

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

DEPARTMENT: Legal

AGENDA DATE: INTRODUCTION: 12/4/07 – PUBLIC HEARING: 12/11/07

CONTACT PERSON/PHONE: Raymond L. Telles-541-4550

DISTRICT(S) AFFECTED: All

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SUBJECT:

APPROVE an ordinance amending Title 13 (Streets Sidewalks and Public Places), Chapter 13.20 (Miscellaneous Street and Sidewalk Use Regulations), Section 13.20.110 (Bus Bench Franchises) to provide for the granting and administration of Bus Bench and Shelter Franchises.

BACKGROUND / DISCUSSION:

The City has determined that a need exists for the installation and maintenance of bus benches and shelters on public rights of way adjacent to established Sun Metro bus stops wherever possible for the convenience and benefit of members of the public utilizing the public transportation system provided by the City. After consulting with each of the existing bus bench franchisees, the City desires to revise the City Code in order to implement a new system of granting and administration of bus bench and shelter franchises to insure that all franchisees are treated equitably and that the public has access to safe and attractive bus benches and shelters. This revision will insure that all franchisees have identical terms lengths as well as uniform rules and regulations applicable to all.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one? If so, when?
No

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?
N/A

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A
N/A

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

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

OTHER: _____

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

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

AN ORDINANCE AMENDING TITLE 13 (STREETS SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.20 (MISCELLANEOUS STREET AND SIDEWALK USE REGULATIONS), SECTION 13.20.110 (BUS BENCH FRANCHISES) TO PROVIDE FOR THE GRANTING AND ADMINISTRATION OF BUS BENCH AND SHELTER FRANCHISES.

WHEREAS, the City of El Paso has determined that a need exists for the installation and maintenance of bus benches and shelters on public rights of way adjacent to established Sun Metro bus stops wherever possible for the convenience and benefit of members of the public utilizing the public transportation system provided by the City of El Paso;

WHEREAS, the City, in consultation with each of the existing bus bench franchisees, now desires to revise the El Paso City Code in order to implement a new system of granting and administration of bus bench and shelter franchises to insure that all franchisees are treated equitably and that the public has access to safe and attractive bus benches and shelters; and

WHEREAS, the franchisees have agreed with the intent of the City, it being the goal of all parties to insure that all franchisees shall have identical term lengths as well as uniform rules and regulations that are applicable to all;

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

I. That Title 13 (Streets Sidewalks and Public Places), Chapter 13.20 (Miscellaneous Street and Sidewalk Use Regulations), Section 13.20.110 (Bus Bench Franchises) of the El Paso City Code shall be deleted in its entirety and replaced with the following:

13.20.110 Bus bench franchises.

- A. This section shall be applicable to any and all bus bench franchises issued, approved or extended by the City Council of the City of El Paso. The rights granted for the installation and maintenance of bus benches pursuant to such a franchise may include the right to install and maintain advertising on existing City-owned bus shelters.
- B. Each franchise, unless otherwise indicated by this section, shall be governed by the terms of its franchise agreement, pursuant to those rules and regulations related to the installation and maintenance of bus benches and shelters as may be instituted and amended from time to time by the Mass Transit Department Board. Enforcement of the franchise agreements and their rules shall be the responsibility of the Director of the Mass Transit Department, or designee.

CITY CLERK DEPT.
07 NOV 29 AM 11:48

ORDINANCE NO. _____

C. Terms of Each Franchise.

1. Each franchise shall be limited to a period of not more than ten (10) years in length. If grantee is not in default of the terms hereof, the City, at its sole option, may extend the franchise for a period determined solely by the City, but in no event shall such extension exceed ten (10) additional years. Any such extension shall be granted upon such additional terms and conditions as required by the City. Grantee must request such extension by delivering written request not later than ninety (90) days before the original term of the franchise expires, and in the manner required by the franchise.
2. An initial franchise fee of one hundred dollars (\$100.00) shall be required of an applicant for a franchise. The annual franchise fee required of each approved grantee shall be one hundred dollars (\$100.00). Payment shall be made to the Comptroller of the City of El Paso on or before January 1 of each year.
3. An additional fee of two dollars (\$2.00) per approved bench, per month, shall be paid to the Comptroller of the City of El Paso. This fee shall be paid quarterly and without regard to the grantee's ability to place revenue-generating ads upon any approved benches.
4. One (1) bench shall be offered or made available to the City, for advertising, for each twenty (20) benches placed or maintained by a franchisee.
5. All remaining terms and conditions of a franchise shall be enumerated within each franchise agreement and those rules adopted by the Mass Transit Department.

D. Enforcement.

1. All rules as identified within, and attached to, each franchise agreement as well as those rules implemented by the Mass Transit Department shall be adhered to by the franchisees.
2. The Director of the Mass Transit Department shall be charged with the enforcement duties related to compliance with franchise agreements and all rules referenced herein.
3. In addition to any applicable removal, storage and disposal fees, a civil penalty of three hundred dollars (\$300.00) shall be imposed for each illegally placed bench that is disposed of by the Mass Transit Department Director in accordance with the rules established by the Mass Transit Department Board.
4. Upon written notice to the franchisee and a forty-eight (48) hour period for the franchisee to remedy, the Director of the Mass Transit Department may require the removal of any illegally placed benches. Upon written notice to the franchisee and a seven (7) calendar day period for the franchisee to remedy, the Director of the Mass Transit Department may require the repair, removal and/or replacement of

CITY CLERK DEPT.
07 NOV 29 AM 11:48

ORDINANCE NO. _____

7A

any unsafe benches or other benches found to be in violation of the rules or any applicable franchise. All expenses related to such removal, including but not limited to storage and disposal, shall be reimbursed by the bench owner.

5. Non-payment of any civil penalties noted within this enforcement section may result in the revocation of the franchise agreement.

E. Where a bus bench or shelter location involves a proposed use of a public right-of-way designated as a state or federal highway or road, written approval from the appropriate state or federal agency shall be required prior to approval of the location by the City.

II. Except as expressly amended herein, all other provisions of Title 13 (Streets Sidewalks and Public Places), Chapter 13.20 (Miscellaneous Street and Sidewalk Use Regulations) of the El Paso City Code, shall remain in full force and effect.

PASSED AND APPROVED THIS _____ DAY OF _____ 2007.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:



Tim Omick, Director
Mass Transit Department

07 NOV 29 AM 11:48
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ORDINANCE NO. _____