

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

DEPARTMENT: Department of Transportation

AGENDA DATE: Introduction: 11-01-2011
Public Hearing: 11-15-2011

CONTACT PERSON NAME AND PHONE NUMBER: Mirian Spencer, (915) 541-4482, spencermd2@elpasotexas.gov

DISTRICT(S) AFFECTED: ALL

SUBJECT:

An Ordinance amending Title 15 (Public Services) to add Section 15.08.011 (Definitions) to define terms; to amend Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits), to clarify the process and timeline for filing an appeal, and making the City Manager the appeals official; and to amend Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits), to identify the Downtown Management District as the entity to which applicants seeking a special privilege permit for events in the Downtown Improvement District must submit their application.

BACKGROUND / DISCUSSION:

The proposed ordinance defines the Downtown Improvement Area, AdHoc committee, appeals official, permit official, and Downtown Management District. These terms are necessary to allow the Downtown Management District to provide services to streamline the process for permitting events within the Downtown Improvement Area.

This process is the first component of several proposed changes to Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits) that have been identified as areas where improvements can be made to streamline and/or improve the processing time for special privilege applicants.

There is also a related Resolution to amend the Interlocal Agreement between the Downtown Management District and the City of El Paso for providing services under the Texas Local Government Code Chapter 375.

PRIOR COUNCIL ACTION:

Ordinance No. 017181, approved August 29, 2009 amended Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privileges) which granted the City approval to issue administrative permits for certain temporary or minimal encroachments of City right-of-way.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:

**Daryl W. Cole, Director
Department of Transportation**

Information copy to appropriate Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES) TO AMEND CHAPTER 15.08 TO ADD SECTION 15.08.011 (DEFINITIONS) TO DEFINE TERMS; AND TO AMEND SECTION 15.08.120 (SPECIAL PRIVILEGE LICENSES AND PERMITS), TO CLARIFY THE PROCESS AND TIMELINE FOR FILING AN APPEAL; TO MAKE THE CITY MANAGER THE APPEALS OFFICIAL; AND TO IDENTIFY THE DOWNTOWN MANAGEMENT DISTRICT AS THE ENTITY TO WHICH APPLICANTS SEEKING A SPECIAL PRIVILEGE PERMIT FOR EVENTS IN THE DOWNTOWN IMPROVEMENT AREA MUST SUBMIT THEIR APPLICATION.

WHEREAS, the City of El Paso (the “City”) finds that it is appropriate to utilize the El Paso Downtown Management District (“DMD”) to assist the City with the processing and issuance of a special privilege permit for the events in the Downtown Improvement Area; and

WHEREAS, a streamlined special privilege permit application process for events within the Downtown Improvement Area has been implemented by and between the City’s Department of Transportation and the El Paso Downtown Management District; and

WHEREAS, it is appropriate to revise Chapter 15.08 of the Code to reflect the exceptions to the application process for special privilege permitting for events within the Downtown Improvement Area that use public rights-of-way.

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) is amended to add Section 15.08.011 (Definitions), to read as follows:

15.08.011 – Definitions.

These definitions apply throughout this chapter.

- A. “Ad Hoc Committee” (AHC) means a committee comprised of representatives of city departments as designated by the City Manger or her designee, and may include representatives from other agencies in accordance with an Interlocal Agreement between the City and such agencies, that are involved in the review of applications for special privilege permits for events held within the Downtown Improvement Area. The AHC is responsible for making a recommendation for the approval or denial of the request for special privilege permit to the city Traffic Engineer.
- B. “Appeals official” means the city manager or a deputy city manager as designated by the city manager.
- C. “Downtown Improvement Area” means any area that lies within the boundaries of the Downtown Plan Area as described in the Downtown 2015 Plan adopted by City Council

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on October 31, 2006. A map of the Downtown Plan Area is on file with the City clerk and is also available through the office of the Downtown Management District.

- D. "Downtown Management District" (DMD) means the quasi-governmental management district established in 1997 pursuant to Texas State Statute (Local Government Code, Article 375), which has partnered with the City of El Paso to improve downtown El Paso through marketing and management agreements.
- E. "Permit official" means the person or person designated by the city manager as being responsible for issuing permits, licenses or making any other authorization provided for under this article.

Section 2. That Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits), subsection A.1. shall be amended as follows:

15.08.120. Special privilege licenses and permits.

- A.1. Application required. To acquire licenses or permits under this chapter, an applicant must submit an application to the traffic engineer, or, for events held within the Downtown Improvement Area that require a special privilege permit, an applicant must submit an application to the Downtown Management District, and follow the procedures prescribed by this section.
 - a. Only City Council may approve a special privilege license under this section, except that reassignment and renewal of licenses may be done administratively in accordance with the provisions of the license and does not necessitate additional City Council action if there are no changes to the terms and conditions.
 - b. A special privilege permit may be issued by the traffic engineer, or his designee. The traffic engineer, or his designee, may approve a permit under this section without City Council action if the specified use conforms to the requirements of this section.

Section 3. That Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits), subsections D.1. – D.4. (Procedures for a special privilege permit) shall be amended as follows:

- D. Procedure for a special privilege permit.
 - 1. For events within the Downtown Improvement Area, the special privilege permit applications and related materials will be forwarded to the Ad Hoc Committee (AHC), which will make a recommendation for approval or denial of the request. All other special privilege permit applications and related materials will be forwarded to the Development Coordinating Committee (DCC), which will make a recommendation for approval or denial of the request.

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2. If the applicable committee (AHC or DCC) recommends approval of the request, the traffic engineer may issue the permit provided the use meets the development standards enumerated in this section. Each of the development standards for specified uses ensures that the specified requested use is not inconsistent with and does not unreasonably impair the public use of the right-of-way and mitigates the encroachment onto public right-of-way, provides safety and aesthetics to adjacent uses, and insures compatibility with adjacent structures and uses.
3. If the applicable committee (AHC or DCC) recommends denial of the request, the traffic engineer shall deny issuance of the permit.
4. Appeal process.
 - A. An applicant may appeal the denial of an application in writing within ten days after notice of the denial has been received by submitting a written request to the traffic engineer. Within ten business days, or such longer period of time agreed to by the applicant, the appeals official shall hold a hearing on whether to issue the permit or uphold the denial. The applicant shall have the right to present evidence at said hearing and to question appropriate city officials. The decision to issue or uphold the denial shall be based solely on the approval criteria set forth in this chapter. The appeals official shall render a decision on the appeal within five business days after the date of the hearing. In the event that the purpose of the proposed event is a spontaneous response to a current event, or where other good and compelling causes are shown, the appeals official shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.
 - B. The decision of the appeals official is subject to review by the city council. The applicant shall submit a written request to the permit official, 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. The decision of the city council is final.

Section 4. That Title 15 (Public Services), Chapter 15.08 (Street Rentals), Section 15.08.120 (Special Privilege Licenses and Permits), subsection L.1. shall be amended as follows:

- L.1. With the exception of events sought to be held within the Downtown Improvement Area, an application for a special privilege permit is submitted to the traffic engineer in accordance with Section D and E. An application for a special privilege permit under this chapter for an event within the Downtown Improvement Area is submitted to the Downtown Management District, in accordance with Section D and E. 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 thirty days; except that for events involving the closure of city streets a separate application shall be required for each event.

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Adopted this _____ day of November, 2011.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Elizabeth M. Ruhmann
Assistant City Attorney

APPROVED AS TO CONTENT:

Daryl W. Cole, Director
Department of Transportation

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