

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: June 4, 2024

PUBLIC HEARING DATE: June 11, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Lilia Worrell. (915) 212-5822
Annabelle Casas (915) 212-5205

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 2 – Set the Standard for a Safe and Secure City

SUBJECT:

An Ordinance amending TITLE 5 (Business License and Permit Regulations); Chapter 5.12 (Dealers in Secondhand goods, dealers in crafted precious metals, coin dealers and pawnbrokers); Section 5.12.080 (License-Denial, Appeal) to replace "Hearing Officer" to "Municipal Associate Judge" of the El Paso City Code.

BACKGROUND / DISCUSSION:

This ordinance amendment is to increase efficiency and allow substitute Municipal Associate Judges to preside over Secondhand Dealer License: Denials and Appeals.

PRIOR COUNCIL ACTION:

July 28 2015; December 15, 2015

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Municipal Court

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Lilia Worrell, Municipal Court

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 5 (BUSINESS LICENSE AND PERMIT REGULATIONS), CHAPTER 5.12 (DEALERS IN SECONDHAND GOODS, DEALERS IN CRAFTED PRECIOUS METALS, COIN DEALERS AND PAWNBROKERS), SECTION 5.12.080 (LICENSE—DENIAL; APPEAL) TO AMEND ‘HEARING OFFICER’ TO ‘MUNICIPAL ASSOCIATE JUDGE’ OF THE EL PASO CITY CODE.

WHEREAS, the City of El Paso wishes to amend Title 5, Chapter 5.12, Section 5.12.080 License—Denial; Appeal to amend who hears appeals in this section from ‘hearing officer’ to ‘municipal associate judge;’ and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 5 (Business License and Permit Regulations), Chapter 5.12 (Dealers in Secondhand Goods, Dealers in Crafted Precious Metals, Coin Dealers and Pawnbrokers), Section 5.12.080 (License—Denial; Appeal), is hereby amended to read as follows:

5.12.080 License—Denial; appeal.

- A. The chief of police or the license official may deny a secondhand dealer license for the violation of any provision of this chapter by providing the applicant with a statement indicating the reason(s) for the denial.
- B. The license official will issue a written statement notifying the applicant of denial of the secondhand dealer license if the investigation reveals one or more of the following:
 - 1. The applicant's place of business is not in compliance with applicable state laws or local ordinances; or
 - 2. An individual applicant or any employee of an entity applicant, whose duties include the purchase or sale of regulated merchandise, has been convicted of a criminal offense involving theft, burglary, robbery, fraud, or tampering with or falsification of evidence or official records, unless:
 - a. The applicant or employee has been pardoned; or
 - b. One year has elapsed since the applicant or employee has been fully discharged from the sentence imposed for the offense, including any term of incarceration, parole, supervision, or probation ordered by any court; or
 - c. The criminal proceedings were deferred without a final adjudication of guilt; or
 - 3. Fraud, misrepresentation or false statement of facts of material consequence in the application; or
 - 4. Six or more violations of this chapter within twelve months immediately preceding the current application by the applicant, any employee of the applicant, whose duties include the purchase of regulated merchandise, or the combined violations of both the applicant and the employee.

- C. When the license official issues a written notice of denial of a license to the applicant, the license official will include, in the notice, the specific grounds under this chapter for such action. The notice will be sent to the applicant by personal delivery or certified mail. The notice will be directed to the most current business address or other mailing address on file with the license official for the applicant.
- D. The written notice of denial of a license will include a notice provision informing the applicant of his or her right to appeal the license official's decision by submitting a written notice requesting an administrative hearing before a municipal associate judge. The applicant, referred to as the respondent for purposes of the appeal, will submit the written statement to the license official not later than the 15th city business day after the date of the written notice of denial of the license. The respondent's written statement requesting the appeal shall clearly state why the respondent contends that there is not a valid basis for the denial of the license.

If the respondent submits a written statement appealing the denial of the license, the chief of police or license official, or their designee(s), will immediately contact the city attorney's office in order to coordinate the retention of a municipal associate judge and to schedule a hearing. The notice of the hearing will specify a hearing date, not less than fifteen city business days nor more than thirty city business days after the date the applicant files the written notice requesting an administrative hearing. The municipal associate judge will conduct a hearing on the license official's denial of the license. The hearing may be continued to a sooner or later date by agreement of the parties, and with the municipal associate judge's approval, or upon the finding of good cause by the municipal associate judge for the granting of an earlier or later hearing date.

At the hearing, the respondent will have the opportunity to present all of the respondent's arguments and to be represented by counsel at respondent's expense, present evidence and witnesses on his or her behalf, and cross-examine any of the license official's witnesses. The license official, who may also be represented by counsel, bears the burden of proving the grounds for denying the license by a preponderance of the evidence. The hearing will take no longer than one business day, unless extended by agreement of the parties or at the request of either party, and with approval of the municipal associate judge, to meet the requirements of due process and the proper administration of justice.

The municipal associate judge will issue a written decision, including findings of fact and conclusions of law, to the respondent within five city business days from the completion of the hearing. The municipal associate judge's decision is final.

If the decision is to deny the license, the decision will become effective on the fourteenth calendar day after it is rendered. If the municipal associate judge's decision finds that no grounds exist for the denial of the license, the municipal associate judge will, contemporaneously with the issuance of the decision, order the license official to immediately withdraw the denial of the license and notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the license official will contemporaneously therewith issue the license to the applicant.

If the respondent's application is for the renewal of a license, the existing license will remain valid and in effect during the pendency of the appeal and until such time as the decision of the municipal associate judge becomes final.

If the municipal associate judge's final decision upholds the denial of the license, the license official may grant the respondent a provisional license for a period of six months to begin from

the date of the municipal associate judge's final decision. The provisional license will require the applicant to pay a non-refundable enhanced fee.

If during the six-month period, corrective action has been satisfactorily completed by the respondent as directed by the license official, and no other violations are committed under this chapter, or if no corrective action was required of the respondent by the license official, but no other violations are committed under this chapter, then the license official will issue the standard license to the applicant.

SECTION 2. Except as herein amended, Title 5 of the El Paso City Code shall remain in full force and effect.

(Signatures begin on following page)

ADOPTED this ____ day of _____, 2024.

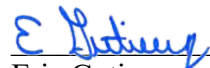
CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

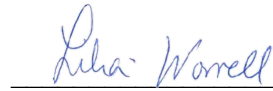
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Eric Gutierrez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Lilia A. Worrell, Director
El Paso Municipal Court

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 - a. The applicant or employee has been pardoned; or
 - b. One year has elapsed since the applicant or employee has been fully discharged from the sentence imposed for the offense, including any term of incarceration, parole, supervision, or probation ordered by any court; or
 - c. The criminal proceedings were deferred without a final adjudication of guilt; or
 - 3. Fraud, misrepresentation or false statement of facts of material consequence in the application; or
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Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Eric Gutierrez
Senior Assistant City Attorney

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