

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

AGENDA DATE: June 4, 2024

PUBLIC HEARING DATE: June 11, 2024

CONTACT PERSON(S) NAME AND PHONE NUMBER: Lilia Worrell. (915) 212-5822
Annabelle Casas (915) 212-5205

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 2 – Set the Standard for a Safe and Secure City

SUBJECT:

An Ordinance amending TITLE 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.020 (Hearing Officers), Section 12.85.030 (Parking Citations), Section 12.85.050 (Hearings), Section 12.85.060 (Appeal); Section 12.85.065 (Final Judgments), and Section 12.85.100 (Boot Hearing) to amend 'Hearing Officer' to 'Municipal Associate Judge' and 'Municipal Associate Judge' to 'El Paso Municipal Court of Appeals' of the El Paso City Code.

BACKGROUND / DISCUSSION:

This ordinance amendment is to increase efficiency and allow substitute Associate Municipal Judges to preside over parking hearings under Title 12 – Vehicle and Traffic. All appeals would be heard by the Municipal Court of Appeals.

PRIOR COUNCIL ACTION:

April 14, 1992; March 22, 1994; April 8, 2008, August 15, 2023

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES NO

PRIMARY DEPARTMENT: Municipal Court

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

DEPARTMENT HEAD:



Lilia Worrell, Municipal Court

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.85 (PARKING VIOLATIONS BUREAU), SECTION 12.85.020 (HEARING OFFICERS), SECTION 12.85.030 (PARKING CITATIONS), SECTION 12.85.050 (HEARINGS), SECTION 12.85.060 (APPEAL), SECTION 12.85.065 (FINAL JUDGMENTS), AND SECTION 12.85.100 (BOOT HEARING) TO AMEND ‘HEARING OFFICER’ TO ‘MUNICIPAL ASSOCIATE JUDGE’ AND ‘MUNICIPAL ASSOCIATE JUDGE’ TO ‘EL PASO MUNICIPAL COURT OF APPEALS’ OF THE EL PASO CITY CODE.

WHEREAS, the City of El Paso wishes to amend Title 12, Chapter 12.85, Section 12.85.020 Hearing Officers, Section 12.85.030 Parking Citations, Section 12.85.050 Hearings, Section 12.85.060 Appeal, Section 12.85.065 Final Judgments, and Section 12.85.100 Boot Hearing to amend who hears appeals in this section from ‘hearing officer’ to ‘municipal associate judge’ and ‘municipal associate judge’ to ‘El Paso Municipal Court of Appeals.’

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

SECTION 1. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.020 (Hearing Officers), is hereby amended to read as follows:

- A. The parking violations division shall have one or more municipal associate judges who are employed in the position of municipal court hearing officer or are otherwise assigned the duties and responsibilities of such position. A substitute associate municipal judge may substitute as a hearing officer when needed.
- B. Municipal associate judges shall have the authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents.
- C. An order compelling the attendance of witnesses or the production of documents may be enforced by the municipal courts.

SECTION 2. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.030 (Parking Citations), subsection C. is hereby amended to read as follows:

- C. The citation shall provide that the person charged with a parking, standing or stopping offense shall have the right to an instant hearing for the purpose of determining the issue of liability for the charged offense. Such right to a hearing shall be exercised by appearing in person before a municipal associate judge within fourteen days from the date of the citation on a day of the week established by the municipal court for the routine operation of the courts. During such times that Monday through Thursday are established as the court's operation days and the court is open, hearings will be held between the hours of 7:30 a.m. to 12:45 p.m. and 2:00 p.m. to 5:45 p.m. During such times that Monday through Friday are established as the court's operation days and the court is open, hearings will be held between the hours of 8:30 a.m. to 12:45 p.m. and 2:00 p.m. to 5:15 p.m. The municipal clerk shall post the schedule of days of operation at the court and on the city's website.

SECTION 3. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.050 (Hearings), is hereby amended to read as follows:

- A. At the hearing before the municipal associate judge, the defendant may either admit, admit with explanation, or deny the alleged infraction.
- B. The issuing peace officer or other authorized parking enforcement agent shall not be required to attend the hearing.
- C. It is not required that the city be represented by counsel at the hearing; provided, however, that if the defendant is represented by counsel at the hearing, the municipal associate judge shall notify the municipal court clerk, who shall have the right to arrange for the city to be represented by an assistant city attorney.
- D. Neither a complaint nor any other charging instrument is required. The municipal associate judge shall examine the contents of the citation and the evidence related to ownership of the vehicle in question, and shall hear and review the testimony and evidence presented by the defendant. The formal rule of evidence do not apply to a hearing under this section, and the municipal associate judge shall make his decision based upon a preponderance of the evidence presented at the hearing, after giving due weight to all presumptions and prima facie evidence established by this chapter or other applicable law.
- E. At the conclusion of the hearing, the municipal associate judge shall issue an order stating whether or not the person charged is liable for violation of the parking or stopping ordinance and the amount of the fine, costs or fees assessed against him. The order shall be filed with the municipal court clerk. All such orders shall be kept in a separate index or file by the municipal court clerk using appropriate data processing techniques.
- F. Failure of a person charged with the offense to appear at a hearing within the aforesaid fourteen-day period shall be considered an admission of liability for the charged offense.
- G. In accordance with Article 102.014(b), Texas Code of Criminal Procedure, a municipal associate judge shall impose a court cost of two dollars on each parking violation in which a fine, costs or fee is paid or assessed. This court cost may be enforced in the manner set forth in Section 12.85.070.

SECTION 4. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.060 (Appeal), is hereby amended to read as follows:

- A. A person determined by the municipal associate judge to be in violation of a parking or stopping ordinance may appeal this determination to the El Paso Municipal Court of Appeals.
- B. The appeal is initiated by filing, not later than the thirtieth day after the filing of the municipal associate judge's order, a petition with the clerk of the court along with payment of the costs required by law for the municipal court. Additionally, a filing fee in the amount of ten dollars must be paid at the time the petition is filed. This ten dollar filing fee will be refunded in the

event the municipal associate judge's order is reversed by the El Paso Municipal Court of Appeals.

- C. After filing a petition of appeal, the municipal court clerk shall schedule a hearing and notify all parties of the date, time and place of the hearing.
- D. The appeal hearing must be before the El Paso Municipal Court of Appeals and is a civil proceeding for the purpose of affirming or reversing the municipal associate judge's order based upon a review of a record of the evidence presented to the municipal associate judge. The El Paso Municipal Court of Appeals shall affirm the municipal associate judge's order if there is substantial evidence in the record to support the order. The decision of the El Paso Municipal Court of Appeals is final.
- E. The filing of an appeal under this section does not stay the enforcement and collection of the judgment unless the person who files the appeal posts a cash bond before filing notice of appeal with the municipal court clerk. The cash bond shall be in the amount of all fines, costs and fees assessed by the municipal associate judge.

SECTION 5. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.065 (Final Judgments), Subsection A.2. is hereby amended to read as follows:

- A.2. A municipal associate judge's order finding a person to be in violation of a provision of this code regarding the stopping, standing or parking of a vehicle as set forth in Section 12.84.010 A. of this Code, upon the passage of thirty days from the filing of the municipal associate judge's order, without that person filing a petition of appeal together with all required costs and fees and without said fine having been paid; or

SECTION 6. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.100 (Boot Hearing) is hereby amended to read as follows:

- A. The registered owner of an immobilized or impounded vehicle shall have the right to a prompt post-immobilization hearing ("boot hearing") before the municipal associate judge.
- B. The request for a boot hearing shall be made in writing on a form supplied by the city.
- C. The boot hearing shall be held within twenty-four hours following the written request therefor, excluding Saturdays, Sundays, and city holidays, at the municipal courts building, or at such other convenient and reasonable place as the municipal associate judge may direct.
- D. The issue to be determined at the boot hearing is whether the immobilization was authorized by law.
- E. The immobilization of a vehicle is valid if it complies with the requirements of this chapter, unless the owner of the subject vehicle can establish by a preponderance of the evidence that an unauthorized person operated such vehicle at the time and place in question.

F. The determination of the municipal associate judge at the boot hearing is final and shall not be subject to appeal.

SECTION 7. Except as herein amended, Title 12 of the El Paso City Code shall remain in full force and effect.

(Signatures begin on following page)

ADOPTED this ____ day of _____, 2024.

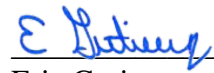
CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Eric Gutierrez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Lilia A. Worrell, Director
El Paso Municipal Court

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.85 (PARKING VIOLATIONS BUREAU), SECTION 12.85.020 (HEARING OFFICERS), SECTION 12.85.030 (PARKING CITATIONS), SECTION 12.85.050 (HEARINGS) TO INCREASE CHILD SAFETY FUND FINE TO FIVE DOLLARS, SECTION 12.85.060 (APPEAL), SECTION 12.85.065 (FINAL JUDGMENTS), AND SECTION 12.85.100 (BOOT HEARING) TO AMEND 'HEARING OFFICER' TO 'MUNICIPAL ASSOCIATE JUDGE' AND 'MUNICIPAL ASSOCIATE JUDGE' TO 'EL PASO MUNICIPAL COURT OF APPEALS' OF THE EL PASO CITY CODE.

WHEREAS, the City of El Paso wishes to amend Title 12, Chapter 12.85, Section 12.85.020 Hearing Officers, Section 12.85.030 Parking Citations, Section 12.85.050 Hearings, Section 12.85.060 Appeal, Section 12.85.065 Final Judgments, and Section 12.85.100 Boot Hearing to amend who hears appeals in this section from 'hearing officer' to 'municipal associate judge;' and

WHEREAS, the City of El Paso wishes to further amend Title 12, Chapter 12.85, Section 12.85.050 Hearings to increase the Child Safety Fund fine to no more than five dollars, pursuant to Texas Code of Criminal Procedure Art. 102.014. Fines for Child Safety Fund.

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

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- A. The parking violations division shall have one or more ~~hearing officers~~ municipal associate judges who are employed in the position of municipal court hearing officer or are otherwise assigned the duties and responsibilities of such position. A substitute associate municipal judge may substitute as a hearing officer when needed.
- B. ~~Hearing officers~~ Municipal associate judges shall have the authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents.
- C. An order compelling the attendance of witnesses or the production of documents may be enforced by the municipal courts.

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- C. The citation shall provide that the person charged with a parking, standing or stopping offense shall have the right to an instant hearing for the purpose of determining the issue of liability for the charged offense. Such right to a hearing shall be exercised by appearing in person before a municipal associate judge ~~hearing officer~~ within fourteen days from the date of the citation on a day of the week established by the municipal court for the routine operation of the courts. During such times that Monday through Thursday are established as the court's operation days and the court is open, hearings will be held between the hours of 7:30 a.m. to

12:45 p.m. and 2:00 p.m. to 5:45 p.m. During such times that Monday through Friday are established as the court's operation days and the court is open, hearings will be held between the hours of 8:30 a.m. to 12:45 p.m. and 2:00 p.m. to 5:15 p.m. The municipal clerk shall post the schedule of days of operation at the court and on the city's website.

SECTION 3. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.050 (Hearings), is hereby amended to read as follows:

- A. At the hearing before the ~~hearing officer~~municipal associate judge, the defendant may either admit, admit with explanation, or deny the alleged infraction.
- B. The issuing peace officer or other authorized parking enforcement agent shall not be required to attend the hearing.
- C. It is not required that the city be represented by counsel at the hearing; provided, however, that if the defendant is represented by counsel at the hearing, the ~~hearing officer~~municipal associate judge shall notify the municipal court clerk, who shall have the right to arrange for the city to be represented by an assistant city attorney.
- D. Neither a complaint nor any other charging instrument is required. The ~~hearing officer~~municipal associate judge shall examine the contents of the citation and the evidence related to ownership of the vehicle in question, and shall hear and review the testimony and evidence presented by the defendant. The formal rule of evidence do not apply to a hearing under this section, and the ~~hearing officer~~municipal associate judge shall make his decision based upon a preponderance of the evidence presented at the hearing, after giving due weight to all presumptions and prima facie evidence established by this chapter or other applicable law.
- E. At the conclusion of the hearing, the ~~hearing officer~~municipal associate judge shall issue an order stating whether or not the person charged is liable for violation of the parking or stopping ordinance and the amount of the fine, costs or fees assessed against him. The order shall be filed with the municipal court clerk. All such orders shall be kept in a separate index or file by the municipal court clerk using appropriate data processing techniques.
- F. Failure of a person charged with the offense to appear at a hearing within the aforesaid fourteen-day period shall be considered an admission of liability for the charged offense.
- G. In accordance with Article 102.014(b), Texas Code of Criminal Procedure, a ~~hearing officer~~municipal associate judge shall impose a court cost of ~~two-five~~ dollars on each parking violation in which a fine, costs or fee is paid or assessed. This court cost may be enforced in the manner set forth in Section 12.85.070.

SECTION 4. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.060 (Appeal), is hereby amended to read as follows:

- A. A person determined by the ~~hearing officer~~municipal associate judge to be in violation of a parking or stopping ordinance may appeal this determination to the El Paso Municipal Court of Appeals~~municipal courts~~.
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- C. After filing a petition of appeal, the municipal court clerk shall schedule a hearing and notify all parties of the date, time and place of the hearing.
- D. The appeal hearing must be before ~~the El Paso Municipal Court of Appeals~~a municipal court judge and is a civil proceeding for the purpose of affirming or reversing the ~~hearing officer~~municipal associate judge's order based upon a review of a record of the evidence presented to the ~~hearing officer~~municipal associate judge. The El Paso Municipal Court of Appeals~~municipal court judge~~ shall affirm the ~~hearing officer~~municipal associate judge's order if there is substantial evidence in the record to support the order. The decision of the EL Paso Municipal Court of Appeals~~municipal court judge~~ is final.
- E. The filing of an appeal under this section does not stay the enforcement and collection of the judgment unless the person who files the appeal posts a cash bond before filing notice of appeal with the municipal court clerk. The cash bond shall be in the amount of all fines, costs and fees assessed by the ~~hearing officer~~municipal associate judge.

SECTION 5. That Title 12 (Vehicles and Traffic), Chapter 12.85 (Parking Violations Bureau), Section 12.85.065 (Final Judgments), Subsection A.2. is hereby amended to read as follows:

- A.2. A ~~hearing officer~~municipal associate judge's order finding a person to be in violation of a provision of this code regarding the stopping, standing or parking of a vehicle as set forth in Section 12.84.010 A. of this Code, upon the passage of thirty days from the filing of the ~~hearing officer~~municipal associate judge's order, without that person filing a petition of appeal together with all required costs and fees and without said fine having been paid; or

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- B. The request for a boot hearing shall be made in writing on a form supplied by the city.

- C. The boot hearing shall be held within twenty-four hours following the written request therefor, excluding Saturdays, Sundays, and city holidays, at the municipal courts building, or at such other convenient and reasonable place as the ~~hearing officer~~municipal associate judge may direct.
- D. The issue to be determined at the boot hearing is whether the immobilization was authorized by law.
- E. The immobilization of a vehicle is valid if it complies with the requirements of this chapter, unless the owner of the subject vehicle can establish by a preponderance of the evidence that an unauthorized person operated such vehicle at the time and place in question.
- F. The determination of the ~~hearing officer~~municipal associate judge at the boot hearing is final and shall not be subject to appeal.

SECTION 7. Except as herein amended, Title 12 of the El Paso City Code shall remain in full force and effect.

(Signatures begin on following page)

ADOPTED this ____ day of _____, 2024.

CITY OF EL PASO:

Oscar Leeson
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Eric Gutierrez
Assistant City Attorney

APPROVED AS TO CONTENT:

Lilia A. Worrell, Director
El Paso Municipal Court