

RESOLUTION NO. 61-04

**A RESOLUTION CONCERNING THE ISSUANCE OF A REVOCABLE PERMIT TO
ROSE GARDUNIO AND GORDON GARDUNIO**

Recitals.

A. Rose Gardunio and Gordon Gardunio, hereinafter referred to as the Petitioners, represent that they are the owners of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

Lot 3 in Block 8 of Bookcliff Park, situate in the NW ¼ of Section 11, Township 1 South, Range 1 West of the Ute Meridian, also known as 2030 North 6th Street and identified by Mesa County Tax Schedule Number 2945-112-05-018.

B. Petitioners have requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioners to install rock barriers within the following described public alley right-of-way for the purposes of protecting a fence:

Commencing at the Southeast corner of Lot 3, Block 8 of Bookcliff Park Subdivision; thence North along the East boundary line of said Lot 3 a distance of 17.5 feet to the Point of Beginning; thence North along the East boundary line of said Lot 3 a distance of 32.0 feet; thence leaving the East boundary line of said Lot 3, East a distance of 2.8 feet; thence South a distance of 32.0 feet; thence West a distance of 2.8 feet to the Point of Beginning.

C. Relying on the information supplied by the Petitioners and contained in File No. RVP-2004-090 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 Petitioners for the purposes aforescribed and within the limits of the public alley right-of-way aforescribed, subject to each and every term and condition contained in the attached Revocable Permit.

PASSED and ADOPTED this 16th day of June, 2004

Attest:

/s/ Bruce Hill

President of the City Council

/s/ Stephanie Tuin

City Clerk

REVOCABLE PERMIT

Recitals.

A. Rose Gardunio and Gordon Gardunio, hereinafter referred to as the Petitioners, represent that they are the owners of the following described real property in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

Lot 3 in Block 8 of Bookcliff Park, situate in the NW $\frac{1}{4}$ of Section 11, Township 1 South, Range 1 West of the Ute Meridian, also known as 2030 North 6th Street and identified by Mesa County Tax Schedule Number 2945-112-05-018.

B. Petitioners have requested that the City Council of the City of Grand Junction issue a Revocable Permit to allow the Petitioners to install rock barriers within the following described public alley right-of-way for the purposes of protecting a fence:

Commencing at the Southeast corner of Lot 3, Block 8 of Bookcliff Park Subdivision; thence North along the East boundary line of said Lot 3 a distance of 17.5 feet to the Point of Beginning; thence North along the East boundary line of said Lot 3 a distance of 32.0 feet; thence leaving the East boundary line of said Lot 3, East a distance of 2.8 feet; thence South a distance of 32.0 feet; thence West a distance of 2.8 feet to the Point of Beginning.

C. Relying on the information supplied by the Petitioners and contained in File No. RVP-2004-090 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 Petitioners a Revocable Permit for the purposes aforescribed and within the limits of the public alley right-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 alley 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 improvements and public 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 Petitioners, for themselves and for their heirs, successors, assigns and for all persons claiming through the Petitioners, agree that they 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 Petitioners 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 Petitioners agree that they shall at all times keep the above described public right-of-way in good condition and repair.

5. This Revocable Permit shall be issued only upon the concurrent execution by the Petitioners of an agreement that the Petitioners 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 Petitioners shall, at the sole cost and expense of the Petitioners, 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 their 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. This Revocable Permit, the foregoing Resolution and the following Agreement shall be recorded by the Petitioners, at the Petitioner's expense, in the office of the Mesa County Clerk and Recorder.

Dated this _____ day of _____, 2004.

Attest:

The City of Grand Junction,
a Colorado home rule municipality

City Clerk

City Manager

Acceptance by the Petitioners:

Rose Gardunio

Gordon Gardunio

AGREEMENT

Rose Gardunio and Gordon Gardunio, for themselves and for their heirs, successors and assigns, do 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 with respect to all claims and causes of action, as provided for in the approving Resolution and Revocable Permit;
- (c) Within thirty (30) days of revocation of said Permit by the City Council, peaceably surrender said public right-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 right-of-way fully available for use by the City of Grand Junction or the general public.

Dated this _____ day of _____, 2004.

Rose Gardunio

Gordon Gardunio

State of Colorado)
)ss.
County of Mesa)

The foregoing Agreement was acknowledged before me this _____ day of _____ day of _____, 2004, by Rose Gardunio and Gordon Gardunio.

My Commission expires: _____
Witness my hand and official seal.

Notary Public