

ORDINANCE NO. 1785

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA, AMENDING CHAPTER 22 OF TITLE 12, DOWNTOWN SIDEWALK ENCROACHMENT PERMIT PROGRAM, OF THE BOZEMAN MUNICIPAL CODE TO ALLOW FOR NON-SUBSTANTIAL, SUBSTANTIAL AND EXCLUSIVE USES IN PUBLIC RIGHT-OF-WAY OF THE DOWNTOWN BUSINESS DISTRICT.

WHEREAS, the City of Bozeman has adopted a growth policy identifying the Bozeman downtown area as important to community character and economic development policy; and

WHEREAS, the City of Bozeman has adopted a downtown Bozeman neighborhood plan identifying Bozeman’s historic core as unique for the region and should be used to increase economic competitiveness; and

WHEREAS, the City of Bozeman has adopted a Downtown Sidewalk Encroachment Permit Program which regulates and controls private uses and encroachments occurring upon public rights of way sidewalk businesses and advertising in the Downtown Business District; and

WHEREAS, the City of Bozeman has adopted a Downtown Sidewalk Encroachment Permit Program that is fair and equitable and that will enhance the overall appearance, ambiance and environment of in the Downtown Business District; and

WHEREAS, the City of Bozeman has adopted a Downtown Sidewalk Encroachment Permit Program that serves and protects the health, safety and welfare of the general public; and

WHEREAS, at its public hearing, the City Commission found that the proposed Bozeman Municipal Code amendment would be in compliance with applicable statutes and would be in the public interest.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Bozeman, Montana, upon a vote of ____ to ____, that:

Section 1

Chapter 12.22 of the Bozeman Municipal Code be amended as follows:

12.22.010 Purpose and Intent.

It is the intent of the City Commission, in enacting this ordinance to:

- A. Serve and protect the health, safety and welfare of the ~~general~~ public;
- B. ~~Establish a uniform set of rules and regulations for~~ Regulate and control private uses and encroachments occurring upon public rights of way sidewalk businesses and advertising in the Downtown Business District of the City of Bozeman by establishing distinct criteria to permit and/or approve Non-Substantial Encroachments, Substantial Encroachments, and Exclusive Uses as defined under this Chapter; that are fair and equitable; and
- C. Develop a fair and equitable program that will enhance the overall appearance, ambiance and environment of ~~in~~ the Downtown Business District of the City of Bozeman.
(Ord. No. 1567 § 2(12.22.010), 9-9-2002)

12.22.020 Definitions.

For the purposes of enforcement of this chapter, the following definitions apply:

- A. ~~“Block Face” means one side of a street between two consecutive intersecting rights of ways, including alleys; that portion of all city sidewalks fronting the streets along Mendenhall, Main, and Babcock Streets and lying between avenues running in a north-south direction.~~
- B. “Downtown Business District” means those areas of the B-2 and B-3 zoning district of the City of Bozeman located on or between the north side of Lamme Street and the south side of Olive Street and on or between the east side of Broadway Avenue and west side of 3rd Avenue;
- C. “Commercial Use” means any activity involving the sale of goods or services carried out for profit;
- ~~D.~~ B. “Director” means the Director of Public Service and includes the Director’s authorized representative;
- ~~E.~~ C. “Encroachment” means any fixture or device including but not limited to a showcase, table, bench, rack, handcart, pushcart, sign, portable sign, or stall, newspaper dispensers and publication racks, seating area, fence, barrier, or partition which intrudes into or invades the public right of way;

F. “Exclusive Use” means any act undertaken by a private entity upon the public right of way of the Downtown Business District that excludes the public from their normal use and enjoyment of the public right of way;

G. “Non-Substantial Encroachment” means any encroachment occurring upon the public right of way of the Downtown Business District that is temporary and mobile in nature and does not modify the material components of the public right of way;

H. “Permanent” means a period of six months or more;

ID. “Portable Sign” means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to signs designed to be transported by means of wheels and signs converted to A- or T-frames; as defined by 18.65.020 which is set in the public right of way.

IE. “Public Right of Way” means any area legally open to public use including but not limited to, and projecting vertically skyward above, public streets, sidewalks, roadways, highways, parkways, alleys, or parks as well as areas surrounding and immediately adjacent to public buildings;

K. “Public Use” means any normal use of the public right of way as distinguished from ‘exclusive use’ as defined under this chapter;

L. “Side Street” means all streets within the Downtown Business District that run in a north-south direction.”

MF. “Sidewalk” means all that area legally open to public use as a pedestrian public way between the curb line and the legal building line of the abutting property;

NG. “Sidewalk Café” means any group of tables, chairs, benches, barriers or partitions, trash containers and suitable decorative devices maintained upon any part of the public right of way for use by an establishment with a valid food and drink permit in the sale to the public of food, refreshments, and beverages of all kinds and is not a sidewalk vending cart;

OH. “Sidewalk Display” means any showcase, table, bench, rack, sign, stall, kiosk, or any other fixture or device used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling, or offering for sale any food, beverage, goods, wares, merchandise, event, or service upon a sidewalk;

PI. “Sidewalk Vending Cart” means any handcart, pushcart, stall, or any other mobile device that is used for the purpose of displaying, exhibiting, carrying, transporting, storing, selling, or offering for sale any food, beverages, goods, wares, or merchandise upon a sidewalk;

Q. “Special Event” means any occasion including but not limited to fairs, shows, exhibitions, city-wide celebrations, and festivals taking place within a specifically defined area of the City of Bozeman; and

R. “Substantial Encroachment” means any encroachment that creates a permanent physical reduction in existing asphalt width to streets in the Downtown Business District except for intersection curb bulbs installed for traffic calming or pedestrian safety purposes;

S. “Temporary” means a period of six (6) months or less.
(Ord. No. 1567 § 2(12.22.020), 9-9-2002; Ord. No. 1692 § 1, 2-12-2007)

12.22.030 Encroachment on Public Right of Way – Prohibited.

Except as otherwise provided by this Code, it is unlawful to obstruct the public rights of way of the Downtown Business District with debris, encumbrances or encroachments of any kind which hamper or interfere with the free and safe use or passage by the public.
(Ord. No. 1567 § 2(12.22.030), 9-9-2002)

12.22.040 Exception – Downtown Business District.

Vendors doing business in the Downtown Business District ~~on or between the north side of Mendenhall Street and south side of Babcock Street and on or between the east side of Third Avenue and the west side of Broadway Avenue~~ shall be allowed to use City sidewalk as provided in this chapter.
(Ord. No. 1567 § 2(12.22.040), 9-9-2002)

12.22.050 Non-Substantial Encroachments -- Permit Required.

Upon application, the Director may authorize, subject to specific conditions as determined by the Director, non-substantial encroachments to occur upon the use of the City’s sidewalks in the Downtown Business District. Each permit must be renewed on an annual basis and the Director shall have the right to refuse to renew any permits issued. area described in 12.22.040. All applications for non-substantial encroachments must include:

A. A completed City of Bozeman Downtown Sidewalk Encroachment Revocable Permit Public Right of Way Encroachment Revocable Permit application form including any necessary supporting materials; the name of the applicant, name of the business, address upon which the encroachment will be located, a current mailing address and telephone number. Each permit ~~must be renewed on an annual basis and the Director of Public Service shall have the right to refuse to renew any permits issued under this chapter;~~

B. A letter of support from the owner(s), operator(s), or manager(s) of the business(es) immediately adjacent to fronting the sidewalk where the use is requested, or if a letter of support cannot be obtained, an explanation summarizing the lack of support; ~~granting permission to place the encroachment at the requested location;~~

C. A sketch depicting, as accurately as possible, the size and location of all requested encroachment items as well as other existing obstructions or improvements which would limit the free use of the sidewalk by pedestrians;

D. A certificate of liability insurance which names the City of Bozeman and (if non-substantial encroachment occurring upon a State-designated primary or urban route) the State of Montana as additional insureds. The insurance must provide a minimum coverage of \$750,000 for each claim and \$1.5 million for each occurrence for all permits solely for a portable sign in an “A” frame design, also known as a sandwich board sign, used strictly for the purpose of advertising for the permit holder. A minimum coverage of \$750,000 for each claim and \$1.5 million for each occurrence must be provided for all other permits;

E. The permit holder shall agree in writing to indemnify, defend, and hold harmless the City and (if non-substantial encroachment occurring upon a State-designated primary or urban route) Montana Department of Transportation and their employees and agents against all claims, liability, loss, damage, or expense incurred by the City and/or Montana Department of Transportation due to any injury to or death of any person or any damage of property caused by or resulting from the activities for which the permit is granted; and

FE. A valid City of Bozeman business license corresponding to the use requested. (Ord. No. 1567 § 2(12.22.060), 9-9-2002)

12.22.060 Substantial Encroachments – Approval Required.

Substantial encroachments in public right of way of the Downtown Business District may occur only after a project proposal satisfies provisions of Title 18 BMC (see 18.020.080.B), is found to be compliant with required regulations of same, and satisfies specific conditions as determined by the Director. Projects proposing substantial encroachments shall submit to the City Engineer for approval a report certified by a professional engineer addressing the following conditions, both present and future: truck turning movements, vehicular site vision, pedestrian conflicts, and – as directed by the City Engineer – intersection level of service. Substantial encroachments affecting State-designated primary and urban routes shall also be approved by the Montana Department of Transportation. Substantial encroachment projects shall satisfy all applicable emergency service requirements.

12.22.070 Substantial Encroachments – Standards, Exceptions and Limitations.

To protect public health, safety and welfare, and provide for the orderly development of the Downtown Business District, the following standards, exceptions and limitations are hereby placed upon substantial encroachments:

A. Substantial encroachments shall not occur within the public right of way of Main Street and Rouse Avenue;

B. Substantial encroachments shall occur along the entire length of a property;

C. Two-way traffic (or two-lane traffic for one-way streets) shall be provided at all times and in all locations;

D. A minimum eleven foot (11.0') wide vehicular travel lane shall be provided, measured from face of curb or edge of parking lane.

E. A minimum seven foot (7') wide parking lane shall be provided, measured from face of curb;

F. Sidewalk alterations shall provide a minimum six (6) inch thick, ten (10) foot wide sidewalk for public use and shall be ADA compliant;

G. Curb alterations shall provide positive drainage and shall not cause ponding to occur in the gutter line. City of Bozeman curb construction standards shall be adhered to;

H. Construction plans shall be reviewed and approved by the City Engineer and a pre-construction meeting held prior to initiating construction;

I. Substantial encroachments involving the elimination of any on-street parking within that area of the B-3 zoning district regulated under this chapter shall provide the following:

1. Parking Commission approval; and

2. Compensation shall be provided for each on-street parking space eliminated from the Downtown Business District parking inventory in accordance with the following schedule:

a. A one-time payment of five-thousand dollars (\$5,000) per eliminated space. Payment shall be provided prior to final approval of the proposal under Title 18 BMC; or

b. Applicant may elect to pay for the eliminated space over a period of time not more than 10 years, making equal monthly payments of principal and interest. Interest will be charged at a rate equal to the current yield of the 10-year US Treasury Note at the time the space is eliminated against a \$5,000 principal amount.

J. The adjacent property owner shall keep all sidewalk areas, including those areas of exclusive use, free and clear of snow and ice at all times.

12.22.080 Exclusive Use of Public Right of Way – Permit Required.

Upon application, the Director may authorize exclusive use of public right of way to occur in the Downtown Business District subject to specific conditions as determined by the Director. The Director reserves the right to request the City Commission reclaim approval authority over any exclusive use application received. Each approved permit shall be valid for a period determined by the Director, which shall not exceed 10 years. Each permit shall be reviewed on an annual basis, subject to revocation as provided herein during the entitlement period. The permit shall be issued to the private property owner adjacent to the public right of way in which the exclusive use occurs. The permit shall not automatically convey with the adjacent private property and shall not convey any ownership interest in the public right of way regardless of the privileges and exclusive benefits the permit provides the Permittee. The permit may be transferred to a new adjacent private property owner upon request and application to the Director. If the new property owner fails to make this request to the Director within 30 days following final sale or transfer of interest in the property, then the permit shall become null and void and a new permit shall be applied for.

A. Any use permitted under Section 12.22.100 that is physically barricaded or partitioned from the sidewalk by a fence or other similar means creates an exclusive use of the public right of way as defined under this chapter and require an exclusive use permit.

B. All applications for exclusive use of public right of way must include:

1. A completed City of Bozeman Downtown Right of Way Exclusive Use Permit form including any necessary supporting materials;

2. A site plan depicting, as accurately as possible, the size and location of all requested encroachment items necessary to support the exclusive use of the public right of way as well as other existing obstructions or improvements which would limit the free use of the sidewalk by pedestrians;

3. A certificate of liability insurance which names the City of Bozeman and (if exclusive use occurring upon a State-designated primary or urban route) the State of Montana as additional insureds. The insurance must provide a minimum coverage of \$750,000 for each claim and \$1.5 million for each occurrence. The insurance policy shall automatically renew during the permit period and a copy of the current proof of insurance coverage shall be kept on file with the Director at all times. Coverage limits may adjust with permit renewals.

4. The permit holder shall agree in writing to indemnify, defend, and hold harmless the City and (if exclusive use occurring upon a State-designated primary or urban route) Montana Department of Transportation and their employees and agents against all claims, liability, loss, damage, or expense incurred by the City and/or Montana Department of Transportation due to any injury to or death of any person or any damage of property caused by or resulting from the activities for which the permit is granted.

5. A valid City of Bozeman business license corresponding to the use requested.

C. Exemption for tables and chairs.

1. Tables and chairs not physically separated and/or partitioned from the sidewalk by a fence or other similar means are exempt from Section 12.22.080 and are considered 'non-substantial encroachments' approved under provisions of Section 12.22.050.

12.22.090060 License or Approval Letter Required.

Any applicant intending to sell food or beverages must provide a copy of a Food Purveyor's License or an approval statement issued by the Gallatin City-County Health Department with the application for a permit under this chapter.
(Ord. No. 1567 § 2(12.22.060), 9-9-2002)

12.22.100070 Uses Permitted Under This Chapter.

A. It is the Permittee's responsibility to place any encroachments allowed under this chapter in a manner which ensures safe pedestrian and vehicular travel, complies with any conditions placed upon the permit, and to immediately correct any deficiencies noted by the Director. All items permitted pursuant to this chapter shall be placed not less than two (2) feet from the curb, or not less than eighteen (18) inches from the curb when located on side streets that have no adjacent on-street parking, and leave a minimum of six (6) five (5) feet of sidewalk aisle clear and shall not interfere with vehicular sight triangles as set forth in Title 18 of this code, and as necessary for safe vehicular traffic. Additionally, all encroachments permitted under this chapter will be built, installed, and maintained in such a manner as to ensure the safety of the public.

B. Permits may be issued under this chapter for the following uses:

1. Benches:

Any benches must be placed flush to the corresponding building and must not project more than three (3) feet into the sidewalk;

2. Portable Signs:

These signs must not exceed a height of five (5) feet or a width of three (3) feet, placed adjacent and perpendicular to the corresponding building and within four (4) feet of the business entrance;

3. Sidewalk Displays:

With the exception of kiosks, displays must be placed flush against the building, must not exceed six (6) feet in height, and must be within four (4) feet of the business entrance;

4. Kiosks:

Kiosks must not exceed ~~seven (7) eight (8)~~ feet in height, except as allowed in Section 18.52.065.E BMC, and must be placed in a manner so as not to interfere with free flow of pedestrian and vehicular traffic;

5. Bike Racks:

Bike racks must not exceed a ten (10) bike capacity with five (5) bikes per side and be placed so the parked bikes run parallel with the street;

6. Sidewalk Vending Carts:

The cart must be no more than three (3) feet wide, must be placed within 4.5 feet of the store face and may operate between 6:00 a.m. and 9:00 p.m. or until sunset whichever occurs first. All signage must be attached to the cart and shall not exceed six (6) feet in length. The City, at its discretion and upon request, may allow the use of a portable sign. Vending carts will be allowed on Mendenhall, Main, and Babcock Streets only and not more than one cart will be allowed per city block face;

7. Tables and Chairs:

Tables used for the primary purpose of consuming food or beverages must be no more than four (4) feet wide and set in a manner such that respective table and chair settings do not occupy more than five (5) feet of total right of way width. Tables and chairs may be located building and/or curbside, subject to provision of 12.22.100.A, and shall ~~so that the chairs shall not extend more than five (5) feet into the right of way and maintain at all times upon the public sidewalk a minimum six foot (6') wide clear aisle for pedestrian movement;~~

8. Hanging Pots:

Pots for flowers or other miscellaneous items may be hung from the rods extending from the light poles only. The bottoms of all pots must not be lower than seven (7) feet and shall not block street signs in any manner;

9. Newspaper Dispensers and Publication Racks

Coin operated newspaper dispensers and media publication racks and displays must be placed flush against the building and may not exceed 4 feet in height and shall be of a design quality approved by the City of Bozeman;

—9.10. Sidewalk Café Serving Alcohol:

a. All sidewalk cafes having an alcohol beverage license shall be required to have staff of the establishments owning such sidewalk cafes serve all food, alcohol and non-alcoholic beverages in the sidewalk café area only. Service of alcohol beverages in all sidewalk cafes shall be limited to persons seated at tables in the sidewalk café site. The serving of alcohol shall be served in glasses and not in paper or plastic products. Any person serving alcohol must have received alcohol server training through a City approved training program;

b. The sidewalk café alcohol beverage license issued by the State of Montana must include as part of the licensed premise floor plan the sidewalk café area. The use and operation of the sidewalk café area shall occur in accordance with the State-approved alcohol beverage license and a copy of the license shall be kept on file with the Director of Public Service and the Director of Planning and Community Development.

c. Liability insurance required in 12.22.080.B.3~~BMC 12.11.0500B~~ will cover the sidewalk café area;

d. Each sidewalk café serving alcohol beverages shall be responsible for policing the area of the sidewalk café to be sure that customers are of legal drinking age and that alcohol beverages are not removed from the premises.

e. There shall be no sale of alcohol for consumption at a sidewalk café after 12:00 a.m. (midnight) until normal opening of business each day. In addition, all containers of intoxicating beverages shall be removed from the tables of the sidewalk café and the sidewalk café area by 12:00 a.m.;

f. The sidewalk café area must be adjacent to the licensed building and shall be enclosed, except for ingress and egress entry point, by a ~~movable~~ temporary fence approved by the Director of Public Service. The fence shall be:

(i). black or of a color that matches the adjacent building;

(ii). at least 4 feet in height; and

(iii). shall be of a design and quality that does not permit children or other persons to crawl under the fence;

10. Miscellaneous Items: The Director of Public Service may permit other items as deemed appropriate. The Director shall place what restrictions the Director deems necessary to ensure the safe passage for pedestrian and vehicular traffic.

(Ord. No. 1567 § 2(12.22.070), 9-9-2002; Ord. No. 1692§ 2, 2-12-2007)

12.22.110080 Notification of Name or Address Change.

All Permittees will ensure that a current and correct name, residential address and mailing address ~~are~~ on file with the Director. Should either the Permittee's name, business name or Permittee's address provided on the application change, the Permittee must notify the Director within five (5) working days of such change and provide the same with the accurate information. (Ord. No. 1567 § 2(12.22.080), 9-9-2002)

12.22.120090 Littering and Trash Removal.

A. Permittees will keep the sidewalks, roadways and other spaces adjacent to their sites or locations clean and free of paper, peelings and refuse of any kind generated from the operation of their business;

B. Permittees engaged in food vending will make available a receptacle for litter. The Permittee will regularly empty and maintain the receptacle and mark it appropriately to provide proper notice to the public of its purpose. Upon ceasing operations for the day, Permittees will ensure the area immediately adjacent to the site is thoroughly clean and free of debris. Finally, Permittees must remove all debris and trash from the area and will not use trash receptacles without permission from the owner. (Ord. No. 1567 § 2(12.22.090), 9-9-2002)

12.22.130100 Special Event or Temporary Permits.

The Director may issue a temporary permit for special or temporary events which may take place in the ~~downtown area~~ Downtown Business District including but not limited to "Crazy Days", "Taste of Bozeman", and "Music on Main". Should the Director determine a temporary permit is applicable for any reason, the Director may waive any of the requirements set forth in this Chapter the Director feels are inapplicable and allow alternative provisions consistent with ~~or contrary to~~ the purposes of this chapter. (Ord. No. 1567 § 2(12.22.100), 9-9-2002)

12.22.140 Fees.

A. Non-Substantial Encroachments:

1. A ten dollar (\$10) fee shall be charged for non-substantial encroachments which shall be provided with each new application/renewel of a City of Bozeman Downtown Sidewalk Encroachment Revocable Permit.

B. Substantial Encroachments:

1. Application fees authorized in Title 18 shall be provided.

C. Exclusive Uses:

1. A fee calculated by multiplying the square-foot area of the right of way encumbered by the exclusive use of same, by the total final square-foot land value of the adjacent property (as determined in the most recent appraisal by the Montana Department of Revenue for ad valorem property taxation purposes), multiplied by the whole-month percentage of the calendar year the exclusive use is occurring, multiplied by a factor of 5% shall be assessed and provided with each City of Bozeman Downtown Right of Way Exclusive Use Permit application and annual renewal.

12.22.150140 Suspension and Revocation of Permits for Non-Substantial Encroachments Permit License.

A. The Director may suspend or revoke any permit for Non-Substantial Encroachment issued under ~~this Section 12.22.050~~ chapter for any of the following reasons:

1. Fraud, misrepresentation or knowingly false statement contained in the application for the permit;
2. Conducting any activity in any manner contrary to the conditions of the permit;
3. Conducting any permit activity in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or morals, or interfere with the rights of abutting property owners;
4. Failure to regularly empty and maintain a litter receptacle;
5. Cancellation of the Gallatin City-County Health Department's authorization for a food or beverage vending unit; or
6. Failure to comply with any provision in this chapter or any condition of approval required by the Director.

B. Should the Director decide to exercise the rights given under this chapter, notice may be delivered in person or mailed to the address provided on the application. The Director shall state all reasons for the decision to revoke or suspend the permit and the length of the suspension, if any;

C. The permittee will have three (3) days from the date of receipt of the letter to file a written response to the Director's letter or to remove all items from the City's sidewalk. Failure to respond to the Director's letter or to remove the items from the City's sidewalk will be cause for the Director to order the property removed by local law enforcement or the Code Compliance Officer. The property shall be considered evidence and will not be returned until the resolution of any citation issued under BMC;

D. Should the permittee fail to pick up the letter for a period of five (5) working days after it has been mailed, the Director may then direct the Code Compliance Officer or law enforcement to remove the permittee's property from the City's sidewalks;

E. Should the Director determine the permittee's property presents a safety hazard or requires immediate remedy including but limited to sidewalk maintenance, then in that event, the Director may order the property removed immediately by local law enforcement or the Code Compliance Officer.
(Ord. No. 1567 § 2(12.22.110), 9-9-2002)

12.22.160 Suspension or Revocation of Exclusive Uses of Public Right of Way.

The Director may suspend any permit for Exclusive Use issued under Section 12.22.080 for any of the reasons listed under Section 18.22.150.A by providing written notice to the Permittee stating all reasons to suspend the permit. The Permittee will have three (3) days from the date of receipt of the letter to remedy the deficiencies stated in the notice to the satisfaction of the Director. In the absence of remedy, the Director shall schedule a permit revocation hearing with the City Commission which has sole power to revoke any permit issued under Section 12.22.080.

A. Upon revocation of any permit issued under Section 12.22.080, the City Commission can order any substantial encroachments, features, improvements and/or alterations made to the public right of way installed to support an exclusive use be removed at the permit holder's sole expense upon their finding of said substantial encroachments, features, improvements and/or alterations posing a threat to the public's health, safety, and welfare.

1. Failure to remove, or failure to cause the removal of any substantial encroachments, features, improvements and/or alterations to the public right of way ordered by the City Commission's within fifteen (15) days following said order will result in the City removing the ordered items and charging the Permittee for all expenses. In removing the ordered items, the City may call upon any city department or division for whatever assistance deemed necessary or may by private contract cause the removal of the ordered items.

a. The City after completing the removal of the ordered items shall file a statement of costs with the finance department which shall mail to the Permittee a notice that contains the amount set forth in the statement and a declaration that the City will assess against the property the amount set forth in the notice and shall enter that amount in the City liens docket which shall therefore constitute a lien against the property.

B. The determination of the City Commission is a final administrative decision.

12.22.170130 Appeal Procedure.

Any permittee will have the right to appeal the denial, suspension or revocation of any permit issued under Section 18.22.050 to the City Manager. The permittee will make the appeal within ten (10) days after receiving notice of the denial, suspension or revocation by filing a written notice with the City Manager.
(Ord. No. 1567 § 2(12.22.130), 9-9-2002)

12.22.180 Enforcement – Penalties – Designated a Municipal Infraction.

In addition to suspension or revocation under 12.22.150 or 12.22.160, Violation a violation of this chapter is a municipal infraction punishable by the following civil penalties:

A. For a first violation, a civil penalty of not less than one-hundred (\$100) or more than three-hundred dollars (\$300) shall be imposed;

B. For each repeat violation, a civil penalty of not less than one-hundred (\$100) or more than five-hundred dollars (\$500) shall be imposed;

C. Each day of violation shall constitute a separate violation.

The court may order the permit revoked ~~for the remainder of the year~~ in addition to any other penalty imposed by the court.

(Ord. 1567 § 2(12.22.140), 9-9-2002; Ord. No. 1700 § 1, 5-21-2007)

Section 2

Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

Section 3

Savings Provision.

This ordinance does not affect the rights of duties that matured, penalties and assessments that were incurred or proceedings that began before the effective date of this resolution.

Section 4

The effective date of this ordinance is 30 days after passage on second reading.

Section 5

Codification Instruction.

The provisions of Section 1 shall be codified as appropriate in Chapter 12.22 of the Bozeman Municipal Code.

PASSED by the City Commission of the City of Bozeman, Montana, on first reading, at a regular session thereof held on the 19th day of April 2010.

DRAFT

JEFFREY K KRAUSS
MAYOR

ATTEST:

STACY ULMEN
CITY CLERK

PASSED, ADOPTED AND FINALLY APPROVED by the City Commission of the City of Bozeman, Montana, on second reading, at a regular session thereof held on the 17th day of May 2010.

JEFFREY K KRAUSS
MAYOR

ATTEST:

STACY ULMEN
CITY CLERK

APPROVED AS TO FORM:

GREG SULLIVAN
CITY ATTORNEY