

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

**AGENDA DATE:** May 25, 2021  
**PUBLIC HEARING DATE:** June 8, 2021

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Lilia Worrell, Municipal Court Clerk  
915-212-5822

**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL:** No. 2: Set the Standard for Safe and Secure City  
**SUBGOAL:** 2.7 Maximize Municipal Court efficiency and enhance customer experience

**SUBJECT:**

**APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.**

**AN ORDINANCE AMENDING THE EL PASO CITY CODE TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.44 (CITY OF EL PASO COURTS) SECTION 2.44.010 (CREATED), SUBSECTION (B); AND SECTION 2.44.030 (JUDGES), SUBSECTIONS (C) AND (F), IN ORDER TO ALLOW FOR SPECIFIED SUB-COURTS UNDER THE PURVIEW OF THE PRESIDING JUDGE; AND TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.44 (CITY OF EL PASO COURTS) SECTION 2.44.010 CREATED, SUBSECTION (D); SECTION 2.44.030 (JUDGES), SUBSECTION (E)(1); SECTION 2.44.040 (PRACTICE AND PROCEDURE), SUBSECTION (A); SECTION 2.44.060 (SUMMONS AND CITATIONS—FEE SCHEDULE—PAYMENTS); AND SECTION 2.44.080 (SPECIAL EXPENSE FEE) TO PROVIDE UPDATES, CORRECTIONS AND CLARIFICATION OF MUNICIPAL COURT PROCEDURES.**

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

This ordinance will provide updates, corrections and clarification of Municipal Court procedures. The last update to the Municipal Code Chapter 2.44 was approved in 2017 regarding terms of office for Associate Judges; all other chapters were last amended 2001-2003.

**Proposed Temporary Court:** Due to the Covid pandemic the number of cases awaiting a trial or hearing has increased dramatically. The current case count awaiting a setting is at 131,000; therefore, to address the backlog, a resolution for the creation of a 12 month temporary court will be brought forward. There will be 2 sessions scheduled in the morning and 2 sessions scheduled in the afternoon, in essence 2 courts. There have been 2 previous temporary courts created in the past: one in 2006-2007 and another in 2012. The Presiding Judge will assign Associate Judges to preside over the court. The estimated start date will be October 1, 2021.

Revised 04/09/2021

**PRIOR COUNCIL ACTION:**

**Has the Council previously considered this item or a closely related one?**

Chapter 2.44.010-Judges was last amended in 2017, Ordinance 18704; Chapter 2.44040 -Practice and procedure was last amended in 2002, Ordinance 15183; Chapter 2.44.060-Summons and citations-Fee schedule – payments has not been amended; Chapter 2.44.080 – Special expense fee was last amended in 1999, Ordinance 14172; Chapter 2.44.100-Juror reimbursement was last amended in 2003, Ordinance 15405 .

**AMOUNT AND SOURCE OF FUNDING:**

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

Changes to the Code will result in no impact to the City's General Fund.

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?  YES  NO**

**PRIMARY DEPARTMENT: Municipal Court  
SECONDARY DEPARTMENT: City Attorney's Office**

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**\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\***

**DEPARTMENT HEAD:**

*Lelia Worrell*

**(If Department Head Summary Form is initiated by Purchasing, client department should sign also)**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE EL PASO CITY CODE TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.44 (CITY OF EL PASO COURTS) SECTION 2.44.010 (CREATED), SUBSECTION (B); AND SECTION 2.44.030 (JUDGES), SUBSECTIONS (C) AND (F), IN ORDER TO ALLOW FOR SPECIFIED SUB-COURTS UNDER THE PURVIEW OF THE PRESIDING JUDGE; AND TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.44 (CITY OF EL PASO COURTS) SECTION 2.44.010 CREATED, SUBSECTION (D); SECTION 2.44.030 (JUDGES), SUBSECTION (E)(1); SECTION 2.44.040 (PRACTICE AND PROCEDURE), SUBSECTION (A); SECTION 2.44.060 (SUMMONS AND CITATIONS—FEE SCHEDULE—PAYMENTS); AND SECTION 2.44.080 (SPECIAL EXPENSE FEE) TO PROVIDE UPDATES, CORRECTIONS AND CLARIFICATION OF MUNICIPAL COURT PROCEDURES.

WHEREAS, Section 2.44 of Chapter 30 of the City Code discusses the process for the municipal courts of the city are established as courts of record in accordance with the terms and provisions, powers, duties, and limitations as set forth in Chapter 30, Government Code, and successor statutes; and

WHEREAS, the City Council wishes to allow for a temporary Municipal Court to address significant case backlogs that may be caused by unexpected circumstances outside of the normal enforcement and adjudication procedures; and

WHEREAS, the City Council wishes to provide for corrections and clarifications regarding the overall City Code Chapter 2.44 upon review and advice by the Municipal Court Clerk.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, THAT CHAPTER 2.44 BE AMENDED AS FOLLOWS:**

**Section 1.** That the El Paso City Code Subsection 2.44.010(B) is hereby amended to read as follows:

B. There are created under the authority of Chapter 30, Texas Government Code, and successor statutes, four additional municipal courts which shall be styled respectively: the El Paso Municipal Court of Record No. 2; the El Paso Municipal Court of Record No. 3; the El Paso Municipal Court of Record No. 4; and the El Paso Municipal Court of Record No. 5. The Presiding Judge's court may include sub-courts under the direction and supervision of the Presiding Judge. Such sub-courts shall be presided over by one or more substitute associate judges appointed by City Council and may include: the El Paso Arraignment Court, a day or night Magistrate Court, and a temporary Court for no longer than one year,

ORDINANCE NO. \_\_\_\_\_

established with approval of City Council by resolution to provide efficient adjudication of a large number of pending cases caused by unforeseen circumstances.

**Section 2.** That the El Paso City Code Subsection 2.44.010(D) is hereby amended to read as follows:

D. Each Municipal Court shall be presided over by a Municipal Judge or, if a Municipal Judge is unavailable, one or more substitute Associate Judges.

**Section 3.** That the El Paso City Code Subsection 2.44.030(C) is hereby amended to read as follows:

C. The City Council may appoint one or more substitute Associate Municipal Judge to four-year terms, on full-time or part-time basis as necessary based on the advice of the City Manager through the Municipal Court Clerk, to sit, under the discretion and supervision of the Presiding Judge, for the regular judge of any Municipal Court when such regular judge is temporarily unable to act for any reason, or for any sub-court described in 2.44.010(B). Each substitute Associate Municipal Judge shall possess the same qualifications required of the regular Municipal Judges and shall have all the powers and duties of the Judge for whom such substitute Associate Municipal Judge is sitting while so acting.

**Section 4.** That the El Paso City Code Subsection 2.44.030(E)(1) is hereby amended to read as follows:

1. The Municipal Court Clerk will notify the City Manager of the vacancy or need for the council to make appointments.

**Section 5.** That the El Paso City Code Subsection 2.44.030(F) is hereby amended to read as follows:

Any substitute Associate Municipal Judge appointed pursuant to subsection C of this section may be assigned to serve as Arraignment Judge, Magistrate, or over a temporary court established under 2.44.010(B) under the supervision of the Presiding Municipal Judge. The duties of magistrate shall be those prescribed by the laws of the state, particularly the Code of Criminal Procedure, at the discretion of the Presiding Judge.

**Section 6.** That the El Paso City Code Subsection 2.44.040(A) is hereby amended to read as follows:

A. The following practice and procedure is established for the municipal courts of record of the city:

**ORDINANCE NO.** \_\_\_\_\_

1. In lieu of a physical arrest, or as otherwise provided by law, every police officer or other employee of the city who is charged with the responsibility of enforcement of any law or ordinance within the jurisdiction of the Municipal Courts of the city may issue a citation or notice of violation for any state law violation punishable only by fine, as defined in Article 4.14(c), Texas Code of Criminal Procedure, or for any violation of a municipal ordinance, regulation or rule.
2. Such citation or notice of violation shall contain all information required by the relevant Federal, State or Local law.
3. Every person, other than a person under the age established by state law as a juvenile, issued a citation may, in lieu of appearing at a hearing on the arraignment date set forth on the citation, make payment to the Municipal Court ~~Traffic Violations Bureau~~. Payment must be made in accordance with the procedures set forth in Section 2.44.060 of this Code.
4. Failure of any person cited in accordance with the provisions of this section to make arrangements for payment or to appear at the assigned arraignment date or a court hearing before the Municipal Courts of the city as herein required shall result in the immediate issuance of a *capias* as provided in Article 23.04, Texas Code of Criminal Procedure or summons directed to the individual cited.

**Section 7.** That the El Paso City Code Subsection 2.44.060 is hereby amended to read as follows:

**2.44.060 - Summons and citations—Fee schedule—Payments.**

- A. The Judges of the Municipal Courts may from time to time establish a schedule of amounts of money which may be paid at the by persons who have been issued traffic tickets or class "C" citations or notice of violation for violations of any offense, within the jurisdiction of the Municipal Court. The schedule shall be uniform for all the Municipal Courts. If the Judges do not all agree on the schedule, the agreement of a majority will be sufficient; and if no majority agreement is reached the matter may be determined by the Presiding Judge. The amount fixed in the schedule for each class of offense, or subdivision under a class, shall not be more than the largest fine which could be imposed therefor.
- B. Payment at the according to such schedule may be made (either in person, on-line, mail, phone, or electronically) by the person charged, or by an attorney at law authorized to represent him, or by any other person if such other person files with written authority therefore from the person charged.
- C. Within ten days after such payment is made the person charged may request the clerk or his deputy for a hearing on the case, and the clerk shall then put the case in the trial queue to await the setting of a trial date.

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D. If the person charged does not request a hearing within ten days the clerk shall report the case to the Presiding Judge, who may (either by separate written instrument or by endorsement of a list of cases in which trial has not been requested within ten days) accept the amount paid; and such acceptance shall constitute a finding of guilty in open court as though a plea of nolo contendere had been entered by the defendant; provided, the Judge may on his own motion refuse to accept the amount paid, and he shall then order the case set down for trial; and the Judge shall refuse to accept the amount and shall order the case set down for trial if the prosecuting attorney so requests.

E. If the Judge accepts the amount paid as herein set forth, such payment shall not thereafter be refunded, and the person charged shall be relieved of any duty thereafter to appear for trial on such violation.

F. The Municipal Court may accept payment agreements for amounts owed under this section.

G. The person charged shall not have the privilege of making the payment as set forth herein, and the Municipal Court ~~traffic violations bureau~~ shall not receive the payment, if in the particular case a Judge or a prosecuting attorney has instructed the court ~~the bureau~~ that such case will be tried and that the person charged is not to be released without making bail in one of the ways provided by law.

H. In lieu of making a payment fixed by the schedule herein set forth, the person charged shall have the right, if the person requests to ask for a court setting or giving bail as in other cases.

I. No Judge of the Municipal Court shall dismiss any case (whether a traffic violation or other charge) except at a trial in open court or upon motion of a prosecuting attorney.

**Section 8.** That the El Paso City Code Subsection 2.44.080 is hereby amended to read as follows:

**2.44.080 - Special expense fee.**

In accordance with Article 45.203, Texas Code of Criminal Procedure, each Municipal Court Judge may, as a result of the issuance and service of a warrant of arrest for an offense under Section 38.10, Texas Penal Code, or Section 543.009, Texas Transportation Code, impose a fee upon the subject of said warrant in the amount allowed by law, provided that a written notice of the warrant was sent to the subject at the address provided by the subject at the time of the issuance of the citation or other address provided by the subject to the court, whichever was provided later, and the subject failed to respond to the notice or contact the court.

**ORDINANCE NO.** \_\_\_\_\_

**Section 9.** That all other provisions of the El Paso City Code Chapter 2.44 remain unchanged.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

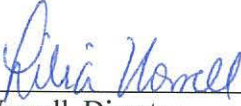
CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser  
Mayor


ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Lilia Worrell, Director  
El Paso Municipal Court

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kristen L. Hamilton-Karam  
Senior Assistant City Attorney

**ORDINANCE NO.** \_\_\_\_\_

**Section 1.** That the El Paso City Code Subsection 2.44.010(B) is hereby amended to read as follows:

There are created under the authority of Chapter 30, Texas Government Code, and successor statutes, four additional municipal courts which shall be styled respectively: the El Paso Municipal Court of Record No. 2; the El Paso Municipal Court of Record No. 3; the El Paso Municipal Court of Record No. 4; and the El Paso Municipal Court of Record No. 5. The presiding judge's court may include sub-courts under the direction and supervision of the Presiding Judge. Such sub-courts shall be presided over by one or more substitute associate judges appointed by City Council and may include: the El Paso Arraignment Court, a day or night Magistrate Court, and a temporary Court for no longer than one year, established with approval of City Council by resolution to provide efficient adjudication of a large number of pending cases caused by unforeseen circumstances.

**Section 2.** That the El Paso City Code Subsection 2.44.010(D) is hereby amended to read as follows:

D.

Each municipal court shall be presided over by a municipal judge and-or, if a municipal judge is unavailable, one or more substitute associate judges.

**Section 3.** That the El Paso City Code Subsection 2.44.030(C) is hereby amended to read as follows:

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C.

The city council may appoint one or more substitute associate municipal judge to four-year terms, s on full-time or part-time basis as necessary based on the advice of the City Manager through the Municipal Court Clerk, to sit, under the discretion and supervision of the presiding judge, for the regular judge of any municipal court when such regular judge is temporarily unable to act for any reason, or for any sub-court described in 2.44.010(B). ~~Such~~ ~~Each~~ substitute associate municipal judge shall possess the same qualifications required of the regular municipal judges and shall have all the powers and duties of the judge for whom such substitute associate municipal judge is sitting while so acting.

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**Section 4.** That the El Paso City Code Subsection 2.44.030(E)(1) is hereby amended to read as follows:

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1.

The municipal court clerk will notify the city manager of the vacancy or need for the council to make appointments.



**Section 5.** That the El Paso City Code Subsection 2.44.030(F) is hereby amended to read as follows:

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Any substitute associate municipal judge appointed pursuant to subsection C of this section may be assigned to serve as night magistrates arraignment judge, magistrate, or over a temporary court established under 2.44.010(B) under the supervision of the presiding municipal judge. The duties of ~~the night~~ magistrate shall be those prescribed by the laws of the state, particularly the Code of Criminal Procedure, at the discretion of the presiding judge.

**Section 6.** That the El Paso City Code Subsection 2.44.040(A) is hereby amended to read as follows:

A.

The following practice and procedure is established for the municipal courts of record of the city:

1.

In lieu of a physical arrest, or as otherwise provided by law, every police officer or other employee of the city who is charged with the responsibility of enforcement of any law or ordinance within the jurisdiction of the municipal courts of the city may issue a citation or notice of violation for any state law violation punishable only by fine, as defined in Article 4.14(c), Texas Code of Criminal Procedure, or for any violation of a municipal ordinance, regulation or rule.

2.

Such citation or notice of violation shall contain all information required by the relevant Federal, State or Local law, ~~the following information:~~

~~a-~~

~~The name and address of the person cited;~~

~~b-~~

~~The driver's license number or other identification sufficient to satisfactorily identify the person cited;~~

~~c-~~

~~The offense for which the person cited is charged;~~

~~d-~~

~~The date when the offense occurred;~~

e.

~~A written promise of the person cited to appear before the municipal courts on the assigned arraignment date set forth on the citation; and~~

f.

~~The location of the offense.~~

3.

Every person, other than a person under the age ~~of seventeen~~established by state law as a juvenile, issued a citation may, in lieu of appearing at a hearing on the arraignment date set forth on the citation, make payment to the Municipal Court Traffic Violations Bureau ~~within ten days of the date the citation was issued~~. Payment must be made in accordance with the procedures set forth in Section 2.44.060 of this Code.

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4.

Failure of any person cited in accordance with the provisions of this section to make arrangements for payment or to appear at the assigned arraignment date or a court hearing before the municipal courts of the city as herein required shall result in the immediate issuance of a ~~capias~~ as provided in Article 23.04, Texas Code of Criminal Procedure or summons directed to the individual cited.

Commented [HK1]: Do the Prosecutors request the issuance of the capias for failure to appear? It seems it is a "capias" for failure to appear.... Let's discuss. This is the statute cited: Art. 23.04. IN MISDEMEANOR CASE. In misdemeanor cases, the capias or summons shall issue from a court having jurisdiction of the case on the filing of an information or complaint. The summons shall be issued only upon request of the attorney representing the State and on the determination of probable cause by the judge, and shall follow the same form and procedure as in a felony case.

**Section 7.** That the El Paso City Code Subsection 2.44.060 is hereby amended to read as follows:

**2.44.060 - Summons and citations—Fee schedule—Payments.**

A.

The judges of the municipal courts may from time to time establish a schedule of amounts of money which may be paid at the ~~traffic violations bureau~~ by persons who have been ~~given issued~~ traffic tickets or class "C" citations or notice of violation for violations of any offense, within the jurisdiction of the municipal court. The schedule shall be uniform for all the municipal courts. If the judges do not all agree on the schedule, the agreement of a majority will be sufficient; and if no majority agreement is reached the matter may be determined by the presiding judge. The amount fixed in the schedule for each class of offense, or subdivision under a class, shall not be more than the largest fine which could be imposed therefor.

B.

Payment at the ~~traffic violations bureau~~ according to such schedule may be made (either in person, on-line, or by mail, phone, or electronically ) by the person charged, or by an attorney at law authorized to represent him, or by any other person if such other person files with ~~the traffic violations bureau~~ written authority therefore from the person charged.

C.

Within ten days after such payment is made the person charged may request the clerk or his deputy for a hearing on the case, and the clerk shall then put the case ~~on in~~ the trial ~~docket queue to await the setting of a trial date of the appropriate court.~~

D.

If the person charged does not request a hearing within ten days the clerk shall report the case to the presiding judge, who may (either by separate written instrument or by endorsement of a list of cases in which trial has not been requested within ten days) accept the amount paid; and such acceptance shall constitute a finding of guilty in open court as though a plea of nolo contendere had been entered by the defendant; provided, the judge may on his own motion refuse to accept the amount paid, and he shall then order the case set down for trial; and the judge shall refuse to accept the amount and shall order the case set down for trial if the prosecuting attorney so requests.

E.

If the judge accepts the amount paid as herein set forth, such payment shall not thereafter be refunded, and the person charged shall be relieved of any duty thereafter to appear for trial on such violation.

F.

The ~~municipal court may accept traffic violations bureau shall not receive any payment made set forth in this section in an amount less than the amount fixed by the schedule, except payment agreements for amounts owed under this section upon written direction of both a majority of the judges and a prosecuting attorney.~~

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Commented [WLA2]: The Court accepts less than the amount listed on the schedule. For example: mail payments

G.

The person charged shall not have the privilege of making the payment as set forth herein, and the ~~municipal court traffic violations bureau~~ shall not receive the payment, if in the particular case a judge or a prosecuting attorney has instructed ~~the court the bureau~~ that ~~he desires~~ such case ~~will to~~ be tried and that the person charged is not to be released without making bail in one of the ways provided by law.

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In lieu of making a payment fixed by the schedule herein set forth, the person charged shall have the right, if ~~he so~~ the person requests to ask for a court setting or giving bail as in other cases.

I.

No judge of the municipal court shall dismiss any case (whether a traffic violation or other charge) except at a trial in open court or upon motion of a prosecuting attorney.

**Section 8.** That the El Paso City Code Subsection 2.44.080 is hereby amended to read as follows:

**2.44.080 - Special expense fee.**

In accordance with Article 45.203, Texas Code of Criminal Procedure, each municipal court judge may, as a result of the issuance and service of a warrant of arrest for an offense under Section 38.10, Texas Penal Code, or Section 543.009, Texas Transportation Code, impose a ~~special expense~~ fee upon the subject of said warrant ~~in the amount of twenty-five dollars, in the amount allowed by law,~~ provided that a written notice of the warrant was sent to the subject ~~of said warrant~~ at the address provided by the subject at the time of the issuance of the citation or other address provided by the subject to the court, whichever was provided later, and ~~he or she~~ the subject failed to respond to the notice ~~and or~~ contact the court, ~~within ten days of the date the notice was sent.~~

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