

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

DEPARTMENT: **Parks and Recreation**

AGENDA DATE: **March 24, 2009 (Introduction) March 31, 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 and Public Places), Chapter 13.24 (City Parks and Recreation Areas) of the El Paso City Code, to revise provisions relating to rentals and other uses of Parks and Recreation facilities by government officials and members of the public.

BACKGROUND / DISCUSSION:

The amendments provide policies for non-public entities and associations comprised of residents of the city that share the same public mission as parks and recreation to have use of certain rooms at parks and recreation facilities at no charge when rooms are not needed or reserved for other purposes. The amendments further clarify use of parks and recreation facilities by city officials. Additional changes refer the reader to the adopted fees schedule for rate information.

PRIOR COUNCIL ACTION:

City Council previously revised Chapter 13.24 on March 17, 2009.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

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) OF THE EL PASO CITY CODE, TO REVISE PROVISIONS RELATING TO RENTALS AND OTHER USES OF PARKS AND RECREATION FACILITIES BY GOVERNMENT OFFICIALS AND MEMBERS OF THE PUBLIC.

WHEREAS, the City Council finds that allowing non-public entities and associations comprised of residents of the city that share the same public mission as the Parks and Recreation Department to have the use of certain rooms at Parks and Recreation Department facilities at no charge, when such rooms are not needed or reserved for any other purpose, will serve an important municipal purpose.

NOW THEREFORE, 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 and other general services 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 and general services conducted by the parks and recreation department; (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-fee paid uses by non-public entities or associations comprised of residents of the city that share the same public mission as the parks and recreation department.

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 and other general services provided at any and all city parks and recreational facilities managed by the department. Said fees 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:

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. All rentals shall have priority over a requested no charge use by non-public entities and associations comprised of residents of the city that share the same public mission as the parks and recreation department and all rentals will require a written contract.

2. Facility Rental and Use Fees. The fees for a paid rental of a facility shall include 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. Facilities shall include but not be limited to shelters, reserve areas, rose gardens, bandstands, park areas, recreational facilities, community centers, senior centers, aquatics venues, athletic venues, and San Jacinto and other downtown Plazas. 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.

a. Room Rentals. Room rentals include any and all rooms in all recreation, senior, sports, multipurpose and arts/cultural facilities that are designated by the director for use by the public. Any person, entity or association desiring to rent a room shall have priority in scheduling that rental over a request made by a non-public entity or association comprised of residents of the city that shares the same public mission as the parks and recreation department to use the room at no charge. Rates shall be applied and charged pursuant to 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 not-charging 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.

- iii. Use of rooms by county, state, and federal agencies for official business during non-operating hours will be charged at the not-charging rate. Recognized Neighborhood Associations, duly registered and in good standing with the City of El Paso in accordance with Chapter 2.102 of this Code, may use meeting rooms in recreation and senior centers for official business at no charge, on a space-available basis, during normal operating hours. Normal operating hours may vary among facilities. Use of meeting rooms by recognized Neighborhood Associations for official business during non-operating hours will be charged at either the not-charging or not for profit rate, as applicable.
- b. Room uses—no charges. The director shall designate appropriate rooms within the various recreation, senior, sports, multipurpose and arts/cultural facilities that may be available for use by non-public entities and associations comprised of residents of the city that share the same public mission as the parks and recreation department (“qualified entities”). Such uses shall be available only during the normal operating hours of each facility and shall be subordinate to all other uses established by or requested of the facility, as set forth in subsection A.
- i. Only residents of the city may request a room use at no charge under this section and such room use must be primarily for residents of the city. No person, entity or association using a room pursuant to this section may charge a fee for participating in the activity or class being conducted, nor collect or exchange any money or fees while inside the facility.
 - ii. The director shall establish policies and procedures for making the determination as to whether each non-public entity and association consisting of city residents meets the criteria of sharing the same public mission as the parks and recreation department. Such criteria shall be based on an examination of the purpose of the requested use of the room, and require that a use be of the same nature as the leisure interest activities and classes or activities offered by the parks and recreation department or classes or activities offered by other quality of life departments of the city, to include but not be limited to physical activity, health, fitness and well-being classes, instruction or study; instructional classes or those teaching new skills (not to include programs conducted or required by law to be conducted by a school); arts and crafts activities; table game activities; and administrative meetings to prepare coaches and players for participation in recreational or city sponsored sports leagues (not to include school athletics).
 - iii. In order to allow all qualified entities to have fair opportunities to secure the use of a room at no charge, when appropriate and available, persons requesting to use a room under this subsection must submit a separate request for each requested use, no earlier than thirty days and no later than seven days in advance of each requested use. Standing reservations for use of a room under this section on a particular day and time each day, week or month, are not permitted.

- iv. In addition to authority delegated to the director for establishing permitted uses of rooms under this section, the city council may establish an appropriate use of a room without a charge, at such times that a room is available pursuant to all other requirements of this section, upon a finding by the city council that the particular activity or event proposed to be held serves an identified municipal purpose.
- c. Shelters, Reserve Areas, Rose Garden, San Jacinto Plaza. A non-refundable reservation charge will be assessed and paid at the time that a renter reserves a shelter, reserve area, rose garden, bandstand, park area, or the San Jacinto or other downtown Plazas.
- d. 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). The department director shall determine the appropriate size of the given facility for purposes of assessing a rental fee for the same.
- e. Sports and Athletic Venues. Field practice and game permits, league, and tournament fees shall be applied to the sports and athletic venues, when applicable. An athletic field irrigation and maintenance fee shall be charged for (a) each season of independent leagues using a city sports or athletic field and (b) for each day of a tournament using a city sports or athletic field.
 - i. League and tournament fees shall be based on anticipated registration, equipment, supplies, materials, staffing, and awards. League and tournament fees do not include officials' fees.
 - ii. 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.
 - iii. One security guard per one hundred participants will be charged per tournament rental. A dditional security guard(s) may be required as deemed necessary by department staff at renter's expense.

3. Activity, Program, Classes, and General Fees. Activity, program, classes, and general service fees shall be based on anticipated enrollment, skill level, cost of instructor(s), if any, supplies, materials, and staff. Fee discounts based on the federal income guidelines by family size may be available depending on the activity, program, class, or service being provided by the department. Fee discounts do not include team, league, and tournament fees.

- B. For the purposes of these fees, the following definitions apply:
- 1. "Charging" means an individual, organization or group that charges a fee or requires a donation for admission to the event in question.
 - 2. "Not charging" means an individual, organization or group that is not charging a fee or requiring a donation for admission to the event in question.
 - 3. "Not charging (non-profit)" means 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, and is not charging a fee or requiring a donation for admission to the event in question.

4. "Military" means an individual who is currently on active duty status as a member of the regular or reserve armed forces of the United States, or a dependent family member of such an individual. In order to qualify for military rates, the individual must present a valid military identification indicating active duty or dependent status.
5. "Program" 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.
6. "Activity" means an unstructured or unorganized event, designed to meet a leisure-time need, under the supervision of facility staff only.
7. "Class" 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.
8. "General service fee" means any fee that is not covered by a specific category, including but not limited to special events, day care, and aquatics and senior programs.

Section 2. That Title 13 (Streets, Sidewalks and Public Places), Section 13.24.040 (Hours of closure) of the El Paso City Code, shall be amended to delete Subsection F.

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

ADOPTED this _____ day of April 2009.

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.24 (CITY PARKS AND RECREATION AREAS) OF THE EL PASO CITY CODE, TO REVISE PROVISIONS RELATING TO RENTALS AND OTHER USES OF PARKS AND RECREATION FACILITIES BY GOVERNMENT OFFICIALS AND MEMBERS OF THE PUBLIC.

WHEREAS, the City Council finds that allowing non-public entities and associations comprised of residents of the city that share the same public mission as the Parks and Recreation Department to have the use of certain rooms at Parks and Recreation Department facilities at no charge, when such rooms are not needed or reserved for any other purpose, will serve an important municipal purpose.

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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 and other general services 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 and general services conducted by the parks and recreation department; (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-fee paid uses by non-public entities or associations comprised of residents of the city that share the same public mission as the parks and recreation department.

B. A. 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 and other general services provided at any and all city parks and recreational facilities managed by the department. Said fees 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:

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 ~~under the~~ pursuant to inter-governmental agreements or other activities, programs, or events previously approved by the city council of El Paso or the department director. All rentals shall have priority over a requested no charge use by non-public entities and associations comprised of residents of the city that share the same public mission as the parks and recreation department and all rentals will require a written contract.

2. Facility Rental ~~and Use Fees.~~ ~~Facility rental fees~~ The fees for a paid rental of a facility shall include a one-time, 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. A security deposit will also be required when renting a facility or park area. Facilities shall include but not be limited to shelters, reserve areas, rose gardens, bandstands, park areas, recreational facilities, community centers, senior centers, aquatics venues, athletic venues, and San Jacinto and other downtown Plazas. If alcohol is to be served during a rental under this section, ~~department staff will charge~~ 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.

a. Room Rentals. Room rentals include any and all rooms in all recreation, senior, sports, multipurpose and arts/cultural facilities that are designated by the director for use by the public. Such rentals shall be based on room's maximum capacity, as set forth by the city fire marshal. Any person, entity or association desiring to rent a room shall have priority in scheduling that rental over a request made by a non-public entity or association comprised of residents of the city that shares the same public mission as the parks and recreation department to use the room at no charge. Rates shall be applied and charged pursuant to the fee schedule.

i. ~~Other city departments, county, state, federal agencies and other governmental entities 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, excluding official uses by the District Representatives, county, state and federal agencies for official business during non-operating hours will be charged at the not-charging 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 not-charging rate.
 - iii. Recognized Neighborhood Associations, duly registered and in good standing with the City of El Paso in accordance with Chapter 2.102 of this Code, may use meeting rooms in recreation and senior centers for official business at no charge, on a space-available basis, during normal operating hours. Normal operating hours may vary among facilities. Use of meeting rooms by recognized Neighborhood Associations for official business during non-operating hours will be charged at either the not-charging or not for profit rate, as applicable.
 - ~~iv. In the event a room is unavailable, use of an alternate room may be offered at no increase in cost. Hourly rates apply to events lasting one hour to one full day and night, while daily rates apply to two or more consecutive days and nights.~~
- b. Room uses—no charges. The director shall designate appropriate rooms within the various recreation, senior, sports, multipurpose and arts/cultural facilities that may be available for use by non-public entities and associations comprised of residents of the city that share the same public mission as the parks and recreation department (“qualified entities”). Such uses shall be available only during the normal operating hours of each facility and shall be subordinate to all other uses established by or requested of the facility, as set forth in subsection A.
- i. Only residents of the city may request a room use at no charge under this section and such room use must be primarily for residents of the city. No person, entity or association using a room pursuant to this section may charge a fee for participating in the activity or class being conducted, nor collect or exchange any money or fees while inside the facility.
 - ii. The director shall establish policies and procedures for making the determination as to whether each non-public entity and association consisting of city residents meets the criteria of sharing the same public mission as the parks and recreation department. Such criteria shall be based on an examination of the purpose of the requested use of the room, and require that a use be of the same nature as the leisure interest activities and classes or activities offered by the parks and recreation department or classes or activities offered by other quality of life departments of the city, to include but not be limited to physical activity, health, fitness and well-being classes, instruction or study; instructional classes or those teaching new skills (not to include programs conducted or required by law to be conducted by a school); arts and crafts activities; table game activities; and administrative meetings to

prepare coaches and players for participation in recreational or city sponsored sports leagues (not to include school athletics).

- iii. In order to allow all qualified entities to have fair opportunities to secure the use of a room at no charge, when appropriate and available, persons requesting to use a room under this subsection must submit a separate request for each requested use, no earlier than thirty days and no later than seven days in advance of each requested use. Standing reservations for use of a room under this section on a particular day and time each day, week or month, are not permitted.
- iv. In addition to authority delegated to the director for establishing permitted uses of rooms under this section, the city council may establish an appropriate use of a room without a charge, at such times that a room is available pursuant to all other requirements of this section, upon a finding by the city council that the particular activity or event proposed to be held serves an identified municipal purpose.

~~b.c.~~ Shelters, Reserve Areas, Rose Garden, San Jacinto Plaza. A non-refundable reservation charge will be assessed and paid at the time that a renter reserves a shelter, reserve area, rose garden, bandstand, park area, or the San Jacinto or other downtown Plazas. ~~The fee will be based on ten percent of the rental fee (excluding expense for security guards) rounded to the nearest whole dollar.~~

~~e.d.~~ 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). The department director shall determine the appropriate size of the given facility for purposes of assessing a rental fee for the same.

~~d.~~ Aquatics. ~~A professional use rate will be available for the rental of any and all aquatics venues. The professional use rate fee will be charged as per ticket, per hour, per patient/client, which will be available in strips of ten. The professional use rate will entitle the therapists, personal trainers, private swim lesson instructors, etc., the use of one lane at any one time based on the availability at the facility. The number of lanes will be based on the number of patients/clients the therapist, etc., is bringing (six patients per lane). Tickets will be available at the individual aquatic facilities or at the aquatics office.~~

- ~~v.~~ Professional use is to be defined as any individual or for profit organization that would seek to use the city's facilities in the pursuit and practice of their vocation, including but not limited to therapists, personal trainers, and private swim lesson instructors.
- ~~vi.~~ Requests for professional use of aquatic facilities will be in writing and will be accompanied by a current and valid certificate of general liability insurance for a minimum amount of one million dollars, which lists the city as an "additional insured." If such certificate of insurance is canceled or altered in any manner, the city will be notified immediately.

- e. Sports and Athletic Venues. Field practice and game permits, ~~The~~ league, and tournament fees shall be applied to the sports and athletic venues, when applicable. An athletic field irrigation and maintenance fee shall be charged for (a) each season of independent leagues using a city sports or athletic field and (b) for each day of a tournament using a city sports or athletic field.
 - i. League and tournament fees shall be based on anticipated registration, equipment, supplies, materials, staffing, and awards. League and tournament fees do not include officials' fees.
 - ii. 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.
 - iii. 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. Activity, Program, Classes, and General Fees. Activity, program, classes, and general service fees shall be based on anticipated enrollment, skill level, cost of instructor(s), if any, supplies, ~~and~~ materials, and staff. Fee discounts based on the federal income guidelines by family size may be available depending on the activity, program, class, or service being provided by the department. Fee discounts do not include team, league, and tournament fees.

B. For the purposes of these fees, the following definitions apply:

1. "Charging" means an individual, organization or group that charges a fee or requires a donation for admission to the event in question.
2. "Not charging" means an individual, organization or group that is not charging a fee or requiring a donation for admission to the event in question.
3. "Not charging (non-profit)" means 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, and is not charging a fee or requiring ~~requires~~ a donation for admission to the event in question.
4. "Military" means an individual who is currently on active duty status as a member of the regular or reserve armed forces of the United States, or a dependent family member of such an individual. In order to qualify for military rates, the individual must present a valid military identification indicating active duty or dependent status.
5. "Program" 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 professional ~~(as defined under the professional use above)~~.
6. "Activity" means an unstructured or unorganized event, designed to meet a leisure-time need, under the supervision of facility staff only.
7. "Class" 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 professional ~~(as defined under the professional use above)~~.
8. "General service fee" means any fee that is not covered by a specific category, including but not limited to special events, day care, and aquatics and senior programs.

Section 2. That Title 13 (Streets, Sidewalks and Public Places), Section 13.24.040 (Hours of closure) of the El Paso City Code, shall be amended to delete Subsection F.

~~F. In addition to the provisions of subsection B of this section, the city council may grant permission for civic or educational meetings or entertainments to be held in a park or facility at any designated hours, and this section shall not apply to persons who are in the park or facility in accordance with the terms of such permission.~~

Section 3. Except as herein amended, Title 13 of the El Paso City Code remains in full force and effect.

ADOPTED this _____ day of April 2009.

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