

ORDINANCE NO. 1989

AN ORDINANCE REGULATING THE SALE OF FOODSTUFFS AND OTHER MERCHANDISE AND SERVICES FROM THE PUBLIC RIGHT-OF-WAY.

Recitals

WHEREAS, city councils have long recognized the imperative of maintaining the economic health of the downtown area of the City as being of benefit not only to those with direct association with that area but to all of the citizens of the City, and, to that end, worked to construct a downtown shopping park; and

WHEREAS, the City of Grand Junction has passed a statement making it a city policy to promote and encourage business and development in the downtown Grand Junction areas which passed on April 14, 1981; and

WHEREAS, the City of Grand Junction desires to enhance the appeal of the downtown area and encourage street activities to draw people to the shopping park area of downtown Grand Junction, and encourage activities there; and

WHEREAS, the City of Grand Junction desires to use the shopping park area to its fullest possible use; and

WHEREAS, the City of Grand Junction has established a Downtown Development Authority which is in the process of developing a plan of development for the downtown Grand Junction area;

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

That amendments be mad to the various Chapters and Sections of the Code of Ordinances of the City of Grand Junction as follows:

1. That Section 26-2 of the Code be amended to read as follows:

26-2. Sale, display or merchandise. Except as is provided IN ARTICLE IV OF CHAPTER 13 (CONCERNING THE SALE OF FOODSTUFFS ON THE PUBLIC RIGHT-OF-WAY) AND ARTICLE III OF THIS CHAPTER, the display and/or sale of merchandise on a public right-of-way is prohibited except that, when directed by the city council, such display or sale may be permitted for a maximum of seven days when proposed and conducted as a part of a coordinated promotional effort involving a majority of the retail business establishments within the city.

2. That Chapter 26 of the Code be amended by the addition thereto of an Article III, reading as follows:

ARTICLE III

SALE OF FOODSTUFFS, MERCHANDISE AND SERVICES FROM THE PUBLIC

RIGHT-OF-WAY IN THE DOWNTOWN SHOPPING PARK AREA.

SECTION 26-50

PURPOSE

The purpose of this ordinance shall be:

26-50.1 To control the type and manner of activities conducted in the downtown shopping park area.

26-50.2 To enhance the environment in the downtown shopping park area and to provide the maximum possible usage subject to appropriate restrictions of the downtown shopping park area.

ARTICLE 26-51

DEFINITIONS

26-51.1 Area Wide Permit. An area wide permit is a permit which allows the permitted use within the entire downtown shopping area, rather than at a specific location.

26-51.2 Conducting Business. Conducting business means the act of selling or offering for sale, goods, merchandise, food or services of any type whatsoever.

26-51.3 D.D.A. The D.D.A. is the Downtown Development Authority of Grand Junction, Colorado.

26-51.4 Downtown Shopping Park Area. The downtown shopping park area shall be those half blocks abutting main street from Third Street to Seventh Street within the City of Grand Junction.

26-51.5 Kiosks. Kiosks are small, light structures that are stationary, but may be permanent or seasonal in nature, and constructed in accordance with guidelines for design as listed in the Plan of Development.

26-51.6 Location. Location means that particular area for which a permit or special use permit has been issued and which is stated upon the permit or special use permit.

26-51.7 Mobile Vending Cart. A mobile vending cart is a structure with at least two large operational wheels that is easily removed & is used for vending and falls within the restrictions contained within this ordinance.

26-51.8 Pedestrian Vendor. Pedestrian vendor is an individual operating without the use of a mobile vending cart or kiosk and with a minimum of equipment, (e.g. balloons, portrait artist, shoe shine). A pedestrian vendor must be able to move or remove all his equipment at one time without mechanical assistance.

26-51.9 Permit. The type of permits which may be issued are:

- a) Pedestrian Vendor Permits
- b) Mobile Vending Cart Permits
- c) Kiosk Permits
- d) Sidewalk Restaurant Permits
- e) Special Use Permits

26-51.10 Plan of Development. The plan of development means that plan of development adopted by the Grand Junction City Council for the development and preservation of the Downtown Grand Junction area as well as any special or contingent plans of development approved by the City Council prior to the time of the adoption of a formal plan of development by the Grand Junction City Council. The term also includes all amendments to the original plan of development of the Grand Junction Downtown Development Authority.

26-51.11 Public Right-of-Way. The public right-of-way for the purpose of this ordinance shall mean all streets, roadways, sidewalks, alleys and all other areas reserved for present or future use by the public as a matter of right, for the purpose of vehicular or pedestrian travel or utility installation.

26-51.12 Sidewalk restaurant. A sidewalk restaurant means the extension of existing food facility extending out into the public right-of-way for no more than twenty (20) feet, but in no event shall the remaining width of sidewalk for pedestrian flow be less than ten (10) feet and set off from the public right of way by some manner of partition at least three feet in height which may be moveable or installed on a semi-permanent basis.

26-51.13 Special Use Permits. A special use permit is a short term permit granted for unique or charitable uses of the downtown shopping park for which no other permit is appropriate. A special use permit may be granted to the sponsor of an activity rather than the specific individuals conducting business within the downtown shopping park are and may permit the use of tables, chairs, and other items of a moveable nature which are not included in any other permit category. If all other necessary permits are obtained, a special use permit may allow use of the street areas and cause closure of specific roadways as requested in the permit.

SECTION 26-52

FEES

26-52.1 Fees for permits. The fees for permit shall be as follows for:

Sidewalk restaurants and kiosks . . . \$150.00

Mobile vending carts . . . \$100.00

Special use permits . . . \$50.00

Pedestrian vendors . . . \$25.00

26-52.2 The fees required in this article shall be submitted with the application by check or money order payable to the City of Grand Junction, Colorado, and shall be deposited by the City Clerk to the account of the D.D.A.

26-52.3 Any organization which is non-profit, (devoted to a charitable or public purpose) which relies only on volunteer help may, when applying for a special use permit, ask for a waiver of fees for the special use permit.

Such waiver shall be requested in the application for the special use permit and shall be accompanied by proof that the proceeds from the special use permit will be used:

26-52.3.1 By a non-profit organization;

26-52.3.2 For a charitable public purpose; and

26-52.3.3. Such special use permit will be used only by volunteers.

26-52.3.4 If the D.D.A. decides that adequate proof has been presented of those requirements, it shall so state in the certification required by Section 26-54.2, and then the City Clerk shall issue such permit without requiring payment of the necessary fees.

SECTION 26-53

PERMITS

26-53.1 Length of permits. Permits may be issued according to this ordinance and may be issued within ninety days of the beginning date of said use, for the following lengths of time:

Pedestrian vendor permits - thirty (30) days.

Mobile vending carts - six (6) months

Special use permits - three (3) days

All other permits - one (1) year.

26-53.2 Applications for permits. All applications including those for renewals, shall be made to the office of the Downtown Development Authority of Grand Junction, Colorado on a form deemed

appropriate by the executive director of the Downtown Development Authority and shall include, but not be limited to the following:

26-53.2.1 Name and address of applicant.

26-53.2.2 Names of all beneficial owners of the applicant if the applicant is other than a sole proprietorship.

26-53.2.3 Type of business to be conducted which shall include a description of the merchandise to be sold or displayed.

26-53.2.4 A signed statement that the permittee shall hold harmless the City of Grand Junction and the Downtown Development Authority of Grand Junction, its officers and employees, and shall indemnify the City of Grand Junction and/or the Downtown Development Authority, its officer and employees, for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products' liability, products' liability, and other insurance as will protect permittee and City of Grand Junction and the D.D.A. from all claims for damage to the property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide insurance of not less than \$150,000 for bodily injury on each person, \$400,000 for each occurrence, and not less than \$400,000 for property damage per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insureds, the City of Grand Junction and Downtown Development Authority, their officers and employees and shall further 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 executive director of the Downtown Development Authority of Grand Junction, Colorado.

26-53.2.5 Description of the building, structure, mobile vending cart, or other implements to be used in connection with conducting business if the permit is granted. This shall also include blueprints, drawings, sketches and detailed building information where applicable.

26-53.2.6 The location for which the permit is requested within the downtown shopping park area.

26-53.2.7 A description as to how the business is to be conducted and how said business shall enhance the downtown shopping park area and shall be in conformity with the plan of development of the City of Grand Junction for the downtown area.

26-53.2.8 A listing of all applicable permits obtained and those expected to be obtained prior to the commencement of the business.

26-53.2.9 A statement as to whether the structure will be of a permanent or semi-permanent nature or a mobile vending cart and,

if so, the proof of consent of two-thirds of the businesses within 75 feet of the location.

26-53.2.10 If the special use permit is sought, in addition to the above, the applicant shall supply drawings and diagrams of facilities to be used. The description of any street closures or other activities required to be done, the procedures that the applicants shall follow in obtaining needed permits, a listing of all sponsors for the activity and all possible distribution of the funds earned from such activities.

26-53.2.11 If any musical presentation, vocalization, or mechanical presentation is to be presented, then the application shall so state and shall particularly describe the manner, means and mode of such presentation.

26-53.3 A renewal of a permit shall be granted to the permit holder if the D.D.A. certifies that the application is in proper form for the same type of permit in the same location and additionally that:

26-53.3.1 No violations of the restrictions imposed by Article 6 have occurred; and

26-53.3. The permit holder did not cease to conduct business under the prior permit during the time the permit was in force.

SECTION 26-54

REVIEW OF APPLICATION

26-54.1 The Downtown Development Authority shall review the application and determine if:

26-54.1.1 The application is properly completed and the information required is supplied.

26-54.1.2 All applicable permits have been or will be obtained prior to the beginning date of the permit, and the appropriate insurance has been obtained.

26-54.1.3 Whether the proposal shall be in accordance with the goals and objectives in the plan of development and whether such activities would enhance the downtown shopping park area according to such plan of development.

26-54.1.4 If more than one application is received for the same use in the same location, that application which was received by the D.D.A. first shall be granted the permit if all necessary requirements have been satisfied and that application is otherwise in order.

26-54.2 If the Downtown Development Authority finds that the application is in order, it shall then:

26-54.2.1 Certify to the City Clerk that the application appears to be in order.

26-54.2.2 Shall state to the City Clerk the reasons for feeling the application conforms to plan of development of the downtown shopping park area.

26-54.2.3 List any restrictions contained within this ordinance that may be or would be violated by the granting of such a permit.

26-54.3 If the Downtown Development Authority finds that the application is not in order, it shall:

26-54.3.1 Return the application to the applicant and ask that he correct it, or

26-54.3.2 Forward the application to the City Clerk along with the reasons the D.D.A. believes the proposed application would not meet the goals and objectives of the plan of development and a permit should not be issued.

26-54.4. If the City Clerk finds that the application is proper and according to the certification of the D.D.A., meets the plans and objectives of the D.D.A., the City Clerk shall issue the permit applied for.

26-54.5 if the City Clerk determines that the application is not proper or if it is certified by the D.D.A. that said permit does not further the goals and objectives of the plan of development, the City Clerk shall deny the application.

If a permit is denied on the grounds that it is not in the plan of development for the downtown shopping park area, no permit shall be issued for a period of one year for the same type of activity for the same location.

26-54.6 If an applicant feels that his permit has been wrongly denied, he may appeal to the City Manager, by written request, within fifteen days of the denial requesting that the matter be heard before the entire City Council.

26-54.6.1 If the City Manager decides that there is a basis for the appeal, then the matter shall be put on the agenda of the City Council which may then issue or deny a permit after reviewing the file.

26-54.6.2 If the City Manager decides that there are no grounds for appeal for the issuance of a permit, he may deny the request.

SECTION 26-55

RESTRICTIONS

26-55.1 The person to whom a permit or special use permit has been issued may conduct business on the public right-of-way subject to the following restrictions:

26-55.1.1 That a mobile vending device shall occupy any area no larger than 16 square feet; nor four feet in width excluding wheels, nor 6 feet in length, including any handle; nor 5 feet in height, excluding a canopy, umbrella or transparent enclosure;

26-55.1.2 The holder of a mobile vending cart permit, kiosk permit or sidewalk restaurant permit shall pick up any paper, cardboard, wood or plastic containers, wrappers or any similar litter which is deposited by any person on the sidewalk within 25 feet of the approved location designated on the permit; and the permittee shall provide a suitable container for the placement of such litter by customers or other persons;

26-55.1.3 That the 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 pedestrian traffic within a crosswalk;

26-55.1.4 That the permittee shall not sell to any person who is standing in a street, highway or roadway, unless such roadway has been closed under the terms of a special permit;

26-55.1.5 That the permittee shall not sell from a mobile vending device that is located in any portion of a street, alley, roadway or highway that is designated or ordinarily used for vehicular travel unless specifically permitted;

26-55.1.6 That the permittee shall not sell at a location other than that designated on his permit;

26-55.1.7 That the permittee shall not leave his equipment or merchandise unattended, except for a restaurant and kiosk, which must be secured when not attended;

26-55.1.8 That the permittee shall not conduct the business for which his permit was issued hereunder between the hours of 12:00 Midnight and 6:00 a.m.;

26-55.1.9 No permit shall be issued to any individual to conduct business from a permanent or semi-permanent structure or mobile vending cart within the shopping park area unless and until consent is obtained from two-thirds of the businesses within seventy-five (75) feet of the proposed location;

26-55.1.10 No permittee may change the type of merchandise sold from that described in his application without applying for a new permit for that type of merchandise;

26-55.1.11 No permittee may hold more than one permit at any one time.

26-55.2 All persons conducting business on a sidewalk shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of a sidewalk or to remove his items from the sidewalk entirely to avoid such congestion or obstruction.

26-55.3 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 merchandise.

A special use permit may allow the use of musical presentations, if the manner, mode, and means of such presentation are necessary to the purpose set for in the Plan of Development for special use permits.

26-55.4 No permittee shall conduct business in violation of the provisions of any ordinance providing for a community event.

26-55.5 The holder of a mobile vending cart permit, a kiosk permit, or a pedestrian vendor permit may engage only in the sale of sundries, perishable goods, or handcrafted materials unless he has obtained an area wide permit.

26-55.6 No permittee shall conduct business in violation of any other ordinance or law, or without any of the required health, sanitation or other permits.

SECTION 26-56

SUSPENSION OR REVOCATION OF PERMIT

26-56.1 The City Clerk may revoke or suspend the permit of any person to conduct business on the sidewalks of the City of Grand Junction, upon receipt of written notice from the D.D.A. or if the City Clerk finds that:

26-56-1.1 Such person has violated any of the provisions of this ordinance.

26-56-1.2 Any necessary health permit has been suspended, revoked or cancelled.

26-56-1.3 The permittee does not have a currently effective insurance policy in the minimum amount provided as herein specified.

26-56-2 Upon suspension or revocation, the executive director of the D.D.A. shall give notice of such action to the permit holder or applicant, as the case may be, in writing stating the action he has taken and the reasons therefor. If the action of the executive director of the D.D.A. is a revocation based on Section 26-56.1.2 or 26-56.1.3 of this section, the action shall be effective upon giving such notice to the permittee, otherwise such notice shall

contain the further provision that it shall become final and effective within ten days unless appealed to the City Manager by filing a written notice of appeal with the City Manager, as described in Section 26-54.6. Any revocation effective immediately may also be appealed to the council by such filing within ten days.

26-56.3 The placement of any cart or device on any sidewalk in violation of the provisions of this ordinance is declared to be a public nuisance. The City Manager may cause the removal upon notice received from the D.D.A. or City Clerk of any cart or device found on a sidewalk in violation of this ordinance and is authorized to store such cart or device until the owner thereof shall redeem it by paying the removal and storage charges therefor to be established by the City Manager.

PASSED and ADOPTED this 19th day of August, 1981.

Louis R. Brach

President of the Council

Attest:

Theresa F. Martinez

Deputy City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 1989, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at regular meeting of said body held on the 5th day of August, 1981, and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said city this 20th day of August, 1981.

Theresa F. Martinez

Theresa F. Martinez
Deputy City Clerk

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