

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

DEPARTMENT: City Manager - Quality of Life Services

AGENDA DATE: July 13, 2010 Introduction
July 20, 2010 Public Hearing and Action

CONTACT PERSON NAME AND PHONE NUMBER: Deborah Hamlyn, Deputy City Manager for Quality of Life Services (915) 541-4686

DISTRICT(S) AFFECTED: ALL

SUBJECT:

AN ORDINANCE TO AMEND TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), TO AMEND SECTION 13.20.040 C (SELLING MERCHANDISE PROHIBITED ON AND NEAR THE PUBLIC RIGHT-OF-WAY) TO DELETE AN INAPPLICABLE PROVISION REGARDING NEWSPAPER STANDS, AND TO CLARIFY THAT THE EXEMPTION FOR YARD, GARAGE AND RUMMAGE SALES APPLIES TO ALL SUCH SALES AS PERMITTED UNDER THE ZONING CODE: THE PENALTY BEING AS PROVIDED IN SECTIONS 1.08.010 – 1.08.030 OF THE EL PASO CITY CODE.

BACKGROUND / DISCUSSION:

Amendments to the zoning code, Sections 20.02.414 and 20.10.750, have been proposed to allow garage/rummage/yard sales at places of public assembly. This is a companion code amendment related specifically to 13.20.040 C, exemptions for sales located on or near public rights of way, so that the language relating to the conduct of garage and yard sales in this section will be consistent with the new language in the proposed amendments to Title 20.

PRIOR COUNCIL ACTION:

March 9, 2010 Council directed the Legal Department to draft the necessary ordinances that authorize outdoor rummage sales.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****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 TO AMEND TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES) TO AMEND SECTION 13.20.040 C (SELLING MERCHANDISE PROHIBITED ON AND NEAR THE PUBLIC RIGHT-OF-WAY) TO DELETE AN INAPPLICABLE PROVISION REGARDING NEWSPAPER STANDS, AND TO CLARIFY THAT THE EXEMPTION FOR YARD, GARAGE AND RUMMAGE SALES APPLIES TO ALL SUCH SALES AS PERMITTED UNDER THE ZONING CODE; THE PENALTY BEING AS PROVIDED IN SECTIONS 1.08.010 – 1.08.030 OF THE EL PASO CITY CODE.

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

Section 1. That Chapter 13.20 (Miscellaneous Street and Sidewalk Use Regulations), Section 13.20.040, Subsection C (Selling merchandise prohibited on and near the public right-of-way), of the El Paso City Code, is amended as follows:

13.20.040, Subsection C, Selling merchandise prohibited on and near public right-of-way.

C. The prohibitions contained in subsection B shall not apply to the following types of sales, including offers for sale or exposures to sale, provided that the requirements of all other applicable city code provisions are met, including but not limited to zoning regulations, licensing requirements and health regulations:

1. A sale of newspapers, pamphlets, handbills or other written or printed matter or merchandise held and sold by a person, provided that no materials or items to be offered for sale by the person are placed or stored on the public right-of-way prior to the time of sale.
2. The distribution or delivery of newspapers from a vehicle.
3. A sale from a stand of newspapers, pamphlets, handbills or other written or printed matter or merchandise sold or distributed for the purpose of disseminating news, information or religious materials, provided that such stand complies with the requirements imposed under Chapter 12.68 of this code, does not obstruct any street, sidewalk, alley or any other public right-of-way or any elevator, aisle, hallway, entrance, or exit to which the public or a substantial group of the public has access or any parking lot or area or the exit from a parked vehicle.
4. A sale authorized through the grant of a special privilege by the city council for use of the sidewalk area within public right-of-way pursuant to the requirements

- of the city Charter and any other applicable city ordinances within the downtown area.
5. A sale authorized through the grant by city council of a special privilege for use of the public right-of-way in compliance with the requirements of Section 15.08.120 of this code.
 6. A person, firm or corporation who is an authorized and duly licensed dealer of motor vehicles and the person, firm or corporation is selling or offering such vehicles for sale at the location named in the license issued to the person, firm or corporation under Chapter 5.72 of this code.
 7. The owner of a vehicle who offers a vehicle titled in his or her name for sale at the owner's place of residence, in accordance with the Texas Transportation Code, as amended, regarding the sale and transfer of used motor vehicles.
 8. The sale of food by a licensed food establishment, including a temporary or recurrent food establishment, operating in accordance with the requirements of Chapter 9.12 of this code and applicable zoning requirements, provided that no sales or offers of sales take place on land located within the public right-of-way unless such sale is also authorized in accordance with subsection (C)(4) or (5) of this section.
 9. A sale by a licensed mobile food vendor operating in compliance with Chapters 9.12 and 12.46 of this code.
 10. A yard, garage, or rummage sale conducted as permitted under Title 20 of this code.
 11. A temporary sale of merchandise of the same kind normally sold by a business in a location outside of the permanent structure provided that the location on which the merchandise is sold, offered or exposed for sale is immediately adjacent to the front or side of the structure normally occupied by the business and it is on land that is owned or leased by the business and not part of the public right-of-way unless such sale is also authorized in accordance with subsection (C)(5) of this section, and the time period for such sale does not exceed fourteen consecutive days during any thirty-day period.
 12. The storage of supplies, merchandise, equipment or goods normally carried in stock, used, produced or sold by a business in conformity with a permitted accessory use authorized under Title 20 of this code.
 13. A sale of merchandise such as ice, firewood and filled propane tanks sold by a business from display units specially constructed for such purpose and located immediately adjacent to the permanent structure of the business.
 14. The sale of propane and motor vehicle fuels.
 15. The sale of items from a vending machine or machine primarily serving as an automated teller machine.
 16. The sale of items under a tent or temporary structure for which a permit has been issued under and in accordance with Chapter 18.02 of this code, provided that no items are sold, offered for sale or exposed for sale at a location within one hundred feet of the closest edge of the paved portion of an arterial.
 17. The sale of items at a flea market for which a permit has been issued under and in accordance with Chapter 20.08 of this code.

18. The sale of items at an outdoor market as defined in and for which a permit has been issued under and in accordance with Chapter 9.12 of this code, provided that no items are sold, offered for sale or exposed for sale at a location within one hundred feet of the closest edge of the paved portion of an arterial.
19. The sale of items in conjunction with a circus, show or carnival for which a permit has been issued under and in accordance with Chapter 5.20 of this code, provided that no items are sold, offered for sale or exposed for sale at a location within one hundred feet of the closest edge of the paved portion of an arterial.

Section 2. Except as herein amended, Title 13 of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS _____ day of July 2010.

CITY OF EL PASO

John F. Cook, Mayor

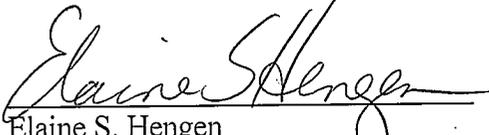
ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO CONTENT:

Deborah Hamlyn
Deputy City Manager

APPROVED AS TO FORM:



Elaine S. Hengen
Senior Assistant City Attorney