

CHAPTER 14-8. TEMPORARY CLOSURE FOR A RIGHT-OF-WAY EVENT. *

** **Editor's note:** The amendments to this chapter made by Ordinance 20090430-025 apply only to an application filed under Chapter 14-8 on or after May 11, 2009, the effective date of that ordinance. An application filed under Chapters 4-5, 14-7, or 14-8 filed before May 11, 2009, is governed by the City Code in effect immediately before May 11, 2009, and the prior [Chapter 14-8](#) code provisions are continued in effect for that purpose. See Ordinance 20090430-025, § 23.*

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ARTICLE 1. GENERAL PROVISIONS.

§ 14-8-1 DEFINITIONS.

In this chapter:

AFFECTED PERSON means the property owner, property manager or tenant of each property fronting on the portion of a public street to be closed.

APPLICANT means the individual or entity, including any governmental agency, that is legally responsible for conducting a right-of-way event, filing an application and documentation, and receiving a permit issued under this chapter.

CLOSURE AREA means the public right-of-way area that the applicant requests be closed for a right-of-way event or First Amendment event.

CLOSURE PERMIT means a permit issued by the director for a right-of-way event or First Amendment event under this chapter.

DEPARTMENT means the department or office designated by the city manager to administer permits issued under this chapter.

DIRECTOR means the department director or administrative head of the department.

FEE-PAID EVENT means a right-of-way event that is in a fixed or stationary location and requires the payment of a gate fee to access the public right-of-way.

NEIGHBORHOOD ASSOCIATION means a neighborhood association registered with the City for a neighborhood whose boundaries either include the public street to be closed, or extend to a point within 1/2 of a mile of a public street to be closed.

PARADE means a march or procession that:

- (a) does not comply with normal traffic regulations or controls on a public right-of-way;

- (b) consists of people, animals, and vehicles; and
- (c) does not exclusively advertise a product or event for private profit.

RIGHT-OF-WAY EVENT means an event or parade that requires the full or partial closure or occupation of a public right-of-way or an area adjacent to the public right of way for non-construction and non-parking related use.

Source: 1992 Code Section 15-11-1; Ord. 031204-12; Ord. 031211-11; Ord. 20060504-039; Ord. 20090430-025.

§ 14-8-2 PERMIT REQUIRED; WAIVER OF DEADLINES.

(A) A person may not temporarily close any portion of a public right-of-way to conduct, start, participate or assist in a right-of-way event, unless the person obtains and possesses during the right-of-way event a closure permit under this chapter and any other permit required by this chapter or the city.

(B) The director may waive any deadline established by this chapter at the director's discretion.

Source: 1992 Code Section 15-11-2; Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-3 RESTRICTIONS ON ISSUANCE OF CLOSURE PERMIT.

(A) The director may not:

(1) issue a closure permit for a right-of- way event that would exceed the maximum number of right-of-way events, as established by council, for which a particular public right-of-way may be closed during a calendar year; or

(2) issue a closure permit for a right-of- way event unless the applicant pays the required fees.

(B) The director may not issue a closure permit for the following events without Council approval:

(1) a fee-paid event;

(2) a right-of-way event on Sixth Street that allows event activities to continue past 10 p.m.;

(3) except as provided in Section [14-8-15](#) (*Calculation of Signatures*), a right-of- way event if 20 percent or more of the affected persons on any block to be closed or a neighborhood association objects to the closure in writing on a form prescribed by the director; or

(C) Beginning on the date following an annual right-of-way event, the director shall accept written objections regarding the event for the next following year.

Source: 1992 Code Section 15-11-3; Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-4 RIGHT-OF-WAY CLOSURE RULES AND COMPLIANCE WITH APPLICABLE REGULATIONS.

(A) The director shall develop rules to establish criteria for safe and appropriate right-of-way event closures. Following a public hearing on the proposed rules, which shall be conducted by the Urban Transportation Commission within 40 days after the director files a notice under [Chapter 1-2](#) (*Adoption of Rules*), the Urban Transportation Commission shall provide a recommendation to the director. If the Urban Transportation Commission does not conduct a public hearing or provide a recommendation as required by this section, the director may adopt rules consistent with the requirements of [Chapter 1-2](#) (*Adoption of Rules*).

(B) An applicant shall comply with any applicable rules established by the director under this section or by separate ordinance.

(C) In addition to permits required under this chapter, an applicant for a right-of-way event shall be responsible for obtaining any additional required permits, including but not limited to permits related to health, food, alcohol, safety, and sound amplification.

Source: 1992 Code Section 15-11-4; Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-5 SECURITY, FIRE, AND EMS APPROVALS.

(A) The police chief shall determine the number of peace officers and security agents required for the closure area and adjacent areas.

(B) The fire marshal must approve the proposed location and size of any fire lane, booth, stage, and other equipment that is located in the street. Fire Department personnel shall conduct a safety inspection to ensure compliance with the Uniform Fire Code.

(C) The director of the Emergency Management Department shall determine the number and type of emergency medical personnel, services, and equipment required for the closure area. Emergency Management Department personnel may conduct a compliance inspection at a permitted event.

Source: 1992 Code Sections 15-11-22(A) and (F); Ord. 031204-12; Ord. 031211-11.

ARTICLE 2. CLOSURE PERMIT APPLICATION AND APPROVAL PROCEDURES.

§ 14-8-11 APPLICATION REQUIREMENTS AND FEES REQUIRED.

(A) An applicant for a permit under this chapter must submit an application to the director no later than 180-days prior to the first day of the proposed event, except that an application for a political parade or a parade organized solely to express the participants' right of free speech may be submitted up to five days prior to the start of the parade.

(B) An application shall be on a form prescribed by the director and must include:

- (1) the name of the applicant and the applicant's authorized agents, if any;
- (2) the corporate contact, promoter, or sponsor for the event, if any; and
- (3) the date, route, and location of the closure area.

(C) An applicant, other than a city department, must submit the following non-refundable fees established annually by ordinance: an application fee, safety inspection fee, and sound permit fee.

(D) An application for an annual right-of-way event has priority over other event applications if it is filed by the applicant not later than the 30th day after the last day of the current year's right-of-way event.

Source: 1992 Code Section 15-11-11 and 15-11-22(G); Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-12 SECURITY DEPOSIT AND PAYMENT OF REQUIRED FEES.

(A) An applicant shall pay a security deposit established by ordinance, in addition to any fees required under Section [14-8-11](#) (*Application Requirements and Fees Required*), not later than the 10th day before the beginning of the proposed right-of-way event. A security deposit is not required for a political parade or a parade organized solely to express the participants' right of free speech.

(B) An applicant shall reimburse the city for any additional costs incurred by the city that exceed the amount of the security deposit.

(C) Upon written request, the director shall promptly refund the unused portion of the deposit following the right-of-way event.

(D) The director shall provide the applicant with an estimated cost of police security for a right-of-way event not later than the 15th day before the right-of-way event.

(E) An applicant shall pay to the City:

- (1) the estimated costs of police security for the right-of-way event not later than the 10th business day after the right-of-way event; and
- (2) the balance due for the actual cost of police security not later than the 20th business day following the right-of-way event.

(F) The director may not charge a fee for police security that is provided by on-duty police officers.

Source: 1992 Code Section 15-11-12 and 15-11-23(A) and (B); Ord. 031204-12; Ord. 031211-11.; Ord. 20090430-025

§ 14-8-13 DOCUMENTATION REQUIREMENTS FOR RIGHT-OF-WAY EVENTS.

(A) In addition to the application materials required under Section [14-8-11](#) (*Application Requirements and Fees Required*), an applicant for a right-of-way event must provide the supporting documentation required under this section. The requirements of this section do not apply to a political parade or a parade organized solely to express the participants' right of free speech.

(B) The following documentation must be received no later than the 120th day prior to the start of a right-of-way event:

(1) a scaled electronic map, in a form prescribed by the director, of the closure area, showing all lane configurations, sidewalks, pavement markings, curb and gutter, fire lanes, booths, stages, portable toilets, trash and recycling containers, first aid stations, EMS stations, and any other equipment or materials the applicant intends to place within the closure area;

(2) a preliminary traffic control plan signed and sealed by a professional engineer licensed in the State of Texas showing the location of all barricades, signs, and devices to be used for redirecting traffic around the closure area;

(3) a letter from a private barricade entity stating that all devices to be used during the closure will be set up and removed by the barricade entity in accordance with the Texas Manual on Uniform Traffic Control Devices and the City's Transportation Criteria Manual;

(4) a copy of the promotional literature the applicant intends to use to advertise the right-of-way event, which shall encourage persons who attend the right-of-way event to walk or use mass transit facilities;

(5) a certificate of liability insurance naming the city as an additional insured in the amount and type of coverage required by the City's risk manager;

(6) a statement that the applicant has not been convicted of violating the terms of a permit issued under this chapter during the two years immediately preceding the date of the application;

(7) a notice of proposed closure as prescribed by Section [14-8-14](#) (*Notice of Proposed Closure and Signature Requirement*), including a statement that the applicant has:

(a) provided a map of the closure area and copies of the event's promotional literature to each affected person on streets adjacent to the proposed closure and neighborhood organizations whose boundaries include or abut the proposed closure area; and

(b) used the City's community registry to identify affected persons and encouraged affected persons and other community groups to register on the City's community registry;

(8) approval to conduct the right-of-way event from the fire chief, emergency medical services director, and police chief; and

(8) an emergency medical services special events information and resource form.*

(C) The following documentation must be received no later than the 45th day prior to the start of a right-of-way event:

(1) if a revised route is necessary because sufficient written objections are received to reject the proposed route, a scaled electronic map, in a form prescribed by the director, of the closure area showing the revised closure area, any revised information required under Subsection (B), and other streets affected by the closure; and

(2) a final traffic control plan signed and sealed by a professional engineer licensed in the State of Texas showing the location of all barricades, signs, and devices to be used for redirecting traffic around the closure area.

Source: 1992 Code Sections 15-11-14(1) through (6) and 15-11-17(A) and (D); Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

*** Editor's note:**

Ord. 20090430-025 incorrectly omitted a pre-existing subsection (8) from this section. Future legislation will revise its numbering accordingly.

§ 14-8-14 NOTICE OF PROPOSED CLOSURE AND SIGNATURE REQUIREMENT.

(A) A notice of proposed closure shall be issued to all affected persons and neighborhood associations no later than the 90th day prior to the start of a right-of-way event, except that notice of a revised route under Subsection [14-8-13\(D\)](#) (*Documentation Requirements for Right-of-Way Events*) must be issued no later than the 55th day prior to the start of the event. The notice must include:

(1) the address, and, if available, the name, facsimile number, e-mail address and telephone number of each affected person and neighborhood association;

(2) a space for the typed or printed name of the affected person, and a space in which the signer may indicate with an original signature whether the affected person opposes the closure; and

(3) when applicable, an affidavit by the person circulating the notice that each affected person and neighborhood association was provided a copy of the map of the closure area and the promotional literature for the right-of-way event.

(B) A neighborhood association, on its own letterhead, may state its opposition to the director regarding the proposed closure through the signature of any authorized officer of the neighborhood association.

(C) The property owner or property manager of a multi-occupant building is the affected person under Subsection (A). If the property owner or property manager is unavailable, the applicant shall provide each tenant in a multi-occupant building with the opposition form, event notice, copy of a map of the closure area and the right-of-way event's promotional material.

(D) For closures in a residential area, an applicant must notify all affected persons on any block to be closed of the required documentation by delivering it to at least one adult occupant of a residence.

(E) The department shall verify the name and address of each affected person opposing the right-of-way event.

Source: 1992 Code Sections 15-11-17(B), (C), and (E) through (G); Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-15 CALCULATION OF SIGNATURES IN OPPOSITION TO A STREET CLOSURE.

(A) In determining whether an event may be approved under Subsection [14-8-3\(B\)](#) (*Restrictions on Issuance of Closure Permit*), the director shall:

(1) consider an affected person's failure to sign and return the notice of proposed closure provided under Section [14-8-14](#) (*Notice of Proposed Closure and Signature Requirement*) as non- opposition to the closure;

(2) consider an affected person as opposed to a proposed closure under Subsection [14-8-3\(B\)](#) (*Restrictions on Issuance of Closure Permit*) if the affected person:

(a) indicated his or her opposition on the form provided under Section [14-8-14](#) (*Notice of Proposed Closure and Signature Requirement*);

(b) returned the form to the director no later than the 60th day prior to the start of a right-of-way event, except that an objection to a revised route under Subsection [14-8-13\(C\)](#) (*Documentation Requirements for Right-of-Way Events*) may be received up to 46 days prior to the start of the right- of-way.

(B) If an annual right-of-way event has been held for the past 10 or more years and has not received a violation or changed its character, nature, location, or route, the director may approve the following year's event for the same applicant regardless of whether it satisfies the requirements of Subsection [14-8-3\(B\)](#) (*Restrictions on Issuance of Closure Permit*). Except for an annual event held by one or more sponsors on Congress Avenue between Cesar Chavez Street and 11th Street or East Sixth Street between Congress Avenue and the IH-35, a right-of-way event may not be approved under this subsection unless the applicant receives approval from the chief of police, the fire marshal, and the emergency services director.

Source: 1992 Code Section 15-11-17(G) and 15-11-18; Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-16 DETERMINATION ON APPLICATION.

The director shall approve or deny an application and the route or location of a right-of-way event no later than the 30th calendar day after the director receives a completed application. The director shall state the reasons for the denial of an application.

Source: 1992 Code Sections 15-11-11(A) and 15-11-20(A); Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-17 APPEAL OF DENIAL OF APPLICATION.

(A) An applicant whose application is denied may file a written appeal with the director no later than the 5th working day after the applicant receives the notice of denial. Upon receipt of the appeal, the director shall submit the appeal to the Urban Transportation Commission, which shall hold a public hearing and provide a recommendation on the appeal.

(B) Following receipt of a recommendation under Subsection (A), the director shall submit an appeal for consideration by the city council. If the Urban Transportation Commission does not submit a recommendation within 25 days after the appeal is received by the director, the council may consider the appeal without a recommendation. If the council fails to act before the 30th day after the appeal is received by the director, the appeal is denied.

Source: 1992 Code Sections 15-11-20(B) and (C); Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-18 APPROVAL AND ISSUANCE OF PERMIT.

(A) The director shall issue a permit to the applicant if the director determines that the application complies with this chapter and rules approved under this chapter.

(B) The director may not issue a permit before the applicant pays the applicable fee established by ordinance.

(C) The director shall issue a sound amplification permit, if applicable, as part of the closure permit.

Source: 1992 Code Sections 15-11-16(A) and (B), 15-11-21, and 15-11-23(C); Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

ARTICLE 3. SPECIFIC EVENT REQUIREMENTS.

§ 14-8-31 GENERAL RESTRICTIONS.

(A) A permittee may not block off a street in a manner that prevents the free movement of pedestrians into and out of the closure area.

(B) If an entry fee is charged for a street event, a permittee may not charge the fee to:

- (1) a person who resides or operates a business in the closure area; or
- (2) a customer of or person making a delivery to a business or residence in the closure area.

(C) A permittee shall post a sign at each entrance and exit to the closure area visible to all patrons entering the area that includes the amount of the entry fee, if any, and the rules of access to the closure area. A permittee must post the sign required under this section during the time the entry fee is in effect.

(D) In its promotional literature, the applicant shall encourage attendees to walk to the street event or use a mass transit facility.

Source: 1992 Code Section 15-11-16(C) through (E); Ord. 031204-12; Ord. 031211-11.

§ 14-8-32 SAFETY REQUIREMENTS.

(A) A permittee must employ off-duty peace officers commissioned by the Texas Commission on Law Enforcement Officer Standards and Education for traffic control.

(B) A permittee may use a private licensed security agency in addition to peace officers for crowd control and security, if the use is approved by the police chief. A security agent employed under this section must:

- (1) be in uniform;
- (2) be able to contact the City police or emergency medical services if necessary; and
- (3) not consume an alcoholic beverage or participate in the event.

(C) A permittee shall ensure that the number of security officers or agents established by the police chief remain on-site during the street closure. A supervising peace officer may reduce the number of officers or agents posted at a street event at the discretion of the supervising peace officer.

(D) A permittee shall provide emergency medical personnel and EMS stations as approved by the director of Emergency Medical Services Department on the emergency medical services special events information and resource form to ensure the safety of participants at the street event.

(E) A permittee shall comply with the Uniform Fire Code and the Fire Department's street closure guidelines and maintain adequate fire lanes within the closure area.

(F) A permittee shall provide a barricade approved by the director and the fire marshal for the lawn or other property of a resident within the closure area who requests a barricade. A barricade provided under this section may not impede access to or from any property.

(G) If a street event is gated, a permittee shall station at least one peace officer or security agent at each exit to prevent containers of alcoholic beverages from being taken out of the closure area.

(H) A permittee shall comply with all requirements of the Texas Alcoholic Beverage Commission, if alcoholic beverages are to be sold at a street event.

Source: 1992 Code Sections 15-11-22(A) through (F) and (H); Ord. 031204-12; Ord. 031211-11.

§ 14-8-33 HEALTH REQUIREMENTS.

(A) A permittee must close a street event to allow the affected areas to be cleaned and the street to reopen at the time established in the permit.

(B) If a food or beverage booth is used during an arterial street closure, a permittee shall spray-clean the sidewalk and area around the food and beverage booth with water in accordance with City health regulations.

(C) If a street event is held on a neighborhood collector or a residential roadway, a permittee shall comply with the cleaning requirements established by the director.

(D) If a permittee fails to promptly spray-clean the sidewalk and area around a food and beverage booth, the director shall provide the clean up and deduct the cost from the permittee's security deposit.

(E) A permittee shall provide an adequate number of trash containers based on the estimated number of participants at the event. The applicant shall provide suitable protection around storm water inlets to prevent debris from entering the storm water system.

(F) If a permittee fails to promptly clean up trash or remove debris from the storm water system inlets, the director shall provide the clean up and deduct the cost from the applicant's security deposit.

(G) Except as provided by Subsection (H), a permittee shall provide an adequate number of portable toilets based on the estimated number of participants at the street event. A permittee may not place a portable toilet within 25 feet of an entryway to an adjacent business or residence, unless the adjacent property owner or tenant approves a distance less than 25 feet.

(H) A permittee may present the director with a diagram showing sufficient existing toilet facilities and written certification that the facilities are available for public use during the street event. If the director approves the alternative diagram, the permittee must clearly mark the location of the toilets during the event.

(I) A permittee must rotate the location of services and equipment during a street event, unless the adjacent property owners and tenants approve the location of services during the event.

Source: 1992 Code Section 15-11-23; Ord. 031204-12; Ord. 031211-11.

§ 14-8-34 PERMIT REQUIRED FOR THE USE OF SOUND EQUIPMENT.

An applicant may not use sound equipment at a right-of-way event unless the applicant obtains a sound amplification permit issued by the director. An applicant may not operate sound equipment at a right- of-way event that produces sound greater than:

(1) 85 decibels between 10:00 a.m. and 10:00 p.m. and 80 decibels between 10:00 p.m. and 2:00 a.m., as measured from the closer of:

- (a) a point 100 feet in front of the sound equipment; or
- (b) at the edge of the nearest residence from the sound equipment; or

(2) the decibel levels and time periods established by the director for a particular right-of-way event.

Source: 1992 Code Section 15-11-16(B); Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

ARTICLE 4. ENFORCEMENT AND ADMINISTRATION.

§ 14-8-41 MODIFICATION OR TERMINATION OF RIGHT-OF-WAY EVENT PERMIT.

(A) If the director determines that an applicant has violated or failed to comply with the terms of a closure permit issued under this chapter, the director may immediately halt all right-of-way event activities and reopen the closure area.

(B) Except as provided in Subsection (C), the director, chief of police, emergency medical services director, or fire chief may modify any route, time, and manner of conduct of any right-of-way event as necessary to protect the safety and welfare of the public, including but not limited to preservation of access to public buildings, maintenance of vehicular and pedestrian mobility.

(C) The route, time, or operation of a parade may not be modified if the modification violates with the applicant's right of free speech.

Source: 1992 Code Section 15-11-31; Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-42 OFFENSE AND PENALTY.

(A) A person commits an offense if the person violates the terms of a closure permit, closes a right-of-way without a closure permit, or violates any provisions of this chapter.

(B) An offense under this section is a Class C misdemeanor punishable in accordance with Section [1-1-99](#) (*Offenses; General Penalty*). A culpable mental state is not necessary to commit an offense under this chapter.

Source: 1992 Code Section 15-11-32; Ord. 031204-12; Ord. 031211-11; Ord. 20090430-025.

§ 14-8-43 PREVIOUS VIOLATION.

An applicant who is found violating the terms of a permit issued under this chapter may not apply for or receive another closure permit under this chapter for a minimum period of 24 months after the date of the violation.

Source: 1992 Code Section 15-11-33; Ord. 031204-12; Ord. 031211-11.; Ord. 20090430-025

§ 14-8-44 REVIEW AND REPORTING REQUIREMENTS.

(A) The director on or before December 31st of each year will file a report with council and the Urban Transportation Commission on the total financial expenditures and expenses related to 1st Amendment and right of way events for the preceding city fiscal year.

(B) In addition to other responsibilities assigned under this chapter, the Urban Transportation Commission shall periodically provide recommendations regarding:

- (1) the impact of the chapter on the city;
- (2) the maximum number of times per year that a particular public right-of-way should be eligible for closure under this chapter;
- (3) other methods for permitting events under this chapter, including developing a criteria matrix for waiver requests and a tiered system that would provide more consistent approval processes and cost projections for right-of-way events that generate significant economic benefits to the City or have strong track records of working with community stakeholders; and
- (4) other issues related to right-of-way events.

Source: Ord. 20090430-025.

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