

ORDINANCE NO. 4923

AN EMERGENCY ORDINANCE TO AMEND THE GRAND JUNCTION MUNICIPAL CODE REGARDING NEIGHBORHOOD MEETINGS AND TO ALLOW FOR ALTERNATIVE HEARING PROCEDURES FOR LAND USE APPLICATIONS IN THE CITY OF GRAND JUNCTION, COLORADO

RECITALS:

Due to the incidence of COVID-19 in the general public, the designation of pandemic by the World Health Organization, the Declaration of a Disaster Emergency by Governor Polis on March 10, 2020, and a National Emergency by President Trump on March 13, 2020, together with the Public Health Orders (PHO's) issued by the Colorado Department of Public Health and Environment and Executive Orders (EO's) issued by Governor Polis, all of which established guidelines, policies and restrictions necessary for the health and safety of the residents of Colorado, the City declared a Local Emergency (Declaration.) With that Declaration, certain City regulations have been temporarily implemented, amended and adjusted in order to respond to the emergency. Those temporary regulations included but were not limited to prescribing procedures for the conduct of City business and controlling the occupancy of certain premises. The City's Declaration expired May 6, 2020.

On April 26, 2020 Governor Polis issued Executive Order 2020-044 and the Colorado Department of Public Health and Environment issued Public Health Order 20-28 also known as the "Safer at Home Order" which among other things continues to limit social interactions (except as required to conduct *Necessary Activities*) and travel (except that deemed to be *Essential Travel*) all as defined by the EO's and PHO's. In addition, Executive Order 2020-44 prohibits public gatherings in both public spaces and private venues of ten (10) persons or more. Executive Order 2020-044 is effective to and through May 26, 2020.

The virus, and the various PHO's, EO's and other directives and recommendations issued in response to the virus have resulted in the need for the Declaration and attendant modification of City business processes and procedures, including the City Council and the Planning Commission adopting electronic participation policies that allow the City to conduct City business remotely, and the development and implementation of techniques for citizens to view meetings and otherwise comment on agenda topics; however, Council and Commission meetings are not the exclusive means of public participation in City processes. For purposes of land use applications, Neighborhood Meeting and public hearings provide important opportunities for citizen engagement, dissemination of information, public participation and transparency.

By and with this Emergency Ordinance the City Council amends the Grand Junction Municipal Code (GJMC or Code) to provide that Neighborhood Meetings may temporarily be conducted virtually.

Furthermore, the GJMC is amended to allow and provide that quasi-judicial hearings before the Planning Commission and City Council may be heard and decided in accordance with the *Alternative Hearing Procedure* adopted with this Ordinance. The *Alternative Procedure* provides a means for conducting electronic dissemination of information and for alternative means of participation in public meetings. The *Alternative Hearing Procedure* is attached and incorporated by this reference as if fully set forth.

Both the Colorado Constitution and the Fourteenth Amendment to the United States Constitution prohibit the government from depriving any person of life, liberty, or property without due process of law. In *Sundance Hills Homeowners Association v Board of County Commissioners*, the Colorado Supreme Court held that for a land use hearing the governing body must provide notice that minimally specifies the time, place, and subject matter of the public hearing, as well as the nature of the proposal being considered. In addition, the Court held that the hearing must afford affected parties the opportunity to appear before the decision-making body and be heard. The City's *Alternative Hearing Procedure* is enacted and will be applied in a manner that the City reasonably considers to comport with principles of Due Process and fundamental fairness; however, the City cannot assure an applicant that the Alternative Procedure and any decision made under the Alternative Procedure, may not be challenged and/or be found to violate Due Process/Constitutional rights.

At the May 20, 2020 meeting the City Council considered this Ordinance and determined that amendment of the Code is necessary given the current emergency and the City Council deems it necessary to immediately modify the Code as follows.

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

Titles 21.02.080(e) and (j) (in relevant part) of the Grand Junction Municipal Code are amended as follows (deletions ~~struck through~~; additions underlined):

21.02.080(e)(2) Meeting Time and Procedure Location. The applicant must provide for a physical or virtual meeting room and must conduct the meeting. Meetings must be held on a weekday evening that is not a holiday beginning between 5:30 p.m. and 8:00 p.m. ~~in a location that is and be accessible to the affected neighborhood. The Director may approve other times and locations.~~ The meeting date, time and format location must be approved by the Director no less than 14 days in advance of the meeting date. ~~To qualify, A required Neighborhood Meeting must be held not more than 180 days before the application is submitted.~~

(3) Meeting Content and Conduct. At the meeting The applicant shall present a concept plan, describe project impacts, describe ways to mitigate impacts, and facilitate a discussion and answer questions during the meeting. The concept plan shall, at a minimum, delineate access to the site; internal circulation, the range of density of the entire property or the maximum intensity (square footage and stories for all buildings). The meeting shall be conducted so that participants attendees have an opportunity to ask questions and provide comments. City staff should gather information and explain the rules and requirements. City staff shall provide information regarding the project's compliance with the Comprehensive Plan and any applicable adopted plan or ordinance. Included with the application submittal, the applicant must give the Director a written list of names and addresses of those given notice, how notice was provided, and those participating in the meeting attending, along with a written summary of the meeting including any public comment received.

(4) Notice. The applicant shall provide written notice of the date, time, place if an in person meeting is conducted or the web location/host, together with any and all information required to access the meeting if conducted virtually and subject of the meeting to every owner and group in the neighborhood, as well as the City ~~Public Works and~~ Community Development Department. The notice must be approved by the Director no less than 14 days in advance of the meeting date and

shall be, at a minimum delivered by U.S. mail. The notice must be made ~~hand-delivered or postmarked~~ no later than 10 calendar days prior to the meeting date.

(j)(5) Additional Rules. The body conducting the hearing may adopt its rules of procedure to limit the number of applications, ~~for development approval to be considered per meeting, and to limit the time for each presentation or speaker~~ or as provided by this ordinance temporarily hear and decide quasi-judicial hearings in accordance with the Alternative Hearing Procedure, which are adopted by this reference and incorporated as if fully set forth.

City Council hereby declares that a special emergency exists and that this ordinance is necessary to ensure the preservation of the peace and the public health, safety and welfare by effectuating the Council's publicly purposes and policies, which are consistent with and supportive of those of the State of Colorado.

This Ordinance, immediately on its final passage, shall be recorded in the City book of ordinances kept for that purpose, authenticated by the signatures of the Mayor and the City Clerk. The full text of the amending ordinance, in accordance with the Charter of the City of Grand Junction, is to be published in full within three days.

This Ordinance shall apply to the City of Grand Junction. This Ordinance shall take effect immediately upon passage and with the unanimous approval of City Council.

Severability.

This Ordinance is necessary to protect the public health, safety and welfare of the residents of the City. If any provision of this Ordinance is found to be unconstitutional or illegal, such finding shall only invalidate that part or portion found to violate the law. All other provisions shall be deemed severed or severable and shall continue in full force and effect.

All other provisions of Title 3 of the Grand Junction Municipal Code shall remain in full force and effect.

Sunset.

Without further action by the City Council, the terms and provisions of this ordinance shall expire 180 days after the effective date hereof without subsequent action by the City Council.


C.E. Duke Wortmann
President of the Council

ATTEST:


Wanda Winkelmann
City Clerk



I HEREBY CERTIFY THAT the foregoing Emergency Ordinance, being Ordinance No. 4923 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 3rd day of June 2020.

I FURTHER CERTIFY THAT Ordinance No. 4923 was read, considered, adopted and ordered published in the Daily Sentinel by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 5th day of June 2020.


Deputy City Clerk



Published: June 5, 2020 (full ordinance)
Effective: June 3, 2020 (date of adoption)