

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 4357

AN ORDINANCE AMENDING PORTIONS OF ARTICLE III OF CHAPTER 32 REGARDING THE DOWNTOWN DEVELOPMENT AUTHORITY (DDA'S) PERMIT APPLICATION AND SECTION 32-68 PERTAINING TO MOBILE VENDING CARTS

Recitals:

The City Code of Ordinances allows for a permit application process, to be jointly administered by DDA and City staff. Businesses and sidewalk vendors who wish conduct business on the sidewalks in the downtown area must obtain a permit from the DDA.

DDA and City staff have noted some inconsistencies in the Code regarding the permit application process, especially as it pertains to sidewalk vendors. Staff has prepared amendments to portions of Chapter 32 of the Code to reconcile any conflicting language and make the application process more flexible for DDA and City staff to administer.

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

A. Section 32-65 of Article III of Chapter 32 of the Code is amended as shown below.

Sec. 32-65. Review of permit application.

(a) The DDA shall promptly review each application and shall determine, in its sole discretion, if:

- (1) The application is complete.
- (2) All other permits, licenses or permissions have been or will be obtained prior to the beginning date of the permit.
- (3) Required insurance has been obtained.
- (4) It is in accordance with the goals and objectives in the plan of development.
- (5) The proposed use or activity would enhance the Downtown Park according to such plan of development.
- (6) More than one application is received for the same use in the same location, the complete and sufficient application which was first received by the DDA shall be issued.

(b) If the DDA finds that the application is not complete or in order, it shall deny the application and give the reasons in writing to the applicant.

(c) If the DDA finds that the application is proper and complete, and is in accordance with the DDA and City rules and requirements, the DDA shall forward its approval, with or without conditions, to the City Clerk who shall issue the permit.

(d) The City Clerk may delegate the duty to issue the permits pursuant to an intergovernmental agreement or pursuant to an administrative regulation.

(e) Questions or problems with the administration of the permit shall be referred to the DDA Executive Director. The DDA Executive Director shall have authority to interpret and apply the permit requirements to effectuate the purpose of this chapter.

(f) An applicant may appeal a decision of the Executive Director regarding a permit, the denial of a permit, a condition of a permit, or a decision of the Executive Director regarding a permit, to the DDA Board by submitting a letter to the Executive Director of the DDA or any DDA board member within ten (10) calendar days of the mailing of a decision letter to the applicant/permittee. The DDA Board shall decide the appeal within thirty (30) days of receipt of the appeal.

(Code 1965, § 26-54; Ord. No. 3422, 5-1-02)

B. Section 32-67 of Article III of Chapter 32 of the Code is amended as follows:

Sec. 32-67. General Provisions.

(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 article 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 conduct any business, use or activity during the hours established by the permit.
- (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.

(Code 1965, § 26-56; Ord. No. 3422, 5-1-02; Ord. No. 3609, 3-3-04)

Sec. 32-68. Special rules for mobile vending carts.

(a) The following provisions, in addition to those rules made otherwise applicable elsewhere in this chapter, shall apply to mobile vending carts:

- (1) A mobile vending device shall not: be greater than sixteen square feet (16² feet) in area; longer than four feet (4') in width, excluding wheels; be greater than six feet (6') in length or depth, including any handle; be greater than five feet (5') in height, excluding a canopy, umbrella or transparent enclosure.
- (2) A permittee shall not locate a mobile vending device on a public sidewalk within the boundaries of a crosswalk, nor in a location that will restrict the flow of way designated or used for motor vehicles, unless specifically permitted as part of a use or activity for which the right-of-way is closed to motor vehicles.
- (3) A permittee shall not sell from a mobile vending device that is located within three feet of any right-of-way designated or used for motor vehicles, unless specifically permitted as part of a use or activity for which the right-of-way is closed to motor vehicles.

(Ord. No. 3422, 5-1-02)

The remainder of Article III, Chapter 32, not specifically amended herein, shall remain in full force and effect.

INTRODUCED on this first reading and authorized for publication this 18th day of May 2009.

Passed and adopted on second reading and publication this 1st day of June 2009.

/s/ Bruce Hill
President of the Council

ATTEST:

/s/ Stephanie Tuin
City Clerk