

**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 9 (Health and Safety) Chapter 9.20 (Social Host Accountability Ordinance), Section 9.20.100 (Hearings on the Imposition of Civil Penalty- Appeals) to amend "Administrative Hearing officer" with " Municipal Associate Judge" of the El Paso City Code.

BACKGROUND / DISCUSSION:

This ordinance amendment is to increase efficiency and allow Municipal Associate Judges to preside over social host hearings under Title 9 - Transportation for Hire, Chapter 9.2 – Social Host Accountability, Section 9.20.100 -Hearings on the imposition of civil penalty appeals.

PRIOR COUNCIL ACTION:

December 6, 2016

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

Lilia Worrell, Municipal Court

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.20 (SOCIAL HOST ACCOUNTABILITY ORDINANCE), SECTION 9.20.100 (HEARINGS ON THE IMPOSITION OF CIVIL PENALTY—APPEALS) TO AMEND ‘ADMINISTRATIVE HEARING OFFICER’ TO ‘MUNICIPAL ASSOCIATE JUDGE’ OF THE EL PASO CITY CODE.

WHEREAS, the City of El Paso wishes to amend Title 9, Chapter 9.20, Section 9.20.100 Hearings on the Imposition of Civil Penalty—Appeals to amend who hears appeals in this section from ‘administrative hearing officer’ to ‘municipal associate judge.’

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

SECTION 1. That Title 9 (Health and Safety), Chapter 9.20 (Social Host Accountability Ordinance), Section 9.20.100 (Hearings on the Imposition of Civil Penalty—Appeals), is hereby amended to read as follows:

- A. Appointment of an Administrative Hearing Officer. The city council hereby appoints the municipal ~~associate judge~~~~court administrative hearing officer~~ to act as the administrative hearing officer (~~"hearing officer"~~).
- B. When the police department issues a written notice of violation pursuant to this chapter, said notice shall include the information required by Section 9.20.080 under this chapter. In the case of a person present at a gathering involving underage drinking, the notice will be directly given to the person who commits the violation. In the case of a person who was not present at the gathering, the notice will be given to the person by depositing it in the United States Postal Service mail to the address as identified by the police department. In the case of the parent of a juvenile receiving a notice of violation, the notice will be given to the parent by personal delivery or by depositing it in the United States Postal Service mail to the address provided by the juvenile at the time of the incident or other address as identified by the police department.
- C. The written notice of violation will include a notice provision informing the person responsible for the gathering of his right to appeal the notice of violation by submitting a written notice requesting an administrative hearing before the ~~administrative-municipal associate judge~~~~hearing officer~~. The applicant, referred to as the appellant for purposes of the appeal, will submit the written statement to the police chief not later than the twentieth city business day after the date of the written notice of violation. The appellant's written statement requesting the appeal shall clearly state why the appellant contends that there is not a valid basis for the issuance of the notice of violation pursuant to this chapter.
- D. If the appellant submits a written statement appealing the notice of violation, the police chief, or designee(s), will immediately contact the ~~administrative hearing officer~~~~municipal associate judge~~ in order to schedule a hearing. The notice of the hearing will specify a hearing date, not less than fifteen city business days nor more than thirty city business days

after the date the appellant submits the written request for an administrative hearing. The ~~administrative hearing officer~~municipal associate judge will conduct a hearing on the notice of violation. The hearing may be continued to a sooner or later date by agreement of the parties, and with the ~~administrative hearing officer~~municipal associate judge's approval, or upon the finding of good cause by the ~~administrative hearing officer~~municipal associate judge for the granting of an earlier or later hearing date.

- E. At the hearing, the appellant will have the opportunity to present all of the appellant's arguments and to be represented by counsel at appellant's expense, present evidence and witnesses on his behalf, and cross-examine any of the police department's witnesses. The police chief, or designee, who may also be represented by counsel, bears the burden of proving the grounds for the notice of violation by a preponderance of the evidence. The hearing will take no longer than one business day, unless extended by agreement of the parties or at the request of either party, and with approval of the ~~hearing officer~~municipal associate judge, to meet the requirements of due process and the proper administration of justice.
- F. The ~~administrative hearing officer~~municipal associate judge will issue a written decision, to the respondent within five city business days from the completion of the hearing. The ~~administrative hearing officer~~municipal associate judge's decision is final.
- G. If the ~~administrative hearing officer~~municipal associate judge's decision finds that no grounds exist for the notice of violation, the ~~administrative hearing officer~~municipal associate judge will, contemporaneously with the issuance of the decision, order the police chief to immediately withdraw the notice of violation and notify the appellant in writing by mail of such action. If the decision is to uphold the notice of violation, the decision will become effective on the fourteenth calendar day after it is rendered. If the ~~administrative hearing officer~~municipal associate judge upholds a notice of violation, the appellant has the following three options:
1. The appellant may pay the civil penalty.
 2. The appellant may request the option to attend an alcohol education class as identified or approved by the director of the department of public health.
 - a. If the appellant requests the option to attend an alcohol education class, the final decision of the ~~administrative hearing officer~~municipal associate judge shall be abated for ninety days to allow the appellant to complete said class. Upon the appellant's timely completion of said class and provision of proof of same to the ~~administrative hearing officer~~municipal associate judge, the notice of violation which led to appellant attending the class shall be satisfied.
 - b. If the appellant fails to complete the alcohol education class within said ninety days, a civil penalty in lieu of said class shall be assessed upon the appellant, which civil penalty shall be paid within ten days.
 3. The appellant may request the option to perform community service, and the final decision of the ~~administrative hearing officer~~municipal associate judge shall be abated for ninety days to allow the appellant to fulfill their community service under the following criteria:

- a. For a first violation, the person responsible for the gathering shall perform six hours of community service;
 - b. For a second violation, the person responsible for the gathering shall perform twelve hours of community service; and
 - c. For a third or subsequent violation, the person responsible for the gathering shall perform eighteen hours of community service.
 - d. Upon the appellant's timely completion of said community service and provision of proof of same to the ~~administrative hearing officer~~ municipal associate judge, the notice of violation which led to appellant providing the community service shall be satisfied.
 - e. If the appellant fails to complete the community service within said ninety days, a civil penalty in lieu of said class shall be assessed upon the appellant, which civil penalty shall be paid within ten days.
- H. If the decision results in the withdrawal of a notice of violation as to a civil penalty, the withdrawal shall be effective only as to that specific violation, and any other violations of this chapter shall remain intact.
- I. If the ~~hearing officer~~ municipal associate judge's final decision upholds the notice of violation, the appellant must pay the applicable civil penalty within thirty days of the decision.

SECTION 2. Except as herein amended, Title 9 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 9 (HEALTH AND SAFETY), CHAPTER 9.20 (SOCIAL HOST ACCOUNTABILITY ORDINANCE), SECTION 9.20.100 (HEARINGS ON THE IMPOSITION OF CIVIL PENALTY—APPEALS) TO AMEND ‘ADMINISTRATIVE HEARING OFFICER’ TO ‘MUNICIPAL ASSOCIATE JUDGE’ OF THE EL PASO CITY CODE.

WHEREAS, the City of El Paso wishes to amend Title 9, Chapter 9.20, Section 9.20.100 Hearings on the Imposition of Civil Penalty—Appeals to amend who hears appeals in this section from ‘administrative hearing officer’ to ‘municipal associate judge.’

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

SECTION 1. That Title 9 (Health and Safety), Chapter 9.20 (Social Host Accountability Ordinance), Section 9.20.100 (Hearings on the Imposition of Civil Penalty—Appeals), is hereby amended to read as follows:

- A. Appointment of an Administrative Hearing Officer. The city council hereby appoints the municipal associate judge to act as the administrative hearing officer.
- B. When the police department issues a written notice of violation pursuant to this chapter, said notice shall include the information required by Section 9.20.080 under this chapter. In the case of a person present at a gathering involving underage drinking, the notice will be directly given to the person who commits the violation. In the case of a person who was not present at the gathering, the notice will be given to the person by depositing it in the United States Postal Service mail to the address as identified by the police department. In the case of the parent of a juvenile receiving a notice of violation, the notice will be given to the parent by personal delivery or by depositing it in the United States Postal Service mail to the address provided by the juvenile at the time of the incident or other address as identified by the police department.
- C. The written notice of violation will include a notice provision informing the person responsible for the gathering of his right to appeal the notice of violation by submitting a written notice requesting an administrative hearing before the municipal associate judge. The applicant, referred to as the appellant for purposes of the appeal, will submit the written statement to the police chief not later than the twentieth city business day after the date of the written notice of violation. The appellant's written statement requesting the appeal shall clearly state why the appellant contends that there is not a valid basis for the issuance of the notice of violation pursuant to this chapter.
- D. If the appellant submits a written statement appealing the notice of violation, the police chief, or designee(s), will immediately contact the municipal associate judge in order to schedule a hearing. The notice of the hearing will specify a hearing date, not less than fifteen city business days nor more than thirty city business days

after the date the appellant submits the written request for an administrative hearing. The municipal associate judge will conduct a hearing on the notice of violation. The hearing may be continued to a sooner or later date by agreement of the parties, and with the municipal associate judge's approval, or upon the finding of good cause by the municipal associate judge for the granting of an earlier or later hearing date.

- E. At the hearing, the appellant will have the opportunity to present all of the appellant's arguments and to be represented by counsel at appellant's expense, present evidence and witnesses on his behalf, and cross-examine any of the police department's witnesses. The police chief, or designee, who may also be represented by counsel, bears the burden of proving the grounds for the notice of violation by a preponderance of the evidence. The hearing will take no longer than one business day, unless extended by agreement of the parties or at the request of either party, and with approval of the municipal associate judge, to meet the requirements of due process and the proper administration of justice.
- F. The municipal associate judge will issue a written decision, to the respondent within five city business days from the completion of the hearing. The municipal associate judge's decision is final.
- G. If the municipal associate judge's decision finds that no grounds exist for the notice of violation, the municipal associate judge will, contemporaneously with the issuance of the decision, order the police chief to immediately withdraw the notice of violation and notify the appellant in writing by mail of such action. If the decision is to uphold the notice of violation, the decision will become effective on the fourteenth calendar day after it is rendered. If the municipal associate judge upholds a notice of violation, the appellant has the following three options:
 - 1. The appellant may pay the civil penalty.
 - 2. The appellant may request the option to attend an alcohol education class as identified or approved by the director of the department of public health.
 - a. If the appellant requests the option to attend an alcohol education class, the final decision of the municipal associate judge shall be abated for ninety days to allow the appellant to complete said class. Upon the appellant's timely completion of said class and provision of proof of same to the municipal associate judge, the notice of violation which led to appellant attending the class shall be satisfied.
 - b. If the appellant fails to complete the alcohol education class within said ninety days, a civil penalty in lieu of said class shall be assessed upon the appellant, which civil penalty shall be paid within ten days.
 - 3. The appellant may request the option to perform community service, and the final decision of the municipal associate judge shall be abated for ninety days to allow the appellant to fulfill their community service under the following criteria:

- a. For a first violation, the person responsible for the gathering shall perform six hours of community service;
 - b. For a second violation, the person responsible for the gathering shall perform twelve hours of community service; and
 - c. For a third or subsequent violation, the person responsible for the gathering shall perform eighteen hours of community service.
 - d. Upon the appellant's timely completion of said community service and provision of proof of same to the municipal associate judge, the notice of violation which led to appellant providing the community service shall be satisfied.
 - e. If the appellant fails to complete the community service within said ninety days, a civil penalty in lieu of said class shall be assessed upon the appellant, which civil penalty shall be paid within ten days.
- H. If the decision results in the withdrawal of a notice of violation as to a civil penalty, the withdrawal shall be effective only as to that specific violation, and any other violations of this chapter shall remain intact.
- I. If the municipal associate judge's final decision upholds the notice of violation, the appellant must pay the applicable civil penalty within thirty days of the decision.

SECTION 2. Except as herein amended, Title 9 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 Leaser
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