

## ORDINANCE NO. 2151

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, AMENDING CHAPTER 4.90 OF THE GOLDEN MUNICIPAL CODE REGARDING PERMITS FOR DOWNTOWN USE OF SIDEWALKS AND SEASONAL USE OF PARKING LANES FOR OUTDOOR SEATING, SALES SERVICE AND DISPLAY.

WHEREAS, the City of Golden wishes to amend the municipal code to allow flexibility for businesses in the use of downtown right-of-way for outdoor seating, sales, service and display; and

WHEREAS, the City of Golden wishes to promote the success of local businesses and the vitality of the downtown area; and

WHEREAS, the proposed regulations are in keeping with the goals of the Comprehensive Plan; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. Section 4.90.10, Legislative intent, of the Golden Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

#### **4.90.010 - Legislative intent.**

It is the intent of this chapter to provide procedures and standards for private use of the public sidewalks and the parking lane within the C2 (Commercial 2) zone district, where such use promotes the economy and vitality of the city in a manner consistent with protection of the health, safety and general welfare of Golden residents and visitors.

Section 2. Section 4.90.20, Definitions, of the Golden Municipal Code is hereby amended to add the following definition to be inserted in alphabetical and to read as follows:

*Parking Lane* means the area of right of way between the curb and the vehicle travel lane that is usually reserved for the parking of vehicles.

Section 3. Section 4.90.50, Application procedures, of the Golden Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

**4.90.050 - Application procedures.**

(a) An application for a public sidewalk or parking lane sales, service, and display permit shall be filed with the director of community and economic development, and shall be accompanied by the following:

- (1) A non-refundable application fee of \$50.00.
- (2) Written consent and authorization by all owners of the property with frontage along or abutting the portion of the sidewalk or parking lane which is the subject of the application.
- (3) A site plan of the proposed permitted area detailing the nature, extent, and design of the sales, service, or display area. The site plan shall include all building extensions, fencing, railing, fixtures, tables, chairs or other facilities to be located in the permitted area. If the site plan for the proposed permitted area is such that alterations or modifications to existing or planned landscaping and public improvement adjacent to the area are anticipated or required, the site plan shall include those alterations and modifications and the estimated costs thereof.
- (4) The type of goods or services that will be sold or displayed in the permitted area, and the anticipated hours of operation.

(b) Applications for public sidewalk or parking lane sales, service, and display permit shall be reviewed by the city manager and appropriate staff including, but not limited to, police, fire department, planning and development, and public works.

(c) In considering the application for permit, the city manager shall consider the following factors in addition to any other factors as may be relevant:

- (1) Compliance and ability to comply with the conditions and requirements as set out in this chapter.
- (2) The impact that issuing the permit will have on the flow of pedestrian traffic, flow of vehicular traffic in adjacent or nearby rights-of-way, and availability of parking.
- (3) The impact that issuing the permit will have on the provision of public utilities and other municipal services which utilize the right-of-way.
- (4) Architectural compatibility of any proposed structures, kiosk or a building extension with the building and surrounding area.

(d) Any proposal to construct, erect or install a permanent structure in the City right-of-way, or a proposal that would permanently eliminate or remove parking in the City right-of-way, shall be transmitted to City Council for review and action.

Section 4. Section 4.90.60, Requirements and conditions, of the Golden Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

**4.90.060 - Requirements and conditions.**

(a) Sidewalk or parking lane sales, service and display permits shall be available only in the C2 (commercial 2) zone district.

(b) The use of a parking lane shall be confined to commercially zoned properties in the Downtown Area, as defined in Chapter 18.40 of the Municipal Code. The following conditions shall apply to each permit request:

- (1) Permits for outdoor seating, sales, service and display in the parking lane shall only be issued for the period between April 1st and October 31st in a given year.
- (2) Fencing or barricades not to exceed 4 feet in height, and shall be no more than 50% opaque, are required to enclose the outdoor seating area within the parking lane.
- (3) Details related to the use of umbrellas, outdoor heating and lighting and temporary structures, as well as fencing design, shall be regulated and addressed by the permit application process.

(c) If a permit is requested for an area that is not immediately adjacent to a business associated with sale of the food and beverages, the issuance of the permit shall include the right to transport the food and beverages over the right-of-way to the permitted area where sales, service and consumption are allowed, provided that such transport does not involve traversing an area where motorized traffic is allowed and can be accomplished without unreasonably interfering with the flow of pedestrian traffic.

(d) The existence of the permitted area and obstructions therein shall not unreasonably restrict or obstruct the flow of pedestrian traffic on the sidewalk or vehicular traffic in the right-of-way. The following minimum clearances must be maintained, however, greater clearances may be required if the nature and extent of pedestrian traffic warrants:

- (1) Six feet from the permitted area to any fire hydrant, tree grate, light fixture, traffic signal or sign, street curbing, or any other fixed obstruction which is over one foot in height.
- (2) The minimum clearance between the permitted area and any sidewalk level tree grate may be reduced to five feet for all rights-of-way except Washington Avenue.

(e) If the requested permit necessitates modifications or alterations to existing, or planned, public right-of-way improvements or landscaping, the full cost of such modifications or alterations shall be the responsibility of the permittee. The city may require the permittee to install such modifications or alterations, or at the city's option, require that a cash contribution be made by the permittee in an amount equal to the estimated cost of completing the alteration or modification. If

the requested permit necessitates the elimination of existing or planned parking spaces, the city may require the permit applicant to make a payment to the city to offset the cost of acquisition and upkeep of off street parking to replace those parking spaces eliminated by reason of the issuance of the permit. Payments required to offset the cost of acquisition of public parking spaces may, at the option of the city, be allowed in annual payments over a period not to exceed three years. The installation of improvements or payment of costs and expenses by virtue of this section shall not confer upon the permit holder any rights in excess of those in otherwise associated with the granting of a sidewalk sales and display permit. In the event of the nonrenewal, termination, cancellation or revocation of a permit, the permittee shall not be entitled to a refund of any cost or expenses expended under the provisions of this paragraph.

(f) The construction of any kiosk or building extension shall be completed within the time period established in the permit.

(g) All building extensions, kiosks, or other obstructions existing by virtue of the permit shall be illuminated as necessary to ensure public safety during hours of operation and non-operation from dusk to sunrise.

(h) All permittees shall be responsible for maintaining the area within and in the proximity to the permitted area in a neat, clean and hazard free condition, including the disposal of all trash.

(i) The holder of a permit shall indemnify, defend and save harmless the city, its officers, employees and agents against any and all claims arising from any occurrence occasioned by the permitted use. The holder of the permit shall maintain during the period of the permit comprehensive general public liability and property damage insurance with limits which equal or exceed the maximum liability which may be imposed by virtue of the Colorado Governmental Immunity Act. The policy shall name the city, its officers, employees and agents as insurance and no other insurance maintained by the city will be called upon to contribute to a loss covered by the policy. A certificate of insurance reflecting compliance with this section shall be presented to the city prior to issuance of a permit, with updates presented prior to permit renewal requests.

(j) The annual fee for any permit issued under this chapter shall be \$50.00, payable upon permit approval and annually thereafter upon renewal.

(k) The issuance of a permit pursuant to this section shall not relieve the permittee from compliance with other provisions of the Golden Municipal Code as may be applicable, including but not limited to building codes, business license provisions, zoning codes, health department regulations or liquor code requirements.

(l) The permitted area shall be used only in a manner consistent with the site plan and materials which are submitted with the application.

(m) A sidewalk or parking lane sales, service and display permit issued under this chapter may contain conditions of operation or other special conditions that the City Manager or City Council determines are necessary to minimize impacts to the flow of pedestrian traffic on the sidewalk or public right-of-way, the flow of vehicular traffic in adjacent or nearby rights-of-way, to

minimize impacts to parking, to mitigate the effects of the public health emergency, to protect the health, safety, welfare of persons or property within the City of Golden, or to preserve the public peace.

Section 5. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 7. The repeal or modification of any provision of the Municipal Code of the City of Golden by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 8. This ordinance is deemed necessary for the protection of health, welfare and safety of the community.

Section 9. Violations of this ordinance shall be punishable as set forth in Section 1.01.110 of the Golden Municipal Code

Introduced, read and passed as an ordinance, on first reading, at a regular meeting of the City Council of the City of Golden, Colorado, the 12<sup>th</sup> day of November, 2020.

Read, passed and adopted as an ordinance on second reading, at a regular meeting of the City Council of the City of Golden, Colorado, the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Laura Weinberg  
Mayor

ATTEST:

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Monica S. Mendoza, CMC  
City Clerk

APPROVED AS TO FORM:

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David S. Williamson  
City Attorney

I, Monica S. Mendoza, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain proposed ordinance introduced and read before the City Council of the City of Golden at a regular meeting thereof held on the 12<sup>th</sup> day of November, 2020, and ordered by said City Council to be published as the law provides, and that a public hearing is declared for the 10<sup>th</sup> day of December, 2020, at 6:30 p.m. virtually.

(SEAL)

ATTEST:

MONICA S. MENDOZA

Monica S. Mendoza, City Clerk of the City of Golden,  
Colorado