

ORDINANCE NO. 3609

AN ORDINANCE AMENDING PART OF CHAPTER 32 OF THE CITY OF GRAND JUNCTION CODE OF ORDINANCES RELATING TO PERMITS FOR ACTIVITIES IN THE DOWNTOWN

Recitals.

Since its inception, the City of Grand Junction Downtown Development Authority (“DDA”) has exercised delegated authority from the City Council, pursuant to Ordinance No. 1989, adopted in 1981. The DDA has been responsible for regulating the use of the City’s right-of-way in the area of Main Street between First and Seventh Streets.

The activities that occur Downtown have enhanced the City. While Ordinance 1989 was updated in 2002 by Ordinance No. 3422, there have been new activities and ideas since that time that will further enhance the downtown. The current ordinance does not permit those activities. Additionally, there are activities that have gone on in the past and will continue to occur, for which no appropriate permit is provided for in the regulation.

For these reasons, the City Council finds that there are no obvious detriments, while there are clear benefits to expanding the DDA commercial activity permitting program in the downtown right-of-way.

It is the Council’s intent to delegate to the DDA Board of Directors and where appropriate the DDA Director, the City Council’s powers and related duties, liabilities and obligations, pursuant to § 127 of the City Charter, except as provided herein.

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

1. Chapter 32, Section 62 is amended by the addition of the following definitions.

Parade Permit means a permit that allows the use of Main Street between 1st Street and 7th Street for a procession or march for ceremony or display.

Sidewalk restaurant means the extension of the food and non-alcohol beverage service of a restaurant in the Downtown Park.

Recurring Activity Permit means a permit that allows a unique and /or charitable use of the Downtown Park on a recurring basis throughout the year. A Recurring Activity Permit may be granted to the sponsor or agency coordinating the event rather than specific, participating individuals.

Tent Sale/Sidewalk Sale Permit means a permit that allows existing Main Street merchants to sell merchandise or service from an area in the public right-of-way.

2. Chapter 32, Section 63, Permit fees, is hereby amended to read as follows:

(a) *Fees for permits.* The DDA may charge per annum for the permits and documents authorized by this ordinance as follows. The City Council may amend such fees and charges by resolution.

- (1) Each sidewalk café or restaurant – \$10 per seat/\$150.00 max.
- (2) Mobile vending cart or kiosk \$100
- (3) Recurring activity permit \$200
- (4) Special use permits. \$100
- (5) Pedestrian vendor.25/month or \$100 annually
- (6) Parade permit \$ 10
- (7) Tent Sale/Sidewalk Sale \$ 25

(b) All fees collected by the DDA or its employees or agents pursuant to this ordinance shall be deposited with the City on account of the DDA.

(c) If the DDA desires to waive the fee or all or a portion of one or more permit terms for charitable and eleemosynary activities, it shall only do so pursuant to adopted written rules and policies, consistent with the provisions of this ordinance and other City rules and requirements. Any such waiver shall only be valid if decided by the DDA Board in a meeting that complies with the Colorado Open Meetings Act. Such DDA regulations shall provide that each such waiver shall be requested in writing and shall be accompanied by proof that the proceeds from the permitted commercial activity will be used for a charitable or equivalent entity that has tax exempt status under the Internal Revenue Code, as amended from time to time.

3. Chapter 32, Section 64, Permit Requirements is amended to read as follows:

Section 32-64. Permit Requirements.

(a) *Length of permits.* Permits issued pursuant to this ordinance are valid for no longer than the following lengths of time. Renewal permits may be granted as set forth below.

- (1) Pedestrian vendor permits - thirty (30) days.
- (2) Sidewalk café/restaurant – one (1) year

- (3) Mobile vending carts/kiosks - six (6) months.
- (4) Recurring activity permit – one (1) year
- (5) Special use permits - three (3) days.
- (6) Parade permit – one (1) day
- (7) Tent Sale/Sidewalk Sale permits – three (3) days
- (8) All other permits - one (1) year.

(b) *Applications for permits.* All permit applications, including renewals, shall be made to the DDA on a DDA form on which the applicant provides at least the following:

- (1) Name, address and phone number(s) of applicant.
- (2) Name, addresses and emergency telephone number of at least two persons who will be available during the activity or event, so that the DDA or the City may quickly contact a person with authority.
- (3) Names, addresses, telephone numbers and email addresses of each sponsor of the applicant.
- (4) Type of business/commercial activity to be conducted, including a description of the merchandise to be sold or displayed.
- (5) Copy of current City sales tax license if required by the City's Sales Tax Code.
- (6) The applicant's signed statement that the applicant has the authority to and does bind the permittee to hold harmless and indemnify: the City of Grand Junction and the DDA (and the officers, officials and employees of each); with respect to and relating to any claim(s) or charge for damage to persons and/or property or injury to persons which were, or were alleged, to be occasioned by the permit (including permittee action or inaction).
- (7) (a) Permittee shall furnish and maintain such public liability, food products' liability, products' liability and other insurance as will protect permittee, the City and the DDA (and the officers, officials and employees of the City and the DDA),

from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith.

(b) Such insurance shall: provide coverage that is consistent with the City's practices and/or the provisions of the Governmental Immunity Act, whichever the DDA determines from time-to-time to apply or require. Until the DDA Board adopts different limits, permittee insurance shall provide coverage of not less than \$150,000 for bodily injury on each person, \$600,000 for each occurrence and not less than \$600,000 for property damage per occurrence; be without prejudice to coverage otherwise existing and shall name as additional insureds the City, the DDA (and the officers, officials and employees of each); provide that the policy shall not terminate or be canceled prior to the completion of the contract without thirty (30) days written notice to the DDA.

- (8) Description of the building, structure, kiosk, mobile vending cart or other improvement(s) to be used in connection with conducting commercial activity including blueprints, drawings, sketches and such other information or details as the DDA shall require.
- (9) The location for which the permit is requested.
- (10) A description of how the business will be conducted, including hours of operations.
- (11) A description of how the use or activity may enhance the Downtown Park and how the use or activity conforms with the DDA plan of development including how/to whom the net proceeds gained from the use or activity will be distributed.
- (12) A list of all necessary or applicable permits that the applicant must obtain and the current status of each, before the use or activity is lawfully begun.
- (13) The DDA Director may require the applicant to prepare and submit such drawings and diagrams of facilities as may be necessary to determine if the permit should be issued and/or to enforce the permit if it is issued.
- (14) Description of the hours and specific locations of proposed street or sidewalk closures or traffic controls with the boundaries of the DDA. **Note: The City Engineer must**

issue right-of-way closures for all City right-of-way including those within the Downtown Park. The DDA Director shall consult with the City Engineer regarding pedestrian/sidewalk restrictions including but not limited to those that may occur with the issuance of a sidewalk café/restaurant permit.

- (15) Description of the activities related to any street closure(s) or other activities required to be done by the applicant or others.
 - (16) How the applicant will provide any required security.
 - (17) A listing of each sponsor for the use and/or activity.
 - (18) If any music, vocalization or mechanical musical presentation is to be broadcast or presented, the application shall so state. The applicant shall particularly describe the time, place, manner, means and mode of such presentation. Each applicant agrees to comply with ASCAP requirements, including the payment of fees. Each applicant and permittee, by accepting the benefits and terms of any DDA permit or consent, agrees to hold harmless and indemnify the DDA and the City (and the officials, officers and employees of each) with respect to claims or activities for which money is owed to ASCAP or consent must be obtained.
- (c) *Renewal.* A Downtown Park permit may be renewed, if all other requirements of this ordinance have been met and if:
- (1) No violations of the permit restrictions or a City ordinance or requirement have occurred during the prior permit period or one calendar, whichever is longer;
 - (2) The permit holder did not cease to conduct business under the prior permit during the time the permit was in force;
 - (3) The applicant affirms in writing that all the information on the original application is correct and true, except as modified in writing at the time of the application for the renewal; and
 - (4) All fees are paid.

4. Chapter 32, Section 66, Types of Permits is amended to read as follows:

- (a) The types of permits which may be issued are for:

- (1) Pedestrian vendors.
- (2) Sidewalk café/restaurant
- (3) Mobile vending carts/kiosks.
- (4) Recurring activity permits
- (5) Special Use Permits.
- (6) Parade Permits
- (7) Tent Sale/Sidewalk Sale Permit

5. Chapter 32, Section 67, General Provisions shall be amended to read as follows:

(a) The permittee may conduct business on the public right-of-way within the Downtown Park but only subject to and in compliance with the following:

- (1) Each permittee pursuant to this ordinance shall pick up and properly dispose of any paper, cardboard, wood or plastic containers, wrappers and other litter which is deposited or is located on the sidewalk within twenty five feet (25') of the permittee's use, activity or location.
- (2) Each permittee shall provide readily accessible container(s) and facilities for the collection of litter, debris and trash and shall properly dispose of all litter, debris and trash collected.
- (3) No permittee shall sell or give any food, object or other item to any person who is located in the right of way, including parking areas, unless such right of way has been closed by the City Engineer.
- (4) The permittee shall not offer to sell or sell except within the location designated by the permit.
- (5) A permittee shall not leave his equipment or merchandise unattended, except for a sidewalk café/restaurant or kiosk and only when the café/restaurant or kiosk is secured.
- (6) The permittee shall not conduct any business, use or activity between the hours of 12:00 a.m. (midnight) and 6:00 a.m.

- (7) A permittee shall not offer to sell or sell merchandise that is not described in the application.
- (8) No permittee may hold more than one permit at any one time, unless approved by the DDA Board.
- (9) The permittee shall only locate tables, chairs, benches, and/or other personal property in the portion of the adjacent Main Street right-of-way to the permittee's restaurant or café that is within the permitted area.

The DDA Director in consultation with the City Engineer shall ensure that permittees' using the sidewalk maintain an adequate unobstructed and unoccupied area of the sidewalk for the two-way movement of pedestrian traffic. An adequate unobstructed and unoccupied area shall be deemed to be no less than five feet (60") wide and be no closer than two feet from the closest point on Main Street to the sidewalk activity.

The DDA Director may authorize the use of the sidewalk so long as "clear space" of not less than 60" is provided for at least 40% of the permitted area; the DDA Director may issue a permit notwithstanding the existence of a planter box (es), tree(s), art or some other fixture or permanent installation so long as not more than 60% of the permitted area is not encumbered by such fixtures.

b) An amended permit may be issued in an expedited manner without additional fees if the permittee has remained (while all prior permits were in effect) in compliance with all applicable requirements and laws.

(c) Each permittee shall forthwith obey every lawful order of the DDA and any City official, including police officers, such as an order to move to a different location (if needed, for example, to avoid congestion or obstruction of a sidewalk) or an order to forthwith remove all personal property from the Downtown Park (in case of congestion or public safety or similar concerns).

(d) No permittee shall make unlawful noise or any continuous noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his use, business or merchandise.

(e) During a community event, as determined by the City or the DDA, each permittee shall be subject to overriding rules, requirements and even prohibitions, during the community event. For example, a

permittee for a mobile vending cart, a kiosk or a pedestrian vendor may be limited in hours, location and/or type of goods or foods.

6. Chapter 32, Section 69, Rules for Sidewalk Cafés and Restaurants is amended to read as follows:

- (a) The following provisions shall apply to sidewalk restaurants and cafés:
- (1) Such permits shall be renewed annually no later than April 1st each year. Permits fees are non-refundable and will not be prorated.
 - (2) During such times as an adjacent owner consents in writing, the permittee may also occupy an additional area in front of such consenting owner's property subject to the overriding limits regarding pedestrian clear space, proximity to Main Street and overriding regulations made applicable for community events.

7. Chapter 32 is hereby amended by the addition of the following section:

Section 32-70. Special Rules on Special Use and Recurring Activity Permits.

(a) Layout for these activities must be approved by the Downtown Development Authority ten days in advance of the first day of the event. Layouts for such events are encouraged to be in conformance with Attachment.

(b) Generators are not allowed on Main Street. Electrical outlets are available on all lampposts.

8. Section 32-69 shall be renumbered to 32-71.

9. All other provisions of this chapter shall remain in full force and effect.

INTRODUCED on first reading this 18th day of February, 2004.

ADOPTED on second reading this 3rd day of March, 2004.

Attest: /s/ Jim Spehar
President of the Council

/s/ Stephanie Tuin
City Clerk

ATTACHMENT

North
600 Block

