

Mayor and Council Communication

DATE: 02/27/24

M&C FILE NUMBER: M&C 24-0140

LOG NAME: 06PERMANENT ENCROACHMENT PROCESS REVISION

SUBJECT

(ALL) Adopt Ordinance Amending Section 3210 of the City of Fort Worth Building Code Related to Permanent Encroachments to Update the Established Tier Categories, Revise Insurance Requirements, and Add Delegation of Authority for Execution and Encroachment Tier Determination

RECOMMENDATION:

It is recommended that City Council authorize the adoption of the attached ordinance amending the City of Fort Worth Building Code, Section 3210 related to permanent encroachments to update the established tier categories, revise insurance requirements, and add delegation of authority for execution and encroachment tier determination.

DISCUSSION:

In November 2020, City Council adopted Ordinance No. 24514-11-2020 which updated the encroachment ordinance by establishing a tiered structure that categorized encroachment types based on complexity. Within the three years of working through the updated 2020 ordinance additional areas were identified where process improvements could be made. Therefore, Development Services is recommending amendments to the encroachment ordinance to alleviate friction points by increasing administrative authority and allowing flexibility when it comes to determining which encroachments fall within the respective tier structure.

An encroachment is when any physical object projects into the city's right-of-way and/or city-owned easements. The physical object can include any portion of a building, including an awning or a fence for example.

The following is a summary of recommended changes to Section 3210 of the City of Fort Worth Building Code:

Changes to Section 3210:

- Staff is requesting that the Development Services Director be given the authority to designate a Development Services Assistant Director to execute encroachment agreements on their behalf during times when the Director is not available. Currently, only the Development Services Director is authorized to execute encroachments;
- For both Tier I and Tier II encroachments, the current ordinance states that any item listed within each tier is not just an example, but it is categorized in that tier permanently with no exception. Staff proposes to keep the tiers but classify the items listed in each tier as examples and guidelines with final determination, if necessary, to come from the Director of Development Services or his designee. The items within each tier will also change slightly based on past situations which have revealed the need for certain encroachments to be moved from one tier to another;
- For Tiers I and II, this amendment would allow flexibility for certain applicants and situations where providing a public liability insurance policy is not feasible or is not warranted. Instead, staff is proposing through this proposed amendment, to allow Risk Management the ability to approve other forms of insurance or amounts when appropriate.

All other portions of the ordinance will remain the same.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of this recommendation will have no material effect on City funds.

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Additional Information Contact: