

RESOLUTION NO. 128-00

**CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
JAMES A. HOLMES**

Recitals.

1. James A. Holmes, Jr., hereinafter referred to as the Petitioner, represents that he is the owner of that certain real property located at 200 West Grand Avenue in the City of Grand Junction, County of Mesa, State of Colorado, as identified by Mesa County Tax Schedule Number 2945-151-00-092, and has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to install, operate, maintain, repair and replace landscaping and driveway improvements within the limits of the following described public right-of-way, to wit:

Commencing at the East ¼ Corner of Section 15, Township 1 South, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado, and considering the south line of the SE ¼ of the NE ¼ of said Section 15 to bear S 89°47'53" W with all bearings contained herein being relative thereto; thence S 89°47'53" W along the south line of said SE ¼ NE ¼ a distance of 644.97 feet to a point; thence leaving said south line, N 00°12'07" W a distance of 103.87 feet to the True Point of Beginning; thence N 00°12'07" W a distance of 3.53 feet to a point on the north right-of-way line for West Grand Avenue as described by instrument recorded in Book 2772 at Page 123 in the office of the Mesa County Clerk and Recorder; thence along said right-of-way line, S 75°58'42" E a distance of 40.68 feet to a point on the north right-of-way line for West Grand Avenue as described by instrument recorded in Book 375 at Page 486 in the office of the Mesa County Clerk and Recorder; thence N 89°47'53" E along said right-of-way line a distance of 151.05 feet to a point on the northwesterly right-of-way line for West Grand Avenue as described by instrument recorded in Book 2772 at Page 123 as aforesaid; thence along said right-of-way line, N 53°49'37" E a distance of 54.95 feet to a point on the westerly right-of-way line for U.S. Highway 6 & 50 as described by instrument recorded in Book 686 at Page 427 in the office of the Mesa County Clerk and Recorder; thence along said right-of-way line the following three (3) courses:

1. N 00°12'07" W a distance of 72.71 feet;
2. N 27°21'53" E a distance of 173.30 feet;
3. N 33°33'07" W a distance of 45.50 feet;

thence leaving said right-of-way line, N 89°48'23" E a distance of 70.65 feet;
thence S 39°27'55" E a distance of 22.98 feet;
thence 89.36 feet along the arc of a curve to the right, having a radius of 55.29 feet, a central angle of 92°36'01", and a long chord bearing S 10°35'59" W a distance of 79.95 feet;
thence S 56°49'49" W a distance of 78.23 feet;
thence 119.41 feet along the arc of a curve to the left, having a radius of 131.23 feet, a central angle of 52°08'06", and a long chord bearing S 26°42'25" W a distance of 115.33 feet;

thence 12.24 feet along the arc of a curve to the right, having a radius of 54.59 feet, a central angle of 12°50'31", and a long chord bearing S 02°14'52" W a distance of 12.21 feet;
thence 79.42 feet along the arc of a curve to the right, having a radius of 74.99 feet, a central angle of 60°41'01", and a long chord bearing S 52°35'08" W a distance of 75.76 feet;
thence S 89°47'53" W a distance of 66.49 feet;
thence S 89°57'04" W a distance of 68.64 feet;
thence 25.59 feet along the arc of a curve to the right, having a radius of 57.43 feet; a central angle of 25°31'56", and a long chord bearing N 79°34'27" W a distance of 25.38 feet;
thence 22.12 feet along the arc of a curve to the left, having a radius of 123.60 feet, a central angle of 10°15'21", and a long chord bearing N 77°46'33" W a distance of 22.09 feet to the Point of Beginning.

2. Based on the foregoing, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

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

That the City Manager, on behalf of the City and as the act of the City, is hereby authorized and directed to issue the attached Revocable Permit to the above-named Petitioner for the purposes aforescribed and within the limits of the public right-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 6th day of December, 2000.

Attest:

/s/ Stephanie Nye
City Clerk

/s/ Gene Kinsey
President of the Council

REVOCABLE PERMIT

Recitals

1. James A. Holmes, Jr., hereinafter referred to as the Petitioner, represents that he is the owner of that certain real property located at 200 West Grand Avenue in the City of Grand Junction, County of Mesa, State of Colorado, as identified by Mesa County Tax Schedule Number 2945-151-00-092, and has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to install, operate, maintain, repair and replace landscaping and driveway improvements within the limits of the following described public right-of-way, to wit:

Commencing at the East $\frac{1}{4}$ Corner of Section 15, Township 1 South, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado, and considering the south line of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 15 to bear S $89^{\circ}47'53''$ W with all bearings contained herein being relative thereto; thence S $89^{\circ}47'53''$ W along the south line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 644.97 feet to a point; thence leaving said south line, N $00^{\circ}12'07''$ W a distance of 103.87 feet to the True Point of Beginning; thence N $00^{\circ}12'07''$ W a distance of 3.53 feet to a point on the north right-of-way line for West Grand Avenue as described by instrument recorded in Book 2772 at Page 123 in the office of the Mesa County Clerk and Recorder; thence along said right-of-way line, S $75^{\circ}58'42''$ E a distance of 40.68 feet to a point on the north right-of-way line for West Grand Avenue as described by instrument recorded in Book 375 at Page 486 in the office of the Mesa County Clerk and Recorder; thence N $89^{\circ}47'53''$ E along said right-of-way line a distance of 151.05 feet to a point on the northwesterly right-of-way line for West Grand Avenue as described by instrument recorded in Book 2772 at Page 123 as aforesaid; thence along said right-of-way line, N $53^{\circ}49'37''$ E a distance of 54.95 feet to a point on the westerly right-of-way line for U.S. Highway 6 & 50 as described by instrument recorded in Book 686 at Page 427 in the office of the Mesa County Clerk and Recorder; thence along said right-of-way line the following three (3) courses:

4. N $00^{\circ}12'07''$ W a distance of 72.71 feet;
5. N $27^{\circ}21'53''$ E a distance of 173.30 feet;
6. N $33^{\circ}33'07''$ W a distance of 45.50 feet;

thence leaving said right-of-way line, N $89^{\circ}48'23''$ E a distance of 70.65 feet;
thence S $39^{\circ}27'55''$ E a distance of 22.98 feet;
thence 89.36 feet along the arc of a curve to the right, having a radius of 55.29 feet, a central angle of $92^{\circ}36'01''$, and a long chord bearing S $10^{\circ}35'59''$ W a distance of 79.95 feet;
thence S $56^{\circ}49'49''$ W a distance of 78.23 feet;
thence 119.41 feet along the arc of a curve to the left, having a radius of 131.23 feet, a central angle of $52^{\circ}08'06''$, and a long chord bearing S $26^{\circ}42'25''$ W a distance of 115.33 feet;
thence 12.24 feet along the arc of a curve to the right, having a radius of 54.59 feet, a central angle of $12^{\circ}50'31''$, and a long chord bearing S $02^{\circ}14'52''$ W a distance of 12.21 feet;

thence 79.42 feet along the arc of a curve to the right, having a radius of 74.99 feet, a central angle of 60°41'01", and a long chord bearing S 52°35'08" W a distance of 75.76 feet;

thence S 89°47'53" W a distance of 66.49 feet;

thence S 89°57'04" W a distance of 68.64 feet;

thence 25.59 feet along the arc of a curve to the right, having a radius of 57.43 feet; a central angle of 25°31'56", and a long chord bearing N 79°34'27" W a distance of 25.38 feet;

thence 22.12 feet along the arc of a curve to the left, having a radius of 123.60 feet, a central angle of 10°15'21", and a long chord bearing N 77°46'33" W a distance of 22.09 feet to the Point of Beginning.

2. Based on the foregoing, the City Council has determined that such action would not at this time be detrimental to the inhabitants of the City of Grand Junction.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACTION OF THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

There is hereby issued to the above-named Petitioner a Revocable Permit for the purposes aforescribed and within the limits of the public right-of-way aforescribed; provided, however, that the issuance of this Revocable Permit shall be conditioned upon the following terms and conditions:

1. The installation, operation, maintenance, repair and replacement of landscape and driveway improvements by the Petitioner within the public right-of-way as authorized pursuant to this Permit shall be performed with due care or any other higher standard of care as may be required to avoid creating hazardous or dangerous situations and to avoid damaging public roadways, sidewalks, utilities, or any other facilities presently existing or which may in the future exist in said right-of-way.

2. The City hereby reserves and retains a perpetual right to utilize all or any portion of the aforescribed public right-of-way for any purpose whatsoever. The City further reserves and retains the right to revoke this Permit at any time and for any reason.

3. The Petitioner, for himself and for his heirs, successors and assigns, agrees that he shall not hold, nor attempt to hold, the City of Grand Junction, its officers, employees and agents, liable for damages caused to the facilities to be installed by the Petitioner within the limits of said public right-of-way (including the removal thereof), or any other property of the Petitioner or any other party, as a result of the Petitioner's occupancy, possession or use of said public right-of-way or as a result of any City activity or use thereof or as a result of the installation, operation, maintenance, repair and replacement of public improvements.

4. The Petitioner agrees that he shall at all times keep the above described public right-of-way and the facilities authorized pursuant to this Permit in good condition and repair.

5. This Revocable Permit shall be issued only upon concurrent execution by the Petitioner of an agreement that the Petitioner and the Petitioner's heirs, successors and assigns, shall save and hold the City of Grand Junction, its officers, employees and agents harmless from, and indemnify the City, its officers, employees and agents, with respect to any claim or cause of action however stated arising out of, or in any way related to, the encroachment or use

permitted, and that upon revocation of this Permit by the City the Petitioner shall, at the sole expense and cost of the Petitioner, within thirty (30) days of notice of revocation (which may occur by mailing a first class letter to the last known address), peaceably surrender said public right-of-way and, at his own expense, remove any encroachment so as to make the aforescribed public right-of-way available for use by the City or the general public. The provisions concerning holding harmless and indemnity shall survive the expiration, revocation, termination or other ending of this Permit .

6. The Petitioner, for himself and for his heirs, successors and assigns, agrees that he shall be solely responsible for maintaining and repairing the condition of facilities authorized pursuant to this Permit.

7. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioner, at the Petitioner's expense, in the office of the Mesa County Clerk and Recorder.

Dated this _____ day of _____, 2000.

Attest:

The City of Grand Junction,
a Colorado home rule municipality

City Clerk

City Manager

Acceptance by the Petitioner

James A. Holmes, Jr.

AGREEMENT

James A. Holmes, Jr., for himself and for his heirs, successors and assigns, does hereby agree to: Abide by each and every term and condition contained in the foregoing Revocable Permit; As set forth, indemnify the City of Grand Junction, its officers, employees and agents and hold the City of Grand Junction, its officers, employees and agents harmless from all claims and causes of action as recited in said Permit; Within thirty (30) days of revocation of said Permit, peaceably surrender said public rights-of-way to the City of Grand Junction and, at his sole cost and expense, remove any encroachment so as to make said public right-of-way fully available for use by the City of Grand Junction or the general public.

Dated this _____ day of _____, 2000.

James A. Holmes, Jr.

State of Colorado)
)ss.
County of)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2000, by James A. Holmes, Jr.

My Commission expires: _____

Witness my hand and official seal.

Notary Public