

ORDINANCE NO. 2374

PROVIDING FOR EXCEPTIONS TO SIDE AND REAR YARD SETBACK REQUIREMENTS, FOR VESTING OF PROPERTY RIGHTS, DEFINING BLOCK FRONTAGE, AND ESTABLISHING CERTAIN LANDSCAPING REQUIREMENTS IN THE ZONING AND DEVELOPMENT CODE.

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

That Chapter 32 of the Code of Ordinances of the City of Grand Junction be amended in the following particulars:

1. Section 5-1-7 is amended by the addition of a paragraph L reading:

5-1-7-L. The Board of Adjustment may approve an exception to side and rear setback requirements in all multi-family (RMF) zones subject to the provisions established in Chapter 10 of this Chapter.

2. Section 10-1-1-A is amended by the addition of a paragraph 4 reading:

10-1-1-4-A. Hear and decide requests for exceptions to side or rear setback requirements in all multi-family (RMF) zones.

3. Section 10-1-1-B is amended by the addition of a paragraph 5 reading:

10-1-1-B-5. The Board may grant an exception to side or rear setback requirements in multi-family zones where the following criteria are satisfied. Granting of an exception shall not be considered a variance, and the showing of an undue hardship is not required.

a) Exceptions may be granted only for a principal structure and shall not be granted for any accessory structures.

b) Exceptions may be granted for additions to existing structures to be an average of all existing side or rear setbacks within the same block frontage, except that no exception shall be granted to permit construction closer than 5 feet to any side lot line or 15 feet to any rear lot line.

c) Exceptions may be granted for new single family construction subject to the provisions of paragraph b) above. New multi-family construction shall meet all currently required setbacks.

d) Exceptions shall be limited to a maximum height of 32 feet (see also paragraph 5-1-6-C).

e) Exceptions may be granted only on block frontages where 75% or more of the parcels on that block are developed.

f) For the purpose of calculating an average setback, the following shall be excluded:

1. Any parcels with a different zoning.
2. Any parcels having an approved conditional use or variance.
3. Any parcels containing a non-conforming use.
4. Any parcels having an existing side yard setback greater than 15 feet or a rear yard setback greater than 30 feet.

g) For the purpose of calculating an average setback, vacant parcels shall be assigned the current setbacks required by the zoning.

h) Where a single parcel may contain two principal structures, only the structure closer to the street shall be considered in calculating an average setback.

i) Exceptions shall comply with all other requirements of this Code.

j) Application and processing for exceptions shall be as specified for section 10-1-1-C of this chapter, with the following additional requirements:

1. Assessors map(s) which show the block frontage applicable to the requested exception.
2. A list of tax parcel numbers of properties used to calculate the allowable exception, their addresses, the existing land use on those parcels, and the existing setback distance used in the calculation.

k) Application fees for exception requests shall be the same as for a variance (see 2-2-2-G).

4. Section 2 is amended by the addition of a Section 3 reading:

2-3. Vested Property Rights.

The purpose of this section is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended.

1. Definitions

The following definitions are for the purposes of administration of this Section (2-3) only and do not apply to any other sections of this Code.

A. "Site-Specific Development Plan" (SSPD) means for all developments requiring a public hearing, the final step,

irrespective of its title, which occurs prior to the building permit application; provided, however, that if the landowner wishes said approval to have the effect of creating vested rights pursuant to Article 68 of Title 24, C.R.S., as amended, the landowner must so request, in writing, at the time of application for said approval. Failure to so request renders the approval not a "site-specific development plan," and no vested rights shall be deemed to have been created.

B. "Vested Property Right" means the right to undertake and complete the development and use of property under the terms and conditions of a SSPD.

2. Notice and Hearing

No SSPD shall be approved until after a public hearing. Such notice may, at the City's option, be combined with the notice required by Section 31-23-304, C.R.S., as amended, for zoning regulations, or with any other required notice.

3. Approval, Effective Date, Amendments

A SSPD shall be deemed approved as set forth in Section 2-3-1-A above. In the event amendments to a SSPD are proposed and approved, the effective date of such amendments, for purposes of duration of vested property right, shall be the date of the approval of the original SSPD.

4. Notice of Approval

Each map, plat, or site plan, or other document constituting a SSPD shall contain the following language:

"Approval of this plan may create a vested property right pursuant to Article 68 of Title 24 C.R.S., as amended." Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing, generally, the type and intensity of use approved, the specific parcel or parcels of property affected, and stating that a vested property right has been created shall be published at once, not more than 14 days after approval of the site-specific development plan, in a newspaper of general circulation with the City.

5. Payment of Costs

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site-specific development plan shall pay all costs occasioned to the City as a result of the site-specific development plan review, including publication of notices, public hearing, and review costs. These costs shall be imposed as a flat fee of \$50 per approved SSPD.

6. Other Provisions Unaffected

Approval of a site-specific development plan shall not constitute an exemption from, or waiver of, any other provisions of this Code pertaining to the development and use of property.

7. Limitations

Nothing in this Section (2-3) is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Section (2-3) shall be deemed to be repealed, and the provisions hereof no longer effective.

5. Section 4-2-13-C is repealed and reenacted to read:

C. Along arterial and collector roadways a minimum of 75% of the required front yard setback shall be landscaped. On any street where the required setback is less than 5 feet, the landscaping requirement shall be 75% of the first 5 feet along that street. The administrator may approve the landscaping to be located in areas other than the setback, or first 5 feet, as long as the total required square footage is provided and the intents of this Code are met.

6. Section 4-2-14-D is redesignated as Section 4-2-14-E and a new Section 4-2-14-D is enacted reading:

D. Along arterial and collector roadways a minimum of 75% of the required front yard setback shall be landscaped. On any street where the required setback is less than 5 feet, the landscaping requirement shall be 75% of the first 5 feet along that street. The administrator may approve the landscaping to be located in areas other than the setback, or first 5 feet, as long as the total required square footage is provided and the intents of this Code are met.

7. Chapter 13 is amended by the addition of the definition of BLOCK FRONTAGE to read:

BLOCK FRONTAGE - All the property fronting on one side of a street between intersecting or intercepting streets, or between a street and a street right-of-way, water way (wider than 30 feet), or end of a dead-end street. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

PASSED and ADOPTED this 2nd day of March, 1988.

O.F. Ragsdale

President of the Council

Attest:

Neva B. Lockhart, CMC

City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 2374, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 17th day of February, 1988, and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 3rd day of March, 1988.

Neva B. Lockhart, CMC

Neva B. Lockhart, CMC
City Clerk

Published: February 19, 1988

Published: March 4, 1988

Effective: April 3, 1988