

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

**DEPARTMENT:** Development and Infrastructure Services

**AGENDA DATE:** Introduction: July 17, 2007, Public Hearing July 24, 2007

**CONTACT PERSON/PHONE:** Kimberly Forsyth, Senior Planner – 541-4631

**DISTRICT(S) AFFECTED:** City-wide

**SUBJECT:**

An ordinance amending Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses) of the El Paso City Code to provide an exception for uses of public right of way less than thirty days and provide for a separate approval process, the penalty is as provided in Chapter 1.08 (General Penalty) of the El Paso City Code.

**BACKGROUND / DISCUSSION:**

The City Charter was amended on May 12, 2007, to allow for an administrative process to approve special privileges for the use of public right-of-way for a period of less than 30 days. This amendment to Title 15 is necessary provide authorization for this administrative process. The fees will remain the same.

**PRIOR COUNCIL ACTION:**

City Charter amendment on May 12, 2007

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Pending DCC review on July 11, 2007

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** Kelly Carpenter

**APPROVED FOR AGENDA:**

**CITY MANAGER:** Patricia D. Adauto, Deputy City Manager **DATE:** \_\_\_\_\_

CITY CLERK DEPT.  
07 JUL -9 PM 12:11

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

**AN ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES), CHAPTER 15.08. (STREET RENTALS), SECTION 15.08. 120 (SPECIAL PRIVILEGE LICENSES) SUBSECTION C (EXCEPTIONS) OF THE EL PASO CITY CODE TO PROVIDE AN EXCEPTION FOR USES OF PUBLIC RIGHT OF WAY LESS THAN THIRTY DAYS AND PROVIDE FOR A SEPARATE APPROVAL PROCESS, THE PENALTY BEING AS PROVIDED IN CHAPTER 1.08, GENERAL PENALTY, OF THE EL PASO CITY CODE.**

**WHEREAS**, on May 12, 2007, the citizens of El Paso approved an amendment to Section 3.18 of the City of El Paso Charter to no longer require an ordinance for the use of city streets, alleys, parks and public places for uses of less than thirty days provided that a separate approval process is established by ordinance; and,

**WHEREAS**, Section 15.08.108 of the City Code requires that a Special Privilege be granted for use of City right of way regardless of the duration of the use; and,

**WHEREAS**, due to the recent Charter amendment it is necessary to amend the Code to allow for exceptions for uses of less than thirty days and to provide for a separate approval process,

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. That Title 15 (Public Services), Chapter 15.08, (Street Rentals), Section 15.08.120, (Special Privilege Licenses), Subsection C, (Exceptions), of the El Paso City Code shall be amended to add the following exception:

**SUBSECTION C, EXCEPTIONS**

12. The City may allow the use of City right of way for periods less than thirty days, provided that such use complies with the following process:

a. An application for the temporary use of city right of way is submitted to the Development Services Department and the application is approved by the Director or their designee prior to the use of the city right of way. 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 30 days; except that for events involving the closure of City streets a separate application shall be required for each event..

b. Application. Filing Application. An application for the temporary use of city right of way for less than 30 days shall be made in writing on a form prescribed by the Director or

their designee at least thirty days before the commencement of the event, but not more than one year in advance of the event.

1) Approval criteria and process.

A. An application may be rejected or denied for any of the following reasons:

- (1) The application is not fully completed and executed or contains a material falsehood or misrepresentation;
- (2) The applicant has not tendered the required application fee or has not tendered other required user fees or costs within times prescribed;
- (3) The applicant has previously permitted a violation or has violated the terms of a special privilege license issued to or on behalf of the applicant;
- (4) The applicant has on prior occasions damaged city property and has not paid in full for such damage;
- (5) 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;
- (6) The applicant requests a use not permitted under this chapter;
- (7) 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;
- (8) The proposed use would present an unreasonable danger to the public health or safety;
- (9) The proposed use would substantially or unnecessarily interfere with traffic;
- (10) The use would likely interfere with the movement of emergency equipment and police protection in areas contiguous or in the vicinity of the use;
- (11) 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;
- (12) The proposed use would take place on an arterial roadway during peak traffic hours;
- (13) The proposed use would take place at a location that cannot reasonably accommodate all of the expected participants;
- (14) 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.

← - - - - Formatted: Bullets and Numbering

B. Approval or denial of application.

1) The Director or their designee shall approve or deny an application within twenty days of receipt of a complete application in accordance with the standards set forth in this chapter. A notice of denial shall clearly set forth the grounds upon which the application was denied.

2) Where the City determines that the length of an event will result in the substantial interruption of the movement of traffic, the Director or their designee when issuing the approval, may modify and change the time of the event.

C. The Director or their designee may attach reasonable conditions to approval of any application as may be appropriate within the spirit and intent of this chapter.

D. Insurance shall be required in accordance with provisions of Section 15.08.120.G prior to approval of the application.

E. Traffic Control Plan (required for events involving closure of city streets). The applicant shall provide a traffic control plan to be reviewed and approved by the traffic engineer, prior to submission of the application.

F. Notice of proposed closure (required for events involving closure of city streets). The applicant shall provide the name, address and signature of each owner of real property abutting the boundaries of the area in the temporary event is proposed, on a form provided by the Development Services Dept.

## 2) Appeals.

A. Except as provided in subsections B and C of this section, the decision of the Director or their designee is subject to review by the city council. Prior to the filing of any petition for declaratory judgment or other judicial determination pursuant to subsection B of this section, the applicant shall appeal the decision of the Director or their designee to the city council. The applicant shall submit a written appeal request to the Director or their designee, 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 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.

B. The decision of the city council is subject to review in the district courts of El Paso County. Any petition for a declaratory judgment or other judicial determination as to whether the permit should be granted shall be filed with the clerk of district court within thirty days after the applicant has received notice of the decision. The city shall transmit the record to the court no later than five business days after filing its answer. The city shall in all matters before the court, seek prompt judicial action and promptly file and respond to all pleadings, discovery and other matters before the court.

C. The decision as to the amount of traffic control or clean up necessary in conjunction with an event, and the costs resulting therefrom, are not appealable.

## 3) Permittee Responsibilities.

A. A permittee shall comply with all application requirements conditions, and with all applicable laws and ordinances.

B. The responsible party shall carry the permit upon his person during the conduct of the event or use.

C. The permittee 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 permittee 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 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 city comptroller

c) Costs and fees.

1) The applicant shall be responsible for hiring and paying the fees for the cost of police or private security officers, 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.

2) The applicant shall reimburse the city for the costs of providing roadway and sidewalk cleaning, if applicable.

3) Additional fees shall be as provided in Section 15.08.120.D of the El Paso City Code or as otherwise authorized by City Council resolution.

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

**PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.**

CITY OF EL PASO

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Patricia D. Adatao, Deputy City Manager  
Development and Infrastructure Services