

## RESOLUTION NO. 72-03

### A RESOLUTION ISSUING A REVOCABLE PERMIT TO FIRST CONGREGATIONAL CHURCH TO ALLOW CHURCH PARKING IN PUBLIC RIGHT-OF-WAY

#### Recitals

A. First Congregational Church, hereinafter referred to as the Petitioner or Church, represents that it is a Colorado nonprofit corporation and the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

All of Block 10, Sherwood Addition Revised Plat of Blocks 6 to 14 and the Subdivision of Blocks 6 and 7 into Lots, situate in the Southwest  $\frac{1}{4}$  of Section 11, Township 1 South, Range 1 West of the Ute Meridian, as recorded in Plat Book 7 at Page 93 in the office of the Mesa County Clerk and Recorder, also known as 1425 North 5<sup>th</sup> Street and identified by Mesa County Tax Schedule Number 2945-113-14-951.

B. Petitioner has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to use the below described public rights of way for the non-exclusive use of the Church:

(a) Kennedy Avenue Right-of-Way: Commencing at the Southeast corner of Block 10, Sherwood Addition Revised Plat of Blocks 6 to 14 and the Subdivision of Blocks 6 and 7 into Lots, situate in the Southwest  $\frac{1}{4}$  of Section 11, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 7, Page 93, Reception Number 584521 in the office of the Mesa County Clerk and Recorder, and considering the line between the City Survey Monument set at the intersection of North Fifth Street and Kennedy Avenue and the City Survey Monument set at the intersection of North Fourth Street and Kennedy Avenue to bear N 89°42'00" W a distance of 448.73 feet, with all bearings contained herein being relative thereto; thence N 89°42'00" W along the South boundary line of said Block 10 a distance of 156.82 feet to the True Point of Beginning; thence N 89°42'00" W along the South boundary line of said Block 10 a distance of 196.00 feet; thence leaving the South boundary line of said Block 10, S 00°18'00" W a distance of 15.00 feet; thence S 89°42'00" E a distance of 196.00 feet; thence N 00°18'00" E a distance of 15.00 feet to the Point of Beginning.

(b) Elm Court Right-of-Way: Commencing at the Northeast corner of Block 10, Sherwood Addition Revised Plat of Blocks 6 to 14 and the Subdivision of Blocks

6 and 7 into Lots, situate in the Southwest  $\frac{1}{4}$  of Section 11, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 7, Page 93, Reception Number 584521 in the office of the Mesa County Clerk and Recorder, and considering the line between the City Survey Monument set at the intersection of North Fifth Street and Kennedy Avenue and the City Survey Monument set at the intersection of North Fourth Street and Kennedy Avenue to bear N  $89^{\circ}42'00''$  W a distance of 448.73 feet, with all bearings contained herein being relative thereto; thence N  $89^{\circ}45'36''$  W along the North boundary line of said Block 10 a distance of 58.00 feet to the True Point of Beginning;

thence along the Northerly and Westerly boundary line of said Block 10 the following three (3) courses:

1. N  $89^{\circ}45'36''$  W a distance of 25.11 feet to a point of curvature;
2. 239.39 feet along the arc of a curve concave to the Southeast, having a radius of 262.64 feet, a central angle of  $52^{\circ}13'25''$ , and a long chord bearing S  $64^{\circ}07'41''$  W a distance of 231.19 feet;
3. S  $38^{\circ}00'59''$  W a distance of 121.35 feet;

thence leaving the Westerly boundary line of said Block 10, N  $51^{\circ}59'01''$  W a distance of 15.00 feet;

thence N  $38^{\circ}00'59''$  E a distance of 121.35 feet;

thence 253.06 feet along the arc of a curve concave to the Southeast, having a radius of 277.64 feet, a central angle of  $52^{\circ}13'25''$ , and a long chord bearing N  $64^{\circ}07'41''$  E a distance of 244.39 feet;

thence S  $89^{\circ}45'36''$  E a distance of 25.11 feet;

thence S  $00^{\circ}14'24''$  W a distance of 15.00 feet to the Point of Beginning.

C. Relying on the information supplied by the Petitioner and contained in File No. RVP-2003-109 in the office of the City's Community Development Department, 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:

1. That the City Manager 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 rights-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 6<sup>th</sup> day of August, 2003

Attest:

/s/ Stephanie Tuin  
City Clerk

/s/ Jim Spehar  
President of the City Council

## REVOCABLE PERMIT

### Recitals

A. First Congregational Church, hereinafter referred to as the Petitioner or Church, represents that it is a Colorado nonprofit corporation and that it is the owner of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

All of Block 10, Sherwood Addition Revised Plat of Blocks 6 to 14 and the Subdivision of Blocks 6 and 7 into Lots, situate in the Southwest  $\frac{1}{4}$  of Section 11, Township 1 South, Range 1 West of the Ute Meridian, as recorded in Plat Book 7 at Page 93 in the office of the Mesa County Clerk and Recorder, also known as 1425 North 5<sup>th</sup> Street and identified by Mesa County Tax Schedule Number 2945-113-14-951.

B. Petitioner has requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioner to have the non-exclusive use for Church parking within the limits of the public rights-of-way described in subparagraphs (a) and (b), below, to wit:

(a) Kennedy Avenue Right-of-Way: Commencing at the Southeast corner of Block 10, Sherwood Addition Revised Plat of Blocks 6 to 14 and the Subdivision of Blocks 6 and 7 into Lots, situate in the Southwest  $\frac{1}{4}$  of Section 11, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 7, Page 93, Reception Number 584521 in the office of the Mesa County Clerk and Recorder, and considering the line between the City Survey Monument set at the intersection of North Fifth Street and Kennedy Avenue and the City Survey Monument set at the intersection of North Fourth Street and Kennedy Avenue to bear N 89°42'00" W a distance of 448.73 feet, with all bearings contained herein being relative thereto; thence N 89°42'00" W along the South boundary line of said Block 10 a distance of 156.82 feet to the True Point of Beginning; thence N 89°42'00" W along the South boundary line of said Block 10 a distance of 196.00 feet; thence leaving the South boundary line of said Block 10, S 00°18'00" W a distance of 15.00 feet; thence S 89°42'00" E a distance of 196.00 feet; thence N 00°18'00" E a distance of 15.00 feet to the Point of Beginning.

(b) Elm Court Right-of-Way: Commencing at the Northeast corner of Block 10, Sherwood Addition Revised Plat of Blocks 6 to 14 and the Subdivision of Blocks 6 and 7 into Lots, situate in the Southwest  $\frac{1}{4}$  of Section 11, Township 1 South, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, as recorded in Plat Book 7, Page 93, Reception Number 584521 in the office of the Mesa County Clerk and Recorder, and considering the line

between the City Survey Monument set at the intersection of North Fifth Street and Kennedy Avenue and the City Survey Monument set at the intersection of North Fourth Street and Kennedy Avenue to bear N 89°42'00" W a distance of 448.73 feet, with all bearings contained herein being relative thereto; thence N 89°45'36" W along the North boundary line of said Block 10 a distance of 58.00 feet to the True Point of Beginning;

thence along the Northerly and Westerly boundary line of said Block 10 the following three (3) courses:

4. N 89°45'36" W a distance of 25.11 feet to a point of curvature;
5. 239.39 feet along the arc of a curve concave to the Southeast, having a radius of 262.64 feet, a central angle of 52°13'25", and a long chord bearing S 64°07'41" W a distance of 231.19 feet;
6. S 38°00'59" W a distance of 121.35 feet;

thence leaving the Westerly boundary line of said Block 10, N 51°59'01" W a distance of 15.00 feet;

thence N 38°00'59" E a distance of 121.35 feet;

thence 253.06 feet along the arc of a curve concave to the Southeast, having a radius of 277.64 feet, a central angle of 52°13'25", and a long chord bearing N 64°07'41" E a distance of 244.39 feet;

thence S 89°45'36" E a distance of 25.11 feet;

thence S 00°14'24" W a distance of 15.00 feet to the Point of Beginning.

C. Relying on the information supplied by the Petitioner and contained in File No. RVP-2003-109 in the office of the City's Community Development Department, 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 rights-of-way aforescribed; provided, however, that the issuance of this Revocable Permit shall be conditioned upon the following terms and conditions:

1. The Petitioner's use and occupancy of the public rights-of-way as authorized pursuant to this Permit and the use, presence or occupancy by the public, Petitioner's invitees and guests, 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 sidewalks, street improvements, utilities or any other facilities presently existing or which may in the future exist in said rights-of-way.

2. The City hereby reserves and retains a perpetual right to utilize all or any portion of the aforescribed public rights-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 itself and for its successors, assigns and for all persons claiming through the Petitioner, agrees that it shall defend all efforts and claims to hold, or attempt to hold, the City of Grand Junction, its officers, employees and agents, liable for damages caused to any property of the Petitioner or any other party, as a result of the Petitioner's, or the guests', invitees' and/or members' of Petitioner, occupancy, possession or use of said public rights-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 it shall at all times keep the above described public rights-of-way in good condition and repair.

5. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioner of an agreement that the Petitioner and the Petitioner's 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 cost and expense 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 rights-of-way and, at its own expense, remove any encroachment so as to make the aforescribed public rights-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. 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 \_\_\_\_\_, 2003.

Attest:

The City of Grand Junction,  
a Colorado home rule municipality

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

\_\_\_\_\_  
City Manager

Acceptance by the Petitioner,  
First Congregational Church,  
a Colorado nonprofit corporation:

By \_\_\_\_\_  
Chairman of the Board of Trustees

**AGREEMENT**

First Congregational Church, Petitioner, representing itself to be a Colorado nonprofit corporation, for itself and for its successors, members, guests, invitees and assigns, does hereby agree to:

- (a) Abide by each and every term and condition contained in the foregoing Revocable Permit;
- (b) Indemnify and hold harmless the City of Grand Junction, its officers, employees and agents and with respect to all claims and causes of action, as provided for in the approving resolution and Permit;
- (c) Within thirty (30) days of revocation of said Permit by the City Council, peaceably surrender said public rights-of-way to the City of Grand Junction;
- (d) At the sole cost and expense of the Petitioner, remove any encroachment so as to make said public rights-of-way fully available for use by the City of Grand Junction or the general public.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

First Congregational Church,  
a Colorado nonprofit corporation:

By \_\_\_\_\_  
Chairman of the Board of Trustees

State of Colorado    )  
                                  )ss.  
County of Mesa        )

The foregoing Agreement was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_ as Chairman of the Board of Trustees of First Congregational Church, a Colorado nonprofit corporation.

My Commission expires: \_\_\_\_\_

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public