

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

**DEPARTMENT:** Engineering Department

**AGENDA DATE:** Introduction – August 17, 2010  
Public Hearing – August 24, 2010

**CONTACT PERSON NAME AND PHONE NUMBER:** R. Alan Shubert,  
Engineering, (915) 541-4428

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

An ordinance to amend the City code to reflect departmental reorganization by amending Title 13 (Streets, Sidewalks and Public places) to amend various sections thereunder pertaining to the duties which had been assigned to the Development Services Department, the Engineering Department, the Street Department, the Economic Development Department, and the staff; the penalty being as provided in sections 13.08.180, 13.12.260, 13.20.040, and 1.08.010 – 1.08.030 of the El Paso City code.

**BACKGROUND / DISCUSSION:**

The City Manager proposed through the Budget for FY 2011 and the City Council has decided to re-organize the Engineering Department, the Street Department, the Environmental Services Department and to delete the Development Services Department. This action necessitates this ordinance and others to make changes to the City Code to reflect the organizational changes. No substantive changes are being made to the code in this ordinance--only the changes necessary to achieve reorganization and to make appropriate cross references to other code provisions.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

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\*\*\*\*\*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 THE CITY CODE TO REFLECT DEPARTMENTAL REORGANIZATION BY AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES) TO AMEND VARIOUS SECTIONS THEREUNDER PERTAINING TO THE DUTIES WHICH HAD BEEN ASSIGNED TO THE DEVELOPMENT SERVICES DEPARTMENT, THE ENGINEERING DEPARTMENT, THE STREET DEPARTMENT, THE ECONOMIC DEVELOPMENT DEPARTMENT, AND THE STAFF; THE PENALTY BEING AS PROVIDED IN SECTIONS 13.08.180, 13.12.260, 13.20.040, AND 1.08.010 – 1.08.030 OF THE EL PASO CITY CODE.**

**WHEREAS**, the Building Permits and Inspections Division is being moved to be a division of the Engineering and Construction Management Department, which is being reorganized and renamed, the Street Department is being reorganized and renamed the Department of Transportation, and the Economic Development Department is being reorganized and renamed the Planning and Economic Development Department; and

**WHEREAS**, various provisions in the City Code need to be amended to reflect these changes, and the creation of permit officials, as will be designated by the City Manager.

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

Section 1. That Chapter 13.04 (Street and Sidewalk Construction and Maintenance), Section 13.04.010 (Permit required), of the El Paso City Code, is amended to read as follows:

**13.04.010 Permit required.**

A. Except as otherwise provided in this code, no person shall construct any sidewalk within the right-of-way of any public street, or damage or alter any sidewalk or street, or change the grade thereof, without the permission of the city engineer or his designees as hereinafter provided.

B. No person shall cut or alter any sidewalk or curb, whether for the purpose of vehicular access to property or otherwise without permission of the traffic engineer, and in accordance with specifications prescribed by him. In granting or refusing such permission the traffic engineer shall consider and be guided by the need for the proposed cut or alteration, the amount of traffic at the location in question, and the hazards likely to be created. Any person aggrieved by the decision of the traffic engineer may appeal to the

city council.

C. The permit official will issue sidewalk permits and will enforce the requirements of this chapter for all properties. The city manager and his designees, including but not limited to the code enforcement division and the city engineer and his designees, will enforce the requirements of this chapter for streets, alleys and other paved portions of street rights-of-way.

Section 2. That Chapter 13.04 (Street and Sidewalk Construction and Maintenance), Section 13.04.015, Subsection A, (Sidewalk permits and fees), of the El Paso City Code, is amended to read as follows:

**13.04.015, Subsection A, Sidewalk permits and fees.**

A. No person shall construct a sidewalk within the city limits without first obtaining a sidewalk construction permit issued in accordance with this title. No permit is required if the sidewalk is covered by a valid building permit or is part of a street improvement plan.

Section 3. That Chapter 13.04 (Street and Sidewalk Construction and Maintenance), Section 13.04.045 (Sidewalks in new development), of the El Paso City Code, is amended to read as follows:

**13.04.045 Sidewalks in new development.**

A. Where Required. Sidewalks shall be required within all public and private street rights-of-way within new development as follows:

1. Local Residential Streets.

a. Sidewalks shall be required on all local residential street classifications, except on:

i. Mountain residential streets within the mountain development area and within an approved subdivision; or

ii. Alleys within an approved subdivision; or

iii. Local residential streets within an approved subdivision where all the lots provide a minimum one-half acre lot area, and the adjoining properties have no sidewalks; or

iv. Local residential streets within an approved subdivision where a determination has been made by the city engineer that the sidewalks will impede drainage; or

v. Local residential streets within an approved subdivision where a street construction project, whether local, state or federal, has been awarded and the project includes construction of the sidewalks; or

vi. Local residential streets within an approved subdivision which meet all of the following criteria as determined by the city plan commission:

(A) A characteristic of the neighborhood is that no sidewalks have been required to date, and

(B) The subdivision adjoins or lies within a neighborhood in which buildings or structures have been constructed on at least fifty percent of the lots within the neighborhood, and

(C) The type of subdivision and intensity of land use is compatible with the character of the neighborhood; or

viii. Local residential streets within an approved planned unit development where pedestrian access is provided within the approved subdivision through an alternative sidewalk design not installed within the street right-of-way.

b. Where required, sidewalks shall be installed on both sides of the local residential street right-of-way and shall be located adjacent to the property line and parallel to the curblines.

c. Required sidewalks may be located adjacent to and parallel with the curblines only under the following circumstances:

i. On the turnaround portion of a cul-de-sac street; or

ii. On the rear side of a double-front lot when all of the following apply:

(A) The subdivision design provides for single-loaded streets, and

(B) Both street frontages are local residential streets, and

(C) The sidewalk is flared to a minimum width of seven feet along the curb radius at a street intersection, and

(D) The sidewalk is wide enough to provide a minimum clear width of three feet at encroachments, including street lights, traffic signs, neighborhood delivery collection box units, utility installations, or other facilities; or

iii. On a local residential street where an existing sidewalk on an adjoining property is located adjacent to and parallel to the curblines, and the city plan commission determines that a public benefit would result from permitting the new sidewalk to be similarly designed and constructed.

d. Where a sidewalk is installed adjacent to the curblines, it shall be allowed to meander between the property line and the curblines to avoid encroachments, such as street lights, traffic signs, neighborhood delivery collection box units, utility installations or other facilities.

## 2. Arterial Streets.

a. Sidewalks shall be required on all arterial street classifications, except on arterial streets which meet the following criteria as determined by the city plan commission:

i. Arterial streets within an approved subdivision where a street construction project, whether local, state or federal, has been awarded and the project includes construction of the sidewalks; or

ii. Arterial streets within an approved subdivision that is on property zoned C-4, M-1, M-2, M-3 or P-1, and all of the following apply:

(A) No sidewalks exist on the adjoining properties, and

(B) A determination is made by the city plan commission that the development is within an area in which there is no foreseeable need to provide sidewalks for pedestrian traffic, or

iii. Arterial streets within an approved subdivision that is on property zoned C-4, M-1, M-2, M-3 or P-1, and all of the following apply:

- (A) The total arterial street right-of-way width is seventy feet or less, and
  - (B) The arterial street provides access to only one development, and functions as internal circulation within the development, or
  - iv. Arterial streets where the location of sidewalks would be so unsafe for pedestrians that the risk to the public outweighs the benefits to the public; or
  - v. Arterial streets where the installation of sidewalks is expressly prohibited by ordinance.
- b. Where required, sidewalks shall be installed on both sides of the arterial street right-of-way and shall be located adjacent to the property line and parallel to the curblineline. A sidewalk shall be allowed to meander between the curblineline and the property line to avoid encroachments, such as street lights, traffic signs, neighborhood delivery collection box units, utility installations, or other facilities.
- c. Required sidewalks may be located adjacent to and parallel with the curblineline when all of the following apply:
- i. The sidewalk is a minimum of seven feet wide; and
  - ii. The sidewalk is wide enough to provide a minimum clear width of three feet at encroachments, including street lights, traffic signs, traffic control devices, utility installations, or other facilities.

**B. Sidewalk Construction.**

1. Local Residential Streets. Sidewalks required within an approved subdivision shall be installed as soon as reasonably possible after the first building permit is issued for each lot, or portion thereof, within the subdivision. The property owner of the lot, or portion thereof, for which a building permit has been issued shall be responsible for construction of the sidewalk. No certificate of occupancy shall be issued until the sidewalk has been inspected and approved by the city engineer or his designee
2. Arterial Streets.
  - a. Where sidewalks are required within an approved subdivision, the construction may be deferred until ordered by the city as provided in Section 13.04.040. The city plan commission may, as part of the subdivision approval, approve a deferral of the construction of sidewalks when the arterial street is designed to serve residential double-front lots; and the residential double-front lots are provided primary access through a fully improved local residential street; and the arterial street for which a sidewalk deferral is to be authorized provides frontage to the rear side of the residential double-front lots; and the improvement of the arterial street is delayed due to a partial dedication of the arterial street right-of-way within the approved subdivision.
  - b. Sidewalks required within an approved subdivision shall be installed as soon as reasonably possible, after the first building permit is issued for each lot, or portion thereof, within the subdivision; except where a sidewalk deferral was approved by the city plan commission as part of the subdivision approval. The property owner of the lot, or portion thereof, for which a building permit has been issued shall be responsible for construction of the sidewalk. No certificate of occupancy shall be issued until the sidewalk has been inspected and approved by the city engineer or his designee.

c. Where a sidewalk deferral is approved by the city plan commission as part of an approved subdivision, the property owner of the lot, or portion thereof, for which the deferral was granted, shall be required to deposit the funds necessary to pay the cost for the future installation of the sidewalk by the city or an agent of the city.

Section 4. That Chapter 13.04 (Street and Sidewalk Construction and Maintenance), Section 13.04.050 (Maintenance of sidewalks, curbs and gutters-Abutting property owner's duty), of the El Paso City Code, is amended to read as follows:

**13.04.050 Maintenance of sidewalks, curbs and gutters—Abutting property owner's duty.**

A. It shall be the duty of the owner of property abutting on any public street containing a sidewalk, curb or gutter to keep such sidewalk, curb or gutter in repair.

B. When the director of the environmental services department or his designee or member of the code enforcement division finds that any such sidewalk, curb or gutter is in hazardous condition because of need of repairs or faulty construction, he may notify the owner of the abutting property to make such repairs or changes as may be necessary to put the sidewalk, curb or gutter in safe condition. If the owner fails to make such repairs or changes within a reasonable time given in the notice, he shall be deemed guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030.

Section 5. That Chapter 13.04 (Street and Sidewalk Construction and Maintenance), Section 13.04.070 (Installation of sidewalk on property on which building permit issued), of the El Paso City Code, is amended to read as follows:

**13.04.070 Installation of sidewalk on property on which building permit issued.**

The city engineer or his designee shall inspect each piece of property on which a building permit has been issued or for which a building permit has been applied for, and shall determine whether the property is provided with sidewalks. If there is no sidewalk on the part of the street or streets abutting on the property, the city engineer or his designee shall proceed under Section 13.04.040 of this chapter to order such sidewalk installed, unless the city council authorizes that such sidewalk may be waived because of the location of the building, the probable conditions of traffic, or other pertinent conditions existing in the neighborhood. Such finding shall not deprive the city of its authority to order the installation of sidewalks at any subsequent time, as provided in Section 13.04.040 of this chapter.

Section 6. That Chapter 13.08 (Excavations), Section 13.08.020 (Permit - Application) of the El Paso City Code, is amended to change the phrase “engineering department” to “city engineer”, as used within this section.

Section 7. That Chapter 13.08 (Excavations), Sections 13.08.030 (Permit – Fees – Deposit required), 13.08.050 (Permit - Limitations), 13.08.060 (Protective measures), 13.08.070 (Backfills - Notice), 13.08.080 (Backfilling) and 13.08.130 (Restoration of surface), of the El Paso City Code, are amended to change the phrase “deputy director for engineering” to “city engineer”, as used within these sections.

Section 8. That Chapter 13.08 (Excavations), Section 13.08.175, Subsections B and D, (Monitoring wells), of the El Paso City Code, is amended to read as follows

**13.08.175, Subsections B and D, Monitoring wells.**

B. Permit Fee. An excavation permit application shall be accompanied with a fifty-dollar application fee. Such fee shall be to defray the costs of processing such applications and shall be paid to the city through the office of the city engineer. If any person commences construction work on public right-of-way or city-owned property prior to the issuance of an excavation permit as provided within this section, an excavation permit shall be required subject to a double permit fee of one hundred dollars; provided, however, that a double permit fee shall not be required for construction work commenced prior to issuance of an excavation permit in cases of an emergency. For purposes of this subsection, the Texas Commission on Environmental Quality or the director of the department of environmental services may declare an emergency; provided, that the city is properly notified through a facsimile to the building official.

D. Permit Contents. The excavation permit application shall be submitted to the permit official and shall include the following information.

1. A site map of the proposed monitoring well(s);
2. A narrative describing the need for the well(s), the extent of interruption of traffic, and the proposed drilling schedule of the monitoring well(s);
3. When issued by the Texas Commission on Environmental Quality (TCEQ), a copy of the demand letter requesting corrective action on delineation of ground contamination, which shall contain the LPST identification number if available;
4. A verification number confirming that the applicant has contacted a “one call” notification system servicing the area as required by this chapter.

The applicant shall be required to provide copies of the excavation permit application and accompanying information to the engineering services manager of the El Paso water utilities and the traffic engineer.

Section 9. That Chapter 13.12 (Driveways), Sections 13.12.020 (Permit-Required), 13.12.040 (Permit-Application-Contents), 13.12.080 (Materials), 13.12.095

(Slopes), and 13.12.170 (Drainage structures), of the El Paso City Code, are amended to change the phrase “development services department” to “permit official”, as used within these sections.

Section 10. That Chapter 13.16 (Insurance Requirements for Work Within Right-of-Way of Public Streets and Alleys), Section 13.16.010 (Required), of the El Paso City Code, are amended to change the phrase “deputy director for engineering” to “city engineer”, as used within this sections.

Section 11. That Chapter 13.20 (Miscellaneous Street and Sidewalk Use Regulations), Section 13.20.040 Subsections A 1 and 6, and D (Selling merchandise prohibited on and near public right-of-way), of the El Paso City Code, is amended to read as follows:

**13.20.040, Subsections A 1 and 6, and D, Selling merchandise prohibited on and near public right-of-way.**

A. Definitions. The following definitions shall apply in this section:

1. “Arterial” means a “street, arterial” as defined under “street” in Section 19.50.030 this code.

6. “Public right-of-way” shall have the meaning set forth in Section 19.50.030 of this code.

D. Members of the police department, members of the code enforcement division, the director of the department of public health, and the director of the environmental services department, and their designees may enter upon any vacant land or premises that are open to the public for business or other public purposes to inspect, enforce or to perform any function permitted under this section.

Section 12. That Chapter 13.30 (Film Making Events), section 13.30.040, Introductory paragraph and Subsection A, (Permit application), of the El Paso City Code, is amended to read as follows:

**13.30.040, Introductory paragraph and Subsection A, Permit application**

An application for a film-making event permit must be made for each film-making event project (including but not limited to, a motion picture, commercial or documentary) on a form provided by the City and filed with the Commissioner. Permits issued for a film-making event may include multiple locations. A location information form must be filed for each location proposed on the permit application. The Traffic Engineer’s approval of locations may provide for the use of City rights-of-way or facilities for periods not to exceed forty-eight consecutive hours for each location or an extension thereof not to exceed and additional forty-eight hours. Request for use or closure of rights-of-way or a City facility

for more than 48 consecutive hours or the extension thereof at a particular location shall require a special privilege permit or license as provided for in Chapter 15.08.

A. Application Filing & Review. An application shall be filed with the Commissioner. No materially incomplete application shall be accepted. Upon receipt of a materially complete application, the Commissioner shall timestamp and assign an application number to the project together with a separate location number for each proposed film-making event location. The applicant, or the Commissioner on behalf of the applicant, shall then be responsible for obtaining a recommendation for each proposed location from all affected departments as outlined below:

1. The Commissioner shall immediately forward the application to all the departments for which application review is required and shall additionally inform the Director of the Planning and Economic Development Department and Council members of any locations proposed within their district. The Commissioner or applicant shall work with a pre-designated departmental representative to facilitate timely review. A pre-designated department representative for film-making events permitting shall provide a recommendation for approval, approval with modification, or denial for each proposed location along with applicable departmental comments. A pre-designated department representative shall make every effort to provide a recommendation within one business day.

2. Review of the application shall be required from the following departments: Fire, Police, Sun Metro, Environmental Services, and Transportation. Other departments may be requested to review the application, as determined to be appropriate by the Commissioner. Review by and approval by the Director of Aviation or designee shall be required for any proposed filming on City of El Paso airport property. The use of any police or fire facility shall require approval of the police or fire chief respectively. The Traffic Engineer shall approve all applications. The City Manager or designee shall review and approve all applications for the use in or at non-public areas of City Facilities. A pre-designated department representative shall provide written acknowledgment of receipt of the application. Any department required or requested to review the application shall make recommendation and provide comments by no later than the close of business on the third City Hall business day, after receipt of the application. Upon completion of distribution to all departments making a review, the applicant or Commissioner, as the case may be, shall forward application and department recommendations to the Traffic Engineer. The Traffic Engineer shall begin his review on the City business day he receives the application and department recommendations and shall approve or deny the permit as required in Section 13.30.050.

Section 13. This ordinance shall take effect on September 1, 2010.

Section 14. Except as herein amended, Title 13 of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS 24<sup>th</sup> day of August 2010.

CITY OF EL PASO

ATTEST:

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

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Elaine S. Hengen  
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Patricia D. Adauto  
Deputy City Manager