

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Department of Transportation

AGENDA DATE: Introduction: January 18, 2011
Public Hearing: January 25, 2011

CONTACT PERSON/PHONE: Mirian Spencer (915) 541-4482, spencermd2@elpasotexas.gov

DISTRICT(S) AFFECTED: All

SUBJECT:

An Ordinance amending the El Paso City Code by amending Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses), Subsection E (Types of Encroachments) to allow special privilege licenses for aerial or subsurface commercial buildings or structures over or under City right-of-way and Subsection F (Fees) establishing fees for such special privilege licenses; The penalty is as provided for in Section 15.08.125 of the El Paso City Code (ALL DISTRICTS).

BACKGROUND / DISCUSSION:

This amendment to 15.08.120 (Special Privilege Licenses) creates a provision to allow for structures over or under City right-of-way that are generating revenue for a private entity. The provision specifies the term for the encroachments to be in maximum terms of fifteen (15) years.

There is an accompanying resolution adding the fee to Schedule C of the FY2011 Budget Resolution. The fee proposed is ten percent (10%) of the anticipated annual gross revenue from the portion of the structure or buildings located over or under City right-of-way. The annual fee for each year of the special privilege license agreement shall be the greater of the ten percent of gross revenues or \$1,000.00.

PRIOR COUNCIL ACTION:

City Council will also consider a Resolution amending Schedule C of the FY2011 Budget Resolution on January 25, 2011.

Section 15.08.120 (Special Privilege Licenses) was amended as a whole by Ordinance 017181 on August 25, 2009.

AMOUNT AND SOURCE OF FUNDING:

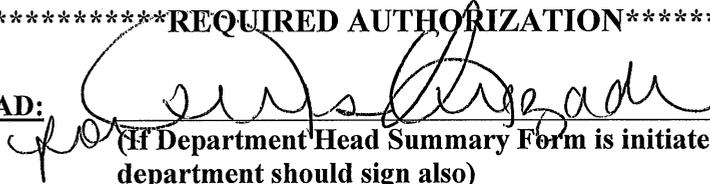
N/A

BOARD / COMMISSION ACTION:

The Development Coordinating Committee approved the recommended fees on January 12, 2010.

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE EL PASO CITY CODE BY AMENDING TITLE 15 (PUBLIC SERVICES), CHAPTER 15.08 (STREET RENTALS), SECTION 15.08.120 (SPECIAL PRIVILEGE LICENSES), SUBSECTION E (TYPES OF ENCROACHMENTS) TO ALLOW SPECIAL PRIVILEGE LICENSES FOR AERIAL OR SUBSURFACE COMMERCIAL BUILDINGS OR STRUCTURES OVER OR UNDER CITY RIGHT-OF-WAY AND SUBSECTION F (FEES) ESTABLISHING FEES FOR SUCH SPECIAL PRIVILEGE LICENSES; THE PENALTY IS AS PROVIDED FOR IN SECTION 15.08.125 OF THE EL PASO CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

Section 1. That Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses), Subsection 15.08.120 E (Types of Encroachments) of the El Paso City Code is hereby amended to add the following sections to Table 1-1:

Type of Encroachment	Authorizing Instrument	Term	Additional Requirements
1. Aerial Encroachments			
i. Structures used for commercial purposes generating revenue in the portions located over City right-of-way not otherwise specified herein	License	Maximum 15 year terms	Specification of clearance over right-of-way, allowable uses of the building or structure, removal of structure or building at cost of license upon termination
3. Subsurface Encroachments			
4. Structures used for commercial purposes generating revenue in the portions located under City right-of-way not otherwise specified herein	License	Maximum 15 year terms	Specification of clearance over right-of-way, allowable uses of the building or structure, removal of structure or building at cost of license upon termination

Section 2. That Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses), Subsection 15.08.120 F.4 (Fees) of the El Paso City Code shall be and hereby is amended to add the following subsection:

15.08.120.F.6. Fees are established for aerial or subsurface special privilege licenses for commercial buildings or structures generating revenue in the portion of the building or structure that is over or under the City right-of-way and shall be charged.

Section 3. Except as expressly herein amended, Title 15 (Public Services), (Chapter 15.08) Street Rentals), Section 15.08.120 (Special Privilege Licenses of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2011.

CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Mark Shoosmith
Assistant City Attorney

APPROVED AS TO CONTENT:



Daryl W. Cole, Director
Department of Transportation