

**CITY OF EL PASO, TEXAS**  
**DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)**

**DEPARTMENT:** DEVELOPMENT SERVICES

**AGENDA DATE:** INTRODUCTION: AUGUST 19, 2008  
PUBLIC HEARING: AUGUST 26, 2008

**CONTACT PERSON/PHONE:** VICTOR Q. TORRES, DEVELOPMENT SERVICES, (915) 541-4975

**DISTRICT(S) AFFECTED:** ALL

**SUBJECT:**

An Ordinance to amend Title 5 (Business Taxes, Licenses and Regulations) to amend various sections thereunder pertaining to the duties and structure of the Development Services Department, and the duties of staff; the penalty being as provided in Sections 5.08.180, 5.30.010, 5.32.160, 5.34.010, 5.44.270, 5.48.260, 5.54.160, 5.60.040, 5.72.120; 5.76.080, 5.84.250, 5.90.100, 5.100.100, 5.94.010, and 1.08.010 – 1.08.030 of the El Paso City Code.

**BACKGROUND / DISCUSSION:**

This ordinance would amend numerous sections of Title 5 relating to the issuance of various city licenses and permits. This ordinance would change terms within the title assigning duties to the building services director, the director of building permits and inspections and that department, the building official, the city license bureau and the license collector, and change them to the development services department and the director of that department, as appropriate. These revisions are needed in conjunction with the reorganization of the Development Services Department. In 2005, the City changed to the Council Manager form of government and also created the Development Services Department as an oversight department for the Planning and Building Permits and Inspections Departments. The Charter amendments approved in 2007 gave the City Manager greater delegation authority, and as a result it is no longer necessary to maintain these departments as separate departments, and Planning and Building Permits and Inspections are being designated as divisions within the Development Services Department. Accordingly, it is necessary to amend all of the Code provisions, such as these provisions, which specifically refer to the Building Permits and Inspections Department.

This ordinance also cleans up other old provisions that use the out-dated terms of license bureau and license collector, and changes them to the development services department. It also corrects some typographical errors and omissions found in the title while researching what changes were needed.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

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

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

**DEPARTMENT HEAD:** Victor Q. Torres  
Victor Q. Torres, Development Services Director

**OTHER:** \_\_\_\_\_  
(Example: if RCA is initiated by Purchasing, client department should sign also)

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*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

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

**AN ORDINANCE TO AMEND TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) TO AMEND VARIOUS SECTIONS THEREUNDER PERTAINING TO THE DUTIES AND STRUCTURE OF THE DEVELOPMENT SERVICES DEPARTMENT, AND THE DUTIES OF STAFF; THE PENALTY BEING AS PROVIDED IN SECTIONS 5.08.180, 5.30.010, 5.32.160, 5.34.010, 5.44.270, 5.48.260, 5.54.160, 5.60.040, 5.72.120; 5.76.080, 5.84.250, 5.90.100, 5.100.100, 5.94.010, AND 1.08.010 – 1.08.030 OF THE EL PASO CITY CODE.**

**WHEREAS**, the structure of the bureaus of the Planning Department and the Building Permits and Inspections Department is being changed to make these units divisions of the Development Services Department; and

**WHEREAS**, various provisions in the City Code relating to the Planning Department, the Building Permits and Inspections Department, the building official and the department directors need to be amended to reflect the change in structure and titles; and

**WHEREAS**, various provisions of Title 5 still refer to a city license bureau and the license collector, which need to be changed to the Development Services Department.

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

Section 1. That Chapter 5.04 (Occupation Tax and License Fees-General Provisions), to include section 5.04.030 (Payment prior to engaging in business required), of the El Paso City Code, is amended to change the phrase “city license bureau” to “development services department”, as used within the chapter.

Section 2. That Chapter 5.04 (Occupation Tax and License Fees-General Provisions), to include section 5.04.040 (Late payment-Penalty), of the El Paso City Code, is amended to change the phrase “building permits and inspections department” to “development services department”, as used within the chapter.

Section 3. That Chapter 5.04 (Occupation Tax and License Fees-General Provisions), section 5.04.050 (Enforcement and collection), of the El Paso City Code, is amended to read as follows:

**5.04.050 Enforcement and collection.**

- A. The director of the development services department and his designees are authorized to make inspections of property as necessary to enforce the provisions of Title 5 of this code. If the owner or person in possession of such property shall refuse to permit the director or his designee to enter property for the purpose of making inspection, the director or his designee shall have recourse to every remedy provided by law to secure entry, including judicial warrant.
- B. The director of the development services department and his designees are authorized to issue misdemeanor citations to any person found to be in violation of Title 5 of this code.
- C. The city may collect any occupation tax or license fee or license tax owing to it by any person by suit against such person in any court of competent jurisdiction.

Section 4. That Chapter 5.04 (Occupation Tax and License Fees-General Provisions), section 5.04.060, Subsection A, (Sealing coin-operated machines for failure to pay), of the El Paso City Code, is amended to read as follows:

**5.04.060, Subsection A, Sealing coin-operated machines for failure to pay.**

- A. The director of the development services department or his designee is authorized to seal any coin-operated machine upon which an occupation tax is levied by the city and which tax has not been paid. The director or his designee shall collect a fee of five dollars for the release of any such machine so sealed in addition to the occupation tax levied.

Section 5. That Chapter 5.04 (Occupation Tax and License Fees-General Provisions), to include section 5.04.080 (License-Transfer), of the El Paso City Code, is amended to change the phrase "license section of the comptroller's office" to "development services department", as used within the chapter.

Section 6. That Chapter 5.08 (Alcoholic Beverages), Section 5.08.020 (Definitions), of the El Paso City Code, is amended in part, to amend the definition of "city secretary" to read as follows:

"City secretary" means the director of the development services department or his designated representative whenever referenced in the Texas Alcoholic Beverage Code.

Section 7. That Chapter 5.08 (Alcoholic Beverages), to include sections 5.08.060 (Applicability to annexed territories), 5.08.080 (Issuance of permit or license) 5.08.110 (Certification of compliance with requirements), 5.08.130 (Payment prior to engaging in

alcoholic beverage business required), and 5.08.160 (License application processing), of the El Paso City Code, is amended to change the phrase “building services department”, as amended by ordinance nos. 15188 and 16134, to “development services department”, as used within the chapter.

Section 8. That Chapter 5.08 (Alcoholic Beverages), to include sections 5.08.110 (Certification of compliance with requirements), 5.08.120 (City protest of permit/license), 5.08.150 (Licenses expired for two months or more) and 5.08.160 (License application processing), of the El Paso City Code, is amended to change the phrase “deputy director for building services”, as amended by ordinance nos. 15189 and 16135, to “director of the development services department or his designee”, as used within the chapter.

Section 9. That Chapter 5.16 (Appliance dealers and installers), to include sections 5.16.040 (Appliance installation and serviceman’s license-Application-Filing), 5.16.050 (Appliance installation and serviceman’s license-Examination-Issuance), 5.16.060 (License expiration and renewal), and 5.16.080 (License suspension and revocation) of the El Paso City Code, is amended to change the phrase change the phrase “deputy director for building services”, as amended by ordinance nos. 15189 and 16135, to “director of the development services department or his designee”, as used within the chapter.

Section 10. That Section 5.16.090 (Licensees to maintain current address with deputy director for building services), of the El Paso City Code, is amended to read as follows:

**5.16.090 Licensees to maintain current address with city.**

All licensees must maintain a correct current address in the development services department.

Section 11. That Chapter 5.24 (Charitable Solicitations), Section 5.24.010 (Definitions), of the El Paso City Code is amended in part, to amend the definition of “permit official” to read as follows:

“Permit official” means the director of the development services department or his designee.

Section 12. That Chapter 5.24 (Charitable Solicitations), 5.24.040 (Application-Information to be contained), 5.24.080 (Issuance of permit), 5.24.140 (Reports to be filed), of the El Paso City Code, is amended to change the phrase “building permits and inspections director” to “permit official”, as used within the sections.

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Section 13. That Chapter 5.24 (Charitable Solicitations), Section 5.24.030 (Permit required-exceptions), of the El Paso City Code, is amended to read as follows:

**5.24.030 Permit required--Exceptions.**

It shall be unlawful to conduct any charitable solicitations campaign in the city unless the person, organization, society, association or corporation conducting same and responsible therefor shall first have obtained the permit in compliance with the terms of this chapter; provided, however, that except to the extent hereinafter stated in this section, the provisions of this chapter shall not apply to:

A. Any organization which solicits funds solely from its own voting members, not using public streets or public places for such purposes. "Members" means those persons who, for the payment of fees, dues or other such assessments, receive a bona fide right, privilege, professional standing, honor or other direct benefit, in addition to right to vote, elect officers or hold office;

B. Any organization which solicits funds on premises owned or controlled by the organization soliciting funds or with the permission of the organization or person who owns or controls the premises;

C. Any organization whose receipts from solicitations do not exceed five hundred dollars annually.

Notwithstanding the fact that the provisions of this section do not otherwise apply, any person, organization, society, association or corporation conducting any charitable solicitations campaign in the city may be required, within seven calendar days of receiving a written request from the permit official, to submit to the permit official such books and financial records as the permit official deems necessary to verify that any funds received as a result of the charitable solicitations campaign are actually being used for their stated purpose. Each day or portion thereof during which such books and records are required to be submitted to the permit official, but are not submitted, shall constitute a separate violation of this section.

Section 14. That Chapter 5.24 (Charitable Solicitations), Section 5.24.070 (Review by building permits and inspections director), of the El Paso City Code, is amended to change the phrase "building permits and inspections director" to "permit official", as used within the caption and within the text of the section.

Section 15. That Chapter 5.30 (Flea market operator permit), section 5.30.010 (Flea market operator permit provisions) of the El Paso City Code, is amended to change the phrase "building official" to "director of the development services department or his designee", as used in the section.

Section 16. That Chapter 5.30 (Flea market operator permit), section 5.30.010 (Flea market operator permit provisions), of the El Paso City Code, is amended to change the phrase “building official” to “director of the development services department or his designee”, as used in the section.

Section 17. That Chapter 5.32 (Public Swimming Pool Licenses), to include section 5.32.010 (Compliance required), of the El Paso City Code, is amended to change the phrase “building permits and inspections department” to “development services department”, as used in the chapter.

Section 18. That Chapter 5.32 (Public Swimming Pool Licenses), of the El Paso City Code, sections 5.32.030 (Required), 5.32.040 (Construction approval), 5.32.050 (License application), 5.32.060 (Application processing), 5.32.070 (License issuance), 5.32.080 (License renewal), 5.32.090 (Temporary licenses), 5.32.110 (Suspension of license), and 5.32.120 (Revocation of license), is amended to change the phrase “building permits and inspections director” to “director of the development services department or his designee”, as used in these sections.

Section 19. That Section 5.32.150 (Enforcement authority), of the El Paso City Code, is amended to read as follows:

**5.32.150 Enforcement authority.**

The director of the department of environmental services and the director of the development services department and their designees shall be authorized to administer and enforce the provisions of this chapter and Chapter 9.48.

Section 20. That Chapter 5.34 (Home occupation license), section 5.34.010 (Home occupation license provisions), of the El Paso City Code, is amended to change the phrase “building official” to “director of the development services department or his designee”, as used in the section.

Section 21. That Chapter 5.36 (Gasoline Filling Stations), section 5.36.030 (License-Application-Investigation), of the El Paso City Code, is amended to change the phrase “deputy director for building services”, as amended by ordinance nos. 15189 and 16135, to “director of the development services department or his designee”, as used within this section.

Section 22. That Section 5.36.060, Subsection B, (License-Fee), of the El Paso City Code, is amended to read as follows:

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**5.36.060, Subsection B, License--Fee.**

B. All fees paid and collections made under this chapter shall be paid to the development services department or as otherwise established by the director of that department.

Section 23. That Section 5.36.090 (License-Suspension and revocation-Appeal), of the El Paso City Code, is amended to read as follows:

**5.36.090 License--Suspension and revocation-Appeal.**

A. The fire chief, director of the development services department or his designee, and any other duly authorized inspector or police officer of the city, shall, at all reasonable times, have access to the premises of any gasoline filling station for the purpose of determining whether or not all applicable city ordinances are being complied with, and failure on the part of any gasoline filling station to comply with such ordinances shall be reported to the director of the development services department or his designee, who may suspend or revoke any license issued hereunder, if the director or designee shall determine that there has been any such failure. Before suspending or revoking any such license, however, the director or designee shall notify the licensee in writing, of the charge or charges against the licensee and afford such licensee an opportunity to be heard, in person or by counsel, with reference to such charges.

B. A person who has a permit issued under this title, who has been served with a denial, suspension or revocation notice of said permit, may appeal the director's action to the city manager as provided herein. Within ten business days of taking such action, the director shall prepare a report indicating the reasons for the denial, suspension or revocation, and shall provide a copy to the person. The director's decision is final unless within ten calendar days from the date of receiving the director's report, the person files with the city clerk a written appeal to the city manager specifying reasons for the appeal. Said appeal shall also include a written rebuttal to the director's report.

C. The city manager or his designated deputy city manager shall review the director's report and the appellant's rebuttal. The city manager or designee may allow the appellant to make an oral presentation or submit additional rebuttal. The city manager or designee shall make a ruling on the appeal within a reasonable period of time after the appeal has been filed.

D. The city manager or designee shall sustain, reverse or modify the action of the director and shall notify the appellant of his decision in writing. The decision of the city manager or designee is final.

Section 24. That Chapter 5.44 (Kindergartens), sections 5.44.010 (Kindergarten defined), 5.44.040 (Registration-Form-Filing), 5.44.100 (Use of cellar and basement rooms), of the El Paso City Code, is amended to change the phrase "building services

department”, as amended by ordinance nos. 15188 and 16134, to “development services department”, as used within these sections.

Section 25. That Section 5.44.260 (Inspections), of the El Paso City Code, is amended to read as follows:

**5.44.260 Inspections.**

The directors of the development services department and the department of environmental services and their designees, and the fire chief or his designee, shall from time to time inspect all kindergartens and see that all safety and health requirements are met.

Section 26. That Chapter 5.48 (Laundries), to include section 5.48.020 (License-Required-Application-Investigation-Issuance), of the El Paso City Code, is amended to change the phrase “building permits and inspections department” to “development services department”, as used within the chapter.

Section 27. That Chapter 5.48 (Laundries), to include sections 5.48.020 (License-Required-Application-Investigation-Issuance) and 5.48.050 (License-Denial-Suspension-Revocation) of the El Paso City Code, is amended to change the phrase “building permits and inspections director” to “director of the development services department or his designee”, as used in the chapter.

Section 28. That Chapter 5.48 (Laundries), section 5.48.050 (License-Denial-Suspension-Revocation) of the El Paso City Code, is amended to change the phrase “building permits and inspections director’s” to “director of the development services department or his designee’s”, as used in the section.

Section 29. That Chapter, 5.54 (Sexually Oriented Businesses), Section 5.54.020 (Definitions), of the El Paso City Code, is amended in part, to amend the definition of “director” to read as follows:

“Director” means the director of the development services department or his designee.

Section 30. That Chapter 5.60 (Mobile Home Sale Disclosures), to include sections 5.60.020 (Required-Content), and 5.60.030 (Evidence of Compliance), of the El Paso City Code, is amended to change the phrase “building permits and inspections department” to “development services department”, as used within the chapter.

Section 31. That Chapter 5.72 (Motor vehicle dealers and salesmen), sections 5.72.020 (License-Application-Contents), and 5.72.050 (License-Transfer), of the El Paso City Code, are amended to change the phrase “license bureau” to “development services department”, as used in these sections.

Section 32. That Chapter 5.76 (Nurseries and other businesses selling plants or fertilizer), section 5.76.020 (License-Application), of the El Paso City Code, is amended to change the phrase “license bureau” to “development services department”, as used in this section.

Section 33. That Chapter 5.84 (Dealers in second hand goods, coins and precious metals), sections 5.84.040 (License-Application-Contents), 5.84.050 (License-Fee), 5.84.060 (License-Investigation-Issuance), 5.84.070 (License-Denial-Grounds), 5.84.080 (License-Denial-Appeal), 5.84.130 (License-Suspension and revocation), and 5.84.240 (Registration), of the El Paso City Code, are amended to change the phrase “licensing department” to “development services department”, as used in these sections.

Section 34. That Chapter 5.88 (Private detectives), sections 5.88.020 (License-Application), and 5.88.030 (License-Investigation-Fingerprinting-Issuance), 5.88.040 (License-Fee-Bond), 5.88.050 (Employees-Bond required), and 5.88.060 (Bond requirements-Exceptions), of the El Paso City Code, are amended to change the correct the title of the Chapter to “Private detectives,” and to change the phrase “license collector” to “director of the development services department or his designee”, as used in these sections.

Section 35. That Chapter 5.90 (Security alarm systems), sections 5.90.020 (Permit-required), and 5.90.030 (Application), of the El Paso City Code, are amended to change the phrase “city license bureau” to “development services department”, as used in these sections.

Section 36. That Chapter 5.94 (Sign permit fees, licenses and bonds), section 5.94.010 (Sign permit fees, licenses and bonds) of the El Paso City Code is amended to change the phrase “building official” to “director of the development services department or his designee”, as used in the section.

Section 37. That Chapter 5.94 (Sign permit fees, licenses and bonds), section 5.94.010 (Sign permit fees, licenses and bonds) of the El Paso City Code is amended to change the phrase “building official’s” to “director of the development services department or his designee’s”, as used in the section.

Section 38. That Chapter 5.100 (Vendors and solicitors), sections 5.100.030 (License-Application-Revocation for failure to make required reports), 5.100.040 (License fees), 5.100.050 (License-Issuance-Contents-Display-Nontransferable), 5.100.080 (Inspection, condemnation and confiscation of merchandise-Revocation of license), and 5.100.090 (Exemptions), of the El Paso City Code, are amended to change the phrase "license bureau" to "development services department", as used in these sections.

Section 39. That Chapter 5.104 (Watchmen), sections 5.104.020 (License-Application-Filing-Contents), 5.104.030 (License-Application-Investigation-Fingerprinting), 5.104.060 (Bond), 5.104.070 (Employees-Fitness-Bond), and 5.100.080 (Employees-Bond not required under certain conditions), of the El Paso City Code, are amended to change the phrase "license collector" to "development services department", as used in these sections.

Section 40. That Chapter 5.112 (Bingo regulation) to include section 5.112.010 (Certification-fee) of the El Paso City Code is amended to change the phrase "building services department", as amended by ordinance nos. 15188 and 16134, to the "development services department", as used within the chapter.

Section 41. This ordinance shall take effect on September 1, 2008.

Section 42. Except as herein amended, Title 5 of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS 26<sup>th</sup> day of August 2008.

CITY OF EL PASO

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

ATTEST:

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

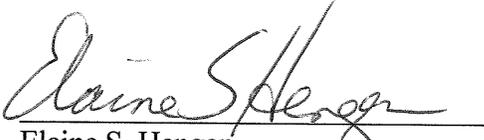
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APPROVED AS TO FORM:

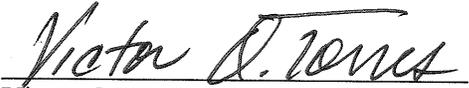
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Elaine S. Hengen  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Victor Q. Torres, Director  
Development Services Department