

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

**DEPARTMENT:** City Development Department

**AGENDA DATE:** Introduction: July 17, 2012  
Public Hearing: July 31, 2012

**CONTACT PERSON NAME AND PHONE NUMBER:** Mathew McElroy, City Development Department,  
541-4193

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

An Ordinance amending Title 15 (Public Services), Chapter 15.08, (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits) of the El Paso City Code by repealing Section 15.08.120 (Special Privilege License and Permits) in its entirety and adopting a new Chapter 15.08.120 (Special Privilege Licenses and Permits) in its place. The penalty is as provided in Chapter 15.08.125 of the El Paso City Code (ALL DISTRICTS).

**BACKGROUND / DISCUSSION:**

The proposed new Section 15.08.120 (Special Privilege Licenses and Permits) is being proposed to clean up the current language by removing duplicated provisions and simply the process of obtaining a special privilege. As part of the cleanup, code Sections have been amended to reflect additional changes to the El Paso City Code, that had not been reflected in the current Section. It also incorporates language regarding Chapter 21 (Smart Code) of the El Paso City Code. The changes also provide design standards for encroachments such as street furniture, awnings, canopies and outdoor patio cafés. These design standards provide for a public benefit. It allows additional encroachments to be exempted from a special privilege requirement, be permitted as a permit, which is administrative, in lieu of a special privilege license which requires City Council approval. The changes also provide for a separate fee schedule for properties municipally zoned Smart Code (SCZ), located along a Rapid Transit System (RTS) Corridor, and within Transit Oriented Development (TOD) overlay districts.

**PRIOR COUNCIL ACTION:**

Ordinance 017181 amended Section 15.08.120 approved 8-25-2009

**AMOUNT AND SOURCE OF FUNDING:**

Not applicable to Ordinance

**BOARD / COMMISSION ACTION**

Economic Development, Planning and Tourism LRC 9-8-2011  
Development Coordinating Committee (DCC) 2-29-2012

\*\*\*\*\*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*

**City Development Department**

Two Civic Center Plaza – 5<sup>th</sup> Floor · El Paso, Texas 79901  
Phone (915) 541-4622 · Fax (915) 541-4799

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES), CHAPTER 15.08, (STREET RENTALS), SECTION 15.08.120 (SPECIAL PRIVILEGE LICENSES AND PERMITS) OF THE EL PASO CITY CODE BY REPEALING SECTION 15.08.120 (SPECIAL PRIVILEGE LICENSES AND PERMITS) IN ITS ENTIRETY AND ADOPTING A NEW SECTION 15.08.120 (SPECIAL PRIVILEGE LICENSES AND PERMITS) IN ITS PLACE, THE PENALTY IS AS PROVIDED IN SECTION 15.08.125 OF THE EL PASO CITY CODE.**

**WHEREAS**, the right of control, ownership and use of public right of way is held by the City of El Paso; and

**WHEREAS**, the City may allow the use of public right of way through an ordinance; and

**WHEREAS**, the City desires to adopt this ordinance to amend the City Code to allow for the use of public right of way through either a special privilege license or a permit; and

**WHEREAS**, the City has determined for those uses that are either temporary in nature or constitute a minimal encroachment on public right of way, that such uses may be approved administratively provided that they are in compliance with the standards established under this ordinance and obtain a permit for such use.

**NOW THEREFORE, 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 and Permits) of the El Paso City Code is hereby repealed in its entirety and replaced with the following Section 15.08.120 to read as follows:

**15.08.120 - Special privilege licenses and permits**

A. Where applicable. The City may grant a special privilege license or permit for use of public right of way for specified uses. For purposes of this section, the term "public right of way" means the area within a public street or alley, including the sidewalk, parkway and roadway surface, whether paved or unpaved, and areas within public easements or rights of way for drainage or other purposes. Where a use is proposed on public right of way designated as a state or federal highway or road, approval from the Texas Department of Transportation (TXDOT) shall be required prior to approval by the Permit Official. Permanent encroachments on state highways shall be prohibited.

1. General Authority

a. City Council has final authority over special privilege licenses (hereinafter called "Licenses") under this Section. Assignments and renewals may be granted administratively by the City Manager.

- b. The Permit Official as defined in Section 15.08.011 (Definitions) has final authority over special privilege permits and renewals (hereinafter called “Permits”) under this section.
2. The Permit Official shall require recording of instruments granting rights under this chapter in the official public records of real property of the county in which the land is situated. Applicant shall pay the recording cost.
3. Terms. Licenses and temporary permits have stated durations and are terminable according to the terms specified within the license or permit granting the use.
4. Grantees of Licenses or Permits under this section must maintain any structure, covering or appurtenance and the accompanying structural members extending over, under, or on public right of way, or other city property in good repair and condition and shall not create a nuisance or safety hazard therefrom. All such encroachments, when constructed, repaired or renovated, shall comply with all applicable codes of the City of El Paso as adopted and as may be amended. The City reserves the right to remove structures not properly maintained within the public right of way at Grantee’s expense.
5. Grantees of Licenses or Permits under this Section shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees for and against all claims, causes of action, liability, damages or expenses (including but not limited to attorney fees and costs) for any damage or loss of property, illness, injury, physical or mental impairment, loss of service, or death to any person arising out of or related to the License or Permit. This section controls even if the agreement provides otherwise, unless an ordinance expressly states that city council intends to override this section as to the particular use by the particular applicant. The indemnity specifically covers the city's own negligence, whether joint or sole. Entities that may not lawfully grant indemnities or may not lawfully be required to do so by the city need not grant the indemnity provided for in this section.
6. Licenses and Permits granted under this section shall not relieve the applicant of complying with any other approvals, permits, or licenses required by the City or other governmental agencies. No permit or license shall be granted if the use impairs the primary public purpose of the public rights of way.
7. Terms and Conditions—Right of termination reserved by city.
  - a. The Permit Official retains the right to terminate a License or Permit whenever in its judgment revocation is necessary to secure efficiency of public service at reasonable rates or to assure that the property is maintained in good order throughout the term of the License.
  - b. Upon termination of the License or Permit, at the option of the City, Grantee(s) shall remove any improvements and return the right of way to its original condition, or the City shall have the option of accepting the improvements, such improvements shall become the property of the City.
  - c. Breach by Grantee(s). If Grantee(s) fails to fulfill any of the conditions stated in the License ordinance, City Council may terminate the License or Permit after reasonable notice and hearing.
8. No structures shall be placed on any El Paso Water Utilities water meters, water valves, sanitary sewer manhole covers nor within a five-foot (5ft.) radius of any existing fire appurtenance.

- B. Application required. To acquire Licenses or Permits under this Chapter, an applicant shall submit the following to the Permit Official, or, for Temporary Street Closures as described in Section O (Temporary Street Closures) held within the Downtown Improvement Area that require a Special Privilege Permit, an applicant shall submit the following to the Downtown Management District, and follow the procedures prescribed by this Section.
1. One application for a License or Permit shall be made in writing or submitted electronically on a form prescribed by the Permit Official, which must be completed in accordance with the instructions provided on/with the application;
  2. One location map, accurately outlining the public rights of way or easement(s) upon which an encroachment is proposed.
  3. Nine copies of a plan of the public right of way or public easement, drawn to scale, showing the following:
    - a. Size, location, arrangements of existing structures and improvements on the public rights of way or easements;
    - b. Size, location, arrangements and dimensions of proposed improvements to be located on the public rights of way or easements;
    - c. Elevations or perspective of the buildings showing all existing and proposed encroachments;
  4. Proof of ownership (warranty deed, title commitment, etc.).
  5. A sealed written metes and bounds description and survey, of the public rights of way or easements if permanent structures are proposed.
  6. A transmittal letter including specific information, special circumstances or conditions, which apply to the request.
  7. A certificate of liability insurance or self-insured affidavit to be submitted prior to ordinance introduction or permit issuance in accordance with Section G (Insurance Required) of this Chapter.
  8. One copy of a traffic control plan (required only for temporary right of way closures).
  9. Notice of proposed closure (required only for temporary right of way closures). The applicant shall provide the name, address and signature of each owner of real property abutting the boundaries of the area where the temporary closure is proposed, on a form prescribed by the Permit Official.
  10. Upon review for completeness and acceptance of the application by the Permit Official, the applicant shall pay the established processing fee for the Special Privilege License or Permit as prescribed in Section F.1 of this chapter. The processing fee is non-refundable.
- C. Procedure for a License. The application and related materials are distributed to the affected city departments, which will make recommendations for approval or denial of the request within two weeks of the date of distribution.
1. Upon an approval recommendation by the departments, the Permit Official shall prepare an ordinance containing the terms and conditions of the License. Once signed by the applicant(s), the ordinance will be introduced and scheduled for public hearing for City Council consideration.

2. Upon denial recommendation of the departments, no ordinance will be prepared, and a written notice of denial of the License request will be provided to the applicant
3. Appeals Process.
  - a. An applicant may appeal the denial of an application in writing within ten (10) calendar days after notice of the denial has been received, by submitting a written request to the Permit Official. The notice of appeal must contain a written statement of the reasons the final decision is erroneous or any other documents supporting the position of the appellant.
  - b. Within thirty (30) calendar days of receipt of the appeal, the Permit Official shall present the appeal to City Council. All documents submitted by the appellant shall be provided to City Council along with any documentation the Permit Official deems relevant for rendering a decision. The applicant shall have the right to be present and address the City at said City Council meeting.
  - c. The City Council may deny the appeal for a License or may direct the preparation of the ordinance. City Council's decision to grant a License or deny the appeal shall be based solely on the standards set forth in this Chapter. The decision of the City Council is final.
4. Approval by City Council. If, in the judgment of City Council, the requested use is not inconsistent with and does not unreasonably impair the public use of the right of way, City Council may, by ordinance, approve the License. As an express condition of the License, City Council may impose development standards to mitigate the encroachment onto public right of way, to improve safety and aesthetics, and/or to insure compatibility with adjacent structures and uses.

D. Procedure for a Permit.

1. For events within the Downtown Improvement Area, the Permit applications and related materials will be forwarded to the Ad Hoc Committee (AHC), which will make a recommendation for approval or denial of the request. All other Permit applications and related materials will be forwarded to the affected Departments, which will make a recommendation for approval or denial of the request.
2. Upon approval recommendation by the AHC or affected Departments, the Permit Official may issue the permit provided the use meets the development standards enumerated in this section. Each of the development standards for specified uses ensures the specified requested use is not inconsistent with and does not unreasonably impair public use of right of way and mitigates the encroachment onto public right of way, provides safety and aesthetics to adjacent uses, and insures compatibility with adjacent structures and uses.
3. Upon denial recommendation by the AHC or affected Departments, the Permit Official shall deny issuance of the permit.
4. Appeals Process.
  - a. An applicant may appeal the denial of an application in writing within ten (10) calendar days after notice of the denial has been received, by submitting a written request to the Permit Official. Within ten (10) business days, the Appeals Official, as described in Section 15.08.011 (Definitions) shall hold a hearing on whether to issue the permit or uphold the denial. The applicant

shall have the right to present evidence at said hearing and to question appropriate City officials. The decision to issue the permit or uphold the denial shall be based solely on the approval criteria set forth in this chapter. The Appeals Official shall render a decision on the appeal within five (5) business days after the date of the hearing. In the event that the purpose of the proposed event is a spontaneous response to a current event, or where other good and compelling causes are shown, the appeals official shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.

- b. The Decision of the Appeals Official is subject to review by City Council. The applicant shall submit a written request to the Permit Official, who shall forward the request for placement on the agenda of the next available regular City Council meeting in compliance with all ordinances and statutes relating to the placement of items on the City Council agenda and the posting of the agenda. The decision to issue or uphold the denial shall be based solely on the approval criteria set forth in this chapter. The decision of the City Council is final.

E. Types of Encroachments. Any one or more of the activities, improvements, facilities or uses on public right of way in Table 1-1 may be granted a License or a Permit:

Table 1-1

Type of Encroachment	Authorizing Instrument	Term	Additional Requirements
<b>1. Aerial Encroachments</b>			
a. Awnings, canopies, galleries and arcades	Permit	One—five years	See Section I
c. Temporary street displays	Permit	One Week – Six Months	See Section K
d. Banner program	Permit	Six months – five years	See Section L
e. A pedestrian sky-walk	License	License denotes term	Meets all applicable city, state and federal requirements.
f. Signs	Permit	One—five years	See Section M
g. Pipelines, transmission lines or cables	License	License denotes term	Meets all applicable city, state and federal requirements
h. Other overhead encroachments not specified herein	License	License denotes term	Meets all applicable city, state and federal requirements
<b>2. Surface encroachments</b>			
a. Outdoor patio cafe, including removable fencing, furniture, planters or related appurtenances	Permit	one-ten years	See Section N
b. Street furniture (includes but is not limited to, benches, bollards, trash receptacles, lighting, shelters, outdoor pavilions, and other streetscape components providing convenience, safety and access to activities, amenities and location information)	Permit	one-ten years	See Section J
c. Ornamental gates, columns or other ornamental works of iron, wood, masonry, earth or other materials denoting the entrance to a neighborhood or subdivision	Permit	One time no renewal required	Improvements may display the name of the subdivision or neighborhood but shall contain no commercial advertising or other signage.

d. Façades, ornamental gates, columns or other works of iron, wood, masonry, earth or other materials	Permit	One time no renewal required	Improvements shall not impede pedestrian paths of travel and shall be ADA/TAS Compliant. Improvements shall not impede the visibility triangle of the property
e. Taxi-stand	License	One year. Annual renewal required	See standards in <a href="#">Title 6, Chapter 6.16</a> (Taxicabs) of the City Code
f. Supportive or decorative columns, arches, or other structural or decorative features of any historically significant building or structure	Permit	One time no renewal required	Historic preservation officer/HLC shall approve all applications prior to issuance of a permit.
g. Temporary street closure	Permit	One day – One year	See Section O. Applications for temporary street closure must be submitted for consideration at least thirty days prior to the proposed closure.
h. Building or other structural encroachment when vacation of the public right of way is not in the best interest of the public	Permit	Maximum fifteen years	See Section P.
i. Food vending concessions within the downtown area	License	License denotes term	See Section Q.
j. Accessibility ramps required by the City building code	Permit	One time no renewal required	Shall comply with the Americans with Disabilities Act (ADA) and Texas Accessibility Standards (TAS).
k. Pipelines, transmission lines or cables	License	License denotes term	Does not unreasonably impair the public use of the right of way and meets all applicable city, state and federal requirements.
l. Outdoor pay telephones	License	License	Renewals of existing licenses and new non-

		denotes term	certificated, franchised telephone companies only.
m. Stairways	Permit	One time no renewal Required	Construction, installation and maintenance shall comply with all applicable City, State, and Federal requirements.
n. Signs and kiosks	Permit	One-five years	See Section M.
o. Other surface encroachments not specified herein	License	License denotes term	Does not unreasonably impair the public use of the right of way and meets all applicable city, state and federal requirements.
3. Subsurface encroachments			
1. Underground storage vault or basement structure	Permit	One time no renewal required	Does not unreasonably impair the public use of the right of way and meets all applicable building code standards.
2. Pipelines, transmission lines, cables or storage tank	License	License denotes term	Does not unreasonably impair the public use of the right of way and meets all applicable city, state and federal requirements.
3. Other subsurface encroachments not specified herein	License	License denotes term	Does not unreasonably impair the public use of the right of way and meets all applicable city, state and federal requirements.

F. Fees.

1. The established application processing fee shall accompany all applications for a License or Permit. This fee shall be nonrefundable, regardless of ultimate action by the City Council or the Permit Official, and shall be in addition to other charges for a particular Licensed or Permitted use.

- a. Applicants shall pay the established annual fee for each license or permit.
    - (1) The established fee for the first year of the license or permit shall be paid prior to consideration of the license request by City Council or issuance of the Permit by the Permit Official. This fee shall be refunded within 15 days if the request is denied.
    - (2) When the term of the License or Permit exceeds one (1) year, the established annual fee shall be paid each year on or before the anniversary date of approval.
    - (3) For Licenses or Permits exceeding one (1) year, Applicants shall have the option of paying the established fee for the entire term of the license or permit at a three percent (3%) discount, if paid in full prior to the time of approval. Applicants exercising the option to pre pay the established fee for the entire term of the license or permit shall be entitled to a refund of the total amount paid for the entire term of the license if the license or permit is denied. However, Applicants shall not be entitled to a refund if after the license or permit is granted, it is later terminated prior to expiration.
  2. Fees within areas designated in this section shall have a separate established fee. Payments shall be made as stated in Section F.1 of this section.
    - a. Downtown Improvement Area as described in the Downtown 2015 Plan adopted by City Council on October 31, 2006 and as amended in July 2008.
    - b. Rapid Transit System (RTS) Corridors adopted by City Council in 2009 and as amended in 2010.
    - c. Properties municipally zoned Smart Code (SCZ), designated as Transit Oriented Development (TOD) overlays, or any additional specially designated overlay districts which specifically establish separate fees for special privilege licenses or permits.
  3. For any special privilege license or permit not listed in Table 1-1 of this section, applicants shall pay the established fee for “other special privileges” which shall be no less than one thousand dollars per year.
    - a. In the event the City and applicant find the established fee for a special privilege not listed in Table 1-1 unreasonable, an alternative fee as agreed to by the parties may be permitted upon approval by City Council.
  4. The annual fees shall remain the same for a period of one year from the date the license or permit is granted and are subject to change after each one year period the license or permit remains in effect. Whether or not stated in this section, the City Council retains the right to increase or decrease the annual fee specified in this section.
- G. Insurance required. As a condition of the License or Permit, the grantees shall agree to indemnify, defend and hold harmless the City, its officers, agents, servants and employees from any and all claims, loss, damages, causes of action, suits and liability of every kind, including all expenses of litigation for injury or death of any person, or for damages to any property arising out of or in connection with Grantee’s use of the public right of way regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of the City.

1. No License or Permit shall be granted by the City unless Grantee files a copy with the City Development Department and Financial Services a certificate of liability insurance accompanied by a copy of the policy of insurance as prescribed by the Risk Management of the City of El Paso.
  2. Grantee(s) shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and pay any judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Grantee(s) their officers, agents, servants or employees as additional insureds to the full amount of the policy limits. The policy of insurance shall name the Grantee and the City as insureds to the full amount of the policy limits.
  3. Such policy or certificate shall provide that the insurance cannot be cancelled or the amount of coverage changed without thirty (30) days prior written notice to the City's Development Department and Financial Services, or ten (10) days prior written notice for cancellation based on non-payment of insurance premiums.
  4. Failure to keep the policy in full force and effect throughout the term of the license shall be grounds for cancellation. Certificates of insurance that state the insurer shall endeavor to give notice and/or that there shall be no liability for failure to give notice required therein shall not meet the minimum requirements of this section.
- H. Exceptions. The following activities, improvements, facilities, or uses on public right of way shall not require a License or Permit as herein provided:
1. City owned and maintained transit bus shelters and other related amenities for the convenience of the public;
  2. Decorative landscaping as defined in Chapter 18.46.050 (Definitions), under the following circumstances:
    - a. Median as defined in Chapter 19.50.030 (Definitions). Landscaping complying with the provisions of Section 12.68.060 (Planting in arterial and local street medians), Chapter 21.50.110 (Landscape Standards) and Chapter 13.16 (Insurance requirements for work within right of way of public streets and alleys).
    - b. Parkway as defined in Chapter 19.50.030 (Definitions).
      - (1) Abutting a local or arterial street as defined in Title 19 (Subdivisions), and not subject to the provisions of Chapter 18.46 (Landscape standards) or Chapter 21.50.110 (Landscape Standards).
      - (2) Abutting a local or arterial street as defined in Title 19 (Subdivisions), and subject to the provisions of Chapter 18.46 (Landscape) or Chapter 21.50.110 (Landscape Standards).
    - c. Installation and Maintenance. Landscaping of medians and parkways is encouraged; however, nothing in this section shall be deemed to require such landscaping. In all instances where a property owner or other entity landscapes a parkway or median, such property owner or other entity shall be responsible for furnishing, installing and maintaining all such landscaping, including costs for irrigation systems, water meters, and associated water consumption;

3. A temporary street closure or use of right of way for a period of twenty-four (24) hours or less for activities such as, but not limited to, parades, public assemblies, block parties, marches, and athletic events, provided the City has issued a permit for such use as authorized under Chapters 13.32 (Temporary Events) and 13.36 (Parades and Public Assemblies).
4. Temporary commercial filmmaking activities for a period of forty-eight (48) hours or less, provided that the City has issued a permit for such activity as authorized under Chapter 13.30 (Film Making Events).
5. Encroachments such as, but not limited to, newspaper racks, benches, trash containers, and public utility facilities where the City has granted a franchise or lease permitting such use of the public right of way provided they comply with Section J (Street Furniture) of this Chapter.
6. Bicycle racks installed to meet the requirements of off-street parking and loadings standards of Section 20.14 Article II (Bicycle Parking) complying with Section J (Street Furniture) of this Chapter.
7. The temporary use of streets or public property for the storage or handling of materials or of equipment required for construction or demolition complying with Chapter 18.08 (Building Code).
8. Encroachments such as, but not limited to, bay windows, fire escapes, and cornices that comply with Chapter 18.08 (Building Code).
9. The temporary use of public right of way or public property for the drilling of monitoring wells complying with Chapter 13.08 (Excavations).
10. City sponsored temporary street displays, kiosks, or banner programs;
11. Memorial markers, provided that the placement of such markers are approved by the City and comply with the policies and procedures established by the Director of Transportation.
12. Signs may be located in the public right of way without the requirement of a sign permit or a special privilege, which meet the following criteria:
  - a. The sign is a framed, portable two-sided (message on both sides), single panel style or two connected single panels (“A-frame” or “tent style”);
  - b. The frame of the sign is constructed entirely of wood and/or metal enclosing the sign panel(s);
  - c. The face of the sign is constructed of wood, metal, plastic or hardboard material;
  - d. The face of the sign is no larger than five square feet;
  - e. the sign area is no greater than nine square feet, and does not exceed thirty-six inches in height;
  - f. The sign is located within the parkway and is not permitted in the median;
  - g. The sign is freestanding, without requiring staking into the ground;
  - h. The sign does not include any lighting;

- i. The sign is located within the parkway within the hours of 10:00 am and 7:00 pm; and
    - j. The sign owner shall be responsible for all claims, causes of action, liability, damages and/or expenses for any damage to or loss of any property, or any injury to any person, resulting from use of City right of way.
  - 13. For properties with zero-lot lines, wall signs that are flush mounted on a facade that project less than eighteen inches (18") and meet the standards of Chapter 20.18 (Signs).
  - 14. Events produced by the City of El Paso Museums and Cultural Affairs Department pursuant to City Code Section 2.40.010 (Department Created Functions).
  - 15. Arcades and galleries as defined in Chapter 21.70.010 (Definitions), awnings and canopies constructed pursuant to Chapter 21.50.070 (Building Configuration).
  - 16. Arcades, awnings, canopies and galleries located within the Downtown Plan Area, along the Rapid Transit System (RTS) corridors and/or within Transit Oriented Developments (TOD) that comply with Section I (Awnings, Canopies, Galleries and Arcades) of this Chapter.
  - 17. Open porches, balconies and bay windows pursuant to Chapter 21.50.070 (Building Configuration).
  - 18. Wayfinding signs approved by the City of El Paso in accordance with Section 15.08.140.
- I. Arcades, Awnings, Canopies and Galleries

1. Definitions

- a. Arcade: a private frontage conventional for retail use wherein the façade is colonnade that overlaps the sidewalk, where the façade at the sidewalk level remains at the frontage line.
- b. Awning: A rooflike shelter of canvas or other material extending over a doorway, from the top of the doorway, from the top of a window.
- c. Canopy: An overhanging projection or covering, as a long awning stretching from the doorway of a building to the curb.
- d. Gallery: A private frontage conventional for retail use wherein the façade is aligned close to the frontage line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk.

2. Application:

- a. Scaled architectural drawing(s) showing front and side elevations must be in keeping with the original architectural design of the structure involved for historical correctness.
- b. An engineering certification on the structural design and wind loading capability based on the current edition of the adopted Building Code.

3. Location:

- a. Protection of healthy, mature street trees shall take precedence over providing awnings, canopies, galleries or arcades.

- b. Awnings and Canopies shall be placed within window bays and must not cover piers or other architectural details of the principle building.
- c. A minimum distance of eight feet between the sidewalk and the lowest portion of the structure of the awning, canopy, gallery or arcade.
- d. A minimum distance of seven feet between the sidewalk and the bottom edge of an awning's valence.
- e. A minimum setback of two feet between the face of the curb and the closest portion of the awning, canopy gallery or arcade.
- f. A minimum distance of three feet between the face of the building and the closest portion of the outside of the awning or canopy.
- g. A minimum clear area of two feet measured perpendicular to the curb face and five feet measured parallel to the curb face between the closest portion of a street element over seven feet in height, including tree branches, and the closest portion of the awning, canopy, gallery or arcade.
- h. Ten feet minimum between the interior walls of the gallery which shall be open at both ends and connected to the adjacent sidewalks.
- i. Twelve feet minimum between the interior walls of the arcade which shall be open at both ends and connected to the adjacent sidewalks.

4. Other Standards

- a. Awnings and canopies shall be constructed of durable materials such as canvas, metal and/or glass and shall be anchored in a manner to preserve the architectural integrity of the façade (anchoring into mortar joints).
- b. Galleries and arcades shall be constructed of materials similar to those used on the principal building.
- c. Lighting placed within the awnings, canopies, galleries and arcades shall be placed in a manner so as to be screened from view at the street.

J. Street Furniture. For purposes of this section, street furniture shall include benches, seat walls, planters, bicycle racks, newspaper racks, trash and recycling receptacles.

- 1. Street furniture shall compliment the building's architecture, shall not encroach into the pedestrian pathway and shall be maintained by the property owners.
- 2. Benches
  - a. Benches parallel to the curb face shall face towards the pedestrian pathway.
  - b. Benches perpendicular to the curb face shall face another bench in a social arrangement with a distance of five and one-half (5.5) feet between benches.
  - c. A minimum of two feet between the face of curb and the closest portion of the bench is required.
  - d. A minimum width of six feet between the curbline or the closest portion of the street-side bench or other streetscape element (if present) and the building face or the closest portion of the building side bench or other street scape element (if present).

- e. A minimum distance of five feet measured between the base of a street element and the closest portion of a bench.
- f. Benches shall be designed in such a manner to discourage sleeping by including additional arms within the bench seating area.

3. Seat Walls and Planters

- a. Seat walls shall be located between the face of the curb and the pedestrian pathway and/or between the pedestrian pathway and the face of the building; however, the sum of the width of all seat wall/planter areas shall not exceed 25 percent of the total sidewalk width.
- b. A maximum distance of 20 feet measured parallel to the curb face for a seat wall or planter is required before a break of three feet be provided.
- c. A minimum setback of two feet between the face of the curb and the closest portion of the seat wall or planter.
- d. A minimum width of six feet between the curblines or the closest portion of the street-side seat wall or planter or other streetscape element (if present) and the building face or the closest portion of the building-side seat wall or planter or other streetscape element (if present).
- e. A minimum of three feet measured between the closest portion of the seat wall or planter and another seat wall or planter and the base of a street element.
- f. A minimum height of 18 inches with a maximum height of 24 inches to the top of a planter which may be incorporated for a seating area on a seat wall.
- g. A minimum depth of 15 inches shall be required for a seating area on a seat wall.
- h. Seat walls shall be designed to deter skateboard use by installing metal deterrents or providing grooves in the surface at appropriate intervals.

4. Newspaper Racks

- a. Newspaper racks shall be located between the face of the curb and the pedestrian pathway and shall face toward the pedestrian pathway and the building.
- b. A minimum setback of two feet between the face of the curb and the closest portion of the newspaper rack.
- c. A minimum width of six feet between the closest portion of the newspaper rack and the building face or other streetscape element.
- d. A minimum distance of three feet measured between the base of a street element and the closest portion of the newspaper rack except that two newspaper racks may be placed side-by-side.

5. Trash and Recycling Receptacles

- a. Trash and recycling receptacles shall be located between the face of the curb and the pedestrian pathway.

- b. Trash and recycling receptacles may be combined into one unit or placed side-by-side adjacent to each other; however, they shall be placed so that the longest dimension is parallel to the curb face.
- c. A minimum distance of three feet measured between the base of a street element and the closest portion of the trash or recycling receptacle except that one trash receptacle and one recycling receptacle may be placed side-by-side.
- d. A minimum setback of two feet between the face of the curb and the closest portion of the trash or recycling receptacle.
- e. A minimum width of six feet between the closest portion of the trash or recycling receptacle and the building face or other streetscape element.

6. Bicycle racks

- a. A minimum of width of six feet shall remain unobstructed for the pedestrian path of travel.
- b. A minimum setback of three feet between the bicycle rack and the building face or other streetscape elements.
- c. A minimum setback of two feet (parallel bicycle rack) and four feet setback (perpendicular bicycle rack) is required between the bicycle rack and the face of the curb.
- d. A minimum setback of three feet (parallel bicycle rack) and eight feet setback (perpendicular bicycle rack) is required between bicycle racks in-line with each other.

K. Temporary Street Displays.

1. Temporary Street Displays Permitted.

- a. Aerial displays including, but not limited to pennants, flags, valances, or other displays constructed of cloth, canvas, vinyl, light fabric, wallboard or other light materials.
- b. Temporary wayfinding and/or directional signs located on existing City infrastructure within portions of City right-of-way.

2. Location.

- a. In no case shall individual displays be permitted on any City traffic control device.
- b. The display locations create no possible obstructions to pedestrian and vehicular traffic.
- c. The display at the proposed location is feasible considering the placement of city fixtures or utility poles, or other City infrastructure.
- d. The display location shall be limited to a utility pole or City light fixture that has been previously approved and fitted with bracket infrastructure by the Department of Transportation.
- e. Surface temporary displays must be free standing without “staking” or mounting to City infrastructure.

- f. The display is of approved material, will not be permanently installed or attached, and will allow for wind cuts to reduce tendency of material to billow or sail.
- g. The display material is properly maintained in a safe condition at all times,
- h. The display is authorized subject to reasonable conditions regulating the location, mounting, duration, or manner of display.

3. Size

- a. The maximum area of each aerial temporary street display shall be two and one-half feet by five feet (2.5' by 5'), or thirteen total square feet.
- b. The maximum area of each surface temporary street display shall be four feet by four feet (4' by 4') or sixteen total square feet.

4. Other Requirements.

- a. A display may provide for a business or organization sponsor name.
- b. The display shall provide the following information, name of the sponsor(s) for the activity, event, or route as described in this section, name of the activity, event or route, time and place of the activity, event, or route, and slogan if applicable, unless determined that due to the design of the display such language cannot be added.
- c. Temporary street displays are intended to display:
  - (1) Educational, scholastic, or artistic event,
  - (2) Community or public interest activity,
  - (3) Designated or recognized civic route or trail,
  - (4) Scenic roadway,
  - (5) Works of art;
  - (6) Other civic and cultural programs;
- d. No display for an event or activity shall be maintained for a period exceeding one year, except as otherwise recommended by the Permit Official; provided, however, that no display shall be maintained for more than ninety (90) days prior to or thirty (30) days after an event or activity.
- e. For any temporary street display sign which qualifies for a Special Privilege License or Permit under this section, the sign permit required by City Code 20.18, shall be waived.
- f. The City shall not be responsible for the cost of replacing temporary displays resulting from damage incurred during installation/removal or when replacement is deemed necessary by the City in order to maintain a safe condition.
  - (1) If the City must remove or replace the temporary display in order to maintain a safe condition, then the owner shall be responsible for all cost of removal.

L. Banner Programs. A banner program is a group of decorative outdoor informational displays created by an eligible entity that are typically placed, erected, or fastened to street lights and used to enhance the streetscape.

1. Each individual display made part of a banner program ("individual display") shall be constructed of cloth, canvas, vinyl, light fabric, wallboard or other light materials.
2. Displays. Each banner program individual display shall relate to the public purpose of the eligible entity and promote activities relating to a municipal purpose and benefit.
  - a. An individual display may provide for a business or organization sponsor name in an area not to exceed twenty (20%) percent of the total display area.
  - b. The display shall not contain language or depictions that may disparage the City.
  - c. Individual displays made part of a banner program are intended to provide notification of the following:
    - (1) Educational, scholastic, or artistic events
    - (2) Community or public interest activities or destinations
    - (3) Designated or recognized civic routes or trails
    - (4) Areas of historical or archeological significance
    - (5) Directional assistance to other areas in near proximity
    - (6) Other civic and cultural programs or facilities
    - (7) Trade shows, events, and festivals

3. Location.

- a. In no case shall individual displays be permitted on any City traffic control device.
- b. Individual display locations do not obstruct pedestrian and vehicular traffic.
- c. Minimum clearance of fifteen (15) feet measured from the bottom of the display is required for displays located adjacent to vehicular traffic.
- d. Minimum clearance of eleven (11) feet measured from the bottom of the display is required for displays located adjacent to pedestrian traffic.
- e. Individual displays at each proposed location are feasible considering the placement of city fixtures or utility poles, installation of street mounting brackets, or other necessary fixtures.
- f. When individual displays are propose for placement on a utility pole, written authorization from the utility company allowing installation and placement shall be provided.
- g. Utility pole locations have been inspected by the utility company and found to have no technical, logistical, or safety problems and city fixture locations have been inspected by the Director of Transportation and/or the Director of Parks and Recreations as applicable and found to have no technical, logistical, or safety problems.

4. Other Requirements.

- a. Individual displays are of approved material, will not be permanently installed or attached, and will allow for wind cuts, when necessary to reduce tendency of material to billow or sail,
- b. Individual displays shall be maintained in a safe condition at all times,
- c. The display is authorized subject to reasonable conditions regulating the location, mounting, duration, or manner of display to include provisions for approval of the method of affixing individual displays on City property by the Director of Transportation and removal of individual banners, upon request by the Permit Official, should same become worn, broken, or otherwise of no further aesthetic benefit to the area.
- d. Banner displays located on Texas Department of Transportation right of way may only be authorized with approval from the State of Texas.
- e. Eligible Entities.
  - (1) Any municipal management district created pursuant to Chapter 375 of the Texas Local Government Code
  - (2) The El Paso Empowerment Zone,
  - (3) The City of El Paso, and
  - (4) An institution of higher education as that term is defined by Section 61.003 of the Texas Education Code.
  - (5) A civic or neighborhood association created pursuant to Chapter 2.102 (Neighborhood Association Recognition) of the El Paso City Code
  - (6) Historic Districts established under the provisions of Chapter 20.20.040 (Procedure for designation of historic landmarks and districts).
- f. The design of individual banners located within a banner district shall not require a certificate of appropriateness from the historic landmark commission yet shall be reviewed by the historic preservation officer, as defined in [Chapter 2.24.040 \(Historic Preservation Officer\)](#), as to compatibility with adjacent properties with historic zoning. Upon completion of review, reviewer shall provide a recommendation to the Permit Official regarding such compatibility.
- g. Applicants shall pay the City's cost for installation, inspection, removal and bracket rental fees. Payment of installation and removal costs shall be done prior to installation of the banners.
- h. All installation and removal of banner hardware shall be done by the City.
- i. The City shall not be responsible for the cost of replacing banners resulting from damage incurred during the installation, removal of the banner(s) or when replacement is deemed necessary by the City in order to maintain a safe condition or a banner free of ripping, tearing and other damage; if the City must remove or replace the banner in order to maintain a safe condition, then the owner shall be responsible for all cost of removal.
- j. Banners shall be delivered to the City no later than two weeks prior to the scheduled installation and picked up no later than two weeks after notice from

the City of removal. Banners left after two weeks shall be subject to storage costs.

## M. Signs and Kiosks

### 1. Signs

- a. Signs are as defined in Section 20.18.050 (Sign Definitions)
- b. All signs located within City right of way shall comply with Section 20.18 (Signs)
- c. Directional signs permitted under this section shall be designed and installed by the Department of Transportation. Applicants are required to pay all costs of the design and installation of the directional signs.

### 2. Kiosk

- a. A kiosk is a multi-sided structure for the display of premise signs, non-premise signs, informational signs or wayfinding maps.
- b. Kiosks permitted under this Section shall comply with the off-premise sign requirements of Section 20.18 (Signs).
- c. Kiosks shall be free of all political or immoral symbolism, and shall also exclude displays from individuals or political organizations.
  - (1) Kiosks may display a promotional message, welcome message or generic graphic not to exceed 10 percent (10%) of the effective area of the kiosk.
  - (2) No more than 10 percent (10%) of the effective area of the kiosk may contain the words, logos that identify a business or organization sponsor name provided, however the display shall not otherwise promote commercial ventures.
- d. Kiosk displays shall relate to the public purpose of and provide directional assistance to the following:
  - (1) Educational, scholastic or artistic events
  - (2) Community or public interest activities or destinations
  - (3) Designated or recognized civic routes or trails
  - (4) Areas of historical or archaeological significance
  - (5) City sponsored trade shows, events and festivals
- e. Kiosk locations shall not create obstructions to pedestrian and vehicular traffic and shall be inspected and found to have no technical, logistical or safety problems by utility companies, Sun Metro and the Department of Transportation.
- f. Kiosks shall not utilize changeable electronic variable messaging (CEVM) as defined in Section 20.18 (Signs).

## N. Outdoor Patio Cafes

### 1. Filing Application.

- a. A letter from the property owner, if different from the food and/or beverage service establishment operator, indicating their authorization to obtain an outdoor patio cafe permit; and acknowledging responsibility for any encroachments installed by tenant on city right of way.
  - (1) A letter of intent to sell and serve alcoholic beverages, if applicable; and,
  - (2) Notice to abutting property owners. The applicant shall provide the name, address and signature of each owner of real property abutting the boundaries of the area where the outdoor patio cafe is proposed, on a form provided by the department of transportation.

2. Location:

- a. Patio cafés may be located between the face of the curb and the pedestrian pathway and/or between the pedestrian pathway and the face of the building, however, the sum of the width of all sidewalk café areas shall not exceed 50 percent of the total sidewalk width.
- b. A clear area shall be maintained between the primary entrance to the store, required fire exits and the pedestrian pathway when the café is in use.
- c. A minimum area of six feet of any city sidewalk with no more than a two-percent cross-slope and a five-percent running slope shall remain unobstructed for pedestrian access at all times.
- d. A minimum width of six feet between the curbline or the closest portion of the street-side sidewalk café or other streetscape element (if present) and the building face or the closest portion of the building-side sidewalk café or other streetscape element (if present) shall remain for pedestrian access between the outdoor patio cafés.
- e. A minimum setback of two feet between the face of the curb and the closest portion of the outdoor patio café is required.
- f. The outdoor patio cafe shall not prevent access to El Paso Water Utilities, El Paso Natural Gas, or El Paso Electric Company easements, meters, valves, manholes, or structures for maintenance and/or repair. The outdoor patio cafe shall not prevent access to the El Paso Fire Department connections (FDC), fire hydrants, or fire escapes.
- g. The outdoor patio cafe shall not impede access to City of El Paso light fixtures, benches, bicycle racks, etc. for maintenance and repair. Trees planted by the City of El Paso and irrigation systems that are located within the outdoor patio cafe area shall be maintained by the Permittee and may not have objects attached to them that would impede or affect the life of the trees. The City shall have the right to enter and inspect the property at any time to ensure proper maintenance of City property.

3. Construction

- a. All construction shall comply with any applicable Historic District design standards and guidelines. Applicants shall receive approval from the Historic Preservation Officer or the Historic Landmark Commission (if applicable) prior to approval of the Permit. All proposed improvements within city right of way shall be included in the Permit application.

- b. A building permit for all construction applicable to the outdoor patio cafe shall be obtained in accordance with the Title 18 (Building and Construction) for any structural, electrical, mechanical, or plumbing work done within the portions of city rights of way utilized by the Permittee. A pavement cut permit in accordance with Chapter 13.08 (Excavations) shall be required for any work on city right of way.
- c. Outdoor patio cafes shall be reviewed for ADA compliance prior to permit approval. Outdoor patio cafes shall not impede ADA accessibility.

4. Boundaries and Fencing

- a. An outdoor patio cafe shall not be enclosed by permanent structure(s).
  - (1) Wrought-iron fencing of a minimum of four-feet (4') in height is required for all establishments requesting to sell and/or serve alcoholic beverages within outdoor patio cafés proposing standing capacity.
  - (2) Wrought-iron fencing of a minimum of three-feet (3') in height is required for all establishments requesting to sell and/or serve alcoholic beverages within outdoor patio cafés proposing seated capacity.
  - (3) The wrought-iron fencing in a or b shall be continuous around the perimeter of the patio cafe except for one opening/entry point. Fences shall have a durable professional finish and shall comply with applicable Historic District Guidelines. Fencing shall include sleeves at the base of the poles to allow for removal from city rights of way if necessary.
  - (4) The boundaries of an outdoor patio cafe on a City sidewalk may be defined by planters, trees, benches or other street furniture, when a fence is not required by the TABC, provided that a boundary line is painted and maintained by the applicant on the sidewalk surface showing the cafe limit.
    - (a) Street furniture, benches, planters and seat wells shall comply with the provisions of Section J (Additional requirements for street furniture) of this Chapter.
    - (b) A minimum service area of two feet adjacent to each table that does not encroach into the pedestrian pathway is required for unenclosed café areas.
    - (c) A minimum distance of five feet shall be provided for a table and two chairs placed directly opposite each other is required for unenclosed sidewalk café areas.

5. Alcohol

- a. Written approval from City Council is required for the sale and service of alcoholic beverages within the outdoor patio café.
- b. A license issued by the Texas Alcoholic Beverage Commission (TABC) is required for the sale and service of alcoholic beverages within the outdoor patio cafe area.
  - (1) City approval of a permit allowing an outdoor patio cafe on City right of way does not guarantee, warrant or assure that the Texas Alcoholic

Beverage Commission will allow the sale and service of alcoholic beverages within the outdoor patio cafe area.

- (2) The Permittee must comply with any standards established by the Texas Alcoholic Beverage Commission.

6. Fire Department Requirements

- a. The location of any proposed outdoor serving stations require Fire Marshal approval for their proximity to points of ingress and egress to the property. The area for the outdoor patio cafe shall meet the current fire code requirements as determined by the Fire Marshal regarding outdoor patio cafe areas and ingress and egress points of access. The Fire Marshal through plan review shall determine fire code compliance.
- b. The Fire Marshal shall also require that occupancy capacities as defined in the International Building Code for the outdoor patio cafe area and the building remain distinct and separate.
- c. The outdoor patio cafe must be open to the air, except that a canopy or awning conforming to requirements established by this Chapter for aerial encroachments may be constructed over the outdoor patio cafe, and may be included in the same special privilege application. Canopies within the outdoor patio cafe area shall meet current fire code definition and specifications. Proposed canopies shall comply with Section I (Additional requirements for Awnings, Canopies, Arcades and Galleries) of this Chapter.
- d. Acceptable auxiliary outdoor heating devices shall meet the requirements of the current fire code.

7. Other requirements

- a. Tables and chairs used in the outdoor patio cafe shall be of durable, commercial grade non-reflective material that is stackable and ADA compliant.
- b. Planters within the outdoor patio cafe limit line shall be shown on the site plan submitted with the application and shall comply with Section J (Additional requirements for Street Furniture) of this Chapter.
- c. Each outdoor patio cafe shall have a trash receptacle and a cigarette receptacle (if smoking is permitted) within the cafe limit line.
- d. Overhead lighting located within public right of way shall be included in the permit application, and shall meet all applicable Historic District architectural and design standards. All electrical work shall be designed and installed in compliance with the Chapter 18.16 (Electrical Code).
  - (1) Lighting on fencing may be permitted to add a decorative element but shall not be design to attract attention. Flashing lights are not permitted.
  - (2) Lighting shall be clear or white.
  - (3) Light strands shall be maintained in good repair and burned-out bulbs shall be replaced promptly.
- e. All relocation, removal, disposition and/or salvage of any city property shall be coordinated with the Department of Transportation. The Department of

Transportation shall follow the City's establish policy and procedure for disposal or salvage of such property.

O. Temporary Street Closures

1. The following shall be considered a temporary street closure:
  - a. A bazaar, block party, street dance, sidewalk sale, show exhibition, special event, festival, concert or celebration within portions of City right of way for the following durations of time:
    - (1) Exceeding twenty-four hours, for less than a one year term for closures adjacent to property zoned Residential (R) or Apartment (A).
    - (2) Less than twenty-four hours up to a period not to exceed thirty days when the proposed closure is adjacent to property zoned Commercial (C) or Manufacturing (M).
    - (3) Less than twenty-four hours up to a period not to exceed thirty days when the proposed closure is adjacent to property zoned Smart Code (SCZ) or Mixed Use (MU).
    - (4) Less than twenty-four hours up to a period not to exceed thirty days on streets located within the Downtown Improvement Area as defined in Section F (Fees) above.
2. Application:
  - a. With the exception of events to be held within the Downtown Improvement Area, an application for a Permit is submitted to the Permit Official in accordance with Section D (Procedure for a Permit) and E (Procedure for a License). An application for a Permit under this chapter for an event within the Downtown Improvement Area is submitted to the Downtown Management District, in accordance with Section D (Procedure for a Permit).
  - b. One application may be submitted to allow for uses of city right of way for multiple days up to a period not to exceed one year, provided that the nature of the use is the same, and the duration of each use is less than thirty days; except that for events involving the closure of city streets a separate application shall be required for each event.
  - c. Time for filing application. An application for the temporary use of city right of way for less than thirty days shall be made in writing or electronically submitted on a form prescribed by the Permit Official at least thirty (30) calendar days before the commencement of the event, but not more than one year in advance of the event.
3. Denial Criteria. An application may be rejected or denied for any of the following reasons:
  - a. The application is not fully completed and executed or contains a material falsehood or misrepresentation;
  - b. The applicant has not tendered the required application fee or has not tendered other required user fees or costs within times prescribed;

- c. The applicant has previously permitted a violation or has violated the terms of a special privilege license or permit issued to or on behalf of the applicant;
- d. The applicant has on prior occasions damaged city property and has not paid in full for such damage;
- e. A fully executed prior application for the same time and place has been received, and approval has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple simultaneous events;
- f. The applicant requests a use not permitted under this Section;
- g. The proposed event would conflict with previously planned programs organized, conducted, or sponsored by the City and previously scheduled at or near the same time and place;
- h. The proposed use would present an unreasonable danger to the public health or safety;
- i. The proposed use would substantially or unnecessarily interfere with traffic;
- j. The use would likely interfere with the movement of emergency equipment and police protection in areas contiguous or in the vicinity of the use;
- k. There would not, at the time of the use, be sufficient security and traffic control personnel to adequately protect participants and non-participants from traffic related hazards;
- l. The proposed use would take place on an arterial roadway during peak traffic hours;
- m. The proposed use would take place at a location that cannot reasonably accommodate all of the expected participants;
- n. The proposed use would take place on a state or federal highway or road and the appropriate governmental agency has not authorized the proposed use of the highway or road in writing.

4. Approval or Denial of Application.

- a. The Permit Official shall approve or deny an application within thirty (30) calendar days of receipt of a complete application. A notice of denial shall clearly set forth the grounds upon which the application was denied.
- b. Where the City determines that the length of an event will result in the substantial interruption of the movement of traffic, the Permit Official when issuing the approval may modify and change the time of the event.
- c. The Permit Official and/or affected city departments may attach reasonable conditions to approval of any application as may be appropriate within the spirit and intent of this Section.
- d. The decision to refuse to accept a late application is not appealable.

5. Permittee Responsibilities.

- a. Permittee(s) shall comply with all application requirements and conditions, and with all applicable laws and ordinances.

- b. If alcoholic beverages are to be served, applicant shall obtain approval from the Texas Alcoholic Beverage Commission (TABC). A resolution of City Council shall be required.
- c. If the closure includes portions of Texas Department of Transportation (TxDOT) right of way, approval from TxDOT is required. A resolution of City Council may be required.
- d. The responsible party shall carry the permit upon his or her person during the conduct of the event or use. It is recommended that a copy of the permit be posted at the site during the event.
- e. Permittee(s) shall be responsible for cleaning and removing all litter and debris left on the roadways, sidewalks, and other public rights of way immediately upon the conclusion of the event. If the Permittee(s) fails to clean and remove all such litter and debris within four hours of the end of the event, the City may perform such cleaning and the Permittee(s) shall be responsible for the costs of the City cleaning. Payment of any city cleaning costs shall be due and payable within ten days of receipt of the bill from the Financial Services Department.

6. Additional Costs and Fees.

- a. The applicant shall deposit with the City, an amount based on the size of the event, number of streets, and estimated number of attendees for the anticipated cleaning costs after the event.
  - (1) In the event the applicant fails provide for the cleaning and removal of litter and debris in accordance with 5d above, the applicant shall forfeit the deposit submitted for the event. The applicant shall be subject to any additional costs in excess of the deposit for the City's cost of cleaning.
  - (2) In the event the applicant does provide for the cleaning and removal of litter and debris in accordance with 5d above, the City shall process a refund for the applicant.
- b. The applicant shall be responsible for hiring and paying the fees for the cost of Police, or other Certified Peace Officers, private security officers, and/or Fire Marshal Fire Guards as determined by the El Paso Police Department and the Fire Marshall for security purposes.
- c. Police vehicles and equipment to appropriately control traffic and to police roadway closures during the entirety of each event to include the staging and disbanding of the event.
- d. Applicants desiring to reserve and utilize metered parking spaces adjacent to any area identified in any Special Privilege License or Permit shall also pay the established per day fee for the term of the Special Privilege License or Permit for use of any metered parking spaces they wish to reserve. Applicants shall not be required to pay the established per day fee for any metered parking spaces located within the Special Privilege License or Permit area.
- e. Additional fees shall be as authorized by City Council resolution.

P. Buildings or other structural surface encroachment.

1. If a structural encroachment has existed 30 years or longer and is less than 50 square feet in area, the abutting property owner(s) shall apply for a Permit and pay the established fee to continue the encroachment.
2. Applicants shall provide evidence of the structural nature of the encroachments such as certification from a structural engineer at the time of application.
3. Grantees shall submit a request to vacate the portion of City right of way within the initial term of the Permit.
  - a. Upon approval of the right of way vacation, the Permit shall terminate.
  - b. Upon denial of the right of way vacation, Grantees shall have the option to renew the Permit.

Q. Additional requirements for Food Vending Concessions in the Downtown Improvement Area

1. Carts and Kiosks

a. Locations

- (1) Vendors within the Downtown improvement Area are limited to locations approved by the Department of Transportation based on vehicular sight visibility, available pedestrian access area and location and arrangement of street furniture, street lighting, utility meters, manholes, fire hydrants and fire appurtenances.
- (2) Vendor locations shall not interfere with pedestrian traffic on the sidewalk between the vendor area and the adjacent buildings and between the vendor area and the adjacent street.
- (3) Vendor locations shall not impede entrances, exits, and/or driveways of adjacent businesses.
- (4) Vendor units shall be limited to free-standing carts within the parkway area. Vendor units shall not be permitted to be located on the street.
- (5) Vendor units shall not be anchored or tied to any portion of the public rights of way, street furniture, city light standards, traffic control devices, utility boxes and meters, or fire hydrants and appurtenances.
- (6) Vendor units shall be removed from City right of way when not in operation.
- (7) Vendor locations shall comply with the provisions of Chapter 12.46 (Mobile Food Vendors).

b. Size and Dimensions

- (1) Vendor carts shall be 4 ft. x 5ft or 8ft. x 10ft. based on the available vending area as prescribed in Section a (Locations)
- (2) Vendor kiosks shall be limited to 18ft. x 20ft based on the available vending area as prescribed in Section a (Locations)

c. Operations

- (1) Vendors shall comply with all provisions of Chapter 9.12 (Food and Food Handling Locations).

- (2) Vendors are responsible for obtaining all licenses and permits as required by law for the legal operation of food vending concessions. All applicable permits and licenses shall be affixed to the vending unit at all times.
- (3) Vendors are permitted between the hours of 8:00 am and 8:00 pm daily; except that vendors are permitted during special events outside the daily hours upon approval of the Department of Public Health and event coordinators.
- (4) Sound amplifying devices including, but not limited to loud speakers, public address systems, radios, televisions and strobe lights or similar devices are prohibited.
- (5) Vendors shall provide for trash and/or grease disposal. A maximum of a 30 gallon covered garbage container is permitted at the vendor location provided that the container is not placed within the pedestrian path of travel.
- (6) Generators and propane use shall require approval of the Fire Department.

## 2. Food Trucks

### a. Locations

- (1) Food trucks shall be located within areas that provide adequate vehicle sight visibility at intersections and shall not impede ADA/TAS accessible ramps and sidewalks.
- (2) Food trucks shall comply with Section 12.46 (Mobile Food Vendors).
- (3) Food trucks shall comply with Section 12.44 (Stopping, Standing and Parking Generally), Chapter 12.48 (Loading Zone, Bus and Taxi Stands) and Chapter 12.56 (Parking Meters).

### b. Operations

- (1) Mobile food trucks shall comply with the provisions of Section 9.12 (Food and Food Handling Establishments).
- (2) Vendors are responsible for obtaining all licenses and permits as required by law for the legal operation of food vending concessions. All applicable permits and licenses shall be affixed to the vending unit at all times.
- (3) Sound amplifying devices including, but not limited to loud speakers, public address systems, radios, televisions and strobe lights or similar devices are prohibited.
- (4) Vendors shall provide for trash and/or grease disposal. All trash and/or grease disposal receptacles shall not be placed within the pedestrian path of travel.
- (5) Generators and propane use shall require approval of the Fire Department.

(6) Tables and chairs are permitted provided they do not impede the pedestrian path of travel.

**Section 2.** The effective date of this ordinance shall be September 1, 2012. This ordinance shall be applicable to all applications for special privilege received on or after that date.

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

**(Signatures begin on following page)**

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2012

**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook,  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen,  
City Clerk

**APPROVED AS TO FORM:**

Matter # 12-1007-307 PL # 122400  
Ordinance Amending 15.08.120  
Special Privileges  
COSB

**APPROVED AS TO CONTENT:**

ORDINANCE NO. \_\_\_\_\_

---

Cynthia Osborn  
Assistant City Attorney

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Mathew S. McElroy, Director  
City Development Department

Matter # 12-1007-307 PL # 122400  
Ordinance Amending 15.08.120  
Special Privileges  
COSB

ORDINANCE NO. \_\_\_\_\_ 29