

PROCEDURES AND REQUIREMENTS FOR REQUESTING A LICENSE AGREEMENT

City of Austin
Office of Real Estate Services
Effective: September 8, 2014

- Applicants are required to **submit a letter providing pertinent information** in order for City staff to process License Agreement requests. Please see below.
- Please mark and include this checklist to **insure that all materials are submitted**, in order to help expedite your request.
- Plans not containing the required information will slow down the process and **will require plans to be modified to City standards or may be returned**.

_____ Provide a fully completed application. (If any sections of the application do not apply, simply mark N/A.)

_____ Parcel ID number information can be found on your tax bill, or by calling the Travis County Appraisal District at (512) 834-9138.

_____ List all appurtenances to be placed on public property or easement.

_____ If a reviewer comments on an item that is not listed on the application and is on public property/easement, the packet will be resubmitted to each reviewer.

_____ Provide a \$425.00 non-refundable processing fee, payable to "City of Austin". If paying by personal check, please include date of birth and driver's license number on the check. This fee was established by Ordinance No. 910110-J (Section 13-1-952) to be paid by all applicants, including governmental entities.

_____ A registered surveyor must prepare, sign and seal the following:

- A sketch of the area to be licensed must show all lot boundary improvements and **ALL** easements contained on the lot (8½" X 11").
- Description should be in accordance with current COA Field Note Guidelines reflecting the property to be licensed. [Note to surveyor: Contact John Moore for information 974-7177].
- A separate sketch & description may be required, if annual fees apply.

_____ 24" x 36" Blueline Construction Drawings & Detailed Plans. Please review the attached **Exhibit A** and follow the instructions to submit all required information, including those requirements specific to the types of license(s) that fit your project. Please submit plans as follows:

- **One** large site plan set (24" x 36")
- **Three** 11" x 17" site plan sets
- **One** site plan in a single PDF format file, provided on CD-ROM

_____ Provide a legible reduced copy (8½" x 11") of construction drawings and detailed plans.

_____ Provide a color satellite photo of the area to be licensed.

_____ Provide supporting information such as pavement reports, if applicable.

_____ **Provide landowner information**, including a copy of the owner's recorded Deed (e.g., Warranty Deed or Special Warranty Deed).

_____ **Provide lienholder information**. If there is a lienholder on the property adjacent to the area to be licensed, the lienholder may be required to Consent to the License Agreement, if the improvements cannot easily be removed. Please provide any recorded lienholder documents in the real property records of the Texas county where the area to be licensed is located.

_____ **Provide tenant/owner information.** If a Tenant is filing the License Agreement application, then the Owner must consent to the License Agreement and the Owner shall be responsible for said agreement upon the expiration or termination of lease with Tenant.

_____ **Provide documentation of signature authority.** Applicant must provide a Corporate Resolution, Partnership Agreement, or Sole Proprietor Document designating the authorized signatory to execute documents on behalf of the entity. If a form for designation of authority is needed, please refer to **EXHIBIT B** to determine the type of document needed. The form submitted must be up-to-date.

_____ **Downtown Area.** Improvements made within Downtown boundaries are considered a “non-standard” design and the bluelines submitted should reflect the actual condition of the area to be licensed. Please make an appointment with ORES staff regarding any License Agreement in the Downtown Area. Downtown boundaries are: East of Lamar Boulevard, west of IH-35, north of Lady Bird Lake, and south of Martin Luther King Boulevard.

_____ **Historic Designations.** Structures with the following designations are not assessed annual fees:

- Historic Designation
- Historic Zoning Designation
- Property located in Historic Zoning District

City staff must receive this historic designation information at time of application submittal. If this information is not conveyed and fees are assessed and paid, the annual fee paid **WILL NOT BE refunded.** (An amendment to the License Agreement may be requested, but no fees will be refunded.)

_____ **Historic Landmark Review.** The Historic Landmark Commission must review and approve all detailed construction plans for license agreements within these boundaries:

- 1) Along East 6th Street between IH-35 and Congress Avenue
 - 2) Along Lavaca Street and extends between Alleys
 - 3) Along Trinity Street between East 6th Street and East 7th Street
 - 4) Along East 5th Street and East 6th Street between Neches and Red River
 - 5) Along Congress Avenue between Cesar Chavez Street and 11th Street and extends between Alleys
- Detailed construction plans for improvements in these areas must be submitted to and approved by the Historic Landmark Commission prior to submittal of the License Agreement application. Please contact **Steve Sadowsky, Historic Preservation Officer, (512) 974-6454.**

_____ **Texas Walk of Stars.** Applicants for a License Agreement in the following areas must obtain a letter from The Texas Walk of Stars Association and Historical Society stating no objection to the applicant’s proposed improvements.

- Along East 6th Street between IH-35 and Congress Avenue
- Along Trinity Street between East 6th Street and East Cesar Chavez Street

Please contact **Bob Woody** with the Texas Walk of Stars Association at **(512) 658-2491.**

PLEASE NOTE:

Upon receipt of all required information, our office will forward all requests and related materials to stakeholder departments and franchise holders for a two-week review period.

Assuming no negative reviewer comments remain at the end of the review period:

- Your requested encroachment will be appraised by the Office of Real Estate Services, if applicable.
- The License Agreement will be prepared by our office and Applicant will be notified once the License Agreement is ready for pickup to be executed by Licensee. Upon returning the executed License Agreement for final approval, the following items **must be provided**:
 - 1) First annual fee, if applicable.
 - 2) Certificate of Insurance in the amount of \$500,000 for General Liability, naming the City of Austin as additional insured to the policy; and (if applicable) for \$1,000,000 Liquor Liability Insurance.
 - 3) Escrow fee, if applicable.
- Upon receiving all required and executed items, the License Agreement will be presented to the Officer of Real Estate Services for execution on behalf of the City, and will then be recorded with the

County Clerk of the appropriate County. **Applicant is responsible for and shall incur all costs associated with the recording of this and any related documents** (effective September 1, 2014).

In the event of negative responses:

- 1) Applicant will be immediately notified to clear the comments.
- 2) Upon receiving the last comment, the applicant will be sent a letter with a copy to the landowner and principal with a due date (six-week period).

NOTE: The City of Austin will no longer place files on hold indefinitely. Inactive files will be closed and the application fee will be retained by the City if deadlines are not met. These applications will be considered null and void.

Please schedule an appointment to discuss your License Agreement request. Appointments may be scheduled on Mondays and Wednesdays only, during normal business hours (8:00 am to 5:00 pm). Please contact:

Joan Caldwell, (512) 974-7024, or
Andy Halm, (512) 974-7185
landmanagement2@austintexas.gov

Submit all applications to: City of Austin
Office of Real Estate Services
505 Barton Springs Road, Suite 1350
Austin, Texas 78704
Attn: Land Management Division

Application for License Agreement

File No. _____

Department Use Only

DATE: _____

Department Use Only

1. TYPE OF IMPROVEMENTS AND/OR ENCROACHMENT

License of: Public Property _____ or Easement _____ Hundred Block: _____

List ALL Appurtenances to be placed on Public Property or Easement: _____

Have improvements/encroachment been installed prior to application: Yes No

Is this an Amendment to an existing license agreement at this location? Yes No

If yes, provide File Number: _____

Adjoins property at the following street address: _____

Proposed use of public property/easement: _____

2. PROPERTY DESCRIPTION OF AREA TO BE LICENSED

Parcel #: _____

Survey & Abstract No. _____

Lot(s) _____ Block _____ Outlot _____

Subdivision Name: _____

Plat Book _____ Page Number _____ Document Number _____

County/Records: _____ County; Deed Real Property Official Public

3. LIQUOR INFORMATION

If applying for Sidewalk Café will alcoholic beverages be sold/served in the right-of-way?

Yes ____ No ____ . If yes, \$1,000,000 Liquor Legal Insurance is required. Applicant shall comply with all requirements of the Texas Alcoholic Beverage Commission. Provide the name and license holder and the license number of the T.A.B.C. permit.

Name: _____ Permit Number: _____

4. HISTORIC DESIGNATION

Does structure have a:

Historical Designation Yes No

Historic Zoning Yes No

Property in Historic Zoning District Yes No

5. RELATED CASES

FILE NUMBERS

Existing Site Plan: YES / NO

Subdivision: Case: YES / NO

6. APPLICANT INFORMATION

Name: _____

Firm Name: _____

Address: _____ Phone: _____ Fax No.: _____

City: _____ State: _____ Zip: _____

EMAIL ADDRESS: _____

7. DEVELOPER INFORMATION

Name: _____

Firm Name: _____

Address: _____ Phone: _____ Fax No.: _____

City: _____ State: _____ Zip: _____

8. LANDOWNER INFORMATION

Name: _____ (as shown on Deed)

Address: _____ Phone: _____ Fax No.: _____

City: _____ State: _____ Zip : _____

Lienholder Name: _____

Lienholder Address: _____

Lienholder Phone Number: _____ Fax Number: _____

(If multiple owners are joining in this request – complete names, addresses on each, must be attached.)

9. LICENSEE INFORMATION, if other than Landowner (Tenant)

Name: _____

Address: _____ Phone: _____ Fax: _____

City: _____ State: _____ Zip Code: _____

Contact Person: _____ Phone: _____

I the undersigned Landowner/Tenant/Applicant declare that the information provided in this application is true and correct. I have read and understand that the processing of this Application will be handled in accordance with the Procedure for Requesting a License Agreement and that no action on processing will be taken without payment of the non-refundable processing fee. I understand that acceptance of this application and fee in no way obligates the City to license the subject area. I understand that the value of the Right-of-Way, if recommended to be licensed, will be determined by the City of Austin, Real Estate Services Division and a Check and Certificate of Insurance must be presented before the request will be recommended for Administrative Approval. It is further understood that the City is not responsible for any cost or inconvenience incurred by the Landowner/Tenant/Applicant/Agent when the application is not approved.

Signed By: _____
Applicant

EXHIBIT "A"

24" X 36" BLUELINE CONSTRUCTION DRAWINGS AND DETAILED PLANS

Plans not containing the required information will slow the process and will require plans to be modified to City of Austin ("City") standards or may be returned.

- An engineer or architect must sign, seal and date all plans, certifying at the time of submittal that the improvements will meet ADA criteria.
- Plans should include all existing water and wastewater mains, service lines, meter and cleanout locations. Information can be obtained from Austin Water Utility's Maps and Records and Taps Office at the Waller Creek Center, located at 625 East 10th Street.
- All submittals must comply with City, State, and Federal laws.
- Submittals must meet the minimum criteria, standards, and guidelines in all City manuals. This includes but is not limited to City Standards & Specifications, the Transportation Criteria Manual (TCM), and the Environmental Criteria Manual (ECM).
 - City Standards Manual:
<https://library.municode.com/index.aspx?clientId=15309>
 - City Standard Specifications Technical Manual:
<https://library.municode.com/index.aspx?clientId=15308>
 - City Environmental Criteria Manual (ECM):
<https://library.municode.com/index.aspx?clientId=15306>
 - City Transportation Criteria Manual (TCM):
<https://library.municode.com/index.aspx?clientId=15310>

These Code documents and more can be found at <https://www.municode.com/library/tx/austin>, or at <http://austintexas.gov/department/online-tools-resources>, under "City Codes".

Please note that all the above links are current as of the effective date of this application, but may have been updated or moved in the interim.

- **Drawings and Plans must include:**
 - 1) All spatial dimensions to detail the full extent of the Improvements.
 - 2) A profile view.
 - 3) A North arrow
 - 4) Drawn to scale and fully annotated.
 - 5) Adherence to other basic practices of traditional engineering.
- **Submit plans in each of the following formats for review:**
 - _____ **One** large site plan set (24" x 36")
 - _____ **Three** 11 x 17" site plan sets
 - _____ **One** site plan in a single PDF format file, provided on CD-ROM

Choose the section that applies to your project and provide ADDITIONAL information, if required:

- _____ **Handicap Ramps.** Essential elevations must illustrate ramp requirements.
- _____ **Fiber Optic Cable/Conduit Cable.** Site plans must detail the location of cable.
- _____ **Improvements and/or Encroachments into Public Property.** INCLUDING: Fences, columns, roof drains, etc. EXCLUDING: Landscape and irrigation.
- _____ **Monitoring Wells.** Detailed plans of monitoring wells (8½" x 11").

_____ **Sidewalk Café.** City Code Chapter 14-4 relates to the regulation and permitting of sidewalk cafés. Sidewalk café permits are reviewed and issued by the Austin Transportation Department Right-of-Way Division (contact **Jason Redfern, (512) 974-7265**). Sidewalk cafés that do not meet the criteria and requirements for a permit under Chapter 14-4 may in some cases fall under a License Agreement as reviewed by the Office of Real Estate Services. Please contact Andy Halm at (512) 974-7185 for more information.

_____ **Tie Backs.** Applicant is required to schedule a meeting with staff to discuss this project. Please contact Joan Caldwell at (512) 974-7024, or Andy Halm at (512) 974-7185.

_____ **Landscape and Irrigation.** Please provide the following:

_____ Landscape Construction Detail Drawings. Include:

- Type and size of plants/grass/trees.
- Location of landscaping.
- Use well-adapted drought tolerant species or native plants. Please refer to Appendix N of the Environmental Criteria Manual (ECM).
- Trees should be “Class I”. Please refer to Appendix F of the ECM.
- Plans for landscaping must be signed and sealed by a Landscape Architect.

If other improvements are included with landscaping (e.g., awnings, retaining walls, handicap ramps, roof drains), plans for the improvements must be signed and sealed by an Engineer or Architect.

_____ Irrigation Construction Detail Drawings. Include:

- Type of head.
- Type of material.
- Size of all appurtenances and piping.
- Depth, location, etc., in accordance with “Landscape/Irrigation Notes”, Appendix O of the Environmental Criteria Manual (ECM). These guidelines are appended below as **EXHIBIT A-1**.
- Freeze sensor shut-off.
- Install piping at minimum 2’ away from the back of curb.
- Locate mainlines, valves, and valve boxes on the owner’s side of the property line wherever feasible.
- Sites within three miles of Lady Bird Lake or Lake Austin usually have high pressure. Plan to install an adjustable pilot-type pressure regulator downstream from the double check valve.
- Plans for irrigation must be signed and sealed by a Licensed Irrigator for irrigation drawings.

If other improvements are included with irrigation (e.g., awnings, retaining walls, handicap ramps, roof drains), plans for the improvements must be signed and sealed by an Engineer or Architect.

APPENDIX O: LANDSCAPE/IRRIGATION NOTES

SITE DEVELOPMENT PERMIT - IRRIGATION NOTES

Automatic irrigation systems shall comply with the following requirements. These requirements shall be noted on the Site Development Permit and shall be implemented as part of the landscape inspection:

1. A new commercial and multi-family irrigation system must be designed and installed so that:
 - (a) there is not direct overspray onto non-irrigated areas;
 - (b) the system does not include spray irrigation on areas less than six (6) feet wide (such as medians, buffer strips, and parking lot islands)
 - (c) above-ground irrigation emission devices are set back at least six (6) inches from impervious surfaces;
 - (d) the irrigation system has a master valve;
 - (e) circuit remote control valves have adjustable flow controls;
 - (f) serviceable in-head check valves are adjacent to paved areas where elevation differences may cause low head drainage;
 - (g) the irrigation system has a City- approved weather based controller;
 - (h) an automatic rain shut-off device shuts off the irrigation system automatically after not more than a one-half inch (1/2") rainfall;
 - (i) zone valves and circuits are separated based on plant water requirements;
 - (j) an irrigation emission device (such as spray, rotor, or drip emitter) does not exceed the manufacturer's recommended operating pressure; and
 - (k) no component of the irrigation system deviates from the manufacturer's recommended use of the product.
2. The maximum spacing between spray or rotary sprinkler heads must not exceed the radius of throw of the head unless manufacturer of the sprinkler head specifically recommends a greater spacing. The radius of throw is determined by reference to the manufacturer's specifications for a specific nozzle at a specific operating pressure.
3. The irrigation installer shall develop and provide an as-built design plan and water budget to the City at the time the final plumbing inspection is performed. The water budget shall include:
 - (a) a chart containing zone numbers, precipitation rate, and gallons per minute; and
 - (b) the location of the emergency irrigation system shut-off valve. A laminated copy of the water budget shall be permanently installed inside the irrigation controller door.
4. The irrigation installer shall provide a report to the City on a form provided by the Austin Water Utility Department certifying compliance with Subsection 1 when the final plumbing inspection is performed by the City.

EXHIBIT "B"

In order for staff to prepare the legal documents, the Law Department requires the following information and documentation. The company name provided should be complete and accurate as to spelling and style, and its Entity formation state and type noted.

If *title* or *ownership* is in the name of a **CORPORATION**

A current Resolution of Corporate Authority documenting who is authorized to sign on behalf of the corporation. The name of the corporation should be complete and accurate as to spelling and style.

If *title* or *ownership* is in the name of a **LIMITED PARTNERSHIP**

A copy of Partnership Agreement documenting name and title of the current **General Partner** authorized to sign for the partnership.

- a) If the **General Partner** is a corporation, a Resolution of Corporate Authority will be required.

If *title* or *ownership* is in the name of an **PARTNERSHIP OR JOINT VENTURE**

A copy of the Partnership Agreement documenting name and title of the managing partner or person authorized to sign for the partnership.

If *title* or *ownership* is in the name of an **LIMITED LIABILITY COMPANY**

A current Resolution of Corporate Authority documenting who is authorized to sign on behalf of the company.

If *title* or *ownership* is in the name of an **INDIVIDUAL(s)**

Complete name(s) and address(es) are required.

If *title* or *ownership* is a **DBA**

Provide a copy of the Assumed Name Records Certificate of Ownership for Unincorporated Business or Profession.

Resolution of Corporate Authority

I, _____ {name}, the undersigned **Secretary** of _____ {name of corporation} the "Corporation", hereby certify that:

Corporation is a corporation duly organized and existing under the laws of the State of _____. The following is a true and accurate transcript of a Resolution adopted at the _____ {date} Board meeting. The Corporation's Board of Directors adopted the Resolution, which is contained in Corporation's minute book, at a duly authorized board meeting. A quorum of Corporation's Board of Directors was present at the entire board meeting and all actions taken at the meeting complied with Corporation's charter and by-laws. The Resolution has not been amended or revoked on the date signed below, and remains in full force and effect.

Resolved, that _____ {name} _____ {title} of _____ {name of corporation}, be and hereby is empowered to sign any and all documents, to take such steps, and to do such other acts and things, on behalf of said Corporation, as in his/her [strike one] judgment may be necessary, appropriate or desirable in connection with any Encroachment Agreement entered into with the City of Austin affecting the real property described as:

A subdivision of Travis County, Texas, according to the map or plat of record in Volume _____, Page _____, of the Plat Records of Travis County, Texas, "Property".

Resolved, that all transactions with the City of Austin involving an Encroachment Agreement affecting the Property by any of the officers or representatives of the Corporation, in its name and for its account, prior to the adoption of these resolutions, are hereby ratified and approved for all purposes.

Signed and sealed on _____, 20_____.

Secretary

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, _____ (name) the undersigned Notary Public of the State of Texas, on this day personally appeared _____, [choose one] {known to me or proved to me through _____ (TDL#)}, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, A.D. 20__ .

Notary Public, State of Texas

Note: **Resolution of Corporate Authority must authorize the President or a Vice President to act on behalf of the corporation, and be signed by, attested, and dated by the corporate Secretary no earlier than three months before date of the Encroachment Agreement.**

Resolution of Corporate Authority for General Partner

I, _____ {name}, the undersigned **Secretary** of _____ {name of corporation} the "Corporation", hereby certify that:

Corporation is a corporation duly organized and existing under the laws of the State of _____. The following is a true and accurate transcript of a Resolution adopted at the _____ {date} Board meeting. The Corporation's Board of Directors adopted the Resolution, which is contained in Corporation's minute book, at a duly authorized board meeting. A quorum of Corporation's Board of Directors was present at the entire board meeting and all actions taken at the meeting complied with Corporation's charter and by-laws. The Resolution has not been amended or revoked on the date signed below, and remains in full force and effect.

Resolved, that _____ {name} _____ {title} of _____ {name of corporation}, be and hereby is empowered to sign any and all documents, to take such steps, and to do such other acts and things, on behalf of said Corporation, acting in its capacity as General Partner of _____ {name of Partnership}, a _____ {state} Limited Partnership, as in his or her judgment may be necessary, appropriate, or desirable in connection with any Encroachment Agreement entered into with the City of Austin affecting the real Property described as:

a subdivision of Travis County, Texas, according to the map or plat of record in Volume _____, Page _____, of the Plat Records of Travis County, Texas, "Property".

Resolved, that all transactions with the City of Austin involving an Encroachment Agreement affecting the Property by any of the officers or representatives of the Corporation, in its name and for its account, prior to the adoption of these resolutions, are hereby ratified and approved for all purposes.

Signed and sealed on _____, 20____.

Secretary

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, _____ (name) the undersigned Notary Public of the State of Texas, on this day personally appeared _____, [choose one] {known to me or proved to me through _____ (TDL#)}, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, A.D. 20____.

Notary Public, State of Texas

NOTE: Resolution of Corporate Authority must authorize the **President** or a **Vice President** to act on behalf of the corporation, **and** be signed by, attested, and dated by the corporate **Secretary** no earlier than three months before date of the Encroachment Agreement.

Resolution of Corporate Authority for a Limited Liability Company

I, _____ {name}, the undersigned **Manager** of the license that is the member of _____ {name of limited liability company} the "Company", hereby certify that:

Company is a limited liability company duly organized and existing under the laws of the State of _____. The following is a true and accurate transcript of a Resolution adopted at the _____ {date} Member meeting. The Company's Members adopted the Resolution, which is contained in Company's minute book, at a duly authorized meeting. A quorum of Company's Members was present at the entire meeting and all actions taken at the meeting complied with Company's charter and by-laws. The Resolution has not been amended or revoked on the date signed below, and remains in full force and effect.

Resolved, that _____ {name} _____ {title} of _____ {name of Company}, is empowered to sign any and all documents, to take such steps, and to do such other acts and things, on behalf of said Company, as in his/her [strike one] judgment may be necessary, appropriate or desirable in connection with any Encroachment Agreement entered into with the City of Austin affecting the real property described as:

a subdivision of Travis County, Texas, according to the map or plat of record in Volume _____, Page _____, of the Plat Records of Travis County, Texas, "Property".

Resolved, that all transactions with the City of Austin involving an Encroachment Agreement affecting the Property by any Members of the Company, in its name and for its account, prior to the adoption of these resolutions, are hereby ratified and approved for all purposes.

Signed and sealed on _____, 20____.

{Seal}

Member

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, _____ (name) the undersigned Notary Public of the State of Texas, on this day personally appeared _____, [choose one] {known to me or proved to me through _____ (TDL#)}, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, A.D. 20____.

[SEAL]

Notary Public, State of Texas

Note: Resolution of Corporate Authority for an LLC must authorize the **Manager** or a **Member** to act on behalf of the limited liability corporation, **and** be signed by, attested, and dated by a **Member** no earlier than three months before date of the Encroachment Agreement.