



Mayor Javier Villalobos
Mayor Pro Tem/Commissioner Joaquin Zamora
Commissioner Tony Aguirre, Jr.
Commissioner J. Omar Quintanilla

Commissioner Rodolfo "Rudy" Castillo
Commissioner Victor "Seby" Haddad
Commissioner Pepe Cabeza de Vaca
City Manager Roel "Roy" Rodriguez, P.E.

**NOTICE OF WORKSHOP TO BE HELD BY THE
MCALLEN BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 12, 2022 – 4:00 PM
MCALLEN CITY HALL
CITY COMMISSION CHAMBERS; 3RD FLOOR
1300 HOUSTON AVENUE
MCALLEN TEXAS, 78501**

AGENDA

<https://zoom.us/j/5087553077?pwd=TjduYjR4U2l3cWU1NjlsZzlsM2hJUT09>

Members of the public that wish to listen to the meeting can log in to the virtual Zoom meeting or dial (346) 248-7799 US (Houston) Meeting ID: 508 755 3077 Passcode: 878576.

Individuals that wish to participate in the meeting or comment on an agenda item should call (956) 681-1020 by 3:30 pm. Any individual dialing in acknowledges his or her phone number may be visible to the public.

"At any time during the course of this meeting, the City Commission may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the City Commission under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during the course of this meeting, the City Commission may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code."

CALL TO ORDER

- 1. Present questions to staff relating to the September 12, 2022 Regular Meeting Agenda, to be discussed at such meeting.**
- 2. Discussion of Pop Up Market Regulations.**
- 3. Fiber Update.**
- 4. EXECUTIVE SESSION, CHAPTER 551, TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH ATTORNEY), SECTION 551.072 (DELIBERATION REGARDING REAL PROPERTY), SECTION 551.074 (PERSONNEL MATTERS) AND SECTION 551.087 (ECONOMIC DEVELOPMENT)**
 - A) Consideration of Economic Development Matters. (Section 551.087, T.G.C.)**

- B) Discussion and possible lease, sale or purchase of Real Property, Tract 1. (Section 551.087, T.G.C.)
- C) Consultation with City Attorney regarding pending litigation matters. (Section 551.071, T.G.C.)
- D) Consultation with City Attorney regarding legal issues related to alcohol permits. (Section 551.071, T.G.C.)

ADJOURNMENT

IF ANY ACCOMMODATION FOR A DISABILITY IS REQUIRED (OR INTERPRETERS FOR THE DEAF), NOTIFY THE CITY SECRETARY'S DEPARTMENT AT 681-1020 FORTY-EIGHT (48) HOURS PRIOR TO THE MEETING DATE. WITH REGARD TO ANY ITEM, THE BOARD OF COMMISSIONERS MAY TAKE VARIOUS ACTIONS INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR A FUTURE DATE OR TIME.

C E R T I F I C A T I O N

I, the Undersigned Authority, do hereby certify that the attached agenda of the meeting of the McAllen Board of Commissioners is a true and correct copy and that I posted a true and correct copy of said notice on the bulletin board in the Municipal Building, a place convenient and readily accessible to the general public at all times, and said Notice was posted on September 9, 2022 at 3:30 PM and will remain so posted continuously for at least 72 hours preceding the scheduled time of said meeting in accordance with Chapter 551 of the Texas Government Code.

/s/
Perla Lara, TRMC/CMC, CPM
City Secretary



ITEM SUMMARY

BOARD: City Commission

AGENDA ITEM

1.

DATE SUBMITTED

MEETING DATE

9/12/2022

1. Agenda Item: Present questions to staff relating to the September 12, 2022 Regular Meeting Agenda, to be discussed at such meeting.
2. Party Making Request: Perla Lara
3. Nature of Request:
4. Routing:
Cindy Gonzalez
5. Staff Recommendation:
6. Advisory Board:
7. City Attorney:
8. Manager's Recommendation:

Created -



ITEM SUMMARY

BOARD: City Commission

AGENDA ITEM

2.

DATE SUBMITTED

09/06/2022

MEETING DATE

9/12/2022

1. Agenda Item: Discussion of Pop Up Market Regulations.

2. Party Making Request:

3. Nature of Request:

4. Routing:
Michelle Rivera

Created/Initiated - 9/6/2022

5. Staff Recommendation:

6. Advisory Board:

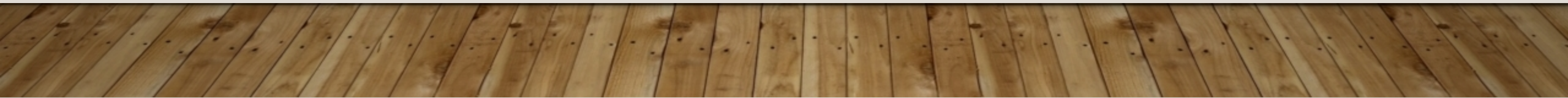
7. City Attorney:

8. Manager's Recommendation:



POP UP MARKETS

MCALLEN CITY COMMISSION WORKSHOP – SEPTEMBER 12, 2022



- Pop Up Markets (PUMs) have become quite popular since COVID

-
- They've been processed through a special permit process
 - Recently have had some complaints for areas that border residential
 - Found an ordinance that doesn't allow for outdoor sales of merchandise
 - Would like to amend the exceptions and allow certain restrictions of PUMs

- Would limit PUMs to no more than 12 times per year per address
 - Would require \$50 permit fee for 1-15 vendors; \$75 for 16-30; \$100 > 30
-
- Not more than 25% of the total parking lot may be used for pop-up market while main business open
 - If in a plaza must have consent of 75% owners or tenants
 - Propose a time limit for such uses to 9 p.m. and not more than 12 hours
 - Limit such uses to C-3 or more intense zone



ORDINANCE NO. 2022- _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MCALLEN AT CHAPTER 78 (“PEDDLERS AND SOLICITORS”), ESTABLISHING ARTICLE III (“POP-UP MARKETS”), PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY, AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City of McAllen seeks to encourage entrepreneurship and economic activity,

WHEREAS, the City of McAllen also seeks to promote peace, safety and order in each zoning district,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MCALLEN, TEXAS, THAT:

SECTION I: The Code of Ordinances, City of McAllen, Chapter 78 (“Peddler and Solicitors”), Article III (“Pop-Up Markets”) is hereby established and shall read as follows:

Sec. 78-60. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pop-Up Market means an organized operation conducted outside of a permanent structure at a designated location used by vendors primarily for the distribution and sale of retail merchandise.

Pop-up market permit means written approval to operate a pop-up market issued by the city.

Vendor means a person who distributes or offers for sale retail merchandise.

Sec. 78-61. Pop-up market permit required.

It shall be unlawful to operate a pop-up market:

- 1) Without a valid pop-up market permit; or
- 2) In violation of any provision of a pop-up market permit, this article, or any other applicable city ordinance or other law.

Sec. 78-62. Fees.

A one-time permit fee shall be charged at the time of issuing the permit. The permit fee amount shall be determined by the total number of vendors present at the pop-up market. Permit fees are nonrefundable. The pop-up market permit fee schedule is as follows:

- 1) Pop-up market having 1 – 15 vendors: \$50 permit fee.
- 2) Pop-up market having 15 – 30 vendors: \$75 permit fee.
- 3) Pop-up market having over 30 vendors: \$100 permit fee.

Sec. 78-63. Limitation on number of permits at specific location.

A permit issued pursuant to this article shall not be issued for more than one pop-up market per calendar month for each specific address listed.

Sec. 78-64. Location Of Pop-Up Markets

A Pop-Up Market must be located and operated within a C-3 general business zoning district or higher

Sec. 78-65. Operation Of A Pop-Up Market.

- 1) A Pop-Up Market shall not be in operation after 9 PM nor shall any pop-up market operate for more than twelve (12) hours in any twenty-four hour (24)hour period.

- 2) If a proposed pop-up market location is within any multi-tenant plaza, then an applicant must first obtain written consent of approval from at least 75% of all owners of said plaza before a permit is issued.
- 3) While the main use of any designated plaza or location is open for business, not more than twenty-five percent (25%) of the total parking lot may be used for purposes of a pop-up market.
- 4) All tents, stalls, and merchandise must be immediately removed from the property upon expiration of the pop-up market's permitted operating hours. at the end of the pop-up market designated time period.

Sec. 78-66. Other permits required.

Issuance of a permit under the provisions of this chapter does not waive or satisfy the requirement to obtain any other permit, zoning, or other license that may be required under the McAllen Code of Ordinances or applicable federal and state laws or regulations.

Sec. 78-67. Revocation, suspension or denial of a permit.

The City Manager shall have the authority to immediately revoke or suspend a permit issued under this article if:

- 1) The applicant or permit holder has violated or failed to meet any of the provisions of this article for issuance of the permit;
- 2) The applicant or permit holder has violated or failed to meet any of the conditions of the permit;
- 3) Any required licenses have been suspended, revoked, or canceled;
- 4) The permittee has violated any federal, state, or city law or regulation;

- 5) The chief of the police department or the chief of the fire department has determined that the pop-up market would pose a serious threat to the public health, safety, or welfare; or
- 6) The applicant has made a false statement of material fact on an application for a pop-up market permit.

SECTION II: The City Secretary of the City of McAllen is hereby authorized and directed to cause the caption of this ordinance to be published in a newspaper having general circulation in McAllen, Hidalgo County, Texas in accordance with the Code of Ordinances of the City of McAllen, Section 2-56. Publication of ordinances.

SECTION III: The City Secretary of the City of McAllen is hereby authorized and directed to cause the language in Chapter 78, Article III, the McAllen Code of Ordinances, as established by Section I, hereinabove, to be published in the appropriate location in the said Code of Ordinances.

SECTION IV: This Ordinance shall be and remain in full force and effect from and after its passage by the Board of Commissioners, and execution by the Mayor.

SECTION V: If any part or parts of this Ordinance are found to be invalid or unconstitutional by a court having competent jurisdiction, then such invalidity or unconstitutionality shall not affect the remaining parts hereof and such remaining parts shall remain in full force and effect, and to that extent this Ordinance is considered severable.

CONSIDERED, PASSED and APPROVED this ____ day of _____, 2022, at a regular meeting of the Board of Commissioners of the City of McAllen, Texas at which a

quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

SIGNED this ____ day _____, 2022.

CITY OF McALLEN

By: _____
Javier Villalobos, Mayor

Attest:

Perla Lara, TRMC, City Secretary

Approved as to form:

Isaac J. Tawil, City Attorney

TO: MCALLEN CITY COMMISSION
FROM: MILES J. MULLIN
DATE: AUGUST 19, 2022
SUBJECT: POP UP MARKET REGULATION

POP UP MARKETS

I. ISSUE

Should the conduct of Pop Up Markets in the City of McAllen be:

- (1) subject to regulation by the City of McAllen and,
- (2) if so, the extent and content of that regulation?

II. CONCLUSION

Pop Up Markets should be regulated by the City of McAllen with reasonable operational requirements subject to:

1. Enforcement by the City of McAllen including
2. Permit fee that covers the City's administrative costs associated with processing the Application, as well as any associated regulatory and anticipated enforcement costs.
3. Revocation of individual Market Applicant's right to do business in the City of McAllen for a period of one(1) year for two violations of the operational requirements, violations to be determined in the sole discretion of the City of McAllen's designated representative. The designated representative to be appointed by the McAllen City Commission.

III. INTRODUCTION

Apparently, prior to the First McAllen City Commission Workshop on the issue of Pop up Markets, some individuals advanced a false narrative of what McAllen was considering. Running a City is a difficult task. Included within the scope of that task is the City's legal authority, for the safety, health and welfare of its citizens, to regulate businesses doing business within its City Limits. Doing business in McAllen is not an absolute right. It is a privilege subject to reasonable regulation.

IV. A CASE STUDY

A Pop Up Market was held at Southern Roots on North Main Street.

Attached as Exhibit "A" is a copy of a photograph taken by a news reporter of the event at a moment in time. The photograph was taken facing East. You can see the vehicles parked along Main Street in the background. At the same time, if you were traveling South onto Main Street from Pecan, a plethora of vehicles were parked on the West side of Main Street, around the curve to the North of Salome. Attached as Exhibits "B" and "C" are recent photographs of the curve. Note that Exhibit "C" shows vehicles going north both in curb side lane and in the left turn lane. Imagine the squeeze down of the southbound lane if vehicles were parked along the West curb.

Vehicles, apparently belonging to the individuals attending the same Pop Up Market were parked along Orange Avenue. Attached as Exhibit "D" is a statement from one of the real property owners that lives on the south side of Orange Avenue. It details the existence of "traffic and parking issues".

V. CURRENT MCALLEN PROCEDURES AND REGULATION OF POP UP MARKETS

It is this author's understanding that the following procedures have been followed regarding Pop Up Markets:

A. Applicant applies for a "Special Event Permit" through the Office of the City Secretary, City of McAllen. Attached hereto as Exhibit "E" is a true and correct copy of the required Application.

B. After the Application is submitted, the City circulates the Application and a form titled "Special Limitations/Conditions" to various City Departments listed for their approval, and the imposition of any specific requirements governing the event described on the Application. Attached hereto Exhibit "F" is a blank copy of the Special Limitation/Condition form. Attached as Exhibit "G" is a copy of a Special Limitations/Conditions form completed by the various City Departments.

VII. POP UP MARKETS AND CURRENT SECTIONS OF MCALLEN CODE OF ORDINANCES

There is no provision in the Code of Ordinances of the City of McAllen that addresses Pop Up Markets. The current provision of the Code of Ordinances appear to prohibit Pop Up Markets in the City of McAllen.

A. Section 78-1 prohibits the outdoor display and sale of merchandise. This prohibition is subject to certain exceptions. The exceptions are listed in Section 78-2.

Sec. 78-1. - Outdoor display and sale of merchandise prohibited. It shall be unlawful for any person to display and sell any new or used goods or materials, including farm products or

agricultural products in their natural state, outdoors on any open or unimproved lot or parcel or on any open area of a lot or parcel with a structure unless excepted or permitted by this chapter.

B. Listed below are the only possible exceptions that might possible be applicable to the factual matters currently being considered regarding Pop Up Markets.

Sec. 78-2. - Exceptions.

The outdoor display and sale of merchandise on an open or unimproved lot or open area of a lot or parcel with a structure is only allowed in the following situations:

(1) On the premises or a lot or parcel in which a retail business is operated in a structure and where the display or sale of merchandise is related to the general operations of such business. The outdoor display and sale of merchandise shall not result in an elimination, temporarily or permanently, of the number of off-street parking ordinance. Such structure must comply with all building requirements and other requirements mandated by this Code

(5) The display and sale of merchandise related to a garage sale provided that the display is limited to the address location and duration of the garage sale permit otherwise issued under the provisions of this Code.

(6) The display and sale of merchandise at a flea market.

VIII. REGULATION BY THE CITY OF MCALLEN OF
SIMILAR TYPES OF SALES

A. Estate Sales: Regulated by McAllen City Code 86-91(e). Three permits per year for not more than 3 days each. Fee: \$20.00

B. Garage Sales: Regulated by McAllen City Code 86-91(e). Three permits per year for not more than 3 days each. Fee: \$20.00

C. Itinerant Vendors: Regulated by McAllen City Code 78-41 and following section in Chapter 78. The period for the permit is longer, the fee is higher (\$100.00), a Bond Requirement (Code 78-42), and unless

the Applicant stays continuously where the applicant sets up for the entire period, with unsold merchandise remaining in place, an Applicant will not qualify as an Itinerant Vendor. Moreover only the Applicant and those helping the Applicant in his business are allowed under the permit. In other words, no one permit for multiple vendors.

IX, CONCLUSION

The City Commission has the authority to impose reasonable requirements on businesses operating within the City. In doing so, the City has the duty and responsibility to protect the property of its citizens.

What makes the facts of the Case Study set forth above so troubling is that throughout the growth of the City of McAllen, except for one long time serving Mayor, the McAllen City Commission has, in the past, apparently recognized, as has Futuro McAllen, the neighborhoods bordering a portion of Main Street are "...great stable neighborhoods, particularly those of historical significance." See Exhibits "H" and "I" that express that sentiment in the context of a prior attempt to extend, along Main Street, the "Entertainment District".

It is submitted that the legal responsibility of a Pop Up Market Applicant and operator is to conduct the Pop Up Market in a manner that adheres to any specific requirements imposed on the Applicant, as well as those imposed on all by the provisions of the McAllen City Code.

It is also respectfully submitted that an Applicant should exercise a common consideration and courtesy for surrounding neighbors. This includes insuring that the people that attend the Pop up Market do not park their vehicles in such a manner as to create a traffic hazard nor impose a burden on surrounding residential neighborhoods. This does not mean that attendees cannot park on a public street (subject to any specific limitations contained in the McAllen Traffic Code). However, an Applicant saying that adequate parking spaces were provided by consent from neighboring businesses in order to fulfill any City of McAllen requirement, is not, from a actual reality "on the ground" standpoint, sufficient unless the Applicant takes steps to insure that the people that attend its event are informed and directed to that parking. That may be somewhat of an imposition on the Applicant. However, if the choice is to burden the Applicant, or burden the owners of adjacent businesses and residences, the burden should be the Applicant's to bear.





10, 1913



P LaserJet 1200 Series PCL 5 (61.53.25.9); Windows 10 Home 10.0.19043.1; Unidrv 0.3.19041.1889"

@PJL COMMENT

EXHIBIT
2-9
86-2"

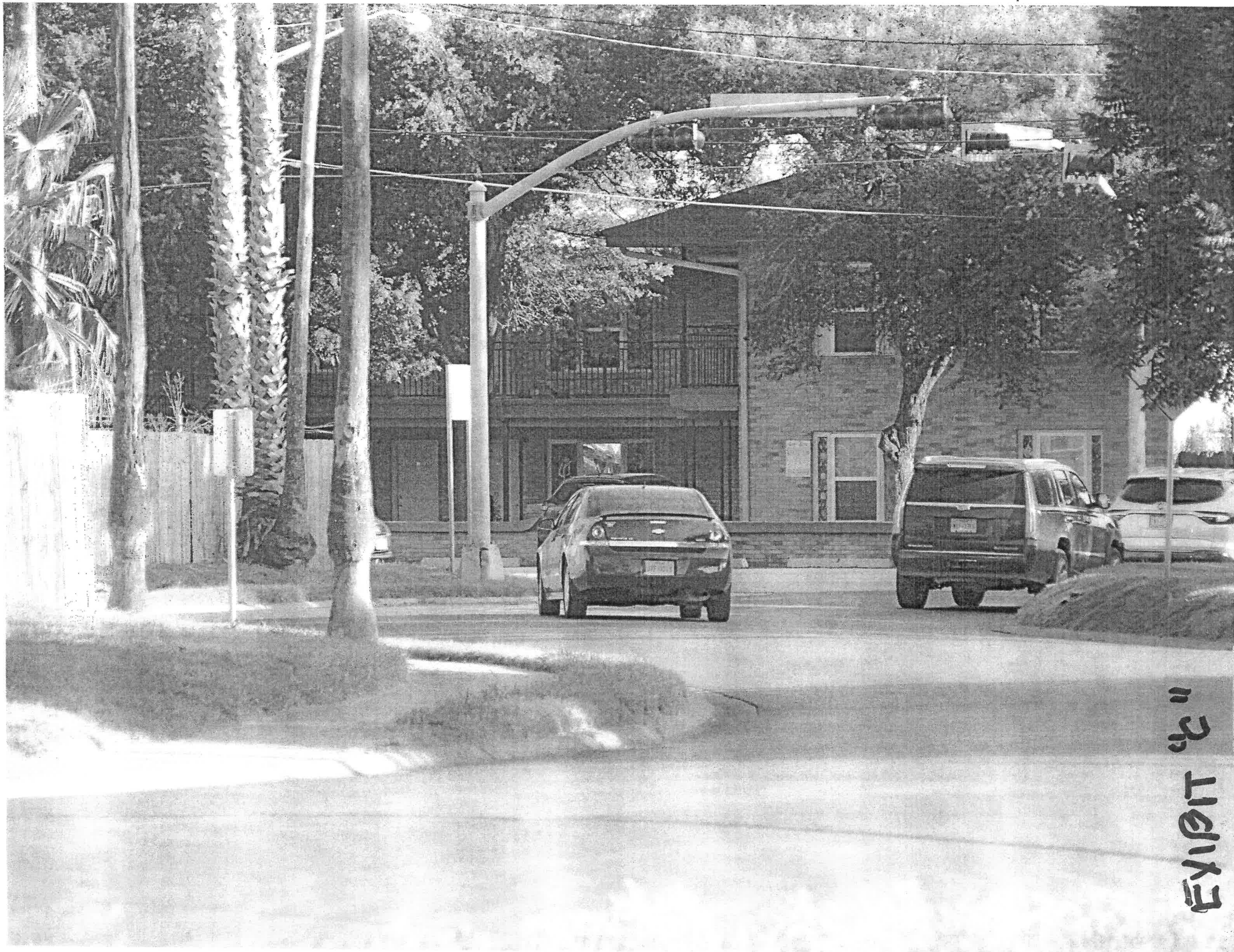


EXHIBIT 2

Coming back from the HEB on West Pecan, on turning south onto Main Street I was met with alarming traffic congestion. I managed to turn east onto Orange Street. My house is at 1315 Orange, next to the empty lot on the corner of Main and Orange. A large SUV was parked alongside the empty lot, and its rear end projected far enough into my driveway that, because of the presence of cars not normally parked on the north side of Orange, I was unable to make the usual right turn into the driveway. I therefore had to park in front of my house and haul three or four full bags of groceries up the driveway to the back door of my house, not an easy task for an unsteady 80 year-old.

Berry Fritz

August 17, 2022

EXHIBIT "D"



SPECIAL EVENT PERMIT

Including parade/procession, street closing and mass gathering of fewer than 1000 people

REQUIREMENTS: INCOMPLETE APPLICATION WILL NOT BE ACCEPTED/PROCESSED

() \$20.00 Permit Fee Upon Submission of Application (Cash or Check)

*\$25.00 Expedited Processing (less than 5 days) as per Ordinance 2016-58

() Detailed Map/Layout

() Proof of Liability Insurance or Waiver

Date of Event: _____

Type of Event: ____Parade ____Walk-A-Thon ____Other_____

McAllen Code Sec. 102-307 Definition: Parade means any parade, march, ceremony, show, exhibition, pageant, pedestrian race, run, marathon or walkathon, or procession of any kind, or any similar display, in or upon any street, park or other public place in the city.

NAME OF CONTACT PERSON: _____

ORGANIZATION (IF APPLICABLE): _____

ADDRESS: _____

TELEPHONE: _____

PURPOSE AND DESCRIPTION OF EVENT (BE SPECIFIC):

ARE VENDORS/SALES PROPOSED? (DESCRIBE):

*Public food Sales require food handling permits; not required for private events.

ARE TENTS OR OTHER STRUCTURES PROPOSED? _____

*All tent fabrics must be flame resistant. An affixed tag or certificate by a testing laboratory is acceptable as evidence of flame resistance. Tents are subject to inspection.

START TIME: _____ END TIME: _____

**** City of McAllen does not provide traffic control/police officers for events.**

ROUTE TO BE TRAVELED OR UTILIZED (Attach Site & Traffic Plan)

Starting Location: _____

Ending Location: _____

Will the Event Occupy All Or Only a Portion of the Width of the Street? _____

Length of Event (i.e. blocks/miles): _____ No. of Persons: _____

No. of Animals: _____ Type of Animals: _____

No. and Description of Vehicles _____

**** Applicant is responsible for Street Closure**

Applicant Signature _____ Date _____

EXHIBIT "E"

- a) \$20 Permit Fee upon submission of application
*\$25.00 Expedited Processing (less than 5 days) as per Ordinance 2016-58
- b) If barricades are needed applicant must contact Texas Highway Systems at (956) 580-7660, 3521 N. Mayberry Rd., Mission, TX, for the rental of barricades and provide us with proof of rental.
- c) Detailed Map/Layout of the route of the parade or procession;
- d) Proof of liability insurance or waiver.
Certificate of Liability Insurance - the City of McAllen must be the Certificate Holder or be listed under additional insured.
Waiver - must exclude the City of McAllen from any liability.
- e) **City of McAllen does not provide traffic control for events**

EVENT

EVENT:
CONTACT:
LOCATION:

DATE:
TIME:
PHONE: (956)

SPECIAL LIMITATIONS/CONDITIONS

POLICE DEPARTMENT Capt. Phillip Foley 681-2300	
FIRE DEPARTMENT Capt. Felipe A. Hernandez Asst. Fire Marshall 681-2500	
TRAFFIC SAFETY Marlen Garza, Director 681-2700	
HEALTH DEPARTMENT Steven Kotsatos, Director 681-1900	

APPROVED ____ DISAPPROVED ____

City Manager/Designee

EXHIBIT "F"



E-mailed: 4/18/22

JAVIER VILLALOBOS, Mayor
 JOAQUIN "J.J." ZAMORA, Mayor Pro Tem & Commissioner District 1
 TONY AGUIRRE, JR., Commissioner District 2
 J. OMAR QUINTANILLA, Commissioner District 3
 RODOLFO "RUDY" CASTILLO, Commissioner District 4
 VICTOR "SEBY" HAADAD, Commissioner District 5
 PEPE CABEZA DE VACA, Commissioner District 6

ROEL "ROY" RODRIGUEZ, RE, City Manager

Hecho A Mano Mercado

EVENT: Market
 CONTACT: Monique Villarreal
 LOCATION: 1624 N. 10th St.

DATE: April 24, 2022
 TIME: 12:00 PM – 5:00 PM
 PHONE: (956) 451-2152

SPECIAL LIMITATIONS/CONDITIONS

POLICE DEPARTMENT Capt. Phillip Foley 681-2300	The application is recommended for approval with the following conditions: 1. Applicant must monitor internal crowd control. 2. No obstruction of any public adjacent streets. 3. No obstructions of fire hydrants, fire lanes, alleys, or public/private drives as applicable. 4. Parking in designated areas only. No unauthorized parking of vehicles in private parking lots or businesses entities. 5. Event times shall be as listed on the application. 6. Applicant must comply with all City of McAllen policy/ordinances and State laws. 7. Applicant must coordinate and get approval of street closure with the City of McAllen Traffic department.
FIRE DEPARTMENT Capt. Felipe A. Hernandez Asst. Fire Marshall 681-2500	The event is approved with the following conditions: 1. No Parking in a Fire Lane 2. Fire Hydrants are to remain unobstructed and accessible. 3. Permit must be obtained and Fire Inspection to be conducted by Fire Marshal's Office on any tents exceeding 400 sq.ft. 4. Please contact our office to schedule a tent inspection (956) 681-2551 or 311 N 15th St. 5. Fire Department access roads must be accessible in the event of an emergency. 6. Parking in designated areas only 7. During a street closure, access for emergency vehicles shall be provided as needed 8. Barriers shall be easily moved if needed during an emergency 9. Provide means to evacuate premises in a timely fashion in the event of an emergency. 10. If any cooking will take place, additional permits and inspections will need to be obtained. 11. Current Food truck/trailer inspections are required. (If applicable) 12. Fire Extinguishers are required, min. 5lbs. Rating (If any ignition sources are on location). 13. K-Type fire extinguishers required for any food truck/booth with fryer. 14. Must comply with Fire Department booth requirements. Please contact our office at 956-681-2551 or 311 N 15th for applicable permits, fees and inspections. *NOTE* Must comply with any and all other city department requirements and their processes to include obtaining appropriate permits.
TRAFFIC SAFETY Marlen Garza, Director 681-2700	Approved under the following conditions: 1. No obstruction of any public adjacent streets or alleys. 2. No stacking allowed along and 10 th Street (FM 336). 3. Applicant is recommended to have signs or event staff directing vehicles and 10 th Street. Event traffic shall not impact the traffic patterns along adjacent roadways. This will be the responsibility of the permit applicant. 4. No parking on private driveways or alleys. Applicant stated that security and additional parking will be provided for attendees. 5. Event times shall be as listed on the application. 6. Do not block stop signs, keep a distance of 20-ft from the sign to allow for residential vehicular traffic and emergency vehicles. 7. Applicant must comply with all City of McAllen policy/ordinances and State laws. 8. Parking in designated areas only. No unauthorized parking of vehicles in private parking lots or businesses entities. 9. Attendees must meet the current standards/requirements set out by the State of Texas and the CDC for Social Distancing. And all other COVID-19 guidelines. If the applicant should have any questions, please have them contact our office at 681-2715.
HEALTH DEPARTMENT Steven Kotsatos, Director 681-1900	This is approved provided that: Attendees must meet the current standards/requirements set out by the State of Texas and the CDC for Social Distancing and all other local COVID-19 guidelines. 1. Temporary food permits must be obtained for any food sales or food given away to the public. 2. Food trucks must have a valid food truck permit from a local health authority. 3. No parking on grass or dirt allowed. 4. Tents 10' by 10' should contact Planning Department. 5. Tents larger than 10' by 10' must obtain a Tent Permit with Health & Code Enforcement. See attachment.

APPROVED ☒ DISAPPROVED ☐

EXHIBIT "G"



Futuro OPPOSES proposed Ordinance

1 message

Nedra S. Kinerk <nkinerk@att.net>

Mon, Apr 13, 2009 at 7:34 PM

Futuro McAllen Members and Friends:

There has been some talk that Futuro has backed a City Ordinance which would:

- a. Extend the Arts District north to Pecan,
- b. Allow bars in the Arts District, including the expansion area to Pecan (Main St.)
- c. Allow a parking waiver, whereby bars (etc.) would not have to meet City parking requirements.

To be very clear, this is NOT the case.

While an extension of the Arts District may make sense, there is NO way that Futuro McAllen would support BARS adjacent to great, stable neighborhoods, particularly those of historic significance. The "Art Walk" community really "founded" the Arts District, themselves combined with the fact that many art-related merchants are already north of Hackberry.

Further, it would be ludicrous to think that BARS and other businesses allowing and/or encouraging parking in adjacent residential areas would be good for residents.

"Parking waivers" may make sense, downtown, because of multiple city-owned parking lots. North of Old 83, there are NO such "public parking lots", which would create big parking issues for neighbors.

There is NO truth to any rumor that Futuro McAllen is involved in any way with this effort. Futuro, via a group called *Phoenix*, HAS helped the Heart of the City organization (which obtains City funding). But, Futuro has had no connection with them for some time, and has nothing to do with their initiatives.

Please be clear that Futuro McAllen opposes any such Ordinance – Strongly.

Nedra S. Kinerk

Nedra S. Kinerk, Ed.D.
President, Futuro McAllen
956 630-4700
956 330-2071
nkinerk@att.net

Futuro McAllen—Citizens committed to a better quality of life for McAllen neighborhoods.
If you prefer not to receive FM alerts, please reply with "no" in the subject line.

EXHIBIT "H"



Arts District & neighbors

1 message

Nedra S Kinerk <nkinerk@att.net>

Tue, Apr 14, 2009 at 4:36 PM

To All Who Care About Our Neighborhoods:

The following letter was addressed to Joe Rodriguez, Executive Director of HOTC on behalf of Futuro McAllen. These facts address Futuro's concern with the proposed ordinance and I hope clarify the issues for those of you concerned about the quality of growth for McAllen.

Nedra S. Kinerk
Nedra S. Kinerk, Ed.D.
President, Futuro McAllen
956 630-4700
956 330-2071
nkinerk@att.net

Futuro McAllen—Citizens committed to a better quality of life for McAllen neighborhoods.

If you prefer not to receive FM alerts, please reply with "Remove" in the subject line.

Letter to HOTC from Futuro McAllen 4-14-09

Joe:

With all the talk lately, I was happy to finally receive what so many are talking about, the Ordinance. Thanks to whomever for sending it.

Nedra is busy with other FM issues this week as am I. But, I wanted to send you a short note related to many comments from your Board: I wish, truly wish, they would all really read the proposed Ordinance carefully.

Some statements from your Board that YOU should know and understand: (I hesitate to do this given the reactions\$)

1. "The Arts District already goes to Pecan and beyond." **Response:** "Arts District" is a HOTC designation. It does not "exist" in City law. This Ordinance, for the first time, establishes a "MAD", by law. Your members really need to understand this.
2. "The Ordinance was worked and re-worked to INSURE that it would be good for the neighborhoods." **Response:** Read it and think about YOU living next to something that COULD, by law, go right behind you. Read Sec. 138-337. Now, decibel levels backing up to the "Arts District" will be just like those on 17th \$ an area with very few neighborhoods abutting it. Would you like that level of noise until 2:00 am at your homes?? Do you understand Sect. 138-341? Do you realize that, other than minimal Library parking, there are NO public parking lots north of Hwy 83? (The waivers in DROD and ECOD made sense due to public parking lots and buildings.) Do you understand what this will mean to neighborhoods adjoining it? Now restaurant/bars (that are technically, but not practically "restaurants") will be DRAWN to this area because they can avoid the high level of parking required elsewhere. Read page 13, which lifts restrictions near the schools on Hackberry, and page 14 which moves "closing time" for "restaurants" that act as bars from 12:15am to 2:00am. Do you want to live behind one of these?

EXHIBIT "I"

Bottom line here: *If it walks like a bar, talks like a bar, IT'S A BARI*

3. You say: "We want lofts above cafes, etc." **Response:** Read page 11. It appears as though, unless an artist occupies first floor and any above, **NO RESIDENTIAL is allowed on any floors above. This is OPPOSITE of Foresight McAllen.**

We've been "burned" due to language: We have been saying that we support the HOTC, meaning the AREA. Now, we're being thrown in with everything your group does, popular or unpopular, good or bad. We will be more careful in the future. The fact that we will disagree on some points does not diminish the fact that FM will always push for improvement in the CBD and surrounding neighborhoods. Even the fact that we read the very same Ordinance - and interpret it in very different ways - isn't the end of the world. It helps when we all understand that point, rather than acting like it is "war" to disagree.

This is the bottom line: YOU want it. It is for YOU to defend/promote. Given the Ordinance and so much opposition from our members, Futuro will not. Futuro has always been and shall remain "pro-neighborhood."

Regards,
Greg T

Jose Trujillo

From: Jorge Linares <thepeacepipe@yahoo.com>
Sent: Thursday, July 28, 2022 6:06 PM
To: Jose Trujillo
Subject: parking lot outdoor flea market

Dear Mr Trujillo my name is Roberto Mora I own The Peace Pipe located at 3513 N Ware Rd here in McAllen. I own my building here in this plaza. I am writing u this Email today in regards to these parking lot flea markets. Some time ago someone put one in our parking lot and it caused a lot of problems. One was they did not leave any parking for our customers and our employees through out the day and it really put a big dent in our sales. Now we have another lady trying to do one but we keep saying that we do not agree with her having one because of the problems we had the last time, but she is insists on having one. Mr Trujillo by now I am pretty sure u have noticed how slow businesses are and the weekends are our busiest days, because during the week it is very slow. I asked u not to let them do this event because it really hurts my business. Plus I see no benefit it can cause any of our businesses except no parking for anyone. It will only cause lots of lost revenue. if un have any questions please call me 956-655-7916

Thank You,
Robert Mora

Coming back from the HEB on West Pecan, on turning south onto Main Street I was met with alarming traffic congestion. I managed to turn east onto Orange Street. My house is at 1315 Orange, next to the empty lot on the corner of Main and Orange. A large SUV was parked alongside the empty lot, and its rear end projected far enough into my driveway that, because of the presence of cars not normally parked on the north side of Orange, I was unable to make the usual right turn into the driveway. I therefore had to park in front of my house and haul three or four full bags of groceries up the driveway to the back door of my house, not an easy task for an unsteady 80 year-old.

Berry Fritz

August 17, 2022

EXHIBIT "D"



ITEM SUMMARY

BOARD: City Commission

AGENDA ITEM

3.

DATE SUBMITTED

MEETING DATE

9/12/2022

1. Agenda Item: Fiber Update.

2. Party Making Request:

3. Nature of Request:

4. Routing:
Jose Trujillo

Created -

5. Staff Recommendation:

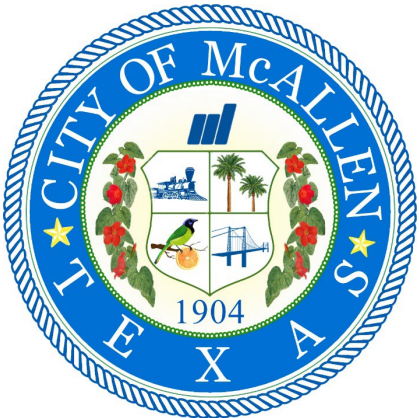
6. Advisory Board:

7. City Attorney:

8. Manager's Recommendation:

Utility Easements

City of McAllen
City Commission Workshop
September 12, 2022



Easement Overview

An easement does not convey title to property; but is instead a non-possessory interest that authorizes its holder to use the property for only particular purposes. *Stephen F. Austin State University v. Flynn*, 228 S.W.3d 653 (Tex. 2007).

An easement is the right given by a property owner to someone else to use the owner's property for a particular purpose without conveying title to the property itself.

Relevant Statutes

- ▶ Title 4, Subtitle B of the Texas Utilities Code: Provides rights to utilities (electric, gas, telephone, cable)
- ▶ SB 14 passed in 2019 now allows Electric Cooperatives can use their lines for broadband purposes. Texas Utilities Code. Ch. 181.048

Franchise Agreements- Telephone

- ▶ Prior to 1999, municipalities in Texas negotiated franchise agreements directly with the telephone companies
- ▶ Chapter 283 of the Texas Local Government Code was amended in September 1999 to implement a statewide compensation structure for telephone access into municipal rights-of-way

Engineering Permit Process

Submit a ROW Permit

- ▶ Contact Information
- ▶ Description of proposed work
- ▶ Site Plan

Permit Issued with conditions

- ▶ Contractor to notify engineering 24 hours prior to commencing work
- ▶ Contractor to call for final walk through.

Franchise Agreements- Telephone

TLGC 283.056(d): In the exercise of its lawful regulatory authority, a municipality shall promptly process each valid and administratively complete application of a certificated telecommunications provider for any permit, license, or consent to excavate, set poles, locate lines, construct facilities, make repairs, affect traffic flow, obtain zoning or subdivision regulation approvals, or for other similar approvals, and shall make every reasonable effort to not delay or unduly burden that provider in the timely conduct of its business.

Landowner's Charged with Knowledge

- ▶ Because landowners purchase properties aware of any encumbrances, and easements are a common encumbrance, landowners are charged with notice of easements that may encumber their property, including easements that do not contain a specific width but instead include general language. See *Williams v. Thompson*, 152 Tex. 270, 256 S.W.2d 399, 403 (1953)

Utilities Must Act Reasonably

The holder of a general easement must utilize the land in a reasonable manner and only to an extent that is reasonably necessary. *See Severance*, 370 S.W.3d at 721 (citation omitted). Specifically, a general easement includes the implied grant of “reasonable use such as is reasonably necessary and convenient and as little burdensome as possible to the servient owner.” *Id.*

Sw. Elec. Power Co. v. Lynch, 595 S.W.3d 678, 690 (Tex. 2020)

Sample Easement Language

...the right of ingress, egress, and regress therein, to erect, construct, reconstruct, install, replace, repair, operate, use, inspect, modify, remove and maintain certain water, wastewater, and/or other public utility lines and appurtenances, together with all lines, pipes, conduits and other facilities, equipment, improvements, and appurtenances used in connection with such said public utilities as deemed necessary thereto by said Grantee, over, along, across, under, into and through the Property.

Sample Easement Language

an easement or right-of-way for an electric transmission and distributing line, consisting of variable numbers of wires, and all necessary or desirable appurtenances (including towers or poles made of wood, metal or other materials, telephone and telegraph wires, props and guys), at or near the location and along the general course now located and staked out by the said Company over, across and upon the following described lands

....

Together with the right of ingress and egress over [the Landowners' predecessors-in-title's] adjacent lands to or from said right-of-way for the purpose of constructing, reconstructing, inspecting, patrolling, hanging new wires on, maintaining and removing said line and appurtenances; the right to remove from said lands all trees (fruit trees excepted) and parts thereof, or other obstructions, which endanger or may interfere with the efficiency of said line or its appurtenances; and the right of exercising all other rights hereby granted....

Sw. Elec. Power Co. v. Lynch, 595 S.W.3d 678, 686 (Tex. 2020)

Engineering Explains Permits Granted

Location	Construction Status
29th to 23rd/Dove to Lark	complete
Mynah to Trenton/N33rd to 26th st	complete
Lark to Dove / 29th to 35th St	complete
Ware and Palenque Dr	complete
Goldcrest to Mynah/23rd to Bicentennial	in progress
Quail to Goldcrest/2nd St to Railroad	in progress
Robin to Eagle/Bicentennial to 10th	in progress
Trenton to Baylor/23rd to Bicentennial	in progress
Nightingale to Trenton/23rd to 25th LN	permit issued
Shasta to Zinnia/N C St to 2nd	need permit
Fullerton to Northgate/23rd to Bicentennial	need permit
Trenton to Wisconsin/N 7th to N Cynthia	need permit
Zinnia to Dove/2nd St to 10th St	need permit
Hawk to Trenton/N 1st Ln and N Cynthia St	need permit
Fern to Nolana/N 10th St and Bicentennial	need permit

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ITEM SUMMARY

BOARD:	AGENDA ITEM	4.A.
	DATE SUBMITTED	09/07/2022
	MEETING DATE	9/12/2022

1. Agenda Item: Consideration of Economic Development Matters. (Section 551.087, T.G.C.)

2. Party Making Request: Isaac Tawil

3. Applicant:

4. Nature of Request:

5. Fiscal Impact Summary:

6. Budgeted:

Bid Amount: _____
Under Budget: _____

Budgeted Amount: _____
Over Budget: _____
Amount Remaining: _____

7. Routing:

Leilani Estrada Colima

Created/Initiated - 9/7/2022

8. Staff Recommendation:

9. Advisory Board:

10. City Attorney:

11. Manager's Recommendation:



ITEM SUMMARY

BOARD:	AGENDA ITEM	4.B.
	DATE SUBMITTED	09/07/2022
	MEETING DATE	9/12/2022

1. Agenda Item: Discussion and possible lease, sale or purchase or Real Property, Tract 1. (Section 551.087, T.G.C.)
2. Party Making Request: Isaac Tawil
3. Applicant:
4. Nature of Request: Discussion and possible lease, sale or purchase or Real Property, Tract 1. (Section 551.087, T.G.C.)
5. Fiscal Impact Summary:
6. Budgeted:

Bid Amount:	_____	Budgeted Amount:	_____
Under Budget:	_____	Over Budget:	_____
		Amount Remaining:	_____
7. Routing:
Leilani Estrada Colima
Created/Initiated - 9/7/2022
8. Staff Recommendation:
9. Advisory Board:
10. City Attorney:
11. Manager's Recommendation:



ITEM SUMMARY

BOARD:	AGENDA ITEM	4.C.
	DATE SUBMITTED	09/07/2022
	MEETING DATE	9/12/2022

1. Agenda Item: Consultation with City Attorney regarding pending litigation matters. (Section 551.071, T.G.C.)
2. Party Making Request: Isaac Tawil
3. Applicant:
4. Nature of Request: Consultation with City Attorney regarding pending litigation matters. (Section 551.071, T.G.C.)
5. Fiscal Impact Summary:
6. Budgeted:

Bid Amount:	_____	Budgeted Amount:	_____
Under Budget:	_____	Over Budget:	_____
		Amount Remaining:	_____
7. Routing:
Leilani Estrada Colima
Created/Initiated - 9/7/2022
8. Staff Recommendation:
9. Advisory Board:
10. City Attorney:
11. Manager's Recommendation:



ITEM SUMMARY

BOARD: City Commission

AGENDA ITEM

4.D.

DATE SUBMITTED

09/07/2022

MEETING DATE

9/12/2022

1. Agenda Item: Consultation with City Attorney regarding legal issues related to alcohol permits. (Section 551.071, T.G.C.)
2. Party Making Request: Isaac Tawil
3. Applicant:
4. Nature of Request: Consultation with City Attorney regarding legal issues related to alcohol permits. (Section 551.071, T.G.C.)
5. Fiscal Impact Summary:
6. Budgeted:

Bid Amount:	_____	Budgeted Amount:	_____
Under Budget:	_____	Over Budget:	_____
		Amount Remaining:	_____
7. Routing:
Leilani Estrada Colima
Created/Initiated - 9/7/2022
8. Staff Recommendation:
9. Advisory Board:
10. City Attorney:
11. Manager's Recommendation: