

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

**DEPARTMENT:** Parks and Recreation

**AGENDA DATE:** Introduction: July 17, 2012  
Public Hearing: July 31, 2012

**CONTACT PERSON/PHONE:** Nanette Smejkal, Parks and Recreation Director (915) 541-4283

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

**SUBJECT:**

AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.24 (CITY PARKS AND RECREATION AREAS) 13.24.010 (SALE OF GOODS AND SERVICES), 13.24.020 (RENTING VEHICLES OR ANIMALS-MAINTAINING AMUSEMENT DEVICES), 13.24.030 (AUTHORITY TO GRANT LICENSES, PRIVILEGES OR CONCESSIONS), 13.24.040 (HOURS OF CLOSURE), 13.24.050 (USE OF ATHLETIC FIELDS), 13.24.060 (CAMPING), 13.24.070 (DANGEROUS AMUSEMENTS), 13.24.080 (HORSES), 13.24.090 (MOTOR VEHICLES), 13.24.100 (VIOLATION OF SECTIONS 13.24.060 THROUGH 13.24.090-PENALTY), 13.24.110 (PLAY AREAS FOR YOUNG CHILDREN), 13.24.120 (ALCOHOLIC BEVERAGES-DEFINITIONS), 13.24.130 (ALCOHOLIC BEVERAGES-PROHIBITIONS), 13.24.140 (ALCOHOLIC BEVERAGES-PERMIT ISSUANCE BY DIRECTOR), 13.24.150 (ALCOHOLIC BEVERAGES-PERMIT ISSUANCE BY CITY COUNCIL), 13.24.160 (ALCOHOLIC BEVERAGES-SALES BY CERTAIN ORGANIZATIONS), 13.24.180 (ALCOHOLIC BEVERAGES-VIOLATION AND PENALTY), 13.24.190 (GLASS BEVERAGE BOTTLES OR CONTAINERS PROHIBITED), 13.24.210 (ENFORCEMENT), OF THE EL PASO CITY CODE; THE PENALTY BEING AS PROVIDED IN SECTION 13.24.220 AND SECTIONS 1.08.010-1.08.030 OF THE EL PASO CITY CODE

**BACKGROUND / DISCUSSION:**

Attached is the proposed ordinance to amend our park rules. The redline version showing all changes is also attached.

The amendment generally provides and clarifies processes for the City Manager and Department Director to administer temporary use permits and oversee the parks and recreation system.

Added sections include: purpose of parks and recreation department; definitions; appeals process; dog parks; protection of wildlife, plants and natural resources; general use of parks; rules for shared pathways and trails.

**PRIOR COUNCIL ACTION:**

Ordinance 17664 modifying section 13.24.040 (Hours of closure) approved on 10/25/11.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Board of Parks and Recreation – Approval Recommended (6-0)

\*\*\*\*\*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 13.24.010 (SALE OF GOODS AND SERVICES), SECTION 13.24.020 (RENTING VEHICLES OR ANIMALS—MAINTAINING AMUSEMENT DEVICES), SECTION 13.24.030 (AUTHORITY TO GRANT LICENSES, PRIVILEGES OR CONCESSIONS), SECTION 13.24.040 (HOURS OF CLOSURE), SECTION 13.24.050 (USE OF ATHLETIC FIELDS), SECTION 13.24.060 (CAMPING), SECTION 13.24.070 (DANGEROUS AMUSEMENTS), SECTION 13.24.080 (HORSES), SECTION 13.24.090 (MOTOR VEHICLES), SECTION 13.24.100 (VIOLATION OF SECTIONS 13.24.060 THROUGH 13.24.090—PENALTY), SECTION 13.24.110 (PLAY AREAS FOR YOUNG CHILDREN), 13.24.120 (ALCOHOLIC BEVERAGES—DEFINITIONS), SECTION 13.24.130 (ALCOHOLIC BEVERAGES—PROHIBITIONS),SECTION 13.24.140 (ALCOHOLIC BEVERAGES—PERMIT ISSUANCE BY DIRECTOR), SECTION 13.24.150 (ALCOHOLIC BEVERAGES—PERMIT ISSUANCE BY CITY COUNCIL), SECTION 13.24.160 (ALCOHOLIC BEVERAGES—SALES BY CERTAIN ORGANIZATIONS), SECTION 13.24.180 (ALCOHOLIC BEVERAGES—VIOLATION AND PENALTY), SECTION 13.24.190 (GLASS BEVERAGE BOTTLES OR CONTAINERS PROHIBITED), SECTION 13.24.210 (ENFORCEMENT), OF THE EL PASO CITY CODE; THE PENALTY BEING AS PROVIDED IN SECTION 13.24.220 AND SECTIONS 1.08.010-1.08.030 OF THE EL PASO CITY CODE

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

Section 1. That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.24 (City Parks and Recreation Areas) of the El Paso City Code be amended as follows:

**13.24.010 Creation and purpose of Parks and Recreation Department; Definitions; and Sale of goods and services.**

**A. Creation and purpose of the Parks and Recreation Department.**

1. There is established the Parks and Recreation Department in the city of El Paso, which shall generally provide administration of the various city parks, city-operated land used for parks or recreational purposes, city open space, and parks and recreation facilities.
2. The primary function of the department shall be the performance of duties relating to the administration and utilization of city parks, that are under the administration of the department; and to generally perform duties relating to city parks as to be determined by the city manager.

**B. Definitions.**

The following definitions apply to these terms as used in this chapter.

1. "Alcoholic beverage" means alcohol or any beverage containing alcohol that is capable of being used for beverage purposes, either alone or when diluted, including but not limited to beer, wine, distilled spirits and mixed beverages containing alcohol.
2. "Amusement device" means any item that is temporarily installed for the purpose of playing on, including but not limited to climbing walls, dunking booths or inflatable items such as jumping balloons, slides, castles and similar items and temporary playground equipment.
3. "Appeals official" means the city manager or a deputy city manager as designated by the city manager.
4. "City Park" Means any property in the city that is designated, set aside or operated by the City for public recreational purposes, whether dedicated or developed as a park or not, or that is located in any street right-of-way and is maintained as public open space, including all buildings, recreation facilities, playgrounds, parking lots, driveways, pathways, trails and other areas within a park, to include Scenic Drive. Designation of property as a city park pursuant to this subsection is solely for the purposes of identifying areas governed by this chapter and shall not be construed to be a dedication of any property as a park.
5. "Department" means the Parks and Recreation Department.
6. "Director" means the director of the Parks and Recreation Department or a designee.
7. "Facility" shall have the meaning as defined in section 13.24.200.
8. "Identifiable area" means a building, a shelter, a fenced athletic field, or other area subject to controlled ingress and egress as determined by the director.
9. "Roadway" means the portion of a street, alley or highway designed or ordinarily used for vehicular travel.
10. "Security guard or officer" means a uniformed private security guard who is duly licensed as provided in the Texas Occupations Code, or a uniformed peace officer.
11. "Sidewalk" means all portions of a street, alley or highway between the curblines, or the lateral lines of the roadway and the adjacent boundary lines, whether or not the same have been improved for pedestrian travel

12. "Stand", means any structure, machine, box, table, container, vessel, vehicle, utility, post or pole, traffic control signs or signals, building or any other thing located, placed, stopped or allowed to remain upon, over or along any city park or street, sidewalk, alley, square, or public right of way abutting a city park or Scenic Drive.

13. "Street," "alley," or "highway" means the entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular or pedestrian travel, to include but not be limited to the roadway and the sidewalk.

**C. Sale of goods and services**

Except as provided herein or in Section 13.24.030, it shall be unlawful for any person to:

1. Have, keep, maintain, run or conduct a stand in or upon or over or along any city park.
2. Sell, offer for sale, or expose to sale any commodity, stock of goods, wares, merchandise, produce, other farm products, candy, sodas and other like refreshments, new or used vehicles, animals or any other articles or things of value of any kind in, from, out of or affixed to a stand, or by placement of such items directly upon the ground over or along any city park.
3. Sell, offer for sale or expose to sale any commodity, stock of goods, wares, merchandise, foodstuffs, refreshments or other edible or potable substances from any vehicle, cart or wagon, or any basket, tray, box or other receptacle driven or taken into any city park, provided that this section shall not prohibit the direct and through passage of licensed motor vehicles traveling upon dedicated public streets that pass through a city park.
4. Conduct or provide activities, lessons, instruction or other services that requires the payment of a fee for participation.

D. The prohibitions contained in subsection C do not apply to the following types of sale or other services including offers for sale or exposures to sale, provided that the requirements of all other applicable city code provisions are met, including but not limited to licensing requirements and health regulations:

1. A sale of newspapers, pamphlets, handbills or other written or printed matter held and sold by a person, provided that no materials to be offered for sale by the person are placed on the ground or stored in the park prior to the time of sale.
2. A sale held inside a city facility located in a city park, provided that appropriate authorization for the sale has been granted upon such conditions as do

not unlawfully surrender the city's right of supervision, regulation and control, are consistent with park purposes, and do not unreasonably interfere with the rights of the public to the enjoyment of the park facility.

3. A sale authorized by a permit, license, lease, concession or other contract in accordance with the city code and department procedures, granted under such conditions as to not unlawfully surrender the city's right of supervision, regulation and control and which is consistent with park purposes.

4. A mobile food vendor selling edible and potable substances on a public street, thoroughfare, parking lot or other paved surface located within or adjacent to a city park in accordance with the requirements established in Chapter 12.46 of this code.

5. A sale conducted pursuant to a department-produced activity and event as authorized herein and under Section 13.24.200 of this code.

6. An activity, lesson, instruction or other service that is authorized by a permit, license, lease, concession or other contract in accordance with the city code and department procedures granted under such conditions as to not unlawfully surrender the city's right of supervision, regulation and control and which is consistent with park purposes.

E. The prohibitions contained in subsection C do not apply to any activity that the city council has permitted or licensed in accordance with the provisions of this chapter or that is authorized by the terms of a lease, concession or contract.

#### **13.24.020 Renting vehicles or animals -- Amusement devices-Installations.**

A. No person shall rent or offer to rent to another in any city park, any bicycle, motorcycle, scooter, or other vehicle, or any animal, or maintain and exhibit therein any amusement device, except as provided in this chapter.

B. No person shall set up, build or install a tent, stage or structure upon or over any city park except as provided in this chapter.

C. No person shall stake or tie items to existing landscape, flower beds, trees or other city park property except as provided in this chapter.

D. Owners of amusement devices must present a certificate of liability insurance with the city named as additional insured.

#### **13.24.030 Authority to grant permits, licenses, leases,-concessions or contracts. – Permittee responsibilities; Appeals.**

A. The city council may grant permits, licenses, leases, concessions or contracts for any of the acts mentioned in Sections 13.24.010, 13.24.020 and 13.24.060 in city parks, upon such conditions as do not unlawfully surrender the city's right of supervision, regulation and control, are consistent with park purposes, and do not unreasonably interfere with the rights of the public to the enjoyment of the park.

B. The director of the department may issue temporary permits for temporary use of city parks, facilities and identifiable areas within city parks upon such conditions as do not unlawfully surrender the city's right of supervision, regulation and control, are consistent with park purposes, and do not unreasonably interfere with the rights of the public to the enjoyment of the park, as follows:

1. to conduct any of the acts or activities specified in Sections 13.24.010, 13.24.020, 13.24.050, or amplification under 13.28.010;
2. to allow temporary concessions in city parks that do not have an existing concessionaire contract;
3. for temporary use of identifiable portions of city parks.

C. All temporary permits issued by the director shall be in conformity with such procedures as are established by the director and on file with the department. Such procedures shall provide that in granting or refusing such permission, the director shall be guided by the following standards: whether the park, facility, or other identifiable portion of a city park has already been reserved or applied for by someone else for approximately the same time, whether the proposed use and the hours requested are such that other users of the park or residents of the neighborhood would not be subjected to undue inconvenience, whether the use is exclusive or compatible with other uses of the park, whether the proposed use is consistent with park purposes and any other factor that may reasonably bear upon the matter.

D. When issuing a permit under this chapter, the director may impose reasonable conditions concerning time, place and manner of the use to ensure compliance with this chapter and departmental policies.

E. A person applying for a permit must be eighteen years of age, or twenty-one years of age if the applicant is also applying for an alcohol permit.

F. A permittee shall comply with all permit requirements, conditions, and with all applicable laws and ordinances and the responsible party must carry the permit during the conduct of the event or use and must show the permit to any person upon request. The permittee is responsible for the conduct and behavior of their guests and participants. The permit is not transferrable. If the permittee fails to fulfill any of the conditions stated in the permit, the director may terminate the permit immediately and such termination may result in ineligibility for future permits, removal, fine, arrest, and/or forfeiture of fees. The permittee shall be responsible for cleaning and removing all litter and debris left

on the city park, facility or identifiable area immediately upon the conclusion of the event. If the permittee fails to clean and remove all such litter and debris upon conclusion of the event, the city may perform such cleaning and the permittee will be responsible for the costs of the city cleaning. Payment of any city cleaning costs will be due and payable within ten days of receipt of the bill from the city comptroller.

G. The fee for the permits and uses authorized by this section shall be in the established amounts.

H. If other requirements of the city code are applicable to a permit issued under this section, it shall also be a condition of the permit granted by the director that the permittee obtain the appropriate permits, licenses, privileges or contracts including but not limited to health regulations and business licenses.

I. **Appeals.** An applicant may appeal the denial of an application for a permit under this section in writing within ten days after notice of the denial has been received by submitting a written request to the appeals official. Within five business days, or such longer time period agreed to by the applicant, the appeals official shall hold a hearing on whether to issue the permit or uphold the denial. The applicant shall have the right to present evidence at said hearing and to question the appropriate city officials. The decision to issue the permit or uphold the denial shall be based solely on the approval criteria set forth in this chapter. The appeals official shall render a decision on the appeal within five business days after the date of the hearing.

#### **13.24.040 Hours of closure.**

A. All city parks, except as provided herein, shall be closed to the public every night between ten p.m. and six a.m. unless otherwise posted in accordance with department policies. Parks in the Downtown Management District, however, shall remain open until one a.m. Any request that a city park remain open past ten p.m., or a city park within the Downtown Management District remain open past one a.m. shall require the approval of the city council by resolution.

B. Recreational centers, senior citizen centers, athletic fields, meeting halls, McKelligon Amphitheatre, reserves, and park shelters may be allowed to remain open until one a.m., as department of parks and recreation policies may prescribe. Any request that the aforementioned facilities remain open past one a.m. shall require the approval of the city council by resolution.

C. This section shall not apply to the following persons if in the park or facility in the performances of their duties: peace officers, physicians, ambulance operators or attendants, employees of the city, and employees of public utility companies.

D. In the case of parks through which there are dedicated streets used for general travel (that is, not merely for access to the interior of the park), this section shall not apply to persons traveling through the park on such dedicated streets.

E. A person may make a written request to the city council that a city park remain open past ten p.m., that a city park in the Downtown Management District remain open past one a.m. or that a park facility remain open past one a.m. The written request shall be submitted to the director who shall forward the request for placement on the City Council agenda in compliance with all ordinances, statutes and the council's rules of order relating to the placement of items on the agenda and posting of the agenda. The decision of whether to approve the request or to otherwise extend the hours shall be made by resolution of the council. In granting such approval, council may impose whatever conditions it deems necessary to protect the health, safety and welfare of the general public.

#### **13.24.050 Use of athletic fields.**

A. No person shall play any game on, or otherwise make use of, any athletic field belonging to the city that is designated as a game "only" field for which fees are assessed by listing its use on schedule C of the city's annual budget resolution or by other applicable resolution of city council and being posted with one or more signs giving notice of the restricted use, unless written permission for using the field at the designated time is first obtained from the director of the department.

B. This section shall not apply to persons using an athletic field under a lease, concession, or other contract authorized by the city council.

#### **13.24.060 Camping.**

A. No person shall camp in any city park, or set up any tent, shack, or other shelter, or lay out any bedroll or other sleeping equipment therein, except upon approval of the city council by resolution. This section does not apply to camping in permanent cabins or structures provided by the city for that purpose or to department produced activities or events.

B. A person may make a request to the city council to camp. The written request shall be submitted to the director who shall forward the request for placement on the City Council agenda in compliance with all ordinances, statutes and the council's rules of order relating to the placement of items on the agenda and posting of the agenda. The decision of whether to approve the request to camp shall be made by resolution of the council. In granting such approval, council may impose whatever conditions it deems necessary to protect the health, safety and welfare of the general public.

#### **13.24.070 Dangerous amusements.**

A. No person shall have within any city park any air rifle, pellet or b.b. gun, spring gun, bows and arrows, instruments capable of throwing a projectile, or possess any firearm, or throw or launch any stone, hard ball, remote control airplane, or other object likely to inflict injury; or drive any golf ball. No person may use roller-skates, inline skates, bicycle, skateboard or any similar device in areas in which the director has posted

a sign prohibiting such activities. This section does not apply to acts done in an area designated by the city for such purpose or to a person who is licensed to carry and lawfully carrying a concealed handgun under Subchapter H, Chapter 411, Government Code and chapter 46, Penal Code.

B. No person shall possess a handgun except as provided in City Code 10.12.020.

#### **13.24.080 Horses.**

No person shall ride or have in any city park any horse or other bridled animal, except on a bridle trail or trailhead designated by the city for that purpose and where permitted, the animal shall be thoroughly broken, properly restrained, ridden with due care, not allowed to graze or go unattended, and not hitched to any furnishing, rock, tree, or shrub-other than a hitching post at a trailhead provided for that purpose.

#### **13.24.090 Motor vehicles.**

No person shall drive, or ride in or on, any motor vehicle, four-wheeler, all terrain vehicle, motorcycle, go cart, dirt bike, or any other similar motorized device except for a motorized wheelchair, in any city park or trail, except licensed vehicles may drive or travel on a streets that are graded or surfaced for vehicular travel and of sufficient width for use by the vehicle. Provided this section shall not apply to the following persons when engaged in the performance of their duties: peace officers, ambulance operators or attendants, physicians, employees of the city, employees of a public utility company, or persons under contract with the city performing construction, maintenance, or other necessary work in city park or a trail.

#### **13.24.100 Closed Areas**

A. The director of the department may temporarily close city parks or identifiable areas to the public entry for maintenance, construction, health, safety and welfare, or otherwise restrict use until such time as the area or facility can be made available for public use.

B. Except in emergency circumstances, notice of closure shall be posted and no person shall enter closed or restricted areas.

C. No person shall enter areas closed due to flooding or areas that are the subject of a flood ban.

#### **13.24.110 Play areas for young children.**

A. Playground areas and equipment shall be used only as intended, and shall be used by persons of appropriate age. The director may designate playground areas where the equipment may be exclusively used by children twelve years of age and under. Areas so designated shall be posted with one or more signs giving notice of the restricted use.

B. When an area is so designated no person except children twelve years of age and under shall play on the equipment; provided however such children may be assisted in their play by their parents, guardians, or persons whom a parent or guardian has placed in charge of the children.

#### **13.24.120 Dog Parks**

A. A person may allow dogs to be without a leash in areas designated and constructed for such purposes (“dog parks” or “off-leash area”) provided that each dog remains under immediate personal supervision and command of the person, the person has a leash in their possession at all times, and posted rules are followed.

B. No person shall allow a child under the age of seven years in the off-leash dog area. Children ages seven to twelve must be accompanied by an adult. Children may not run with, or chase after dogs in the off-leash area.

C. No person shall allow a puppy less than four months of age nor female dogs that are in heat into the off-leash dog area.

D. No person shall take more than three dogs into the off-leash area.

E. If a dog exhibits dangerous or aggressive behavior towards other dogs or person, the person responsible for such dog shall remove the dog from the dog park immediately.

F. Dogs must be on-leash when entering and exiting. No person shall bring a dog to the off-leash area with a spike collar.

G. No person shall bring any other animals to the dog park except for dogs.

H. No person shall smoke or bring food or alcohol into the off-leash area.

I. Persons are responsible for the actions of any dog they bring into the off-leash dog area.

#### **13.24.130 Alcoholic beverages.**

A. No person shall possess or consume an alcoholic beverage in any city park, facility or identifiable area, except as provided in this chapter.

B. The City may, by ordinance and lease agreement leasing a city park or portion of a city park, exempt portions of such park from the prohibitions of this section.

C. The director may grant permission to possess and consume alcoholic beverages in a city park or identifiable area of a city park if the following conditions are met:

1. The applicant has executed a rental agreement for the use of the city park or identifiable area pursuant to the guidelines of the department;

2. The applicant has paid the fee for the use of the city park or identifiable area;

3. The applicant, as part of the agreement, will restrict alcohol consumption to persons 21 years of age or older;

4. The applicant, as part of the agreement, has agreed to provide a minimum of one security guard per one hundred persons expected at the event in order to protect the health, safety and welfare of participants, other park users and the general public. In addition to any other authority, the security guard shall be entitled to summon the appropriate peace officer in the event of violation of this chapter or any other chapter, rule, regulation or statute; and

5. The applicant has agreed to provide portable toilets for outdoors events, control of ingress and egress, trash disposal, and any other reasonable conditions imposed to protect the health, safety and welfare of the general public.

6. If not indoor or fenced, the applicant has agreed to erect event site perimeter fencing consisting of chain link preformed free standing panels, no less than six feet high with vertical support no further than ten feet apart.

D. The director of the department may grant permission for the possession and consumption of alcoholic beverages for an adult event sponsored by the department, supervised by a city employee and taking place within a city park or identifiable area in a city park.

E. Permission granted pursuant to Section 13.24.130 (D) or (E) shall include the right to transport alcoholic beverages to and from the identifiable area.

F. It shall be a defense to prosecution under Section 13.24.130 if at the time of the offense, the person charged was in an identifiable area for which the director of the department or the city council had granted permission to possess and consume alcoholic beverages pursuant to this section, or was transporting alcoholic beverages to or from such an identifiable area.

G. Denial of permission by the director of the department may be appealed within 10 days of denial after notice of the denial has been received by submitting a written request to the appeals official. Within five business days, or such longer time period agreed to by the applicant, the appeals official shall hold a hearing on whether to issue the permit or uphold the denial. The applicant shall have the right to present evidence at said hearing and to question the appropriate city officials. The decision to issue the permit or uphold the denial shall be based solely on the approval criteria set forth in this chapter. The appeals official shall render a decision on the appeal within five business days after the date of the hearing.

H. The city council in its discretion may grant permission to possess and consume alcoholic beverages in open park areas for special-or ad hoc events; provided, however, in granting such permission the city council shall impose whatever conditions it deems necessary to protect the health, safety and welfare of the general public.

I. Sections 13.24.130 does not repeal or modify-Chapter 5.02 (alcoholic beverages), which shall remain in effect.

#### **13.24.140 Wildlife, plants, and natural resources**

A. All wildlife within the boundaries of a city park is protected. No person may harm, harass, hunt, trap or remove any animal including mammals, fish, insects, birds, reptiles, or other living creature from any city park except upon written approval of the director of the department. The prohibition pertaining to fish shall not apply where fishing is permitted by an individual in possession of a valid Texas fishing license.

B. All plantlife within the boundaries of a city park is protected. No person shall willfully mutilate, injure, burn, destroy, thrash, or remove any live tree, shrub, vine, wildflower, grass, sedge, fern, moss, lichen, fungus or any other member of the plant kingdom or portion thereof, except upon written approval of the director of the department. No person shall collect or harvest dead wood or plants, or portions thereof, except upon written approval. The collecting of nuts, seeds and pods on the ground is allowed; the thrashing of trees and shrubs is prohibited.

C. All sites, objects, buildings, artifacts, implements, and locations of historical, archaeological, geologic, scientific or educational interest of every character located in, on or under the surface of any city park are protected. No person may remove excavate, take, dig into, or destroy any site, object, building, artifact, implement or location of archaeological, geological, scientific or historical interest without having permits as required by the State of Texas Natural Resources Codes, and without having written permission of the director of the department.

D. No person may cut, gather, or collect wood or other combustible material at any city park for use as firewood or fuel except for material designated for this purpose by the director of the department.

E. This section does not apply to city employees performing their assigned duties.

#### **13.24.150 Fires and Grills**

A. No person may light, build or maintain a fire on or in a city park except in a device provided or designated for such purpose.

B. Portable barbecue grills of metal construction may be brought into city parks by persons for use in picnic areas and shall be attended at all times by a person 18 years of age or older. At no time may barbecue grills be placed upon pathways, sport courts,

parking lots and the like or otherwise impede the use of such areas for their intended purpose. Barbecue grills must have a minimum 12 inch clearance from the ground or surface it is placed on.

C. Charcoal must be fully extinguished and removed from the city park by the user.

#### **13.24.160 Adherence To Park Rules and Signs.**

A. The director is authorized to create reasonable rules regarding use of city parks. Such rules shall be posted on signage at applicable city parks. All persons shall comply with the signs and markers installed in city parks by the department. Department staff is authorized to revoke a person's privilege to participate in department activities or to direct a person to leave a city park for failure to comply with such signs.

B. Rules and conditions of use that address situations specific to a park facility may be developed and posted by the director. Persons shall comply with such rules.

#### **13.24.170 Use of City Parks**

A. Outdoor city parks are generally available for public use on a first come, first served basis except for areas that require entrance or other fees, or that have previously been issued permits granting priority or exclusive use.

B. No person shall use or occupy a facility or identifiable area when such use conflicts with the use by persons holding a permit.

C. Persons engaged in disruptive, destructive or hazardous conduct may be warned and asked to stop such conduct immediately by any department employee or official under Section 13.24.210. In circumstances where a patron's conduct is unlawful, or poses an imminent threat of injury or prevents the public enjoyment of the city park, department employees or officials under Section 13.24.210 may eject such persons by verbally demanding that the person leave the city park.

D. Persons may casually perform as artists or entertainers in a city park provided that they do not block sidewalks, roadways, or other recreational amenities, and they maintain a minimum 100 feet of distance from existing park concessions or persons using a city park under a permit issued by the department. No amplified sound, or juggling of potentially hazardous materials or items is allowed. Any money exchanged must be on a "tips" basis only.

#### **13.24.180 Shared Use Pathways and Trails**

On pathways and trails, bicyclist shall yield to jogger, and jogger to walker. Users shall not be two or more abreast when this action will impede other users on the pathway or trail.

#### **13.24.190 - Glass beverage bottles or containers.**

A. No person shall use or possess any glass beverage bottle or other glass beverage container in any city park or outdoor facility.

B. This section shall not apply to sealed glass beverage bottles or other sealed glass beverage containers carried to and from, or kept within an indoor facility located within a city park by a person who has obtained a use agreement or permission from the director of the department for the use of such building.

**13.24.220 Violation of Sections 13.24.010 through 13.24.190 –Penalty.**

Any person violating Sections 13.24.010 through 13.24.150 and 13.24.170 through 13.24.190 shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500.00.

CITY OF EL PASO

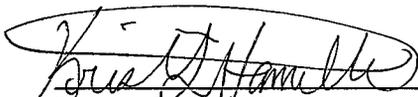
ATTEST:

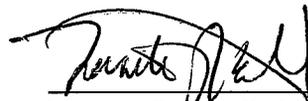
\_\_\_\_\_  
John F. Cook, Mayor

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Kristen L. Hamilton  
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 IN ITS ENTIRETY; THE PENALTY BEING AS PROVIDED IN SECTION 13.24.220 AND SECTIONS 1.08.010-1.08.030 OF THE EL PASO CITY CODE~~  
AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 13.24 (CITY PARKS AND RECREATION AREAS) 13.24.010 (SALE OF GOODS AND SERVICES), 13.24.020 (RENTING VEHICLES OR ANIMALS—MAINTAINING AMUSEMENT DEVICES), 13.24.030 (AUTHORITY TO GRANT LICENSES, PRIVILEGES OR CONCESSIONS), 13.24.040 (HOURS OF CLOSURE), 13.24.050 (USE OF ATHLETIC FIELDS), 13.24.060 (CAMPING), 13.24.070 (DANGEROUS AMUSEMENTS), 13.24.080 (HORSES), 13.24.090 (MOTOR VEHICLES), 13.24.100 (VIOLATION OF SECTIONS 13.24.060 THROUGH 13.24.090—PENALTY), 13.24.110 (PLAY AREAS FOR YOUNG CHILDREN), 13.24.120 (ALCOHOLIC BEVERAGES—DEFINITIONS), 13.24.130 (ALCOHOLIC BEVERAGES—PROHIBITIONS), 13.24.140 (ALCOHOLIC BEVERAGES—PERMIT ISSUANCE BY DIRECTOR), 13.24.150 (ALCOHOLIC BEVERAGES—PERMIT ISSUANCE BY CITY COUNCIL), 13.24.160 (ALCOHOLIC BEVERAGES—SALES BY CERTAIN ORGANIZATIONS), 13.24.180 (ALCOHOLIC BEVERAGES—VIOLATION AND PENALTY), 13.24.190 (GLASS BEVERAGE BOTTLES OR CONTAINERS PROHIBITED), 13.24.200 (PARK AND RECREATION FACILITY USE AND FEE AUTHORIZATION), 13.24.210 (ENFORCEMENT), OF THE EL PASO CITY CODE; THE PENALTY BEING AS PROVIDED IN SECTION 13.24.220 AND SECTIONS 1.08.010-1.08.030 OF THE EL PASO CITY CODE

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

Section 1. That Title 13 (Streets, Sidewalks and Public Places), Chapter 13.24 (City Parks and Recreation Areas) of the El Paso City Code be amended ~~in its entirety~~ as follows:

**13.24.010 Creation and purpose of Parks and Recreation Department; Definitions; and Sale of goods and services.**

**A. Creation and purpose of the Parks and Recreation Department.**

1. There is established the Parks and Recreation Department in the city of El Paso, which shall generally provide administration of the various city parks, city-operated land used for parks or recreational purposes, city open space, and parks and recreation facilities.

2. The primary function of the department shall be the performance of ~~functions~~ duties relating to the administration and utilization of city parks, that are under the administration of the department; and to generally perform duties relating to city parks as to be determined by the city manager.

## B. Definitions.

The following definitions apply to these terms as used in this chapter.

1. "Alcoholic beverage" means alcohol or any beverage containing alcohol that is capable of being used for beverage purposes, either alone or when diluted. "Alcoholic beverage" includes but is not limited to beer, wine, distilled spirits and mixed beverages containing alcohol.

2. "Amusement device" means any item that is temporarily installed for the purpose of playing on, to includeing but not be limited to climbing walls, dunking booths or inflatable items such as jumping balloons, slides, castles and similar items and temporary playground equipment.

3. "Appeals official" means the city manager or a deputy city manager as designated by the city manager.

4. "City Park" means a parcel of land dedicated and used as parkland, or and city-owned or operated land used for a park or recreational purpose, that is under the administrative control of the department. Designation of property or the reference to property as a city park pursuant to this chapter shall not be construed to be a dedication of any property as a park. Means any property in the city that is designated, set aside or operated by the City for public recreational purposes, whether dedicated or developed as a park or not, or that is located in any street right-of-way and is maintained as public open space, including all buildings, recreation facilities, playgrounds, parking lots, driveways, pathways, trails and other areas within a park, to include Scenic Drive. Designation of property as a city park pursuant to this subsection is solely for the purposes of identifying areas governed by this chapter and shall not be construed to be a dedication of any property as a park.

5. "Department" means the Parks and Recreation Department.

6. "Director" means the director of the Parks and Recreation Department or a designee.

7. "Facility" shall have the meaning as defined in section 13.24.200.

8. "Identifiable area" means a building, a shelter, a fenced athletic field, or other area subject to controlled ingress and egress as determined by the director.

9. "Roadway" means the portion of a street, alley or highway designed or ordinarily used for vehicular travel.

10. "Security guard or officer" means a uniformed private security guard who is duly licensed as provided in the Texas Occupations Code, or a uniformed peace officer.

11. "Sidewalk" means all portions of a street, alley or highway between the curblines, or the lateral lines of the roadway and the adjacent boundary lines, whether or not the same have been improved for pedestrian travel

12. "Stand" as used in this chapter, means any structure, machine, box, table, container, vessel, vehicle, utility, post or pole, traffic control signs signs or signals, building or any other thing located, placed, stopped or allowed to remain upon, over or along any public city park or street, sidewalk, alley, square, or public right of way abutting a public city park or Scenic Drive.

13. "Street," "alley," or "highway" means the entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use

of the public for purposes of vehicular or pedestrian travel, to include but not be limited to the roadway and the sidewalk.

**A C.— Sale of goods and services**

Except as provided herein or in Section 13.24.030, it shall be unlawful for any person to:

1. Have, keep, maintain, run or conduct a stand in or upon or over or along any ~~public city park or on Seenie Drive~~.
2. Sell, offer for sale, or expose to sale any commodity, stock of goods, wares, merchandise, produce, other farm products, candy, sodas and other like refreshments, new or used vehicles, animals or any other articles or things of value of any kind in, from, out of or affixed to a stand, or by placement of such items directly upon the ground over or along any ~~public city park or on Seenie Drive~~.
3. ~~Sell, offer for sale or expose to sale Drive or take into any public park any vehicle, cart or wagon, or any basket, tray, box or other receptacle containing any commodity, a stock of goods, wares, merchandise, foodstuffs, refreshments or other edible or potable substances from any vehicle, cart or wagon, or any basket, tray, box or other receptacle driven or taken into any city park be sold or offered for sale,~~ provided that this section shall not prohibit the direct and through passage of licensed motor vehicles traveling upon dedicated public streets that pass through a ~~public city park~~.
4. Conduct or provide activities, lessons, instructions or other services that requires the payment of a fee for participation.

**B D.—** The prohibitions contained in subsection A C shall do not apply to the following types of sales, or other services including offers for sale or exposures to sale, provided that the requirements of all other applicable city code provisions are met, including but not limited to licensing requirements and health regulations:

1. A sale of newspapers, pamphlets, handbills or other written or printed matter ~~or merchandise~~ held and sold by a person, provided that no materials ~~or items~~ to be offered for sale by the person are placed on the ground or stored in the park prior to the time of sale.
2. A sale held inside a city facility located in a city park, provided that appropriate authorization for the sale has been granted upon such conditions as do not unlawfully surrender the city's right of supervision, regulation and control, are consistent with park purposes, and do not unreasonably interfere with the rights of the public to the enjoyment of the park facility.
3. A sale authorized by a ~~park use agreement permit, license, lease, concession or other contract in accordance with the city code and department procedures,~~ granted under such conditions as to not unlawfully surrender the city's right of supervision, regulation and control and which is consistent with park purposes.

4. A mobile food vendor selling edible and potable substances on a ~~dedicated public street, thoroughfare, parking lot or other paved surface~~ located within or adjacent to a city park in accordance with the requirements established in Chapter 12.46 of this code.

5. A sale conducted pursuant to a department-produced activity and event as authorized ~~under herein and under~~ Section 13.24.200 of this code.

6. An activity, lesson, instruction or other service that is authorized by a permit, license, lease, concession or other contract in accordance with the ~~City-city Code code~~ and department procedures granted under such ~~constraints-conditions~~ as to not unlawfully surrender the ~~City's-city's~~ right of supervision, regulation and control and which is consistent with park purposes.

~~C. "Stand" as used in this section, means any structure, machine, box, table, container, vessel, vehicle, utility, post or pole, traffic control signs signs or signals, building or any other thing located, placed, stopped or allowed to remain upon, over or along any public city park or street, sidewalk, alley, square, or public right of way abutting a public City park or Scenic Drive.~~

DE. The prohibitions contained in subsection A C do not apply to any activity that the city council has permitted or licensed in accordance with the provisions of this chapter or that is authorized by the terms of a lease, concession or contract.

#### **13.24.020 Renting vehicles or animals--~~Maintaining~~ Amusement devices-Installations.**

A. No person shall rent or offer to rent to another in any ~~public city park or on Scenic Drive~~, any bicycle, motorcycle, scooter, or other vehicle, or any animal, or maintain and exhibit therein any amusement device, except as provided in this chapter.

B. No person shall set up, build or install a tent, stage or structure upon or over any city park or on Scenic Drive except as provided in this chapter.

~~C. "Amusement equipment device" means any item that is temporarily installed for the purpose of playing on, to include but not be limited to climbing walls, dunking booths or inflatable items such as jumping balloons, slides, castles and similar items and temporary playground equipment.~~

DC. ~~Staking or tying~~ No person shall stake or tie items to existing landscape, flower beds, trees or other city park property is ~~prohibited~~ except as provided in this chapter.

ED. Owners of amusement devices must present a certificate of liability insurance with the ~~City-city~~ named as additional insured.

#### **13.24.030 Authority to grant permits, licenses, ~~privileges~~ leases, or concessions or contracts. – Permittee responsibilities; Appeals.**

A. The city council may grant permits, licenses, leases, ~~privileges, or~~ concessions or contracts for any of the acts mentioned in Sections 13.24.010, ~~and~~ 13.24.020 and 13.24.060 in public city parks, upon such conditions as do not unlawfully surrender the city's right of supervision, regulation and control, are consistent with park purposes, and do not unreasonably interfere with the rights of the public to the enjoyment of the park.

~~B. The parks and recreation department in shall generally provide administration of city parks, city operated land used for parks or recreational purposes, city open space, and parks and recreation facilities and perform functions relating to the administration and utilization of city parks, areas, and facilities that are under the administration of the department; and to generally perform duties relating to parks and recreation services and facilities as to be determined by the city manager.~~

~~CB. The director of the department may issue temporary permits for temporary use of city parks, facilities and enclosed identifiable areas within city parks upon such conditions as do not unlawfully surrender the city's right of supervision, regulation and control, are consistent with park purposes, and do not unreasonably interfere with the rights of the public to the enjoyment of the park, as follows:~~

- ~~1. to conduct any of the acts or activities specified in Sections 13.24.010, 13.24.020, and 13.24.050 and 13.24.060, or amplification under 13.28.010;~~
- ~~2. to allow temporary concessions in city parks that do not have an existing concessionaire contract;~~
- ~~3. for temporary use of identifiable portions of city parks.~~

~~DC. All temporary permits issued by the director shall be in conformity with such procedures as are established by the director and on file with the department. Such procedures shall provide that in granting or refusing such permission, the director shall be guided by the following standards: whether the sports field park, facility, enclosed area or other identifiable portion of a city park has already been reserved or applied for by someone else for approximately the same time, whether the person applying for the field is of sufficient age and responsibility to exercise reasonable care in its use, whether the proposed use and the hours requested are such that other users of the park or residents of the neighborhood would not be subjected to undue inconvenience, whether the use is exclusive or compatible with other uses of the park, whether the proposed use is consistent with park purposes and any other factor that may reasonably bear upon the matter. Any person interested may appeal to the city council from the decision of the director, or his/her designee.~~

~~In granting or refusing such permission the director shall be guided by the following standards: whether the field has already been reserved or applied for by someone else for approximately the same time, whether the person applying for the field is of sufficient age and responsibility to exercise reasonable care in its use, whether the proposed use and the hours requested are such that other users of the park or residents of the neighborhood will not be subjected to undue inconvenience, and any other factor which may reasonably bear upon the matter. Any person interested may appeal to the city council from the decision of the director, or his/her designee.~~

~~ED. When issuing a permit under this chapter, the director may impose reasonable conditions concerning time, place and manner of the use to ensure compliance with this chapter and departmental policies.~~

~~FE. Application for a Permit. A person applying for a permit must be eighteen years of age, or twenty-one years of age if the applicant is also applying for an alcohol permit.~~

GF. A permittee shall comply with all permit requirements, conditions, and with all applicable laws and ordinances and the responsible party must carry the permit during the conduct of the event or use and must show the permit to any person upon request. The permittee is responsible for the conduct and behavior of their guests and participants. ~~The permit is not transferrable.~~ ~~If~~ ~~if~~ the permittee fails to fulfill any of the conditions stated in the permit, the director ~~or a designee~~ may terminate the permit immediately and ~~such termination~~ may result in ineligibility for future permits, removal, fine, arrest, and/or forfeiture of ~~all~~ fees. The permittee shall be responsible for cleaning and removing all litter and debris left on the city park, facility or ~~enclosed~~ identifiable area immediately upon the conclusion of the event. ~~If the permittee fails to clean and remove all such litter and debris upon conclusion of the~~ ~~within four hours of the end of the event,~~ the city may perform such cleaning and the permittee will be responsible for the costs of the city cleaning. Payment of any city cleaning costs will be due and payable within ten days of receipt of the bill from the city comptroller.

HG. The fee for the permits and uses authorized by this section shall be in the established amounts.

HH. If other requirements of the city code are applicable to a permit issued under this section, it shall also be a condition of the permit granted by the director that the permittee obtain the appropriate permits, licenses, privileges or contracts including but not limited to health regulations and business licenses.

II. Appeals. An applicant may appeal the denial of an application for a permit under this section in writing within ten days after notice of the denial has been received by submitting a written request to the ~~permit~~appeals official. Within five business days, or such longer time period agreed to by the applicant, the appeals official shall hold a hearing on whether to issue the permit or uphold the denial. The applicant shall have the right to present evidence at said hearing and to question the appropriate city officials. The decision to issue the permit or uphold the denial shall be based solely on the approval criteria set forth in this chapter. The appeals official shall render a decision on the appeal within five business days after the date of the hearing.

~~A. When the parks and recreation department executes an agreement for the use of an athletic field in a city park or schedules an event on an athletic field in a city park, the department shall also grant permission for any of the acts mentioned in Sections 13.24.010 and 13.24.020, provided such permission has been requested, and such actions are related to the field usage.~~

~~In granting such permission, the parks and recreation department may impose reasonable conditions concerning time, place and manner as do not unlawfully surrender the city's right of supervision, regulation and control and are consistent with park purposes, and do not unreasonably interfere with the rights of the public to enjoyment of the park. It shall also be a condition of any permission granted by the parks and recreation department that the permittee obtain the appropriate permits from the city's health department and comply with the health code of the city. If permittee fails to comply with the health code of the city, the permittee shall not be allowed to perform such acts mentioned in Sections 13.24.010 and 13.24.020.~~

~~B. Except for arrangements made in conjunction with the use of a park facility field use, the city council may grant permission for any acts mentioned in Sections 13.24.030 and 13.24.040. In granting such permission, the city council may impose reasonable conditions concerning time, place and manner as do not unlawfully surrender the city's right of supervision, regulation and control and are consistent with park purposes, and do not unreasonably interfere with the rights of the public to enjoyment of the park. The city council shall adopt guidelines for allowing and selecting such vendors in city parks.~~

~~C. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030.~~

### **13.24.040 Hours of closure.**

~~A. All city parks and all park facilities, except as provided herein, shall be closed to the public every night between ten p.m. and six a.m. unless otherwise posted in accordance with department policies. Parks in the Downtown Management District, however, shall remain open until one a.m. Any request that a city park remain open past ten p.m., or a city park within the Downtown Management District remain open past one a.m. ~~or a park facility remain open past one a.m.~~ shall require the approval of the city council by resolution.~~

~~B. All city park facilities, defined as ~~r~~Recreational centers, senior citizen centers, athletic fields, meeting halls, McKelligon Amphitheatre, reserves, and park shelters may be allowed to remain open until one a.m., as department of parks and recreation policies may prescribe. Any request that a city park facility the aforementioned facilities remain open past one a.m. shall require the approval of the city council by resolution.~~

~~C. Any person who shall be in any city park or park facility at any time when the park or facility is closed as hereinabove provided, or who shall fail to comply with the conditions imposed by the city council in a resolution adopted pursuant to subsection F, shall be deemed guilty of a misdemeanor and punished as provided in Sections 13.24.XX and 1.08.010 through 1.08.030.~~

~~D. This section shall not apply to the following persons if in the park or facility in the performances of their duties: peace officers, physicians, ambulance operators or attendants, employees of the city, and employees of public utility companies.~~

~~E. In the case of parks through which there are dedicated streets used for general travel (that is, not merely for access to the interior of the park), this section shall not apply to persons traveling through the park on such dedicated streets.~~

~~F. A person may make a written request to the city council that a city park remain open past ten p.m., that a city park in the Downtown Management District remain open past~~

one a.m. or that a park facility remain open past one a.m. The written request shall be submitted to the director who shall forward the request for placement on the City Council agenda of the next available regular city council meeting in compliance with all ordinances, statutes and the council's rules of order relating to the placement of items on the agenda and posting of the agenda. The decision of whether to approve the request or to otherwise extend the hours ~~in which a park remains open past ten p.m. or in which a park facility remains open past one a.m.~~ shall be made by resolution of the council. In granting such approval, council may impose whatever conditions it deems necessary to protect the health, safety and welfare of the general public.

### 13.24.050 Use of athletic fields.

A. No person shall play any game on, or otherwise make use of, any athletic field belonging to the city that is designated as a game "only" field for which fees are assessed by listing its use on schedule C of the city's annual budget resolution or by other applicable resolution of city council and being posted with one or more signs giving notice of the restricted use, unless written permission for using the field at the designated time is first obtained from the director of the department, ~~or his designee.~~

~~B. In granting or refusing such permission the director shall be guided by the following standards: whether the athletic field has already been reserved or applied for by someone else for approximately the same time, whether the person applying for the field is of sufficient age and responsibility to exercise reasonable care in its use, whether the proposed use and the hours requested are such that other users of the park or residents of the neighborhood will not be subjected to undue inconvenience, and any other factor which may reasonably bear upon the matter. Any person interested may appeal to the city council from the decision of the director, or his/her designee.~~

~~C. Any person violating subsection A of this section shall be deemed guilty of a misdemeanor and punished by a fine not exceeding five hundred dollars.~~

DCB. This section shall not apply to persons using an athletic field under a lease, concession, or other contract authorized by the city council.

### 13.24.060 Camping.

A. No person shall camp in any city park ~~or playground~~, or set up any tent, shack, or other shelter, or lay out any bedroll or other sleeping equipment therein, except upon approval of the city council by resolution. This section does not apply to camping in permanent cabins or structures provided by the city for that purpose or to department produced activities or events.

B. A person may make a request to the city council to camp. The written request shall be submitted to the director who shall forward the request for placement on the City Council agenda of the next available regular city council meeting in compliance with all

ordinances, statutes and the council's rules of order relating to the placement of items on the agenda and posting of the agenda. The decision of whether to approve the request or to camp~~otherwise extend the hours in which a park remains open past ten p.m. or in which a park facility remains open past one a.m.~~ shall be made by resolution of the council. In granting such approval, council may impose whatever conditions it deems necessary to protect the health, safety and welfare of the general public.

#### **13.24.070 Dangerous amusements.**

- A. No person shall have within any city park ~~or playground~~ any ~~firearm~~ rifle, pellet or b.b. gun, spring gun, bows ~~and for shooting~~ arrows, ~~or other~~ instruments capable of throwing a projectile, or possess any firearm, or throw or launch any stone, hard ball, ~~model~~ remote control airplane, or other object likely to inflict injury; or drive any golf ball. No person may use roller-skates, inline skates, bicycle, skateboard or any similar device in areas in which the director has posted a sign prohibiting such activities. This section does not apply to acts done in an area designated by the city for such purpose or to a person who is licensed to carry and lawfully carrying a concealed handgun under Subchapter H, Chapter 411, Government Code and chapter 46, Penal Code.
- B. No person shall possess a handgun except as provided in City Code 10.12.020.

#### **13.24.080 Horses.**

No person shall ride or have in any city park ~~or playground~~ any horse or other bridled animal, except on a bridle trail or trailhead designated by the city for that purpose and where permitted, the animal shall be thoroughly broken, properly restrained, ridden with due care, not allowed to graze or go unattended, and not hitched to any furnishing, rock, tree, or shrub ~~or other~~ than a hitching post at a trailhead provided for that purpose.

#### **13.24.090 Motor vehicles.**

No person shall drive, or ride in or on, any motor vehicle, four-wheeler, all terrain vehicle, motorcycle, go cart, dirt bike, or any other similar motorized device except for a motorized wheelchair, in any city park or trail or playground, except licensed vehicles may drive or travel on within a streets roadway that are graded or surfaced for vehicular travel and of sufficient width for use by the vehicle an automobile. Provided, this ~~section~~ paragraph shall not apply to the following persons when engaged in the performance of their duties: peace officers, ambulance operators ~~and~~ or attendants, physicians, employees of the city ~~performing~~, employees of a public utility company, or persons ~~performing~~ performing under contract with the city, ~~performing~~ construction, maintenance, or other necessary work in ~~the city park or a trails~~ or playground.

#### **13.24.100 Closed Areas**

A. The director of the department may temporarily close city parks or identifiable areas to the public entry for maintenance, construction, health, safety and welfare, or otherwise restrict use until such time as the area or facility can be made available for public use.

~~[NANETTE, we need to list the reasons that such areas or facilities may be closed.]~~

B. Except in emergency circumstances, notice of closure shall be posted in and no person shall enter closed or restricted areas. ~~[NANETTE: will violation of this section be a misdemeanor?]~~ yes.

C. No person shall enter areas closed due to flooding or ~~which are~~ areas that are the subject of a flood ban.

#### 13.24.110 Play areas for young children.

~~A. The director of parks and recreation may designate in city parks and playgrounds separate areas for the exclusive use of children twelve years of age and under, wherever in his opinion enough children of such ages use the park or playground to justify giving them an exclusive area and there is need to protect them from the competition of older children or adults. Playground areas and equipment shall be used only as intended, and shall be used by persons of appropriate age. The director may designate playground areas where the equipment may be exclusively used by children twelve years of age and under. Areas so designated shall be provided posted with one or more legible signs giving notice of the restricted use.~~

B. When an area is so designated no person except children twelve years old of age and under shall play on the equipment or loiter therein ~~except children twelve years old and under~~; provided however such children may be assisted in their play by their parents, guardians, or persons whom a parent or guardian has placed in charge of the children.

#### 13.24.120 **Reserved**

~~A. Authority to issue amplification permits within city parks.~~

#### ~~B. Dog Parks~~

~~1A. Dogs may be allowed~~ A person may allow dogs to be without a leash in areas designated by the director as off-leash areas and constructed for such purposes ("dog parks" or "off-leash area") provided that each dog remains under immediate personal supervision and command of the person, the person has a leash in their possession at all times, and posted rules are followed.

~~2B.~~ No person shall allow a child under the age of seven years in the off-leash dog area. Children ages seven to twelve must be accompanied by an adult. Children may not run with, or chase after dogs in the off-leash area.

3C. No person shall allow a puppy less than four months of age nor female dogs that are in heat into the off-leash dog area.

4D. No person shall take more than three dogs into the off-leash area.

5E. If a dog exhibits dangerous or aggressive behavior towards other dogs or person, the person responsible for such dog shall remove the dog from the dog park immediately.

6F. Dogs must be on-leash when entering and exiting. No person shall bring a dog to the off-leash area with a spike or choke collar.

7G. No person shall bring any other animals to the dog park except for dogs.

8H. No person shall smoke or bring food or alcohol into the off-leash area.

I. Persons are responsible for the actions of any dog they bring into the off-leash dog area.

### **13.24.130 Alcoholic beverages--Prohibitions.**

A. No person shall possess or consume an alcoholic beverage in any city park, facility or enclosed identifiable area, except as provided in this chapter.

B. No person shall possess an open container containing of an alcoholic beverage, or consume an alcoholic beverage, in or upon any street, alley, highway or other public way which is adjacent to or abuts any city park.

B. The portion of Arroyo Park leased from the city, pursuant to the lease agreement, as amended, dated March 7, 1963, by the El Paso Tennis and Swim Club is exempted from the prohibitions of this section, as well as the provisions of Sections 13.24.140 and 13.24.150. The City may, by ordinance and lease agreement leasing a city park or portion of a city park, exempt portions of such park from the prohibitions of this section.

D. Definitions. As used in Sections 13.24.130 through 13.24.180, the following terms shall have the following meanings:

1. "Alcoholic beverage" means alcohol or any beverage containing alcohol which is capable of being used for beverage purposes, either alone or when diluted. "Alcoholic beverage" includes but is not limited to beer, wine, distilled spirits and mixed beverages containing alcohol.

2. "City park" means any property in the city that is designated as a park by resolution of the city council of the City of El Paso, that is set aside or operated for public recreational purposes, whether dedicated or developed as a park or not, or that is located in any street right of way and is maintained as public open space, including all buildings, recreation facilities, playgrounds, parking lots, driveways, pedestrian paths pathways and other areas within a park. Designation of property as a city park pursuant to this subsection is

~~solely for the purposes of identifying areas where alcoholic beverages may not be possessed or consumed, and shall not be construed to be a dedication of any property as a park.~~

- ~~3. "Enclosed Identifiable area" means a building, a shelter, a fenced playing athletic field, or any other area subject to controlled ingress and egress as determined by the director of the parks and recreation department.~~
- ~~4. "Roadway" means the portion of a street, alley or highway designed or ordinarily used for vehicular travel.~~
- ~~5. "Street," "alley" or "highway" means the entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular travel. "Street," "alley" or "highway" shall include both the roadway and the sidewalk.~~
- ~~6. "Security officer" means a uniformed private security officer who is duly commissioned as provided in Article 4413 (29bb), V.A.C.S., or a uniformed off-duty police officer of the City of El Paso.~~
- ~~7. "Sidewalk" means all portions of a street, alley or highway between the curblines, or the lateral lines of the roadway and the adjacent boundary lines, whether or not the same have been improved for pedestrian travel~~

~~FEFC.~~ The director of the parks and recreation department of the city shall ~~not~~ may grant permission to possess and consume alcoholic beverages in a ~~building or enclosed~~ city park or identifiable area of a city park ~~unless if~~ the following conditions are met:

1. The applicant has executed a rental agreement for the use of the city park or identifiable ~~building or enclosed~~ area pursuant to the guidelines of the department;
2. The applicant has paid the fee for the use of the city park or ~~building or enclosed~~ identifiable area;
3. ~~The applicant has paid an alcoholic beverage deposit not less than fifty dollars in order to defray any city costs occasioned by the possession or consumption of alcoholic beverages in a city park;~~ The applicant, as part of the agreement, will restrict alcohol consumption to persons 21 years of age or older;
4. The applicant, as part of the agreement, has agreed to provide a minimum of one security guard per one hundred persons expected at the event in order to protect the health, safety and welfare of participants, other park users and the general public. In addition to any other authority, the security guard shall be entitled to summon the appropriate peace officer in the event of violation of this chapter or any other chapter, rule, regulation or statute; and
5. The applicant has agreed to provide portable sanitary facilities ~~if~~ toilets for outdoors events, control of ingress and egress, trash disposal, and any other

reasonable conditions imposed to protect the health, safety and welfare of the general public.

6. If not indoor or fenced, the applicant must have agreed to erect event site perimeter fencing consisting of chain link preformed free standing panels, 54-no less than six feet high with vertical support no further than ten feet apart.

~~FD.~~ The director of the department may grant permission for the possession and consumption of alcoholic beverages for an adult event sponsored by the department, supervised by a city employee and taking place within a city park ~~building or enclosed~~ identifiable area in a city park.

~~GE.~~ Permission granted pursuant to Section 13.24.130 (~~ED~~) or (~~FE~~) shall include the right to transport alcoholic beverages to and from the ~~building or enclosed~~ identifiable area.

~~HF.~~ It shall be a defense to prosecution under Section 13.24.130 if at the time of the offense, the person charged was in an ~~building or enclosed~~ identifiable area for which the director of the department or the city council had granted permission to possess and consume alcoholic beverages pursuant to this section, or was transporting alcoholic beverages to or from such an ~~building or enclosed~~ identifiable area.

~~IG.~~ Denial of permission by the director of the department pursuant to this section may be appealed ~~to the city council~~ within 10 days of denial after notice of the denial has been received by submitting a written request to the appeals official. Within five business days, or such longer time period agreed to by the applicant, the appeals official shall hold a hearing on whether to issue the permit or uphold the denial. The applicant shall have the right to present evidence at said hearing and to question the appropriate city officials. The decision to issue the permit or uphold the denial shall be based solely on the approval criteria set forth in this chapter. The appeals official shall render a decision on the appeal within five business days after the date of the hearing. ~~as provided in Section 13.24.150~~ [CAN PRAB OR CM HANDLE APPEAL?]

~~JH.~~ The city council in its discretion may grant permission to possess and consume alcoholic beverages in open park areas for special, ~~annual~~ or ad hoc events; provided, however, in granting such permission the city council shall impose whatever conditions it deems necessary to protect the health, safety and welfare of the general public.

~~KI.~~ ~~Any permission granted pursuant to a lease or other long term agreement prior to June 30, 1992, shall be deemed permission for the possession and consumption of alcoholic beverages pursuant to this section.~~ ~~J.L.~~ Sections 13.24.130 through 13.24.180 do not repeal or modify ~~Section 5.08.130 Chapter 5.02 (sale of alcoholic beverages by certain organizations)~~, which shall remain in effect.

~~M.~~ ~~Any person violating the provisions of Sections 13.24.130 through 13.24.180 shall be deemed guilty of a misdemeanor and punished as provided in Sections 13.24.XX and 1.08.010 through 1.08.030.~~

~~N.~~ ~~Any permittee who fails to have a security officer present when required to do so~~

~~by Sections 13.24.130 through 13.24.180 shall be deemed guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030~~

### **13.24.140 Wildlife, plants, and natural resources**

A. All wildlife within the boundaries of a city park is protected. No person may harm, harass, hunt, trap or remove any animal including mammals, fish, insects, birds, reptiles, or other living creature from any city park except upon written approval of the director of the department. The prohibition in section pertaining to fish shall not apply where fishing is permitted by an individual in possession of a valid Texas fishing license.

#### ~~B. Plants.~~

~~1B. All plants-plantlife within the boundaries of a city park is protected. No person shall willfully mutilate, injure, burn, destroy, thrash, or remove any live tree, shrub, vine, wildflower, grass, sedge, fern, moss, lichen, fungus or any other member of the plant kingdom or portion thereof, except upon written approval of the director of the directordepartment. No person shall collect or harvest dead wood or plants, or portions thereof, except upon written approval. The collecting of pecan nuts, seeds and pods on the ground is allowed; the thrashing of pecan trees and shrubs is prohibited.~~

~~2. No person may cut, gather, or collect wood or other combustible material at any city park for use as firewood or fuel except for material designated for this purpose by the director parks and recreation department.~~

C. All sites, objects, buildings, artifacts, implements, and locations of historical, archaeological, geologic, scientific or educational interest of every character located in, on or under the surface of any city park are protected. No person may remove excavate, take, dig into, or destroy any site, object, building, artifact, implement or location of archaeological, geological, scientific or historical interest without having permits as required by the State of Texas Natural Resources Codes, and without having written permission of the director of the department.

D. No person may cut, gather, or collect wood or other combustible material at any city park for use as firewood or fuel except for material designated for this purpose by the director of the department.

E. This section does not apply to city employees performing their assigned duties.

### **13.24.150-13.24.180 — Reserved**

#### **13.24.150 Fires and Grills**

A. No person may light, build or maintain a fire on or in any-a city park except in a device provided or designated for such purpose.

B. Portable barbecue grills of metal construction fueled by propane may be brought into city parks by persons for use in picnic areas and shall be attended at all times by a person 18

years of age or older. At no time may barbecue grills be placed upon pathways, sport courts, parking lots and the like or otherwise impede the use of such areas for their intended purpose. Barbecue grills must have a minimum 12 inch clearance from the ground or surface it is placed on.

C. Charcoal must be fully extinguished and removed from the city park by the user.

#### 13.24.160 Adherence To Park Rules and Signs.

~~CA. Adherence to park signs.~~ The director is authorized to create reasonable rules regarding use of city parks. Such rules shall be posted on signage at applicable city parks. All persons shall comply with the signs and markers installed in city parks by the department. Department staff is authorized to revoke a person's privilege to participate in department activities or to direct a person to leave a city park for failure to comply with such signs.

~~B. Special rules for specific park facilities. Rules and conditions of use that address situations specific to a park facility may be developed and posted by the director of the parks and recreation department or designee. Persons shall comply with such rules.~~

#### 13.24.170 Use of City Parks

~~DA. Use of City Parks.~~ Outdoor city parks are generally available for public use on a first come, first served basis except for areas that require entrance or other fees, or that have previously been issued permits granting priority or exclusive use.

B. No person shall use or occupy a facility or identifiable area when such use conflicts with the use by persons holding a permit.

~~EC. Disruptive behavior and ejection.~~ Persons engaged in disruptive, destructive or hazardous conduct may be warned and asked to stop such conduct immediately by any park department employee or official under Section 13.24.210. In circumstances where a patron's conduct is unlawful, or poses an imminent threat of injury or prevents the public enjoyment of the city park, park department employees or officials under Section 13.24.210 may eject such persons by verbally demanding that the person leave the city park. [~~← DO WE DO THIS?~~]

D. Persons may casually perform as artists or entertainers in a city park provided that they do not block sidewalks, or roadways, or other recreational amenities are not blocked, and they maintain a minimum 100 feet of distance from existing park concessions or persons using a city park under a permit issued by the department. ~~no amplified sound, no or juggling of potentially hazardous materials or items is allowed. and a~~ Any money exchanged ~~should be~~ must be on a "tips" basis only.

~~F. Special rules for specific park facilities. Rules and conditions of use that address situations specific to a park facility may be developed and posted by the director of the parks and recreation department or designee. Patrons shall comply with such rules.~~

#### 13.24.160-180 Shared Use Pathways and Trails shall

~~A. On~~ On pathways and trails, bicyclist shall yield to joggers, and joggers to walkers. Users shall not be ~~more than~~ two or more abreast when this action will impede other users ~~for of~~

on the pathway or trail.

**13.24.190 - Glass beverage bottles or containers ~~prohibited.~~**

A. No person shall use or possess any glass beverage bottle or other glass beverage container in any city park or outdoor facility.

~~B. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and punished as provided in Sections 13.24.XX and Sections 1.08.010 through 1.08.030~~

~~C.—This section shall not apply to sealed glass beverage bottles or other sealed glass beverage containers carried to and from, or kept within an indoor facility or identifiable area building or enclosed area located within a city park by a person who has obtained a use rental agreement or permission from the director of the department for the use of such building ~~or enclosed identifiable area.~~~~

~~DC. "City park" means any property in the city which that is designated as a park by resolution of the city council of the City of El Paso, that is set aside or operated for public recreational purposes, utilities whether dedicated or developed as a park or not. "City park" includes all buildings, recreation facilities, swimming pools, playgrounds, parking lots, driveways, pedestrian paths pathways, and other areas within a park. Designation of property as a city park pursuant to this section is solely for the purposes of identifying areas where glass beverage bottles or other glass beverage containers may not be used or possessed and shall not be deemed construed to be a legal dedication of any such property for as a park purposes.~~

**13.24.220 Violation of Sections 13.24.010 through 13.24.190 –Penalty.**

Any person violating Sections 13.24.010 through 13.24.150 and 13.24.0170 through 13.24.0190 shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500.00.

CITY OF EL PASO

ATTEST:

\_\_\_\_\_  
John F. Cook, Mayor

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

| Rev'd ~~January 1730, 2012~~ ~~April 2, 2012~~ June 27, 2012

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| Kristen L. ~~Choi~~Hamilton  
Assistant City Attorney

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—Nanette L. Smejkal, Director  
Department of Parks and Recreation