UPDATE: PROPOSED CHANGES TO LICENSE PROCEDURES AND FEES
QUALITY OF LIFE COMMITTEE
JANUARY 23, 2006
Purpose

The purpose of this briefing is to provide a summary of the briefings presented to the Business and Commerce Committee in 2003 and the Finance, Audit and Accountability Committee in 2005 regarding Chapter 43-115 and 43-126 of the City Code concerning licenses for the use of city rights-of-way:

- Sidewalk cafes
- Awnings/Canopies
- Valet
- Signs and monuments
- Landscaping in public rights-of-way (medians and parkways)
In 2003, Central Business District businesses and neighborhood organizations expressed a desire to encourage more downtown retail by lowering the fees for sidewalk cafes, awnings/canopies and landscaping and appurtenant irrigation systems.
Background

Several Council members also expressed an interest in easing the requirements for individuals, businesses and homeowners associations desiring to landscape public rights-of-way (medians and parkways), maintain that landscaping, and install subdivision signs/monuments.
Proposals Made in 2003

- Fees for private use of city right-of-way to be reduced
- Anticipated outcome - reduction in fees will encourage new retail uses and civic beautification and improvement projects
- Reduced fees would expire on December 31, 2009, unless extended by the City Council
- Currently required indemnification and insurance would continue with annual proof of insurance
Suggested Target Areas

Apply new guidelines to:
- CBD/TIF area only
- Entire CBD or
- Citywide – adopted 2004
Proposed New Fees in 2003

Sidewalk cafes

- 2003 annual fee: the greater of $1,000 or the area X market value X 85% X 12%
- Proposed annual fee: the lesser of $2,500 or area X market Value X 85% X 12% but not less than $1,000 annually
- Estimated citywide revenue loss in 2003
  - $25,881 annually
- Anticipated outcome – number of new sidewalk cafés would increase
Proposed New Fees in 2003

Awnings/Canopies

- 2003 annual fee: $1,000 per license
- Proposed fee: $1,000 one-time processing fee per awning/canopy – adopted 2004
- Estimated citywide revenue loss in 2003
  - $15,000 annually
- Anticipated outcome: increased use of awnings/canopies bringing character and improved aesthetics to downtown and citywide
Proposed New Fees in 2003

Valet licenses
- The fee change for valet licenses was proposed as a permanent reduction
- The target area for this fee change was inside the freeway loop downtown
- 2003 annual fee: $350 per space for the first two spaces in the public right-of-way plus $1,000 for each additional space
- Proposed annual fee: $250 per space for the first 6 spaces plus $1,000 for each additional space
- Estimated revenue loss: current revenues would be reduced by $4,700 annually
Proposed New Fees in 2003

Valet licenses

Anticipated outcome – Reduction in congestion and unsafe practices and an increase in revenues long term
Proposed New Use and Fee in 2003

Residential Subdivision and Business Park Signs/Monuments

- Amend the sign regulations to facilitate residential subdivision and business park signs/monuments
  - Residential: contain only the name of a single family, duplex, or townhouse residential neighborhood
  - Business Park: contain only the name of a single business park
  - Allow a maximum of 2 signs/monuments per street entrance
  - Allow a maximum total area of 40 square feet with a maximum height of 6 feet
  - One-time processing fee of $1,000 per sign/monument in lieu of $1,000 annual fee - adopted 2004
Proposed New Use and Fee in 2003

- Residential Subdivision and Business Park Signs/Monuments
  - All current requirements for indemnification and insurance of licenses would continue with annual proof of insurance
  - License applications were to be submitted by homeowners associations
  - Estimated revenue increase in 2003 as a result of this new use
    - Residential: $3,000 - $5,000 annually
    - Business park: $1,000 annually
Proposed New Use and Fee in 2003

- Residential Subdivisions and Business Park Signs/Monuments
  - Licenses and sign permits for residential neighborhoods and business parks would not be granted unless:
    - Residential
      - Agreed to by the owners of the property abutting the proposed sign/monument location, if on parkway, and
      - Supported by two-thirds of the property owners within 300 feet of the proposed sign location
    - Business Parks
      - Supported by the owners of the property abutting the proposed sign/monument location
    - Color, design, materials used are approved
    - Lighting and visibility issues are addressed
Landscaping

Simple landscaping would include trees, shrubs, flowers, irrigation systems, directional signs, etc.

Complex landscaping would include substantial structures such as lighting, monuments, columns, sculptures, large stones, etc.
Proposed New Fees in 2003

Landscaping

- 2003 annual fee: $1,000 annually
- Proposed fee: $1,000 one-time processing fee
- Estimated revenue loss in 2003: $53,000 annually
- Anticipated outcome: attractively landscaped parkways and medians
- Continue to require indemnification and insurance
## Landscaping

### Other cities (2003)

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Landscaping Medians

Simple landscaping

- Continue to use the MowMentum Agreement administered by the Department of Street Services to allow groups to “adopt” a median
- No license currently required except for irrigation systems
- Continue to provide partial funding for median landscaping through the MowMentum Program
Simple landscaping (continued)

- Continue to require indemnification
- Modify the MowMentum Agreement to specify that the city owns any landscaping placed on the median and add irrigation systems as a use
- Also specify that the “adopting” group has all maintenance responsibilities
Landscaping
Medians/Parkways

Complex landscaping
- City would not own
- License required
- One-time $1,000 processing fee
- Indemnity and insurance required
- Handled under 2003 review process
Landscaping Parkways

Parkways are the right-of-way areas adjacent to pavement of the street and private property.

City Code currently requires the abutting property owner to maintain the parkway.

City Code, however, requires property owners to obtain a license and pay a $1,000 annual fee for landscaping, irrigation systems, and other structures in the parkway.
Landscaping Parkways

Simple landscaping

- City code to be amended to provide for the city to own the landscaping, irrigation systems and directional signs and property owner to be solely responsible for their operation and maintenance pursuant to a maintenance agreement, subject to DDS, Engineering and Transportation approvals
- Property owner indemnify city
- No fee would be required
2003 REVENUE IMPACT

Sidewalk Cafes
- Citywide: ($26,000 annually)
- TIF Area: ($2,000 annually)
- CBD: ($26,000 annually)

Awnings/Canopies
- Citywide: ($15,000 annually)
- TIF Area: ($0 annually)
- CBD: ($5,000 annually)
2003 REVENUE IMPACT

- **Valet Licenses**
  - Estimated Decrease: ($4,700 annually)

- **Signs and Monuments**
  - Citywide: ($3,000 annually)
  - TIF Area: $0
  - CBD: $2,000 annually

- **Landscaping**
  - Citywide: ($53,000 annually)
  - TIF Area: ($1,000 annually)
  - CBD: ($10,000 annually)
2003 REVENUE IMPACT

Total net decrease:

- Citywide: ($82,000 - $91,000 annually)*
- TIF Area: ($3,000 annually)
- CBD: ($43,700 annually)

*2004-05 budget assumed a $100,000 reduction
ACTION TAKEN

Code amendments were adopted by the City Council in March 2004

Variance: Landscaping fee was set at $1,000 one-time fee until 2010 and thereafter will revert to the $1,000 annually
October 10, 2005 Briefing

The Finance, Audit and Accountability Committee was briefed after homeowners groups expressed an interest in reducing fees further to accommodate homeowners association and individual home owners budgets.
October 10, 2005 Briefing

This briefing proposed the following:

- To make the provisions of the 5-year program adopted in 2004 permanent for landscaping, signs/monuments for the term of the license, not to exceed 40 years
- To add new uses: banners, decorative lighting and streetscape of $1,000 for the term of the license not to exceed 40 years term
- Allow combinations of uses for the same one-time fee for the same portion of right-of-way
- Delete the Code requirement to apply the application fee to the first year fee
- Continue the 5-year program for the other uses and grandfather fees for those licenses granted during the 5-year period for a term of 40 years ($1,000 one-time fee)
October 10, 2005 Briefing

At the time of this briefing, applications received were as follows (May-October 2005):

- Sidewalk cafes: 3
- Awnings/canopies: 4
- Valet licenses-no changes proposed
- Residential subdivision signs/monuments: 3
- Business park signs/monuments: 0
- Landscaping: 1

Total: 11
October 10, 2005 Briefing

Other changes recommended were:

- Legal descriptions – allow measured drawings prepared by an engineer, architect or surveyor satisfactory to the City in lieu of metes and bounds descriptions
- Insurance – currently city requires general liability insurance
  - Commercial requirements-$500,000 per occurrence, $500,000 annual aggregate
  - Residential requirements-$300,000 per occurrence, $300,000 annual aggregate
October 10, 2005 Briefing

Outstanding issues addressed:

- Should the city continue to require general liability insurance for licenses? (City attorney and Risk Management recommended continuation)
- Should the City provide insurance coverage for the licenses by obtaining an insurance policy for this purpose?
  - Include licensee as an additional insured - legal impediment
  - Self insurance
  - Availability, costs and terms for this insurance
- Should the minimum policy limits per occurrence/annual aggregate be changed?
October 10, 2005 Briefing

Possible solutions presented:

- Grant license for a $1,000 one-time fee and keep the indemnity, hold harmless and waiver of subrogation provisions in the ordinance - no insurance
- Continue the insurance requirement and review the adequacy of the insurance limits
- Changes applied to: landscaping and appurtenant irrigation systems, residential monuments/signs, banners, awnings/canopies, decorative lighting, streetscape
Possible solutions

Sidewalk cafes and business park monuments signs – continue the 5-year program, insurance requirements and revert to the previously established code provisions in 2010
November 14, 2005 Briefing

Additional information was requested

- Make the proposed changes applicable to homeowners associations and individual homeowners in residential neighborhoods
- Provide additional research on insurance requirements
  - Contact Homeowners league
  - Consider a City group policy
November 14, 2005 Briefing

This briefing proposed the following:

- Reduce fees for -
  - Landscaping and appurtenant irrigation systems
  - Sign and monuments (it was noted that these could not exceed 24” when located in a median and 50’ back for all median noses)
  - Awnings and canopies
  - Decorative lighting and streetscape

- $750 one-time fee for a single use or a combination of uses, including a $50 recording fee

- Fees for sidewalk cafes excluded from fee reduction and continue under the 5-year program of City Code until 2010
Other recommended changes:

Insurance

- Continue to require general liability insurance naming the city as a additional insured only from homeowner associations and/or individuals who already have insurance available

- Provide group policy for those homeowners associations or individuals who have no insurance available
  - Option 1 - City obtains insurance for itself to cover risks associated with the licenses
November 14, 2005 Briefing

Insurance

- Option 2 - City obtains insurance coverage for itself and names the homeowners association or individuals home owners as an additional insured (constitutionally issues with city paying)
- Option 3 - Dallas Homeowners League obtain a group policy (league unwilling – funding constraints)

City accepts risk

- Allows for beautification throughout city
- More objects in right-of-way would increase city exposure
Other considerations

- Legal Descriptions – permit measured drawings prepared by an engineer, architect or surveyor in lieu of a metes and bounds description

- Maintenance Agreements – allow monuments and signs in public rights-of-way pursuant to a maintenance agreement in lieu of a license
  - City would become owner of improvements
  - Require indemnity and hold harmless provisions
  - Homeowners associations or individual home owners would agree to maintain or improvements would be removed
November 14, 2005

Maintenance Agreements

- No fee and no insurance would be required
- Use would be limited to homeowners associations and individual home owners only
- Locations to be approved by Public Works & Transportation
December 13, 2005 Briefing

Additional information on insurance costs were requested

Changes Proposed

- Reduce fees to $500 (one-time fee and a $50 recording fee) plus the annual cost of insurance ($250)
- Make the provisions of the 5-year program permanent for landscaping, neighborhood signs and monuments in residential neighborhoods subject to the reduced fee
- Limit the reduced fee and insurance to landscaping, irrigation, signs and monuments and streetscape
December 12, 2005 Briefing

Changes proposed for residential licenses

- License term of 20 years (expected life of signs or monuments) or 40 years
- Permit the one time fee to apply for a single use or a combination of uses of the same area of public right-of-way licensed under one ordinance for a term of 20 or 40 years
- Add new use: streetscape
Proposed changes for commercial license

- Add new uses: banners, decorative lighting, and streetscape
- Continue the 5-year program for commercial landscaping and irrigation systems, signs and monuments, awnings, canopies, banners, decorative lighting, sidewalk cafes and streetscape as provided in the City Code until 2010
- Continue to require insurance from commercial licensees
- Permit a single use or combination of uses of the same area of public right-of-way licensed under one ordinance for a single fee at a term not to exceed 20 (expected life of uses) or 40 years
Insurance – Residential only

City provides a master policy for general liability
- City is the named insured
- Homeowners associations added as an additional insured
- Premium: $250 flat fee annually per homeowners association (no cost to city)
  - Need plat of license area
  - Need address of Association
  - Need full name of Association
- Homeowners Association to receive certificates of participation evidencing insurance
- Insurance would only cover the license areas
December 12, 2005 Briefing

Insurance – Residential only

- Premium submitted with license request, city forwards fee to insurance provider and insurance provider adds licensee to master policy as an additional insured
  - Once master policy is established, an additional insured can be added as license requests are approved
- Coverage amount to be determined by the committee: $500,000 is current requirement ($250 premium per Homeowners association remains constant)
- Failure to pay the annual premium will result in the insurance expiring and the license terminating
December 12, 2005 Briefing

Maintenance Agreements

- Allow public rights-of-way to be used pursuant to a maintenance agreement in lieu of licenses
- Limit use to homeowners associations or individuals only
- Homeowners Associations or individual owners must agree to maintain the sign, monument, landscaping, etc.
- Indemnity and hold harmless provisions required
- No fee or insurance required, unless desired
- City would become owner of objects in public rights-of-way and would remove if not properly maintained
December 12, 2005 Briefing

Maintenance Agreements

- Term of 20 years with an option to renew
- Can be done administratively, with the approval of the city attorney and city manager
- All locations must be approved by Public Works and Transportation
- Would be consistent with the MowMentum Agreement which allows use of medians for landscaping but not parkways
December 12, 2005 Briefing

Legal descriptions

Recommendation: For the above uses, allow measured drawings prepared by an engineer, architect or surveyor satisfactory to the city in lieu of a metes and bounds description
December 12, 2005 Briefing

Other issues – set back requirements follow up

TXDOT requirements for signs and monuments in medians and roadways < 45 mph are as follows:

- a 3’ clear zone setback from a curbed roadway is required
- all sight and stopping distance standards must be observed
- 30’ clear zone for setbacks from median noses. Breakaway facilities are not required in <45 mph design speed roadways, but are required on streets >45 mph
- Transportation will require signs and monuments to be no taller than 24” when located in a median and 50’ back from all median noses
January 23, 2006 Update to Finance, Audit and Accountability Committee

Residential license fees and procedures

- Changes apply to residential home owners and neighborhood associations only

Recommendations:

- Extend the provisions of the 5-year program initiated in 2004 and continue for the term of the existing licenses for landscaping and appurtenant irrigation systems, and neighborhood signs and monuments
- Add streetscape to the list of uses that may be licensed
- Implement the following fees for landscaping and appurtenant irrigation systems, neighborhood signs and monuments and streetscape uses
January 23, 2006 Update to Finance, Audit and Accountability Committee

Recommendations: (cont’d)

- $350 one-time fee
  - One-time fee applies for a single use or any combination of uses of the public rights-of-way licensed under a single ordinance
  - Example: 10 signs and monuments, landscaping, and streetscape applied for at the same time and covered by the same license ordinance would pay the recommended one-time fee of $350

- A recording fee (currently $50), plus

- The $250 annual cost of insurance for those groups who select the city umbrella policy for general liability insurance

- $20 publication fee

- 40-year term
January 23, 2006 Update to Finance, Audit and Accountability Committee

All existing license fees for the affected uses of the public rights-of-way will remain $0 until the expiration of the term of the license.

Example: An ordinance adopted in 2001 for landscaping for a term of 40 years - in 2004, the fee was reduced to $0 under the current 5-year program, then the fee would remain $0 until January 2, 2041.

License renewals will become subject to the $350 one-time fee for the next term of the license.
January 23, 2006 Update to Finance, Audit and Accountability Committee

General Liability Insurance – Residential only

- Home owner or neighborhood association provides evidence of insurance they have obtained, or
- City provides a master policy for general liability
  - City is the named insured
  - Neighborhood associations may be added as an additional insured
  - Premium: $250 fee annually per neighborhood association (no cost to city)
    - Need plat of license area, name and address of Association
  - Neighborhood association will receive certificates of participation evidencing insurance
  - Insurance would cover the use of public right-of-way by the neighborhood association, but the policy will not cover other neighborhood association-related responsibilities
January 23, 2006 Update to Finance, Audit and Accountability Committee

General Liability Insurance – Residential only

- Master policy established upon receipt of the request for insurance and payment of the first $250 premium by a neighborhood association. Thereafter, additional groups can be added as license requests are approved.
- The premium must be submitted with the license request. The City will forward the fee to insurance provider, and the insurance provider will add the licensee to master policy as an additional insured. The licensee will receive a certificate of insurance evidencing coverage.
- Recommended policy amount: $1M ($250 premium per neighborhood association).
- Failure to pay the annual premium for the insurance will result in the insurance expiring and the license terminating.
January 23, 2006 Update to Finance, Audit and Accountability Committee

Legal descriptions

Recommendation: For the uses listed below, staff will accept measured drawings prepared by an engineer, architect or surveyor satisfactory to the city in lieu of a metes and bounds description

Allowable uses:
- Landscaping and irrigation systems
- Signs/monuments
- Streetscape
- Decorative lighting
- Combinations of the above uses
January 23, 2006 Update to Finance, Audit and Accountability Committee

Current Fees being received under the 5-year Program adopted in 2004

- Existing Licenses
  - Landscaping
    - $0 annually
  - Signs/monuments
    - $0 annually
  - Decorative Lighting
    - $0 annually
- Combination uses
  - $0 annually
- New Licenses in 2005: $1,000 in one-time fees in 2005 (one license request fell into these categories)
- Total revenue previously received for these uses prior to 5-year program
  - $11,000 annually (reflects uses by residential home owners and neighborhood associations only for these categories)

Fees to be paid pursuant to these recommendations would apply to new licenses only

- New Licenses
  - Landscaping
    - $350 one-time fee
  - Signs/monuments
    - $350 one-time fee
  - Decorative Lighting
    - 350 one-time fee
  - Streetscape
    - $350 one-time fee
  - Combination Uses
    - $350 one-time fee
- New Licenses: $2,100 in one-time fees anticipated in 2006 ($350 one-time fee per individual or combination use) - Based on the city receiving 6 license requests for these uses or combination of uses
- Existing license fees for these uses will remain $0
January 23, 2006 Update to Finance, Audit and Accountability Committee

License request would include:

- Letter requesting license and stating the purpose
- Drawing indicating the location of the area to be licensed
- Deeds showing ownership
- Request supported abutting owners and 2/3 of the owners located within 300’ of the license area (signs and monuments only)
- $350 application fee, recording fee and $250 fee for general liability insurance, if desired and a $20 publication fee
- Legal description of the area to be licensed (field notes or measured drawing)
January 23, 2006 Update to Finance, Audit and Accountability Committee

Violations under the license would be handled by Development Services – Real Estate and Building Inspection

- Licensees who do not respond when notified of a violation will be fined under the provisions of the Dallas City Code - $500 a day for each day the violation exists
January 23, 2006 Update to Finance, Audit and Accountability Committee

- Proposed Code amendments to be submitted to the City Council following city attorney approval of an ordinance

- Changes to the insurance requirements, if any, will be implemented as a matter of policy or by ordinance
Other Issues

Abandonment Requests

In 2004, Chapter 2 of the Dallas City Code was amended to include the recommendations of the Real Estate Task Force

- Appraisals: must not be older than 180 days
- Market value: If the estimated abandonment fee is less than $20,000, DCAD values used
- Established $5,000 minimum processing fee
Other issues

Abandonment Requests

If property rights retained by the city, appraiser may discount market value up to, but not exceeding:

- 15% for any encumbrance or easement retained
- 30% for air rights
- 70% for subsurface rights
- 85% for an air rights deed restricted against use
Other Issues

Mineral Rights

Currently reviewing the process for retaining mineral rights on abandonment requests and sales of surplus land

- Would include a waiver of surface access rights
- Would not interfere with the surface or subsurface support of any improvements constructed or to be constructed on the land
- Will review any impact on sales prices