



City of Elkins

Rules and Ordinances Committee Meeting

May 6, 2024

3:30 PM

401 Davis Avenue

Council Chamber, 2nd Floor

Charter Authority of the Rules & Ordinances Committee: Consider and propose to Council new and amended ordinances, rules, and policies.

AGENDA

- 1. Call to order and roll call**
- 2. Public comment**
- 3. Minutes**
 - a. Proposed minutes for the meeting of April 1, 2024
- 4. New business**
 - a. Revised policy for use of the downtown sound system
- 5. Announcements**
- 6. Adjournment**



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	May 6, 2024
Section:	Minutes
Category:	Action Item
Agenda Item Name:	Proposed minutes for the meeting of April 1, 2024
Recommended By:	
Summary:	
Fiscal Impact:	
Recommendation:	
Attachments:	1. rules & ordinances - 2024_04_01 - minutes_proposed

**RULES AND ORDINANCES COMMITTEE
REGULAR MEETING
MINUTES**

*401 Davis Avenue
City Hall, Council Chambers
April 1, 2024
3:30 p.m.*

Present were Committee Members: C. Lowther (chair), A. Carroll, L. Severino.

Also present were: Jerry Marco (mayor), Mike Kesecker (operations manager), Gerry Roberts (city attorney), Tracy Judy (treasurer), Steve Himes (fire chief), Travis Bennett (police chief), Melissa Washington (human resources), J. Deighan (communications), and Sutton Stokes (city clerk).

PUBLIC COMMENT

MINUTES

XYZ MOVED APPROVAL OF THE MINUTES OF THE MEETING OF MARCH 4, 2024. The motion carried.

NEW BUSINESS

- a. Proposal to establish a TIF Advisory Committee*

Severino MOVED RECOMMENDING COUNCIL APPROVAL OF AN ORDINANCE ESTABLISHING A TIF ADVISORY COMMITTEE. The motion carried.

- b. Proposal to create Private Outdoor Designated Area*

Carroll presented information about Private Outdoor Designated Areas (state code allowing open containers outdoors in a limited area under certain rules).

The meeting adjourned at 3:47 p.m.

Name & Title

Signature



CITY OF ELKINS AGENDA ITEM REPORT

Meeting Date:	May 6, 2024
Section:	New business
Category:	Action Item
Agenda Item Name:	Revised policy for use of the downtown sound system
Recommended By:	City Clerk
Summary:	An updated policy for use of the downtown sound system is attached.
Fiscal Impact:	<p>Would impose fees as follows:</p> <ul style="list-style-type: none"> • \$50 application fee for use of the downtown sound system by outside organization • Additional daily \$50 fee for organizations accessing direct control of system <p>Cost of system to city:</p> <p>In addition to the \$20,000 cost of purchasing and installing this system, the annual cost for licensing and software is approximately \$1,300.</p>
Recommendation:	Consider for recommendation to council
Attachments:	1. Downtown Sound System Policy draft - 2024_05_03

Downtown Sound System Policy - Draft

City of Elkins controls access to an outdoor sound system that includes speakers mounted on utility poles along Davis Avenue from city hall to Second Street and along Third Street from the Elkins Depot Welcome Center to Kerens Avenue. This system enables the broadcast of public service announcements and/or playing music during downtown events.

The city sponsors daily music programs during the Mountain State Forest Festival and the holiday season. During the rest of the year, as a courtesy, the city also makes this system available to the organizers of downtown events for music programming. For these events, organizers are charged a nominal fee for use of the downtown sound system. This fee covers the cost of staff time, music licensing, and the streaming app the city uses to play music over the system.

In addition to the \$20,000 cost of purchasing and installing this system, the annual cost for licensing and software is approximately \$1,300.

Standard Use of the Downtown Sound System

The standard method for playing music over the downtown sound system is as follows:

- Organizers apply for BOTH an event permit and a permit for use of the downtown sound system. There is a standard \$50 application fee for use of the downtown sound system.
- Staff reviews and approves these applications as appropriate.
- Staff plans the music program with the event organizer. The app used by the city offers numerous playlists organized by season, genre, and style. Through consultation, staff and the organizer will select from these playlists for the event. Staff and the organizer will also plan the times during which music may be played.

The following conditions apply to all uses of the downtown sound system:

- Music will only be programmed to play during the active hours of the approved event. Music will not be programmed earlier than 9 a.m. or later than 7 p.m.
- Because of the impact of downtown music on residents and others who may not be participating in the event, music played over the system must in the judgement of city staff be appropriate for all ages and audiences.
- Only music may be played over the downtown sound system. Speeches and other spoken-word material will not be allowed.

Direct Control in Special Circumstances

Under special circumstances, highly qualified organizations may be permitted to exercise direct control of the system, including microphone access for announcements and the ability to play self-selected music from their own equipment. Only organizations that, in the judgement of city staff, have qualified sound personnel will be permitted to have direct control of the downtown sound system.

These organizations must supply their own audio devices, mixers, microphones, cables, and other equipment necessary to use the system. We will provide a direct XLR input at one of the two access points on Third Street, but the city does not lend or rent out audio equipment.

Organizations seeking direct control must make the following certifications to the city:

- Only qualified personnel will be allowed to make use of the system.
- The organization will play music that, in the judgement of staff, is appropriate for all ages and audiences. The organization will not play speeches or other spoken-word material.
- The organization understands that it is responsible for and must secure all appropriate music licensing (approximately \$800 in annual costs). Failure to do so opens the organization, not the city, to legal action by the licensing authorities.
- The organization understands that Spotify, Amazon Music, Apple Music, and similar music streaming apps are intended for private use only. The terms of service of these apps prohibit them from being used for public performances such as broadcasting over the downtown sound system. Violating these terms of service opens the organization, not the city, to legal action by these companies.
- The organization understands that direct control of the system poses a risk of excessive feedback or other problems that could cause significant damage to this \$20,000 system. The organization agrees to reimburse the city for any damage caused during its direct control of the system.

The steps for organizations seeking direct control of the system are as follows:

- Organizers apply for BOTH an event permit and a permit for use of the downtown sound system. In addition to the standard \$50 application fee for use of the downtown sound system, organizations seeking direct control of the system must pay a daily \$50 service charge to defray the cost of additional staff time required for setup and activation/deactivation.
- Staff reviews and approves these applications as appropriate.
- Staff plans the schedule of the music program with the event organizer. Staff will activate and deactivate the system before and after the program, to prevent damage or misuse.

Right to Refuse

City staff may decline to approve any use of the downtown sound system that seems excessive, disruptive, provocative, or otherwise inappropriate for the downtown setting for any other reason.

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Additional assets needed if approved:

- Form for acknowledging need for licenses
- Form for acknowledging can't use consumer streaming apps
- Form for acknowledging will reimburse in case of damage
- Updated event indemnification to include pledge to defend if sued about licensing