

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

DEPARTMENT: **Parks and Recreation**

AGENDA DATE: **August 18, 2009 (Introduction) August 25, 2009 (Hearing and Action)**

CONTACT PERSON/PHONE: **Nanette Smejkal (915) 541-4331**

DISTRICT(S) AFFECTED: **All Districts**

SUBJECT:

An Ordinance amending Title 13 (Streets, sidewalks, public places), Chapter 13.24 (City Parks and Recreation Areas) Section 13.24.200; Park and Recreation facility use and fee authorization, of the El Paso City Code, to revise and clarify the provisions relating to the types of user fees authorized to be charged by the department, to clarify the authorization for the development of programming in the parks; to require background checks for league coaches, and to amend the definitions used herein and on the fee schedule.

BACKGROUND / DISCUSSION:

The Parks and Recreation Department has fees for various facilities, general services, programs, events, activities, and classes. The authorization for the City to continue to charge these fees is provided through the FY2010 Budget Resolution and the Department is seeking Council authorization to continue charging these fees through this ordinance.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, Ordinance 17097 dated March 31, 2009.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.24 (CITY PARKS AND RECREATION AREAS), SECTION 13.24.200, PARK AND RECREATION FACILITY USE AND FEE AUTHORIZATION, OF THE EL PASO CITY CODE, TO REVISE AND CLARIFY THE PROVISIONS RELATING TO THE TYPES OF USER FEES AUTHORIZED TO BE CHARGED BY THE DEPARTMENT, TO CLARIFY THE AUTHORIZATION FOR THE DEVELOPMENT OF PROGRAMMING IN THE PARKS; TO REQUIRE BACKGROUND CHECKS FOR LEAGUE COACHES, AND TO AMEND THE DEFINITIONS USED HEREIN AND ON THE FEE SCHEDULE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Title 13 (Streets, Sidewalks and Public Places), Section 13.24.200 (Park and Recreation fee authorization) of the El Paso City Code, shall be amended to read as follows:

13.24.200 Park and recreation facility use and fee authorization.

A. Facility uses. The city council of El Paso authorizes the department director to establish programs, activities, classes, events, and other general services as are specifically offered and listed in the fee schedule at any and all city parks and recreational facilities managed by the department. The city council establishes priorities for the use of all city parks and recreational facilities as follows: (1) programs, activities, classes, events, and general services conducted by the parks and recreation department, which includes scheduling time or allowing uses, as appropriate within the facilities, for casual, unregimented recreational activities or uses commonly referred to as drop-in uses; (2) school activities, programs or events scheduled pursuant to an inter-governmental agreement; (3) other official activities, programs or events of the city; (4) revenue producing facility rentals; and (5) no charge uses by persons and entities as permitted under this subsection B 2 a iii of this section. All uses, other than drop-in uses, will require an application, permit or written contract.

B. Fees. The city council of El Paso authorizes the department director to charge a fee for facility rental and use as well as a fee for programs, activities, classes, events, and other general services as are specifically offered and listed in the fee schedule provided at any and all city parks and recreational facilities managed by the department. Such fees may include entry fees for participation in department-produced activities and events. General or flat fees shall be established, as well as other fees which may deviate from the standard fee based upon non-resident, commercial or non-profit status and shall be in the amounts as set by the city council through its budget resolution or other duly adopted resolution (“fee schedule”), in accordance with the following guidelines and criteria, as well as the criteria specified with the definitions for such terms:

1. Rental Authorization. The city council of El Paso authorizes the parks and recreation department ("department") director or designee to rent city-owned park and recreational facilities to the citizens of El Paso for recreational, educational, or leisure-time activities, programs, or events. Said rental will be permitted when such does not conflict with activities, programs, or events officially sponsored by the city of El Paso; scheduled school activities, programs, or events pursuant to inter-governmental agreements; or other activities, programs, or events previously approved by the city council of El Paso or the department director.

2. Facility Rental and Use Fees. The fees for a paid rental or use of a facility shall include the fee as set forth in the fee schedule and the administration fee, which is a non-refundable processing charge to compensate the department for reserving the facility or park area for use by the renter and processing the associated contracts. If alcohol is to be served during a rental under this section, an additional fee, based on one security guard per one hundred participants, and as set forth in the fee schedule, shall be charged to the renter. If the rental is for the purpose of conducting a party or other event where food, beverages or other activities will take place where litter or debris may be left behind, a cleaning charge shall be made in the amount set forth in the fee schedule. If the rental includes the use of catered food services or any other commercial use that is incidental to the rental, an additional fee shall be charged in the amount set forth in the fee schedule for such use.

a. Room Rentals. Room rentals include any and all rooms or portions therein in all recreation, senior, sports, multipurpose and arts/cultural facilities that are designated by the director for use by the public. Rates shall be applied and fees charged in the amount set forth in the fee schedule.

i. Other city departments, to include city elected officials, may use rooms in all parks and recreation facilities for official business at no charge, on a space-available basis, during normal hours. Normal operating hours may vary among facilities. Use of rooms by other city departments, for official business during non-operating hours will be charged at the standard rate. Any city elected official desiring to use a room during non-operating hours for the conduct of his official business, such as holding a public meeting to inform constituents of issues affecting the community, may do so at no charge provided that no other city facility is reasonably available for the meeting, such use is timely scheduled, such use is not within 90 days preceding any city election, and such use is a special, occasional use and is not a standing or regularly scheduled meeting.

Any city elected official submitting a request for use of a room during non-operating hours shall submit such request in writing to the director not less than seven days in advance of the requested use, and if necessary, the city council may take appropriate action to resolve any issue as to whether a requested use is in conformity with and appropriate under the requirements set forth in this section; provided however, in no event shall a use of a room without charge by a city elected official be permitted for a personal or political use, nor shall a city elected official reserve a room under this section for a meeting, activity, function, or event that will not be attended by the elected official.

- ii. County, state, federal agencies and other governmental entities may use rooms in all park and recreation facilities for official business at no charge, on a space-available basis, during normal operating hours. Normal operating hours may vary among facilities. Use of rooms by county, state, and federal agencies for official business during non-operating hours will be charged at the standard rate.
 - iii. The city council has established that meeting rooms that are appropriate for public use may be used by any person or entity, other than a for-profit entity or individual conducting for-profit business/commercial speech activities, during normal operating hours on a first come, first serve basis as space is available, as the city council has found that such uses are appropriate. Normal operating hours may vary among facilities. Use of such rooms during non-operating hours will be charged the appropriate rate as set forth in the fee schedule.
 - b. Shelters, Reserve Areas, Rose Garden, Downtown Plazas. Fees will be assessed and paid at the time that a renter reserves a shelter, reserve area, rose garden, pavilion, skate park, park area, or the San Jacinto or other downtown Plazas. Additional charges shall be assessed for the use of electricity at the downtown plazas for which electricity use is established by the director as an optional use and a separate electricity charge is set forth in the fee schedule.
 - c. Gymnasium Rental. The facility rental for gymnasiums shall be based on the size of the given facility (i.e., small, medium, large and extra large, and full court or half court), and the purpose for which the gymnasium will be used. An additional fee shall be charged as set forth in the fee schedule for each use that is not an athletics sports use. The department director shall determine and designate the appropriate size for each gymnasium for purposes of assessing a rental fee for the same.
 - d. Sports and Athletic Venues. Field practice, sports, and athletic venue fees game permit fees, and tournament fees shall be applied, when applicable. Charges shall be made for the use of the various sports fields as set forth in the fee schedule to include the costs of field preparation and for lighting the field, which may be charged as included or separate fees, as may be appropriate. Field practice rentals shall not include the additional administration fee.
 - i. All individual players participating in any league utilizing a department facility will be charged a player fee, including independent leagues. If a season exceeds four months, the player will be assessed a fee for two seasons.
 - ii. One security guard per one hundred participants will be charged per tournament rental. Additional security guard(s) may be required as deemed necessary by department staff at renter's expense.
3. Activities, Programs, Classes, and General Services Fees. The fees for activities, programs, classes, and general services will additionally be based on anticipated enrollment and use, class frequency, cost of instructor(s), if any, supplies, materials, and staff. Such fees shall be charged in the amounts set forth in the fee schedule or specifically calculated according to the formula set forth in the fee schedule. When a stated formula includes an

administrative fee charge as part of the fee calculation, that portion of the fee shall be as set forth in the fee schedule as the administrative fee charge.

- a. Sports league and tournament fees shall be based on anticipated registration, equipment, supplies, materials, staffing, and awards.
- b. The department is authorized to conduct background checks for all coaches participating in city leagues and tournaments, issue identification cards for all participants, and charge the appropriate fees for such services as set forth in the fee schedule.

4. Department-Produced Activities and Events. The Parks and Recreation department director shall be authorized to create community special events and activities for the public, which may include allowing members of the public to make limited commercial uses of the department's facilities and parks in conjunction with such events, for the purpose of providing entertainment, food service, or other amusement for the public in conjunction with the event, in accordance with the policies and guidelines that are approved by a resolution of the city council. Special events and activities occurring in or using locations other than the city parks and recreational facilities managed by the department shall be authorized by the city council or may be conducted in accordance with the policies and guidelines for such events and activities that are approved by a resolution of the city council. For purposes of this section, a special event or activity shall not include field trips, programs, or activities occurring outside of a city parks and recreational facility that are incidental to an activity, program or class conducted primarily within a facility or which are part of the department's day care services or youth development programs. The fees charged for such events shall be in the amounts set forth in the fee schedule for the activities and events identified and listed therein or as set by the council by other appropriate resolution.

C. Use of Parks and Facilities for Displays and Advertising--Fees. The Parks and Recreation department director shall be authorized to designate portions of sports fields and facilities in which it is appropriate to allow rentals of the space for the purpose of temporarily hanging banners for display, to include but not be limited to advertising. Such uses shall be permitted in accordance with the policies and guidelines that are approved by a resolution of the city council. A fee for displaying such banners shall be charged as set forth in the fee schedule.

D. For the purposes of these fees, including the listing of such fees as set forth in the budget resolution or other appropriate resolution of the city council, the following definitions apply:

1. "Facility" means any building, structure, designated area or enclosed area that is in a city park or other area managed by the department, to include but not be limited to shelters, reserve areas, rose gardens, ~~bandstands~~ pavilions, skate parks, recreational facilities, community centers, senior centers, sports centers, aquatics venues, athletic venues and downtown plazas.
2. "Prime time" means Monday through Friday from 5:00 pm through 1:00 am of the following day; and during all operating hours on Saturday, Sunday and city recognized holidays.
3. "Class," "program" or "activity" means a structured or organized event, designed to meet a recreational or educational need, under the specific supervision of facility staff, instructor, trainer or contractor.

4. "Leisure interest class or workshop" means a program, class or activity that is taught by an independent contractor.
5. "Senior Discount" means the discount available as set forth in the fee schedule for a person who is age 55 or older and who is enrolling in a leisure interest class or workshop or who is using a weight room, boxing room or billiard room on a monthly or yearly fee basis.
6. "Multiple child discount" means the discount available as set forth in the fee schedule for families (household) with more than one child enrolling and participating in the same program, class or activity that requires individual registration prior to participation. This discount does not include day care and after school programs.
7. "General Admission or Flat Rate" means the ~~any~~ fee that is charged for facility uses and services for which it is appropriate to charge a single, uniform rate, rather than establishing separate fees based on the type of user. Such fees, when established, shall be listed on the fee schedule as a single, uniformly charged fee.
8. "Standard Rental Rate" means the base rate and fee from which the commercial, non-profit and non-resident rates are determined, and which is charged to persons when those rates are not applicable.
9. "Commercial Rate" is the rate charged to individuals, organizations or groups who charge a fee or require a donation for admission to the event or program in question.
10. "Non-Profit Rate" means the rate that is charged to an individual, organization or group that is registered with the city's charitable solicitation committee, as outlined in Section 5.24.030, El Paso City Code. "Non-Profit" also includes any registered person, group or organization recognized as a non-profit organization under the laws of the State of Texas, or who has been given tax-exempt status under section 501(c)(3) of the United States Internal Revenue Service, or both.
11. "Non-resident Rate" means the rate that is charged to those persons who do not reside within the city limits of the City of El Paso. Non-resident fees may be established so as to cover a portion of the costs of a program, activity, etc., for which the user fee established for a City resident includes a subsidy from the city's general fund. The department shall establish written procedures for the verification of residency of persons, when necessary.

Section 2. This ordinance shall take effect on September 1, 2009.

Section 3. That, except as herein amended, Title 13 (Streets, Sidewalks and Public Places), shall remain in full force and effect.

ADOPTED this 25th day of August 2009.

(Signatures appear on the following page)

CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Elaine S. Hengen
Senior Assistant City Attorney

Nanette L. Smejkal, Director
Department of Parks and Recreation