

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

DEPARTMENT: DEVELOPMENT SERVICES

CITY CLERK DEPT.

AGENDA DATE: INTRODUCTION – DECEMBER 19, 2006
PUBLIC HEARING – JANUARY 3, 2007

06 DEC 13 AM 10:12

CONTACT PERSON/PHONE: HARRY E. STEELE, DEVELOPMENT SERVICES / (915) 541-4570

DISTRICT(S) AFFECTED: ALL

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

An Ordinance amending Title 13 (Streets, Sidewalks and Public Places), Chapter 13.36 (Parades and Public Assemblies), of the City Code, to amend the provisions relating to parade costs and fees; the Penalty being as provided in Sections 1.08.010 – 1.08.030 of the City Code.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action?

N/A

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one? If so, when?

N/A

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:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.36 (PARADES AND PUBLIC ASSEMBLIES), OF THE CITY CODE, TO AMEND THE PROVISIONS RELATING TO PARADE COSTS AND FEES; THE PENALTY BEING AS PROVIDED IN SECTIONS 1.08.010 – 1.08.030 OF THE CITY CODE.

WHEREAS, the City Council finds that the conduct of and participation in parades and public assemblies pursuant to Chapter 13.36 of the City Code, is an important aspect of modern urban living;

WHEREAS, such activities provide an important outlet for the people of the City and provide mechanisms for the conduct of public entertainment and events, such that providing some funding support for these activities constitutes an important public purpose or benefit to the City and citizens of El Paso for which the City is willing to expend funds and generally share some of the costs for traffic control assistance for all of these events.

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

Section 1. That Section 13.36.050 (Costs and Fees) of the El Paso City Code shall be amended to read as follows:

Section 13.36.050 Costs and Fees.

A. The applicant shall be responsible for hiring and paying the fees established herein for the cost of law enforcement officers, vehicles and equipment to appropriately control traffic and to police roadway closures only during the entirety of each event to include the staging and disbanding of the event, as follows:

Assistance Required	Costs Paid by Applicant
First two or fewer officers; First two or fewer vehicles; Maximum of three hours	None
Next three to seven officers; Next three to five vehicles; Maximum of three hours.	50% of costs
Next eight or more officers; Next six or more vehicles; Maximum of three hours.	100% of costs

In developing the traffic control plan under section 13.36.040 B of this code, the Police Department shall prepare estimated costs for the City and for the applicant for the event and shall furnish the estimate to the permit official and the applicant. The estimate of the City's costs shall include, where applicable, any personnel costs associated with paying overtime costs to police officers which are not chargeable to the applicant. A representative of the Police Department shall, when necessary, confer with the applicant and explain the estimated costs.

B. The Police Department shall prepare and maintain a schedule of fees to be charged under this ordinance, based on its actual costs for payment of salaries and benefits, not to include overtime costs, for its law enforcement officers, and equipment that are used for event traffic control. The schedule shall be on file with the permit official and the city comptroller and shall be made available to all applicants. Vehicles shall be charged at a rate of \$12.00 or as otherwise set by resolution of the City Council.

C. Prior to the issuance of the permit, the applicant shall deposit with the city, an amount that is equal to half of the estimated amount of the applicant's portion of the costs of providing law enforcement officers and any other traffic control costs. The remainder of the applicant's portion of these costs will be due and paid in accordance with Section 13.36.080 H of this code. If the applicant cancels the event and notifies the permit official at least twenty-four hours in advance of the commencement of the event, the amount deposited with the City under this section shall be refunded, provided however, the applicant will be charged a \$30.00 administrative fee for the City's costs related to the cancellation of the event and issuing the refund.

D. The applicant shall reimburse the city any for the costs of providing roadway and sidewalk cleaning accordance with Section 13.36.080 G of this code.

E. In addition to the foregoing, the city may, in accordance with the provisions of this section, provide additional services or all of the services required by this chapter. The City Manager may establish a process to require persons and organizations seeking City support to submit a request to the City no later than June 1, 2006 for fiscal year 2007, and thereafter no later than March 1st of each year. The City Manager will present such requests to the Council in conjunction with the budget process. At the time the Council adopts the City's annual budget, the Council shall determine which if any events will be supported pursuant to subsection F of this section and include the appropriate funding in the City's budget.

F. For such applicants who have followed the process established in subsection E of this section, the city may, by resolution of the city council, provide the services required by this chapter at no cost or at a further reduced cost to the applicant should the city desire to provide such support to an event and funding is included in the City's annual budget for the event. Such action is not a waiver of a regulatory requirement based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed, but instead is an affirmative act of city association or speech in conjunction with the finding of a public purpose for such event.

Section 2. That Section 13.36.070 (Appeals) of the El Paso City Code shall be amended to read as follows:

Section 13.36.070 Appeals.

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 permit official. Within five 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 the permit 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. Except as provided in subsections D and E, the decision of the appeals official is subject to review by the City Council. Prior to the filing of any petition for declaratory judgment or other judicial determination pursuant to subsection C, the applicant shall appeal the decision of the appeals official to the City Council. The applicant shall submit a written appeal 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.

C. The decision of the City Council is subject to review in the District Courts of El Paso County. Any petition for a declaratory judgment or other judicial determination as to whether the permit should be granted shall be filed with the clerk of district court within 30 days after the applicant has received notice of the decision. The city shall transmit the record to the court no later than five business days after filing its answer. The city shall in all matters before the court, seek prompt judicial action and promptly file and respond to all pleadings, discovery and other matters before the court.

D. The decision of the permit official to refuse to accept a late application is not appealable.

E. The decision as to the amount of traffic control or clean up necessary in conjunction with an event, and the costs resulting therefrom, are not appealable, provided that the costs of traffic control are based on the schedules of fees required in sections 13.36.050 A and B of this code.

Section 3. That Section 13.36.080 (Duties of Permittee) of the El Paso City Code shall be amended to read as follows:

Section 13.36.080 Duties of Permittee.

A. A permittee shall comply with all permit directions and conditions and with all applicable laws and ordinances.

B. The person heading or leading the parade shall carry the permit upon his person during the conduct of the parade and a permittee shall have the permit in his possession at all times during a public assembly.

C. The permittee shall not allow the parade to begin, proceed or continue until such time as the applicable traffic control plan or method is set up and functioning.

D. The permittee shall not make an exclusive use of any city-controlled park or park facility for a demonstration except in compliance with section 13.24.200 of this code.

E. The permittee shall take all steps reasonably necessary to keep the area for the public assembly clean or the parade route clean and free of animal excrement during the parade.

F. The permittee shall, immediately upon the conclusion of the event, clean and remove all litter and debris left on the roadways, sidewalks, and other public rights-of-way by participants, animals, floats, and vehicles used in the event and by spectators to the event.

G. The permittee may, no later than fourteen business days prior to the day of the event, request the assistance of the city with such cleaning and if provided the permittee shall be responsible for the costs of the city cleaning. Such request shall be made on a form provided by the city and filed with the permit official.

H. In the event that the permittee does not request and receive the assistance of the city with such cleaning and the permittee fails to clean and remove all such litter and debris within four hours of the end of the event, the city may perform such cleaning and the permittee shall be responsible for the costs of the city cleaning.

I. Payment of all of the permittee's portion of the costs of providing on-duty law enforcement officers and any other traffic control costs, less the amount of deposit made under Section 13.36.050 C of this code, shall be due and payable within ten days of receipt of the bill from the city comptroller.

J. Payment of any city cleaning costs shall be due and payable within ten days of receipt of the bill from the city comptroller.

Section 4. This ordinance shall take effect on January 7, 2007. All permittees holding permits issued by the city prior to the effective date of this ordinance for an event held or to be held on or before the effective date of this ordinance shall be responsible for the payment of costs and fees in accordance with the provisions contained in the prior code as contained in Chapter 13.36 of this code and the prior code is continued in effect for that purpose.

Section 5. Except as herein amended, Title 13 of the El Paso City Code shall remain in full force and effect.

ADOPTED this 3rd day of January 2007.

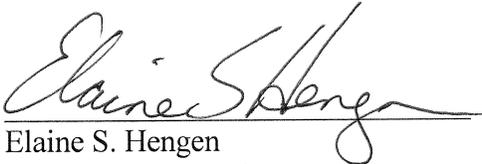
CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Elaine S. Hengen
Senior Assistant City Attorney