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

DEPARTMENT: POLICE DEPARTMENT

AGENDA DATE: July 29, 2008 for introduction; Public hearing on August 5, 2008

CONTACT PERSON/PHONE: Assistant Chief Tom Whitten / 564-7310

DISTRICT(S) AFFECTED: All

SUBJECT:
Request to approve an ordinance to amend Title 12 (Vehicles & traffic), Chapter 12.54 (Towing regulations and fees); to add a definition for police ordered tow and to add a new section to assess a $20 administrative fee to the operator/owner of vehicles that are towed at the direction and/or with the assistance of El Paso Police Officers to a licensed vehicle storage facility.

BACKGROUND / DISCUSSION:
It has been determined that the City incurs numerous expenses in connection with the provision of extraordinary services of El Paso Police Officers who request and facilitate the tows of vehicles involved in accidents and other matters involving the police. City staff has studied these costs and recommends setting a reasonable fee based on these costs in order to recover some of the costs for the provision of these extraordinary services. This fee has been determined to be equal to or less than the City's actual costs to provide the extraordinary service and it will help defray the City's costs associated with ordering non-consent vehicle tows.

PRIOR COUNCIL ACTION:
None

AMOUNT AND SOURCE OF FUNDING:
There currently exists legislation that requires licensed vehicle storage facilities to collect any fees that are imposed by a City. If passed, this ordinance would require that, in any case where a vehicle is towed to and later released from a licensed vehicle storage facility pursuant to a police ordered tow, the vehicle storage facility must collect the City's fee from vehicle owners before vehicles are released from the storage facility. The fees will be remitted on a quarterly basis to the City. As such, there is no funding required of the City relating to this action.

BOARD / COMMISSION ACTION:
N/A

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

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

DEPARTMENT HEAD: Gregory R. Allen

(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 TO AMEND TITLE 12 (VEHICLES & TRAFFIC), CHAPTER 12.54 (TOWING REGULATIONS AND FEES) TO AMEND SECTION 12.54.010 (DEFINITIONS) TO ADD A DEFINITION FOR POLICE ORDERED TOW; SECTION 12.54.040 (PENALTY) TO CLARIFY THE APPLICATION OF THE PENALTY; AND TO ADD SECTION 12.54.060 (FEE FOR POLICE ORDERED TOWING SERVICES); THE PENALTY BEING AS PROVIDED IN SECTIONS 12.54.040 AND 12.84.010 OF THE EL PASO CITY CODE.

WHEREAS, the City incurs numerous expenses in connection with the provision of extraordinary services of El Paso Police Officers who request and facilitate the tows of vehicles involved in accidents and other matters involving the police when the owner or driver of the vehicle is not able to make arrangements for the towing or circumstances do not permit the owner or driver to make such arrangements, necessitating City assistance with the performance of such task; and

WHEREAS, the City has studied these costs and desires to set a reasonable fee based on these costs in order to recover some of the costs for the provision of these extraordinary services; and

WHEREAS, the City Council finds that the fee to be imposed by this ordinance is equal to or less than the City's actual costs to provide the extraordinary service.

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

Section 1. That Section 12.54.010 (Definitions) of the El Paso City Code is amended as follows:

Section 12.54.010 Definitions

The following definitions shall apply in this section.

A. "Consent tow" means any tow of a vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody or control of the vehicle.

The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

B. "Nonconsent tow" means any tow of a vehicle that is not a consent tow, excluding a tow of a vehicle initiated by a peace officer handling a traffic accident or other incident or matter that involves the vehicle.

C. "Owner or operator" means any person in possession of the keys to open the door and to start a motor vehicle or the owner or authorized agent of the owner of a motorized or non-motorized vehicle.

D. "Police ordered tow" means any non-consent tow or tow of a vehicle initiated or requested at the direction of a police who orders the removal of the vehicle in accordance with Section 545.305, Texas Transportation Code, and successor statutes, by utilizing towing services contractually arranged for by the City, and the provision of assistance to a motorist involved in a traffic accident or traffic incident that involves the vehicle by arranging for other towing services as requested by the motorist.

E. "Tow truck" means any automobile, truck or other vehicle used for the purpose of towing, carrying, pushing or otherwise transporting any vehicle.

F. "Tow truck operator" means any individual who drives or otherwise operates a tow truck.

Section 2. That Section 12.54.040 (Penalty) of the El Paso City Code is amended as follows:

Section 12.54.040 Penalty

Any person violating any provision of sections 12.54.020 and 12.54.030 of this chapter commits an offense punishable by a fine not to exceed five hundred dollars pursuant to Section 12.84.010.

Section 3. That Section 12.54.060 (Fee for Police Ordered Towing Services) of the El Paso City Code is created as follows:

Section 12.54.060 Fee for Police Ordered Towing Services

A. In any case where a vehicle other than a vehicle owned by the City of El Paso is released from a licensed vehicle storage facility after being towed to the facility pursuant to a police ordered tow, and fees are collected from the vehicle owner, and additional $20.00 fee shall be collected and remitted to the Police Department on behalf of the City to defray the costs associated with the police ordered towing of the vehicle.

B. The fees shall be remitted on a quarterly basis, on or before the 15th day of months of January, April, July and September of each year and provide the vehicle identification number (VIN) of each vehicle for which the fee required under this section is being remitted.

C. Each licensed vehicle storage facility shall include the documentation required under this section for the collection and remittance of the City's fee with the documentation required to be made available to a police officer in the City under Title 43, Chapter 18 of the Texas Administrative Code.

Section 4. This ordinance shall take effect on September 1, 2008.

Section 5. Except as herein amended, Title 12 of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS 5th day of August 2008.

CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Elaine S. Hengen
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Gregory K. Allen
Chief of Police