thereto, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 E. Arkansas Avenue, Denver, Colorado 80222. Said adoption is subject to the modifications set forth in the Municipal Code text amendments identified in Section 4 of this Ordinance. In lieu of full publication of the foregoing, a true and correct copy of the 2010 Model Code shall be available for inspection at the office of the City Clerk.

3. Citation Corrections. The Council finds that there are numerous citation errors throughout the official 2010 Model Code adopted by this Ordinance. As such, the Council approves and incorporates by reference herein the citation corrections listed in Exhibit A attached hereto.

4. Amendment. Chapter 10.04 of the Delta Municipal Code shall be amended as follows with added language underlined and removed language ~~stricken~~. Only those provisions of Chapter 10.04 specifically identified herein are amended by this Ordinance; all other portions and provision of Title 10.04 remain in full force and effect:

#### **10.04.010 Adoption of Model Code.**

Subject to Sections 10.04.015, 016, and 017, there is hereby adopted by reference, in its entirety, ~~Articles I and II inclusive of the 2003~~ the 2010 edition of the “Model Traffic Code for Colorado Municipalities,” and appendices thereto (“Model Code”), promulgated and published as such by the Colorado Department of Transportation, ~~Staff, Traffic and Safety and Safety Project Branch,~~ Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of said Model Code relates primarily to comprehensive traffic control regulations for the City. The purpose of this Chapter and the Model Code adopted herein is to provide a system of traffic regulations consistent with State law and generally conforming to similar regulations throughout the State and Nation.

#### **10.040.015 Deletions.**

The following provisions of the Model Code are hereby deleted from the Model Code, and the Model Code is adopted subject to said deletions:

- (A) Part 1, “TRAFFIC REGULATION-GENERALLY,” Sections 101, Short title and 102, Legislative declaration;
- (B) Part 1, “TRAFFIC REGULATION-GENERALLY,” subsection (3) of Section 116 concerning restrictions for minor drivers;
- (C) Part 7, “RIGHTS OF WAY”, Section 711, Driving on mountain highways;
- (D) Part 12, “PARKING”, subsection (9) of Section 1208, Parking privileges for persons with disabilities;
- (E) Part 12, “PARKING”, Section 1210, Designated areas on private property for authorized vehicles;
- (F) Part 14, “OTHER OFFENSES”, subsection (9) of Section 1409, Compulsory insurance-penalty-legislative intent;
- (G) Part 17, “PENALTIES AND PROCEDURE,” Sections 1701 and 1702,;
- (G) Part 18, “VEHICLES ABANDONED ON PUBLIC PROPERTY”, in its entirety;
- (H) Part 19, “SCHOOL BUSES”, Section 1904, Regulations for school buses;
- (I) Any penalty provisions in the Model Code that conflict with the provisions set forth in Chapter 10.04.017 of this Code are deleted and said Code provision shall control.

**10.04.016 Additions and Modifications.**

The adopted Model Code is subject to the following additions or modifications:

(A) Section 1204 is amended to include the following:

1204. Stopping, Standing, or Parking Prohibited in Specified Places.

(6)-(9) No person shall park a vehicle in any private commercial parking lot within this municipality where signs are posted sufficient to inform the public of the parking restrictions thereon and the penalties for violation thereof. The owner of the vehicle in violation of this provision is liable for the payment of the respective fine(s) unless he/she can furnish sufficient evidence that the vehicle was, at the time of the violation, in the care, custody or control of another person. To avoid liability for payment, the owner of the vehicle must provide, within three days after receiving notification of the violation, the city attorney with the name and address of the person who had care, custody or control of the vehicle at the time of the violation.

(B) Subsection (3) of Section 114 of the Model Code is amended as followed:

**114. Removal of Traffic Hazards.**

(3) In the event that any property owner fails or neglects to trim or remove any such tree limb or any such shrub, vine, hedge or other plant within ten (10) days after receipt of written notice from said local authority to do so, said local authority may do or cause to be done the necessary work incident thereto, and said property owner shall reimburse the local authority for the cost of the work performed. Such costs, from the time the same shall become due and payable, shall become and remain a lien on the premises until such costs have been paid to the local authority. This lien on the premises may be foreclosed by an action at law or in equity in the name of the City and in the court having jurisdiction thereof. If the local authority must resort to court action for collection of amounts due, the local authority shall be entitled to its reasonable attorney's fees and other expenses incurred in such action if the local authority prevails. In the event such costs are not paid by the property owner when due, the City Treasurer may certify the amount of the same to the County Treasurer, to be placed on the tax list for the current year, and to be collected in the same manner as other taxes are collected with ten percent (10%) added thereto to defray the costs of collection, pursuant to Section 31-20-105, C.R.S., as amended.

(C) Subsection 3 of Section 1205 of the Model Traffic Code is amended to read as follows:

**1205. Parking at Curb or Edge of Roadway.**

(3) On those streets which have been approved and signed or marked for angle parking, no person shall stop, stand or park a vehicle other than at an angle to the curb or edge of the roadway indicated by such signs or markings.

(D) The following definitions are added to the “Definitions” appendix of the Model Code:

(28.5) “**Electrical Assisted Bicycle**” means a vehicle having two tandem wheels or two parallel wheels and one forward wheel, fully operable pedals, an electric motor not exceeding 750 watts of power, and a top motor speed of 20 miles per hour.

(28.7) “**Electric Personal Assistive Mobility Device**” or “**EPAMD**” means a self balancing, non tandem two-wheeled device, designed to transport only one person, that is powered solely by an electric propulsion system producing an average power output of no more than 750 watts.

(49.5) “**Low-Power Scooter**” means a self-propelled vehicle designed primarily for use on the roadways with not more than three wheels in contact with the ground, no manual clutch, and either of the following:

(a) A cylinder capacity not exceeding 50 cubic centimeters if powered by internal combustion; or

(b) A wattage not exceeding 4,476 if powered by electricity.

The term “low-power scooter” shall not include a toy vehicle, bicycle, electrical assisted bicycle, wheelchair, or any device designed to assist mobility-impaired people who use pedestrian rights of way.

E. The citation corrections identified in Exhibit A to Ord. #6, 2015 adopting the Model Code are incorporated herein by reference.

#### **10.04.017 Penalties.**

A. **Penalty Assessment Schedule.** The municipal court for the City of Delta shall promulgate a penalty assessment schedule (“Schedule”) and update said Schedule from time to time as is deemed necessary by the court.

B. **Traffic Infraction.** It is a traffic infraction for any person to violate parts 1 to 3 and 5 to 19 of the Model Code unless such violation is declared otherwise by the Model Code or any other state or local law. Any violation deemed to be a traffic infraction is subject to the standard penalties set forth in the municipal court’s Schedule.

C. **Traffic Offense.** Any violation of the Model Code deemed by the Model Code to be a traffic offense is subject to the standard penalties available to the Delta Municipal Court set forth in Chapters 1.08.010 and 1.08.030 of the Delta Municipal Code.

D. It is expressly provided that a speeding violation of up to 24 miles per hour over the posted speed limit constitutes a traffic infraction and is subject to the penalties as provided in this Chapter.

5. Severability. Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

6. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated pursuant to the City's home rule authority and under the general police power of the City of Delta and that it is promulgated for the protection of health, safety, and welfare of the citizens of the City of Delta. Council further determines that this Ordinance bears a rational relationship to the proper legislative purpose of the Ordinance.

7. Effective Date. This Ordinance shall become effective thirty (30) days after final publication as provided in the City Charter and C.R.S. section 31-16-105.

INTRODUCED on \_\_\_\_\_, 2015, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published in full and posted in at least two public places within the City as required by the Charter.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

INTRODUCED a second time at a regular meeting of the Council of the City of Delta, Colorado on \_\_\_\_\_, 2015, read by title and number, passed without amendment, approved, and ordered published as required by the Charter.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**EXHIBIT A**  
Citation Corrections

The following citations in the 2010 Model Traffic Code are corrected as follows:

1. In Section 223, all references to "section 235(1)(a)" in subsection (1), are modified to read "section 42-4-235(1)(a), C.R.S."
2. In Section 225, subsection (1.5), the reference to "section 235(1)(a)" is modified to read "section 42-4-235(1)(a), C.R.S."; and the reference in subsection (3) to "section 205(5.5)(a)" is modified to read "section 43-4-205(5.5)(a), C.R.S."
3. In Section 228, subsection (5)(c)(III), the reference to "section 235(1)(a)" is modified to read "section 42-4-235(1)(a), C.R.S."
4. In subsection (4) of Section 229 of, the reference to "section 219" is modified to read "section 42-3-219, C.R.S."
5. In Section 236, subsection (1)(a), the reference to "Code 6" is modified to read "Article 6."
6. In Section 237, subsection (3)(g), the reference to "section 235(1)(a)" is modified to read "section 42-4-235(1)(a), C.R.S."
7. In Section 509, subsection (2)(b), the reference to "section 102(32)" is modified to read "section 42-1-102(32), C.R.S."
8. In Section 613, the reference to "Code 4" is modified to read "Article 4."
9. In Section 805, subsection (5), the reference to "section 110" is modified to read "section 42-4-110, C.R.S." and the reference to "section 111" is modified to read "section 42-4-111, C.R.S."
10. In Section 1012, subsection (2.5)(c), the reference to September 1, 2003, is deleted.
11. In Section 1012, subsection (3)(b), the reference to "section 1701(4)(a)(I)(K)" is modified to read "section 42-4-1701(4)(a)(I)(K), C.R.S."
12. In Section 1208, all references to "section 204(2)" are modified to read "section 42-3-204(2), C.R.S."; all references to "section 204(1)" are modified to read "section 42-3-204(1), C.R.S."; all references to "section 204(1)(b)" are modified to read "section 42-3-204(1)(b), C.R.S."; all references to "section 204" are modified to read "section 42-3-204, C.R.S."; and all references to "section 102(17)" are modified to read "section 42-1-102(17), C.R.S."

13. In Section 1401, the reference to “section 127” is modified to “section 42-2-127, C.R.S.”
14. Section 1402 of reference to “section 127” is modified to “section 42-2-127, C.R.S.”
15. In Section 1412, all references to "section 111" are modified to read "section 42-4-111, C.R.S."; the reference to "Code 10" is modified to read "Article 10"; and all references to "section 127" are modified to read "section 42-2-127, C.R.S."
16. In Section 1805, the reference to "Part 1 of Code 6 of this Title" is modified to read "Part 1 of Article 6 of Title 42, C.R.S."; and the reference to "Code 6 of Title 12, C.R.S." is modified to read "Article 6 of Title 12, C.R.S."

ORDINANCE #\_\_\_\_, 2015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO AMENDING THE DELTA MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 5.12, "ALCOHOLIC BEVERAGES TASTING PERMITS."

WHEREAS, legislation regarding "tastings" provides that local jurisdictions may opt to issue retail liquor store or liquor-licensed drugstore licenses to conduct "tastings" pursuant to C.R.S. Section 12-47-301; and

WHEREAS, the Delta City Council was requested to allow "tastings" within the City limits of Delta.

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

**Section 1.** The foregoing recitals are incorporated herein as findings of the City Council.

**Section 2.** A new Chapter 5.12 of the Delta Municipal Code, entitled "Alcoholic Beverage Tasting Permit," is hereby adopted to read as follows:

Chapter 5.12

Alcoholic Beverage Tasting Permit

5.12.010 Alcoholic Beverage Tasting Permit Required

A. The City hereby authorizes tastings to be conducted by retail liquor store or liquor-licensed drugstore licensees in accordance with this section and pursuant to Section 12-47-301, C.R.S, as the term "Tastings" is defined in said Section 12-47-103(37.5). It is unlawful for any person or licensee to conduct tastings within the City unless authorized in accordance with this section. Tastings shall not be authorized until the following prerequisites are fully satisfied, as determined by the City:

1. A retail liquor store or liquor-licensed drugstore that wishes to conduct tastings shall submit an application for a tastings permit to the City Clerk. The City Clerk may reject the application if the applicant fails to establish that the licensee is able to conduct tastings without violating any of the provisions of this section. The City Clerk shall establish the application procedure.

2. The application shall include the name of the liquor-licensed premises, the person who is submitting the notice, and shall indicate the date and time the tastings are to take place.
  - a. The notice must state and affirm that the licensee wishing to conduct such tasting shall do so in accordance with the provisions of this Chapter, and without creating a public safety risk to the surrounding neighborhood.
  - b. The Alcoholic Beverage Tastings Permit shall concurrently with the retail liquor store or liquor-licensed drugstore liquor license.
  - c. Further, the Alcoholic Beverage Tastings Permit must be reapplied for and the permit fee paid on a yearly basis.
3. Tastings authorized pursuant to this section shall be allowed only for a retail liquor store or liquor-licensed drugstore operating within the City whose license is valid and in full force and effect.
4. Tastings, once approved, shall be subject to the following limitations:
  - a. Tastings shall be conducted only by a person who has completed an alcohol server training program that meets the standards established by the Liquor Enforcement Division in the Department of Revenue and who is either a retail liquor store state licensee or a liquor-licensed drugstore licensee, or an employee of a licensee, and only on a licensee's licensed premises.
  - b. The alcohol used in tastings shall be purchased through a licensed wholesaler, licensed brew pub, or winery licensed pursuant to state law at a cost that is not less than the laid-in cost of such alcohol.
  - c. The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.
  - d. Tastings shall not exceed a total of five hours in duration per day, which need not be consecutive.
  - e. Tastings shall be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol beverages, and in no case earlier than 11 a.m. or later than 7 p.m. A Tasting schedule will be required as part of the application process.
  - f. Should the licensee desire to deviate from the tastings schedule as previously provided, the licensee must give the Office of the City Clerk at least 5 days prior notice of desired tastings schedule change.

- g. The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
- h. The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the tasting.
- i. The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.
- j. The licensee shall not serve more than four individual samples to a patron during a tasting.
- k. Alcohol samples shall be in open containers and shall be provided to a customer free of charge.
- l. Tastings may occur on no more than four of the six days from a Monday to the following Saturday, not to exceed one hundred four days per year.
- m. No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The licensee shall bear the financial and all other responsibility for a tasting.

**5.12.020 Violations**

- A. A violation of a limitation specified in subsection (c) herein or of Section 12-47-301, C.R.S. by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents, or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.
  - 1. A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee for a violation of any of the provisions of subsection (c) or Section 12-47-301, C.R.S.
  - 2. Nothing in this Chapter shall affect the ability of a Colorado winery licensed pursuant to state law to conduct a tasting pursuant to law.

**Section 4. Severability.** Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

**Section 5. Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated pursuant to the City's home rule authority and under the general police power of the City of Delta and that it is promulgated for the protection of the health, safety, and welfare of the citizens of the City of Delta. The City Council further determines that this Ordinance bears a rational relationship to the legislation proposed hereof

**Section 6. Effective Date.** This Ordinance shall become effective thirty (30) days after final publication as provided in City Charter and C.R.S. section 31-16-105.

ADOPTED on first reading and ordered published this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 2015.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

ADOPTED on second and final reading and ordered published this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 2015.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk