

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

DEPARTMENT: **Engineering, Traffic Division**

AGENDA DATE: **Introduction July 21, 2009,**
 Public Hearing July 28, 2009

CONTACT PERSON/PHONE: **Kimberly Forsyth, Senior Planner, Traffic Division – 541-4165**

DISTRICT(S) AFFECTED: **District 8**

SUBJECT:

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 the use of public right-of-way for outdoor patio cafés in the Union Plaza Entertainment Area and to 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:

A special privilege license, granted by the City Council, is required per Title 15 to permit the use of public right-of-way such as a street or sidewalk for a private purpose or event. This ordinance amendment will allow for an exception to permit administrative approval of outdoor patio cafes that are located in the area designated as the Union Plaza Entertainment Area, provided that they comply with specified standards. A user-friendly brochure was developed to assist in describing the standards. The purpose of the streamlined process is to encourage downtown revitalization and economic development opportunities.

NOTE: Approval of a special privilege by the City does not guarantee that the Texas Alcoholic Beverage Commission (TABC) will grant permission for the sale and/or service of alcoholic beverages in the outdoor patio café area. The TABC reviews the applications separately and determines what, if any, additional measures are necessary to comply with their policies and procedures.

The special privilege function is currently housed in the Development Services Department, but is scheduled to be transferred to the Engineering Department effective September 1, 2009. This amendment will become effective on that date.

PRIOR COUNCIL ACTION:

Approval of a Title 15 amendment on July 24, 2007 to allow for administrative approval of special privileges for temporary events such as street closures and festivals.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

The Planning Legislative Review Committee (LRC) on June 25, 2009, recommended that the ordinance proceed to City Council. The Development Coordinating Committee (DCC) recommended approval on July 8, 2009, following discussion and incorporation of comments received from several departments. The following staff recommendations were not included in the ordinance:

Street Department

- Add requirements for Performance Bond for the removal of encroachments and restoration of area to original Union Plaza standards and for repairs and restoration to damaged infrastructure upon termination of permit or business closure.

Planning

- Consider adding the following language concerning liquor liability insurance, as drafted by Legal for a special privilege license application currently in process:

“LIQUOR LIABILITY INSURANCE. In addition to the insurance required above, Licensee shall obtain and maintain a liquor liability insurance policy, or the equivalent thereof, in the amount of One Million and NO/100 Dollars (\$1,000,000.00) and provide a certificate of insurance as required for other insurance policies in this Section and name the City as an additional insured.”

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

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: R. Alan Shubert

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

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 THE USE OF PUBLIC RIGHT-OF-WAY FOR OUTDOOR PATIO CAFÉS IN THE UNION PLAZA ENTERTAINMENT AREA AND TO PROVIDE FOR A SEPARATE APPROVAL PROCESS. THE PENALTY IS AS PROVIDED IN CHAPTER 1.08, GENERAL PENALTY, OF THE EL PASO CITY CODE.

WHEREAS, the purpose of the Union Plaza zoning district is to create a unique mixed-use environment with standards and guidelines for development and to encourage the preservation of existing buildings and architecture; and to ensure that reconstruction of existing buildings or new construction projects are consistent with the architectural and design guidelines adopted for the Union Plaza District; and, to encourage a variety of commercial and residential uses; and

WHEREAS, City Council has determined outdoor patio cafés within certain commercial areas of the Union Plaza District will foster a harmonious existence between the existing residential, commercial, and entertainment uses within the Union Plaza District; and

WHEREAS, City Council has determined establishing an Entertainment Area for the purpose of allowing outdoor patio cafés within the Union Plaza District would promote and encourage a mixture of uses within the area; and

WHEREAS, City Council has determined the area within the Union Plaza District that includes the full right-of-way of San Francisco Street on the north, Durango Street (southbound) on the east, Overland Avenue on the south, and Anthony Street on the west and including all of Block 51, Mills Addition, and Blocks 160 and 170, Campbell Addition, El Paso, Texas should be defined as the Union Plaza Entertainment Area; and

WHEREAS, Section 15.08.108 of the City Code requires a Special Privilege License be granted for use of City rights-of-way regardless of the duration of the use; and

WHEREAS, City Council has determined that outdoor patio cafes in public rights-of-way are compatible with the mixed-use environment and will encourage downtown revitalization and economic development opportunities and therefore desires to amend the El Paso City Code to allow an exception for the use of outdoor patio cafés in public rights-of-way in the Union Plaza Entertainment Area and provide for a separate approval process, and,

WHEREAS, such permit approval process shall contain standards and guidelines necessary and attributable to preserve the character and integrity of the existing architectural style, and ensure uniformity within the Union Plaza District.

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

Section 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

13. The use of City sidewalks and/or vacated right-of-way for outdoor patio cafes may be granted by permit in the Union Plaza Entertainment Area, defined herein as the area that includes the

full right-of-way of San Francisco Street on the north, Durango Street (southbound) on the east, Overland Avenue on the south and Anthony Street on the west and including all of Block 51, Mills Addition and Blocks 160 and 170, Campbell Addition, El Paso, Texas. The City Engineer or their designee shall have the authority to grant a permit under this subsection. Prior to approval of a permit, the use must comply with the process, procedures and standards specified under this subsection. The use of City right of way within the Union Plaza Entertainment Area without a permit or a special privilege granted under Chapter 15.08 is a violation of Chapter 15.08.

A. Filing Application.

(1) An application for the use of city sidewalks and/or right of way that has been vacated to vehicular use for an outdoor patio cafe in the Union Plaza Entertainment Area shall be made in writing on a form prescribed by the City Engineer or their designee and submitted to the Engineer Department, Traffic Division, for review and approval.

(2) One application shall be submitted for each outdoor patio café.

(3) The following information must be submitted with the application prior to processing of the application:

a. A scaled site plan of the proposed outdoor patio café area showing the number and placement of tables, chairs, and other furnishings, access aisles and all appurtenances, including the location of any existing City benches, planters, trees and utility facilities. If there are any proposed permanent structures, a separate special privilege application shall be required for these;

b. The name and address of the adjacent food and/or beverage service establishment or other operator of the outdoor patio café;

c. Proof of general commercial liability insurance coverage in the amount established to protect the City's interest. At a minimum public liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) per person, and Five Hundred Thousand and No/100 Dollars (\$500,000.00) for two (2) or more persons in any one accident, and, in addition, shall provide property damage liability insurance in a minimum sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) for property damage growing out of any one accident or other cause. These amounts are not a limitation upon the Permittee's agreement to indemnify and hold the City harmless;

d. Permittee 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 will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and Permittee, his officers, agents, servants or employees. All policies shall name the City of El Paso, its officers, agents, servants, and employees as additional insured to the full amount of the policy limits. No permit shall be granted until Permittee files a copy of the policy or certificate of liability insurance as herein set forth with the Engineering Department. Such policy or certificate shall provide that the insurance cannot be canceled or the amount of coverage changed without ten (10) days prior written notice to the City Engineer. Failure to keep the policy in full force and effect throughout the term of the permit shall be grounds for revocation of the permit;

e. 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 café permit; and acknowledging responsibility for any encroachments installed by tenant on city right of way.

f. A letter of intent to sell and serve alcoholic beverages, if applicable; and,

g. 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 Engineering Department.

(4) Application criteria and process. An application may be rejected for any of the following reasons:

- a. The application is not fully completed, 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 is currently in violation or has any outstanding violations of the terms of a special privilege issued to or on behalf of the applicant;

B. Outdoor patio cafes shall comply with the following standards:

(1) The permit is granted solely for the encroachment onto public right of way and the installation, maintenance and/or removal of improvements and Permittee's use of the permitted area.

(2) City sidewalks and/or right-of-way that has been vacated to vehicular use to be used for the proposed outdoor patio café shall be improved to City standards and shall abut a food and/or beverage service establishment associated with the outdoor patio café and the outdoor patio café shall only be used in conjunction with the service of food and drink from the abutting food and/or beverage service establishment; except for an area north of San Francisco Street, designated herein as the "San Francisco Street Platform Promenade" that shall be operated as authorized by the City of El Paso under a separate procurement process and agreement..

(3) A minimum of six feet (6') of any city sidewalk shall remain unobstructed for pedestrian access at all times.

(4) Outdoor patio cafes shall be located a minimum of five feet (5') from the centerline of any street or alley that has been vacated to vehicular use to ensure an unobstructed ten feet (10') for pedestrian access.

(5) All construction shall comply with the Union Plaza Design Standards in reference to building materials, color, and design of the outdoor patio café. The Permittee (s) shall receive approval from the Deputy Director of Planning or designee prior to the issuance of any required building permits. All proposed improvements within city right-of-way shall be included in the permit application.

(6) A building permit for all construction applicable to the outdoor patio café shall be obtained from the Development Services Department – Building Permits and Inspections Division to include any structural, electrical, mechanical, or plumbing work done within the portions of city rights-of-way utilized by the Permittee (s). A pavement cut permit shall be required for any work on City right-of-way.

(7) An outdoor patio café shall not be enclosed by permanent structure(s).

a. 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 portions of streets and/or alleys that have been vacated to vehicular use.

b. 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 on City sidewalks.

c. The wrought-iron fencing in a or b shall be continuous around the perimeter of the patio café except for one opening/entry point. Fences shall have a durable professional finish and shall meet Union Plaza Design Standards. Fencing shall include sleeves at the base of the poles to allow for removal from city rights-of-way if necessary.

d. The boundaries of an outdoor patio café 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 café limit.

(8) Written approval from City Council and the Texas Alcoholic Beverage Commission are required for the sale and service of alcoholic beverages within the outdoor patio café area. City approval of a permit allowing an outdoor patio café 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 café area. The Permittee must comply with any standards established by the Texas Alcoholic Beverage Commission.

(9) The location of any proposed outdoor serving stations require Fire Marshal approval for their proximity to points of ingress and egress to the property.

(10) The area for the outdoor patio café shall meet the current fire code requirements as determined by the Fire Marshal regarding outdoor patio café areas and ingress and egress points of access. The Fire Marshal through plan review shall determine fire code compliance.

(11) The Fire Marshal shall also require that occupancy capacities as defined in the International Building Code for the outdoor patio café area and the building remain distinct and separate.

(12) The outdoor patio café 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 café, and may be included in the same special privilege application. Canopies within the outdoor patio café area shall meet current fire code definition and specifications. Proposed canopies shall comply with the Union Plaza Design Standards.

(13) Acceptable auxiliary outdoor heating devices shall meet the requirements of the current fire code.

(14) The outdoor patio café 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 café shall not prevent access to the El Paso Fire Department connections (FDC), fire hydrants, or fire escapes.

(15) The outdoor patio café 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 café 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.

(16) Outdoor patio cafés shall be reviewed for ADA compliance prior to permit approval. Outdoor patio cafés shall not impede ADA accessibility.

(17) Tables and chairs used in the outdoor patio café shall be of durable, commercial grade non-reflective material that is stackable and ADA compliant.

(18) Planters within the outdoor patio café limit line shall be shown on the site plan submitted with the application and shall comply with the Union Plaza design standards.

(19) Each outdoor patio café shall have a trash receptacle and a cigarette receptacle (if smoking is permitted) within the café limit line.

(20) Overhead lighting located within public right-of-way shall be included in the permit application, shall be dark-sky compliant, and shall meet all applicable Union Plaza architectural and design standards. All electrical work shall be designed and installed in compliance with the applicable electrical code requirements.

a. Lighting on fencing may be permitted to add a decorative element but shall not

be design to attract attention. Flashing lights are not permitted.

b. Lighting shall be clear or white.

c. Light strands shall be maintained in good repair and burned-out bulbs shall be replaced promptly.

(21) A person may not sell, barter, trade, store, or take orders for merchandise at an outdoor patio café in violation of this Subsection, except food or drink to be consumed in the outdoor patio café that is also sold in the adjacent food and/or beverage service establishment associated with the outdoor patio cafe.

(22) All relocation, removal, disposition and/or salvage of any City property shall be coordinated with the Street Department. The Street Department shall follow the city's establish policy and procedure for disposal or salvage of such property.

(23) As a condition of the permit, the applicant shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation for injury or death of any person, or for damage to any property, arising out of or in connection with Permittee's use of the public rights-of way, regardless of whether such injuries, death, or damages are caused in whole or in part by the negligence of the City.

C. Prior to the issuance of a permit, the City Engineer shall distribute a copy of each application the City Engineer receives for their review and comment to the following:

(1) Members of the Development Coordinating Committee (DCC), and

(2) Affected utility franchise holders.

D. Approval or Denial of Permit. The City Engineer or their designee shall approve or deny an application within thirty business days of receipt of a complete application. An application shall be approved if it complies with the standards set forth in this chapter and is recommended for approval by the DCC. A notice of denial shall clearly set forth the grounds upon which the application was denied. If approved, the permit shall be for a term of one year.

E. Appeals. The decision of the City Engineer or their designee may be appealed to City Council. The appeal shall be based upon alleged misapplication of the standards for approval of the permit or application. An appeal shall not be used as a means of amending, varying or otherwise altering the standards of this Section. 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 City engineer or their designee to the city council.

(1) Within ten business days from the date of notification of the final decision on the application or permit, the applicant may submit a written appeal to the City Engineer or their designee. The appeal shall contain a written statement of the reasons why the final decision is erroneous, and shall be accompanied by a fee as authorized by City Council. An appeal by an applicant shall be accompanied by a copy of the application on which the initial decision was rendered. An appeal may include any other documents that support the position of the appellant.

(2) Within 30 calendar days of receipt of the appeal, the City Engineer or their designee shall place the appeal on the City Council agenda. All documents submitted by the appellant shall be provided to City Council along with any documentation the to the City Engineer or their designee deems relevant for City Council to consider in rendering a decision.

(3) City Council's decision to deny the appeal or to grant the appeal and grant a permit shall be based solely on the standards set forth in this chapter.

G. Permittee Responsibilities.

(1) A Permittee shall comply with all application requirements and conditions, and with all other applicable federal, state and local laws and ordinances.

(2) The responsible party shall maintain the permit within the premises at all times.

(3) The Permittee shall be responsible for cleaning and removing all litter and debris left on the abutting roadways, sidewalks, and other public rights-of-way within twenty-four (24) hours. If Permittee fails to clean and remove all such litter and debris from the ROW, 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 business days of receipt of the bill from the city comptroller.

(4) The Permittee shall be responsible for maintaining fences and furnishings on city right-of-way in good condition. Fences, furnishings and other appurtenances that are damaged shall be refurbished, repaired or removed by Permittee within ten (10) days.

(5) Damage to the city right-of-way or City property attributable to the outdoor patio café installation, maintenance, and use, shall be restored to its original condition by the Permittee. If Permittee fails to repair such damage, then the property owner or leasee shall be responsible for repair of such damage. If Permittee, property owner or leasee fail to repair such damage within 30 days of written notification from the City that the right of way has been damaged, then the City shall have the right to repair the damage and assess the costs of such repair to the property owner. The City shall have a right to place a lien on the abutting property until the costs for the repair have been paid to the City. Failure to pay such costs shall be grounds for denial of any subsequent request for use of city right of way for any purpose.

(6) If the outdoor patio café area presents a hazard to public health, safety and welfare, the City shall have the right to correct the safety hazard and assess the costs to the Permittee, property owner and/or leasee. Costs shall be due and payable within ten (10) days of receipt of a bill from the City controller. Non-payment shall be grounds for termination of the permit.

(7). Outdoor patio café area shall be restored to its original condition by Permittee, property owner or leasee upon termination of the special privilege permit. If Permittee, property owner or leasee fails to restore the property, then the City shall have the right to remove encroaching fencing, furnishings or other appurtenances and assess the costs to the property owner. The City shall have a right to place a lien on the abutting property until the costs have been paid to the City. Failure to pay such costs shall be grounds for denial of any subsequent request for use of city right of way for any purpose.

H. Costs and fees.

(1) The special privilege application fee for an outdoor patio café shall be as authorized by City Council resolution.

(2) The annual fee for an outdoor patio café shall be as authorized by City Council resolution. The fee shall be due and payable prior to issuance of the permit.

(3) The Permittee shall be solely responsible for all costs associated with the acquisition, installation, maintenance, replacement and removal of improvements within the outdoor patio café area and the cost of restoration required because of such removal.

(4) 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.

I. Termination

(1) The City of El Paso reserves the right to terminate the permit at any time at no cost to the city if it decides that the right-of-way is needed for public use.

(2) The city may terminate the permit if the Permittee ceases to use or occupy the property for the purposes approved in the permit for a period of thirty (30) days, or if the Permittee defaults in any obligations under the permit and fails to correct such defaults within thirty (30) days.

(3) The permit is not transferrable and shall terminate upon a change of property owner, business owner or change of occupancy.

Section 2. This ordinance shall take effect September 1, 2009.

Section 3. 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 _____, 2009.

CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Lupe Cuellar
Assistant City Attorney

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

DESIGN STANDARDS FOR OUTDOOR CAFE AREAS IN THE UNION PLAZA DISTRICT ENTERTAINMENT AREA



Purpose and Intent

- Create a safe, attractive and functional pedestrian passageway on sidewalks and open areas to allow outdoor patio cafes.
- Define the outdoor patio cafés via a café limit line to ensure safety and quality aesthetics.
- Address the type and quality of fences and furnishings to be allowed for outdoor patio cafes.

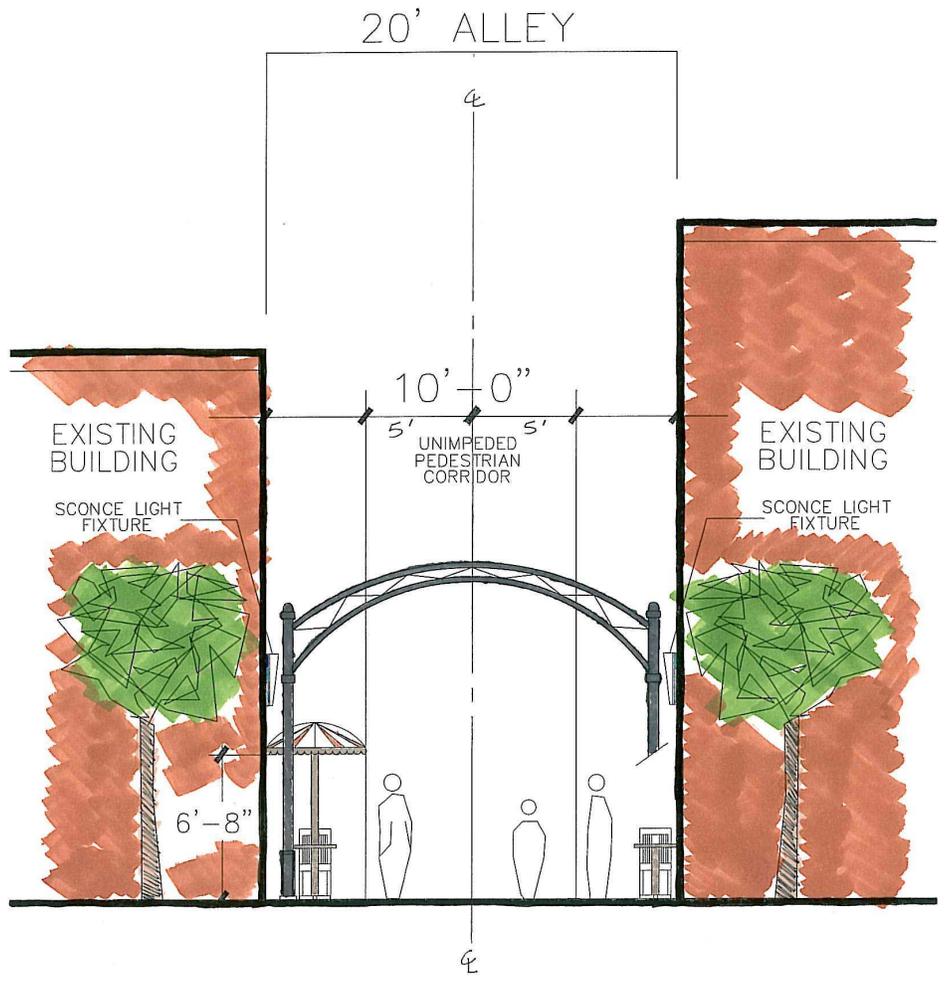
Placement of Outdoor Patio Cafes

Outdoor patio cafes shall be allowed on sidewalks and alleys within the Union Plaza District that is encompassed by Durango St., Overland St., Anthony St. and the full right-of-way of San Francisco St. An area just north of San Francisco Street, the San Francisco Street platform promenade pictured below, is to be included for possible outdoor patio cafes and or vendor type set up (Farmers Market). The dimensions and limits of outdoor patio cafes are to be delineated by the café limit line for each individual cafe and are to be clearly defined by each application.





There shall be an unimpeded pedestrian corridor no less than 6' wide continuing in a linear direction more or less parallel to the right-of-way on sidewalks and 10' in vacated streets and alleys. Within vacated streets and alley, café limit lines shall be located at least five feet (5') from the centerline of each street and alley to ensure that a total of 10' shall remain unobstructed for pedestrian and emergency service access at all times. **See illustration below:**





Furniture Dimensions

Tables and chairs shall be of durable commercial grade, non reflective material and stackable and shall be ADA compliant.

2 person seating:

Round(circular)- maximum of 30" radius

Square - 24" x 24"

Rectangular - 24" x 36"

4 person seating:

Round(circular)- 36" to 42" radius

Square - 24" x 24"

Rectangular - 24" x 36"

Planters

The design of planters owned by café owner/operator shall be at the discretion of the café owner/operator as long as they are placed within the café limit line. Planters shall be removable (not fixed) and follow the Color and Design portion of the Union Plaza Architectural Design Guidelines. Planters must be artistic, yet compatible with surrounding design elements. Said planters should be no bigger than 2' x 2' x 2' and shall only have signage advertising the outdoor patio café name or the name of the Union Plaza District or Downtown.

Umbrella Stands

Umbrella stands and any umbrella shade that is less than six (6') feet, eight (8") inches in height at its lowest point from the sidewalk shall be located inside the perimeter fence and the café limit line. If an umbrella shade is at least six (6'), eight (8") height at its lowest point from the sidewalk, then the umbrella shade may extend outside the perimeter fence and the café limit line.

Trash and Cigarette Receptacles

Each outdoor dining area shall have a trash receptacle and a cigarette (if smoking is allowed) receptacle within the fence line.

Examples of acceptable Cigarette Receptacles



Signage

Shall comply with Title 20 of the El Paso City Code and the Union Plaza District Design Guidelines.

Decorative Lighting



Lighting on fencing may be permitted if the intent is to add a festive, decorative element and not to attract attention. Lighting shall be clear or white and should be understated and must meet all electrical code requirements. Flashing lights shall not be allowed. Festoon Decorative type lighting strands should be kept in good repair and burned out bulbs should be replaced. All electrical work shall be installed in compliance with the City building code.

Festoon Decorative Lighting: GLS or Golf Ball Light Bulbs available in Wattages of 15/25/40/60 in BC or ES fittings. Lamps are clear, coloured and tungsten halogen filament with plastic or metal guards giving a pristine white light.

Decorative lighting on buildings known as Sconce Lighting may be used, provided the design and materials are approved by the Planning Dept.(Union Plaza Design Standards). Lighting style does not necessarily need to be Period Lighting Style, but should complement existing style. Use of plastic or glass coverings are prohibited. Coverings should be of decorative metal/wrought iron. Light fixture should be located/centered between 9' to 12' from ground elevation. Light fixture to have dimensions that do not exceed 12" x 24" to (36") x 6".

Examples of Lighting Styles for Sconces



Maintenance

Owners of outdoor dining areas are responsible for maintaining fences and furnishings. Fences or furnishings showing signs of wear, damage or failure shall be promptly refurbished, repaired or replaced.

The Union Plaza Entertainment District and other parts of downtown El Paso have the potential to become vibrant areas, where friends meet and people can enjoy good food and drink, music and people-watching. Sidewalk cafes are considered an indicator of downtowns vitality, creating a sense of safety and enhancing the sociability and business climate of the downtown.





Union Plaza Entertainment Area





Title 15 - Outdoor Patio Cafes

Applies to City sidewalks and right-of-way that has been vacated for vehicular use in the Union Plaza Entertainment Area.

- A minimum of six feet (6') of any sidewalk shall remain unobstructed for pedestrian access.
- Patio café limit shall be at least five feet (5') from the centerline of any right-of-way vacated for vehicular use.

Materials, color and design of the outdoor patio café and furnishings shall comply with Union Plaza Design Standards.

Building permits and pavement cut permits are required in addition to the special privilege.





Title 15 - Outdoor Patio Cafes

Outdoor patio cafes may not be enclosed by permanent structures. Wrought-iron fencing is permitted.

- Fencing shall be a minimum of three feet (3') in height if the café is located on a sidewalk.
- Fencing shall be four feet (4') in height if the café is located on a street or alley that has been vacated for vehicular use.
- Benches, trees, planters and/or street furniture may be used define the café limits.
- Additional requirements may be imposed by the Texas Alcoholic Beverage Commission.





Title 15 - Outdoor Patio Cafes

Ingress, egress, location of outdoor serving stations and occupancy capacities shall require Fire Department approval.

Canopies or awnings that comply with code requirements are permitted within the café area.

Access to inspect and maintain all City property and utility structures within the café area shall be granted at any time.

All outdoor patio cafés and their furnishings shall be ADA-compliant.

No sale of merchandise, other than food or drink to be consumed on the property, is authorized.





Title 15 - Outdoor Patio Cafes

Lighting shall be designed, permitted and installed in compliance with applicable City code requirements, including dark-sky and Union Plaza Design Standards.

- Flashing lights are not permitted
- Lightening shall be clear or white.
- Light strands shall be maintained and burned-out bulbs promptly replaced by permittee.

Relocation, removal, disposition or salvage of any City property shall be coordinated with the City.





Title 15 - Outdoor Patio Cafes

Permittee Responsibilities

- Maintain the permit on the premises at all times.
- Clean and remove litter and debris from the café area and abutting right-of-way within 24 hours.
- Maintain fences and furnishings located on city ROW in good condition; refurbish, repair or remove if damaged within 10 days.
- Restore City ROW and City property to its original condition within 30 days upon termination of the special privilege.





Title 15 - Outdoor Patio Cafes

Application fee (current)	Application fee (proposed)	Annual fee (current)	Annual fee (proposed)
\$82.50	\$200	\$300	\$300

Termination

- City may terminate at any time if ROW is needed for public use.
- City may terminate if permittee ceases to occupy property for the purpose approved, or for default of obligations.
- Permit is not transferrable and shall terminate upon change of the property owner, business owner or change or occupancy.





Title 15 - Outdoor Patio Cafes

Street Department – additional recommendation

Consider requiring a Performance Bond to ensure the removal of encroachments and restoration of area to original Union Plaza standards, and for repairs and restoration to damaged infrastructure upon termination of permit or business closure.





Title 15 - Outdoor Patio Cafes

Planning – additional recommendation

Consider adding language concerning liquor liability insurance, as drafted by Legal for a special privilege application currently in process:

“LIQUOR LIABILITY INSURANCE. In addition to the insurance required above, Licensee shall obtain and maintain a liquor liability insurance policy, or the equivalent thereof, in the amount of One Million and NO/100 Dollars (\$1,000,000.00) and provide a certificate of insurance as required for other insurance policies in this Section and name the City as an additional insured.”

UNION PLAZA PATIO SPECIAL PRIVILEGES

