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

DEPARTMENT: **Parks and Recreation**

AGENDA DATE: **Introduction: July 24, 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), OF THE EL PASO CITY CODE IN ITS ENTIRETY BY REPEALING CHAPTER 13.24 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 13.24 (CITY PARKS AND RECREATION AREAS) IN ITS PLACE TO CLARIFY DEPARTMENT POLICIES; 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 changes is also attached.

The rewrite 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; rules for dog parks; protection of wildlife, plants and natural resources; general use of parks; rules for shared pathways and trails. The definition of a non-profit is revised.

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), OF THE EL PASO CITY CODE IN ITS ENTIRETY BY REPEALING CHAPTER 13.24 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 13.24 (CITY PARKS AND RECREATION AREAS) IN ITS PLACE TO CLARIFY DEPARTMENT POLICIES; 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 repealed, and a new Chapter 13.24 (City Parks and Recreation Areas) of the El Paso City Code shall be adopted 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 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 outdoor~~s~~ 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 (C) or (D) 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. Section 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 ~~of~~ 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.

13.24.200 – Park and recreation facility use and fee authorization.

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

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

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

2. Facility rental and use fees. The fees for a paid rental or use of a facility shall include the fee as set forth in the fee schedule and the administration fee, which is a non-refundable processing charge to compensate the department for reserving the facility or park area for use by the renter and processing the associated contracts. If alcohol is to be served during a rental under this section, an additional fee, based on one security guard per one hundred participants, and as set forth in the fee schedule, shall be charged to the renter. If the rental is for

the purpose of conducting a party or other event where food, beverages or other activities will take place where litter or debris may be left behind, a cleaning charge shall be made in the amount set forth in the fee schedule. If the rental includes the use of catered food services or any other commercial use that is incidental to the rental, an additional fee shall be charged in the amount set forth in the fee schedule for such use.

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

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

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

ii. County, state, federal agencies and other governmental entities may use rooms in all park and recreation facilities for official business at no charge, on a space-available basis, during normal operating hours. Normal operating hours may vary among facilities. Use of rooms by county, state, and federal agencies for

official business during non-operating hours will be charged at the standard rate.

iii. The city council has established that meeting rooms that are appropriate for public use may be used by any person or entity, other than a for-profit entity or individual conducting for-profit business/commercial speech activities, during normal operating hours on a first come, first serve basis as space is available, as the city council has found that such uses are appropriate. Normal operating hours may vary among facilities. Use of such rooms during non-operating hours will be charged the appropriate rate as set forth in the fee schedule.

b. Shelters, reserve areas, rose garden, downtown plazas. Fees will be assessed and paid at the time that a renter reserves a shelter, reserve area, rose garden, pavilion, skate park, park area, or the San Jacinto or other downtown Plazas. Additional charges shall be assessed for the use of electricity at the downtown plazas for which electricity use is established by the director as an optional use and a separate electricity charge is set forth in the fee schedule.

c. Gymnasium rental. The facility rental for gymnasiums shall be based on the size of the given facility (i.e., small, medium, large and extra large, and full court or half court), and the purpose for which the gymnasium will be used. An additional fee shall be charged as set forth in the fee schedule for each use that is not an athletics sports use. The department director shall determine and designate the appropriate size for each gymnasium for purposes of assessing a rental fee for the same.

d. Sports and athletic venues. Field practice, sports, and athletic venue fees, game permit fees, and tournament fees shall be applied, when applicable. Charges shall be made for the use of the various sports fields as set forth in the fee schedule to include the costs of field preparation and for lighting the field, which may be charged as included or separate fees, as may be appropriate. Field practice rentals shall not include the additional administration fee.

i. All players participating in any independent league utilizing a department facility will be charged a per season player fee. If a season exceeds four months, the player will be assessed a fee for two seasons.

ii. One security guard per one hundred participants will be charged per tournament rental. Additional security guard(s) may be required as deemed necessary by department staff at renter's expense.

e. Multi use or long term use not to exceed one year. The fee for a permit issued under this chapter for repeated uses or long term uses, shall be in the amounts set forth in the fee schedule and shall be based upon the type of use, and length of time of the use.

3. Activities, programs, classes, and general services fees. The fees for activities, programs, classes, and general services will additionally be based on anticipated enrollment and use, class frequency, cost of instructor(s), if any, supplies, materials, and staff. Such fees shall be charged in the amounts set forth in the fee schedule or specifically calculated according to the formula set forth in the fee schedule. When a stated formula includes an administrative fee charge as part of the fee calculation, that portion of the fee shall be as set forth in the fee schedule as the administrative fee charge.

a. Sports league and tournament fees shall be based on anticipated registration, equipment, supplies, materials, staffing, and awards.

b. The department is authorized to conduct background checks for all coaches participating in city leagues and tournaments, issue identification cards for all participants, and charge the appropriate fees for such services as set forth in the fee schedule.

4. Department-produced activities and events. The parks and recreation department director shall be authorized to create community special events and activities for the public including the establishment of appropriate outdoor sales at city parks and recreational areas and rummage sales at the senior centers in accordance with requirements established in Title 20 of this Code, which may include allowing members of the public to make limited commercial uses of the department's facilities and parks in conjunction with such events and sales, for the purpose of providing entertainment, food service, or other amusement for the public in conjunction with the event or sale, in accordance with the policies and guidelines that are approved by a resolution of the city council. Special events and activities occurring in or using locations other than the city parks and recreational facilities managed by the department shall be authorized by the city council or may be conducted in accordance with the policies and guidelines for such events and activities that are approved by a resolution of the city council. For purposes of this section, a special event or activity shall not include field trips, programs, or activities occurring outside of a city parks and recreational facility that are incidental to an activity, program or class conducted primarily within a facility or which are part of the department's day care services or youth development programs. The fees charged for such events shall be in the amounts set forth in the fee schedule for the activities and events identified and listed therein or as set by the council by other appropriate resolution.

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

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

1. "Facility" means any building, structure, designated area or enclosed area that is in a city park or other area managed by the department, to include but not be limited to shelters, reserve areas, rose gardens, pavilions, skate parks, recreational facilities, community centers, senior centers, sports centers, aquatics venues, athletic venues and downtown plazas.

2. "Prime time" means Monday through Friday from 5:00 pm through 1:00 am of the following day; and during all operating hours on Saturday, Sunday and city recognized holidays.

3. "Class," "program" or "activity" means a structured or organized event, designed to meet a recreational or educational need, under the specific supervision of facility staff, instructor, trainer or contractor.

4. "Leisure interest class or workshop" means a program, class or activity that is taught by an independent contractor.

5. "Senior discount" means the discount available as set forth in the fee schedule for a person who is age 60 or older and who is enrolling in a leisure interest class or workshop or who is using a weight room, boxing room or billiard room on a monthly or yearly fee basis.

6. "Multiple child discount" means the discount available as set forth in the fee schedule for families (household) with more than one child enrolling during the same transaction in any leisure interest class, mini sports program or other program, class or activity that requires individual registration prior to participation. This discount does not include day care and after school programs.

7. "General admission or flat rate" means the fee that is charged for facility uses and services for which it is appropriate to charge a single, uniform rate, rather than establishing separate fees based on the type of user. Such fees, when established, shall be listed on the fee schedule as a single, uniformly charged fee.

8. "Standard rental rate" means the base rate and fee from which the commercial, non-profit and non-resident rates are determined, and which is charged to persons when those rates are not applicable.

9. "Commercial rate" is the rate charged to persons, organizations or groups who charge a fee or require a donation for admission to the event or program in question, with the exception of those eligible for the non-profit rate.

10. "Non-profit rate" means the rate that is charged to an individual, organization or group that is recognized as a non-profit organization under the laws of the State of Texas, or who has been given tax-exempt status under the United States Internal Revenue Code, or both. Such persons, organizations or groups will be charged at the standard rate for events or programs where they require a donation or charge for admission to the event or program.

11. "Non-resident Rate" means the rate that is charged to those persons who do not reside within the city limits of the City of El Paso. Non-resident fees may be established so as to cover a portion of the costs of a program, activity, etc., for which the user fee established for a city resident includes a subsidy from the city's general fund. The department shall establish written procedures for the verification of residency of persons, when necessary.

E. Needs Assessment Scholarship Program. The department director is authorized to establish a Needs Assessment Scholarship Program, enabling the waiver of fees, in whole or in part, for children who are participating in leisure interest classes, mini sports programs or other programs, classes or activities that require individual registration prior to participation, and who reside the majority of the time in a household in which the gross income, within the previous twelve months, is at or below eighty percent of the area median income, as established annually by U.S. Department of Housing and Urban Development (HUD) income limits, subject to income verification. Income eligibility shall be determined by the sum of the gross income of all family members residing in the household. Verifiable eligibility documentation for each participant served under this program must be maintained, updated at least every twelve months. City council shall establish the maximum annual program funding amount and the maximum benefit per participant in the annual budget resolution. Fee waivers will be applied on a first come, first served basis. Once the maximum annual total program funding amount is reached during the fiscal year, the Needs Assessment Scholarship Program will be discontinued for the remainder of the fiscal year, subject to additional appropriation of funds to support the program. The Needs Assessment Scholarship Program does not include day care.

13.24.210 - Enforcement.

The employees assigned to the code enforcement division are authorized to enforce the provisions of this chapter and shall have the power to issue misdemeanor citations to any persons violating the provisions of this chapter.

13.24.220 Violation of Sections 13.24.010 through 13.24.150 and 13.24.170 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:

Kristen L. Hamilton
Assistant City Attorney

APPROVED AS TO CONTENT:

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~~ing~~ 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~~ include~~ing~~ 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 ~~sighs~~ 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 ~~S~~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 Scenic 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 Scenic 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, instruction~~s~~ 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 sale~~s,~~ 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 sighs 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.~~

~~D~~E. 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.~~

~~D~~C. ~~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.

~~E~~D. 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.~~

~~C~~B. 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.

~~D~~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 ~~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 my 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.~~

~~E~~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.

~~F~~E. ~~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.

~~G~~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 i~~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.

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

~~I~~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.

~~J~~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 ~~permit~~appeals official. Within five business days, or such longer time peried 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~~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.

~~E~~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.

~~F~~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 ~~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.~~

~~D~~~~C~~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 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 ~~firsarm~~air 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~~ under contract with the city~~,~~ performing construction, maintenance, or other necessary work in ~~the~~ city park or a trail~~s 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~~e~~ 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**

~~1~~A. ~~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.

~~2~~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.

~~3~~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.

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

~~5~~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.

~~6~~F. 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.

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

~~8~~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~~--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~~

~~FEF~~C. 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 outdoor~~s~~ 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 fence~~s~~d, the applicant ~~must~~ has 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.

~~F~~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 ~~building~~ or ~~enclosed~~ identifiable area in a city park.

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

~~H~~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 ~~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.

~~I~~G. 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?]~~**

~~J~~H. 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.

~~K~~I. ~~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.~~

~~1~~B. 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 ~~director~~department. 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.

~~C~~A. ~~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

~~D~~A. ~~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.

~~E~~C. ~~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~~,~~. ~~n~~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 jogger~~s~~, and jogger~~s~~ to walker~~s~~. 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~~.

~~D~~C. ~~"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.~~0~~170 through 13.24.~~0~~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:

Rev'd ~~January 17~~30~~, 2012~~ ~~April 2, 2012~~ June 27, 2012

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

Nanette L. Smejkal, Director
Department of Parks and Recreation

~~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.~~

13.24.200 – Park and recreation facility use and fee authorization.

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

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

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

2. Facility rental and use fees. The fees for a paid rental or use of a facility shall include the fee as set forth in the fee schedule and the administration fee,

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

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

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

Any city elected official submitting a request for use of a room during non-operating hours shall submit such request in writing to the director not less than seven days in advance of the requested use, and if necessary, the city council may take appropriate action to resolve any issue as to whether a requested use is in conformity with and appropriate under the requirements set forth in this section; provided however, in no event shall a use of a room

without charge by a city elected official be permitted for a personal or political use, nor shall a city elected official reserve a room under this section for a meeting, activity, function, or event that will not be attended by the elected official.

ii. County, state, federal agencies and other governmental entities may use rooms in all park and recreation facilities for official business at no charge, on a space-available basis, during normal operating hours. Normal operating hours may vary among facilities. Use of rooms by county, state, and federal agencies for official business during non-operating hours will be charged at the standard rate.

iii. The city council has established that meeting rooms that are appropriate for public use may be used by any person or entity, other than a for-profit entity or individual conducting for-profit business/commercial speech activities, during normal operating hours on a first come, first serve basis as space is available, as the city council has found that such uses are appropriate. Normal operating hours may vary among facilities. Use of such rooms during non-operating hours will be charged the appropriate rate as set forth in the fee schedule.

b. Shelters, reserve areas, rose garden, downtown plazas. Fees will be assessed and paid at the time that a renter reserves a shelter, reserve area, rose garden, pavilion, skate park, park area, or the San Jacinto or other downtown Plazas. Additional charges shall be assessed for the use of electricity at the downtown plazas for which electricity use is established by the director as an optional use and a separate electricity charge is set forth in the fee schedule.

c. Gymnasium rental. The facility rental for gymnasiums shall be based on the size of the given facility (i.e., small, medium, large and extra large, and full court or half court), and the purpose for which the gymnasium will be used. An additional fee shall be charged as set forth in the fee schedule for each use that is not an athletics sports use. The department director shall determine and designate the appropriate size for each gymnasium for purposes of assessing a rental fee for the same.

d. Sports and athletic venues. Field practice, sports, and athletic venue fees game permit fees, and tournament fees shall be applied, when

applicable. Charges shall be made for the use of the various sports fields as set forth in the fee schedule to include the costs of field preparation and for lighting the field, which may be charged as included or separate fees, as may be appropriate. Field practice rentals shall not include the additional administration fee.

i. All individual players participating in any league utilizing a department facility will be charged a player fee, including independent leagues. If a season exceeds four months, the player will be assessed a fee for two seasons.

ii. One security guard per one hundred participants will be charged per tournament rental. Additional security guard(s) may be required as deemed necessary by department staff at renter's expense.

e. Multi use or long term use not to exceed one year. The fee for a permit issued under this chapter for repeated uses or long term uses, shall be in the amounts set forth in the fee schedule and shall be based upon the type of use, and length of time of the use.

3. Activities, programs, classes, and general services fees. The fees for activities, programs, classes, and general services will additionally be based on anticipated enrollment and use, class frequency, cost of instructor(s), if any, supplies, materials, and staff. Such fees shall be charged in the amounts set forth in the fee schedule or specifically calculated according to the formula set forth in the fee schedule. When a stated formula includes an administrative fee charge as part of the fee calculation, that portion of the fee shall be as set forth in the fee schedule as the administrative fee charge.

a. Sports league and tournament fees shall be based on anticipated registration, equipment, supplies, materials, staffing, and awards.

b. The department is authorized to conduct background checks for all coaches participating in city leagues and tournaments, issue identification cards for all participants, and charge the appropriate fees for such services as set forth in the fee schedule.

4. Department-produced activities and events. The parks and recreation department director shall be authorized to create community special events and activities for the public including the establishment of appropriate outdoor sales at

city parks and recreational areas and rummage sales at the senior centers in accordance with requirements established in Title 20 of this Code, which may include allowing members of the public to make limited commercial uses of the department's facilities and parks in conjunction with such events and sales, for the purpose of providing entertainment, food service, or other amusement for the public in conjunction with the event or sale, in accordance with the policies and guidelines that are approved by a resolution of the city council. Special events and activities occurring in or using locations other than the city parks and recreational facilities managed by the department shall be authorized by the city council or may be conducted in accordance with the policies and guidelines for such events and activities that are approved by a resolution of the city council. For purposes of this section, a special event or activity shall not include field trips, programs, or activities occurring outside of a city parks and recreational facility that are incidental to an activity, program or class conducted primarily within a facility or which are part of the department's day care services or youth development programs. The fees charged for such events shall be in the amounts set forth in the fee schedule for the activities and events identified and listed therein or as set by the council by other appropriate resolution.

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

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

1. "Facility" means any building, structure, designated area or enclosed area that is in a city park or other area managed by the department, to include but not be limited to shelters, reserve areas, rose gardens, pavilions, skate parks, recreational facilities, community centers, senior centers, sports centers, aquatics venues, athletic venues and downtown plazas.

2. "Prime time" means Monday through Friday from 5:00 pm through 1:00 am of the following day; and during all operating hours on Saturday, Sunday and city recognized holidays.

3. "Class," "program" or "activity" means a structured or organized event, designed to meet a recreational or educational need, under the specific supervision of facility staff, instructor, trainer or contractor.

4. "Leisure interest class or workshop" means a program, class or activity that is taught by an independent contractor.

5. "Senior discount" means the discount available as set forth in the fee schedule for a person who is age 60 or older and who is enrolling in a leisure interest class or workshop or who is using a weight room, boxing room or billiard room on a monthly or yearly fee basis.

6. "Multiple child discount" means the discount available as set forth in the fee schedule for families (household) with more than one child enrolling during the same transaction in any leisure interest class, mini sports program or other program, class or activity that requires individual registration prior to participation. This discount does not include day care and after school programs.

7. "General admission or flat rate" means the fee that is charged for facility uses and services for which it is appropriate to charge a single, uniform rate, rather than establishing separate fees based on the type of user. Such fees, when established, shall be listed on the fee schedule as a single, uniformly charged fee.

8. "Standard rental rate" means the base rate and fee from which the commercial, non-profit and non-resident rates are determined, and which is charged to persons when those rates are not applicable.

9. "Commercial rate" is the rate charged to ~~individuals~~ persons, organizations or groups who charge a fee or require a donation for admission to the event or program in question, with the exception of those eligible before the non-profit rate.

10. "Non-profit rate" means the rate that is charged to an individual, organization or group that ~~is registered with the city's charitable solicitation committee, as outlined in Section 5.24.030, El Paso City Code. "Non-Profit" also includes any registered person, group or organization~~ recognized as a non-profit organization under the laws of the State of Texas, or who has been given tax-exempt status under ~~section 501(c)(3) of~~ the United States Internal Revenue ~~Service~~Code, or both. Such persons, organizations or groups will be charged at the standard rate for events or programs where they require a donation or charge for admission to the event or program.

11. "Non-resident Rate" means the rate that is charged to those persons who do not reside within the city limits of the City of El Paso. Non-resident fees may be established so as to cover a portion of the costs of a program, activity, etc., for which the user fee established for a city resident includes a subsidy from the city's general fund. The department shall establish written procedures for the verification of residency of persons, when necessary.

E. Needs Assessment Scholarship Program. The department director is authorized to establish a Needs Assessment Scholarship Program, enabling the waiver of fees, in whole or in part, for children who are participating in leisure interest classes, mini sports programs or other programs, classes or activities that require individual registration prior to participation, and who reside the majority of the time in a household in which the gross income, within the previous twelve months, is at or below eighty percent of the area median income, as established annually by U.S. Department of Housing and Urban Development (HUD) income limits, subject to income verification. Income eligibility shall be determined by the sum of the gross income of all family members residing in the household. Verifiable eligibility documentation for each participant served under this program must be maintained, updated at least every twelve months. City council shall establish the maximum annual program funding amount and the maximum benefit per participant in the annual budget resolution. Fee waivers will be applied on a first come, first served basis. Once the maximum annual total program funding amount is reached during the fiscal year, the Needs Assessment Scholarship Program will be discontinued for the remainder of the fiscal year, subject to additional appropriation of funds to support the program. The Needs Assessment Scholarship Program does not include day care.

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.~~0~~170 through 13.24.~~0~~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

Proposed Changes
El Paso City Code 13.24
(City Parks and Recreation Areas)

El Paso Parks & Recreation

PARK RULES
CITY OF EL PASO

- PARK CLOSED 10:00 PM TO 6:00 AM (13.24.040)
  PARQUE CERRADO DE 10:00 PM A 6:00 AM
- LITTERING & DUMPING OF WASTE PROHIBITED (9.04.340A)
  PROHIBIDO TIRAR BASURA
- GLASS BEVERAGE CONTAINERS PROHIBITED (13.24.190)
  PROHIBIDO CUALQUIER TIPO DE ENVASE DE VIDRIO
- ALCOHOLIC BEVERAGES ARE PROHIBITED (13.24.130)
  PROHIBIDO TODO TIPO BEBIDAS ALCOHOLICAS
- PERMIT REQUIRED FOR SALE OF GOODS OR SERVICE (13.24.010)
  PERMISO REQUERIDO PARA CUALQUIER TIPO DE VENTA O SERVICIO
- PERMIT REQUIRED FOR AMPLIFIED PUBLIC ADDRESSING (13.28.010)
  PERMISO REQUERIDO PARA ANUNCIOS PUBLICOS AMPLIFICADOS
- ILLEGAL TO MARK, DAMAGE OR DESTROY CITY PROPERTY (TEXAS PENAL CODE)
  ES ILEGAL MARCAR, DANAR O DESTRUIR PROPIEDAD DE LA CIUDAD
- CAMPING IS PROHIBITED (13.24.0606)
  PROHIBIDO ACAMPAR
- USE OF ANY PROJECTILE IS PROHIBITED (FIREARMS, AIR RIFLES SLIG SHOTS, DRIVING GOLF BALLS, ROCK THROWING ETC.) (13.24.070)
  PROHIBIDO EL USO DE CUALQUIER TIPO DE PROYECTIL (TALES COMO ARMAS DE FUEGO, RIFLES DE AIRE, RESORTERAS, PRACTICAS DE GOLF, LANZAR ROCAS, ETC.)
- REMOVE PET DROPPINGS, USE A LEASH, & NO HORSES (7.08.010/7.12.010/13.24.080)
  REMOVER ESCREMENTO DE MASCOTAS, UTILIZAR CADENA O LAZOS PARA RESTRINGIRLOS Y NO CABALLOS
- MOTOR VEHICLES PROHIBITED EXCEPT ON PARK ROADS AND PARKING AREAS (13.24.090)
  PROHIBIDO EL USE DE VEHICULOS AUTOMOTORES, EXEPTO EN CAMINOS DE SERVICIO Y EN AREAS DE ESTACIONAMIENTO

Proposed Changes

13.24.010A. Establishes purpose of parks and recreation department

13.24.010B. Consolidates definitions

13.24.010D.6. Provides mechanism for permitted, non-exclusive park use by fee-based private instructors and trainers

El Paso Parks & Recreation

13.24.030B. Authorizes director to issue temporary permit for temporary park use

13.24.030I. Provides an appeals process if permit is denied

13.24.060 Provides process for camping requests

El Paso Parks & Recreation

13.24.120 Establishes dog park rules

DOG PARK RULES

- ALL DOGS MUST BE LEGALLY LICENSED AND VACCINATED, AND SHALL WEAR A VISIIBLE DOG LICENSE.
- DOGS MUST BE LEASHED PRIOR TO ENTERING AND UPON LEAVING THE PARK.
- USERS ARE RESPONSIBLE FOR INJURIES CAUSED BY THE DOG(S) UNDER THEIR CONTROL.
- USERS OF THE FACILITY DO SO AT THEIR OWN RISK. THE CITY OF EL PASO IS NOT LIABLE FOR ANY INJURY OR DAMAGE CAUSED BY ANY DOG IN THE PARK.
- OWNERS MUST CLEAN UP AFTER THEIR DOGS AND FILL ANY HOLES DUG BY DOGS.
- CHILDREN 6 YEARS AND UNDER ARE NOT ALLOWED IN THE OFF-LEASH DOG AREA; CHILDREN AGES 7-12 YEARS MUST BE ACCOMPANIED BY AN ADULT.
- PUPPIES LESS THAN FOUR MONTHS OF AGE AND FEMALE DOGS IN HEAT ARE NOT PERMITTED WITHIN THE PARK.
- USERS ARE LIMITED TO A MAXIMUM OF THREE DOGS.
- DOGS EXHIBITING DANGEROUS BEHAVIOR MUST BE REMOVED FROM THE PARK IMMEDIATELY.
- NO SPIKE COLLARS.
- NO ANIMALS OTHER THAN DOGS SHALL BE PERMITTED IN THE DOG PARK.
- BIKES, SKATEBOARDS, SCOOTERS AND OTHER SUCH WHEELED DEVICES ARE NOT ALLOWED IN THE DOG PARK.
- NO SMOKING, FOOD (DOG OR HUMAN), OR ALCOHOL IS ALLOWED IN THE PARK.

13.24.130	Consolidates alcoholic beverage rules into one section
13.24.140	Adds protection of wildlife, plants and natural resources
13.24.150	Clarifies use of grills
13.24.170	Provides general use of park information
13.24.180	Adds pathway and trail user yielding protocol

13.24.200B.2.e. Adds provision for multiple uses and use not to exceed one year (instructor/trainer permit, garden permit, etc.)

13.24.200D.9. and 13.24.200D.10. Changes the facility rental rate for non-profits who charge an admission fee in conjunction with their rental of public property from commercial to standard

El Paso Parks & Recreation