

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

DEPARTMENT: City Manager

AGENDA DATE: August 16, 2005

CONTACT PERSON/PHONE: Joyce Wilson/541-4109

DISTRICT(S) AFFECTED: N/A

SUBJECT:

Approve an ordinance amending Title 9 to remove the fee schedules and establish criteria and guidelines for the setting of fees, including the new environmental fee and a surcharge for spillage at the landfills and transfer stations.

BACKGROUND / DISCUSSION:

The City has reorganized the Solid Waste Management Department by moving it into the Environmental Services Department. The ordinance moves those function and responsibilities. The fee provisions are also revised to reflect the movement of fee amounts to the budget resolution. A new method for the calculation for the seniors and disabled discount is included along with the criteria for the creation of an environmental fee. Lastly, as TCEQ requires the City to clean spillage from the roads near the landfills and transfer stations, a new surcharge is being implemented for those who spill waste.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

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

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

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE MANNER IN WHICH THE FEES CHARGED BY THE CITY WILL BE SET; TO REPEAL ALL CONFLICTING ORDINANCES OR ORDINANCE PROVISIONS; AND TO CONTINUE CERTAIN ORDINANCES AND PROVISIONS RELATING TO FINES, FEES AND PENALTIES IN EFFECT IN THE EL PASO CITY CODE.

WHEREAS, over the years, various fees have been established and charged by the City by including them in hundreds of different ordinances and ordinance provisions adopted by the City Council; and

WHEREAS, the scattering of the fees throughout this many different ordinances has made it difficult for the public to ascertain the various fees and has made it difficult for City to track these fees to ensure that they are appropriately set and collected; and

WHEREAS, the provisions of this ordinance cannot change or affect the fees established within the City Charter or which are set by state or federal law, and

WHEREAS, the City Council finds that the City will best be served by removing most fees from within the text of the various ordinances and the establishment of one system to set and list the fees, through the City’s budget resolution or other appropriately adopted resolution by the City Council.

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

Section 1. The amounts set for all fees established within any City ordinance are hereby repealed as of the date that each individual fee concerning the same matter or subject is adopted or set by the City Council through its budget resolution or other duly authorized resolution, except as set forth herein, either at the same amount or other appropriately established amount. Such repeal of a fee amount shall automatically occur as of the date that the Council action on said resolution becomes final in accordance with the City Charter. The provisions in any ordinance containing a fee amount that relates to the manner of the calculation of the amount of the fee or which provide further guidance or instruction as to

the setting, charging and collecting of the fee shall remain in full force and effect until otherwise or specifically changed by separate ordinance.

Section 2. As used herein, the term fee shall mean all user fees to include service fees, solid waste and other collection and disposal fees, admission fees; program, activity, league and tournament fees, inspection fees, plan review or checking fees, filing and processing fees, investigation fees, correspondence fees, animal impoundment fees, storage fees, library overdue fines/fees, lost item replacement fees; license and permit fees, including renewal and transfer fees; parking fees; fees for appeals filed in accordance with the city code; rental and other fees for the use of City property or facilities; fees relating to the operations and use of facilities and services at the El Paso International Airport; a late penalty for the payment of a fee when such penalty is specified as a dollar amount rather than a percentage of the fee; and all other fees that are charged by the City for a recognized and valid public purpose, to recover specific identifiable costs or to provide specifically-described service and items.

Section 3. All fees set or established in any ordinance or other document, which were set, approved or established by the City Council by that particular instrument pursuant to state or federal law or through the City's contracting authority, shall remain in force and effect.

Section 4. This ordinance shall not apply to Chapter 19.12 (Parkland Dedication) of the El Paso City Code and any provisions set forth therein and labeled as fees shall remain in force and effect until otherwise or specifically changed by separate ordinance.

Section 5. This ordinance shall not apply to any of the fees or court costs set forth in Chapter 2.44 (Courts) of the El Paso City Code and such provisions shall remain in force and effect.

Section 6. This ordinance shall not apply to the fees charged for the records provided by the El Paso Municipal Clerk as set forth in Ordinance No. 12916, and such ordinance and any successor ordinance shall remain in force and effect.

Section 7. This ordinance shall not apply to the collection fees established in Chapter 3.44 (Collection Fee) of the El Paso City Code and such provisions shall remain in force and effect.

Section 8. This ordinance shall not apply to the maximum fees that may be charged by towing companies for nonconsent tows as set forth in Chapter 12.54 of the El Paso City Code and whose provisions shall remain in force and effect.

Section 9. The provisions or formula contained in any ordinance establishing a pro-rata fee for an annual license or permit that is issued for less than a full year shall continue to apply as a formula for pro-rata reduction to any fee established within the appropriate City resolution which lists only the full annual fee.

Section 10. This ordinance shall not apply to any fees established or set in an ordinance granting a franchise or special privilege or through any lease or other agreement and any mechanism contained in the City Code or other City ordinance establishing the procedure by which these fees are calculated shall remain in force and effect.

Section 11. This ordinance shall not apply to any provision in the City Code or other ordinance that sets forth the amount of a deposit that must be paid prior to the receipt of any City service or fee, and such provisions shall remain in force and effect.

Section 12. This ordinance shall not apply to the calculation of any collection fee or other fee that is set forth within the City Code as a percentage of an identifiable figure rather than as a dollar amount, or to late fees or a penalty for non-payment of a fee established as a percentage of the fee in the El Paso City Code, and such provisions shall remain in force and effect.

Section 13. This ordinance shall not apply to any provision in the City Code or other ordinance establishing monetary criteria for requirements that do not constitute fees to include the amounts for any bond that must be posted, or amounts of insurance that must be obtained, and such provisions shall remain in force and effect.

Section 14. This ordinance shall not affect or otherwise impact any utility rate, tax, tax non-payment penalty or interest, fine, fine structure, penalty, civil penalty, or service charge, whether monetary or non-monetary, that is approved, assessed, charged or otherwise established through any City ordinance or any fees, fines, penalties or costs established, authorized or assessed by the State of Texas or the federal government, and such provisions shall remain in force and effect.

Section 15. Nothing in this ordinance shall be interpreted so as to preclude, alter or interfere with any process established within the City Code or other City ordinance or done pursuant to state law to perform certain work, services and investigations and make assessments, file liens or otherwise recover the City's costs and expenses, and such provisions shall remain in force and effect.

Section 16. This ordinance governs and is controlling over any other ordinance in the City that previously had established or set a fee.

Section 17. It is the intent of the City of El Paso that the changes directed by this ordinance shall not apply to any ordinance passed on or after the date this ordinance is passed and any changes in terms that are necessary for any ordinance passed on or after the date this ordinance becomes effective shall be included within such other ordinance.

Section 18. Except as herein addressed, the El Paso City Code shall remain in full force and effect.

ADOPTED THIS 30th day of August 2005.

CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Elaine S. Hengen
Assistant City Attorney

David Almonte
Director, Office of Management & Budget