Dedicated to Outstanding Customer Service for a Better Community

S E R V I C E S O L U T I O N S S U C C E S S

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

DEPARTMENT: Development Services Department

AGENDA DATE: Introduction: February 16, 2009
Public Hearing: February 24, 2009

CONTACT PERSON: Victor Q. Torres, Director, 541-4975

DISTRICTS AFFECTED: 1, 2, 3, 4, 5, 6, 7, 8

SUBJECT: An ordinance repealing Title 17 (Housing), Chapter 17.16 (Inspections and Certificates) of the El Paso Municipal Code.

BACKGROUND: The current ordinance requires that persons owning multifamily apartment buildings 4-plex and larger obtain a Gas Heating Permit from the City. The permit application must be accompanied by a licensed plumber's certification that each heating unit had been inspected for proper operation and tested for carbon monoxide emissions. Time frames were set for testing and licensing annually.

In September, 2008, Mr. Jim Erickson contacted Representative Byrd asking for review of the dates to simplify the licensing procedure. Amendments were drafted and meetings held to assure that date adjustments met both the owner's and the occupant's needs.

In January, 2009, consensus text was agreed upon, with input from the El Paso Apartment Association and property owners. Staff conducted research in eight other Texas cities to assure that our proposal was consistent with their ordinances. It was discovered the none of the cities required carbon monoxide testing in apartments, and no annual licensing procedure was in force. Maintenance requirements for heating, air conditioning, plumbing, and electrical fixtures is covered by the International Building Code, International Property Maintenance Code, and 18.02.101.3.5 (Maintenance) of the El Paso Municipal Code. This permit and certification procedure generated $31,248 in FY 2008,

RECOMMENDATION: The Department believes that the carbon monoxide safety issue is addressed in existing ordinances. The El Paso ordinance places an undue requirement on multifamily apartment owners, but not single family, duplex or triplex residential rental unit property owners. Staff recommends that this portion of the Code be repealed.

ATTACHMENTS: An ordinance repealing Chapter 17. 16; existing Chapter 17.16; Survey of Texas Cities; a letter from Mr. Jim Erickson dated September 22, 2008; an e-mail from Suzy S. Hicks dated January 31, 2009 supporting repeal of the ordinance.

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

District 4
Melina Castro

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

Development Services Department
Victor Q. Torres - Director
2 Civic Center Plaza – 5th Floor · El Paso, Texas 79901 · (915) 541-4622 · Fax (915) 541-4799

ORDINANCE NO. _____

AN ORDINANCE REPEALING TITLE 17 (HOUSING), CHAPTER 17.16 (INSPECTIONS AND CERTIFICATES) OF THE EL PASO CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Title 17 (Housing), Chapter 17.16 (Inspections and Certificates) of the El Paso City Code shall be and hereby is repealed.

Section 2. Except as expressly herein amended, Title 17 (Housing) of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED THIS ____ DAY OF_____, 2009.

THE CITY OF EL PASO:

ATTEST:

_____
John F. Cook, Mayor

_____
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:

Victor Q. Torres, Director
Development Services Department

45701: Gas Heating Inspection – repeal ordnance - 2/09 MSHO

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SERVICE SOLUTIONS SUCCESS

MEMORANDUM

To: Victor Torres, Director

From: Jim Fraser, Ombudsman

Date: January 13, 2009

Subject: Texas City Survey of Gas Heater Regulations

The Department is preparing amendments to the City's *Title 17.16 Gas Heating* ordinance. On December 30, 2008, you requested information concerning inspection, and carbon monoxide testing of gas heaters in multifamily dwelling units in other Texas cities.

Annual inspections of gas heaters and carbon monoxide testing in multi-family dwelling units are not being done in any other city. San Antonio offers a Maintenance Permit, allowing apartment maintenance personnel to perform permitted plumbing and mechanical work, as we do in El Paso. Fort Worth performs a gas test, not carbon monoxide, on apartments annually. The Plano Fire Department responds to complaints and will test for carbon monoxide. Corpus Christi has a municipally-owned gas utility, and that utility will perform testing when a compliant is filed.

Persons contacted:
Houston: Wilbur Heisherman, Plumbing Inspector, (713) 535-7806
Dallas: Lonnie Erwin, Chief Mechanical/Plumbing Inspector, (214) 948-4464
San Antonio: Robert Stricker, Chief Plumbing Inspector, (210) 207-8279
Austin: Mike Grady, Commercial Chief Plumbing Inspector, (512) 974-2759
JB Meier, Chief Commercial Plan Reviewer, (512) 974-2355
Fort Worth: Dennis McKenzie, Chief Plumbing Inspector, (817) 392-7980
Corpus Christi: Joe Elliot, Plumbing Inspector, (361) 826-3240
Plano: Gary Miles, Chief Inspector. (972-941-7219
Arlington: Left Message, Lisa Duncan, Inspections, (817) 459-6259

The Department collects revenue from the certification and licensing of gas heaters in apartment / multifamily dwellings. According to Ms Barbra Shipp, revenue from 2008 for this multifamily gas heater licenses issued was $31,248. Under the current ordinance, the license is issued for each building, not each apartment unit. If there are questions concerning the research, I will attempt to answer them.

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Ask Ann to do put on LRC -

let Jim know

Jim Erickson 2501 Nashville Avenue • El Paso, Texas 79930 • (915) 566-0375 (fax)

September 22, 2008

MEMO

TO: City Representative Susie M. Byrd, District #2

SUBJECT: Gas Heating License Renewal Date

Nov. 15

lower rate & then put fees

Several years ago, we might have been a little too eager in having our gas heaters inspected and a little too efficient in renewing our gas heating license. Now, we are stuck with a too-early renewal date (October 20th) and can't get it changed (see the City's reminder enclosed). We need a little leeway, but the law does not allow it. If we miss the date, we will have to pay a $12.01 late fee on top of the $36.75 licensing fee, a penalty for being holier than the church.

Personnel in Development Services are well aware of the glitch; and, while it seemed to us that they could have initiated the required change, they have suggested in the past that we contact you to change the wording in the ordinance. It seems to us that all heating licenses should be renewed on or before the same date each year, a date before cold weather begins, and not exactly one year from the date of the last renewal, which seems unnecessarily restrictive and complicated.

We recognize the requirement to inspect gas heaters periodically to ensure that they don't emit carbon monoxide. Nationwide, more people die of carbon monoxide poisoning than die of hypothermia (cold). In fact, it seems important enough to apply to all property owners, not just rental owners. We inspect all of our units annually, even those not covered by the ordinance. But, having to pay the City for a license to have the heating system inspected by a licensed contractor, while the City does very little, makes us feel like we are paying a fine for providing heat to our tenants, rather than paying a fee for a City service.

However, for now, we will be content when the licensing fee ordinance is amended to require that **all applicable heating systems be inspected by the beginning of the heating season (whenever you deem that to be), and that the licensing fee be paid within two weeks thereafter.** We would recommend about **November 15th and November 30th**, respectively.

With a fixed renewal date for all affected properties (rental buildings of four or more units), the City will no longer need to send each of us an annual reminder of our unique renewal date. Once an appropriate date is set, the City will then be providing no constructive service to rental owners. So, why not lower the fee for those who meet the requirement and increase the fines for those who don't? That way the scofflaws will pay for most of the administrative cost of the program, instead of the conscientious rental owners, who receive nothing of value.

Thank you for your patience and your consideration of our request.

Title 17 HOUSING

Chapter 17.16 INSPECTIONS AND CERTIFICATES

17.16.010 Prerequisite to issuance of certain licenses.

17.16.020 Use of gas heaters--Permit required.

17.16.030 Hazards and defects—Reporting required.

17.16.040 Exclusions.

17.16.050 Reserved.

17.16.060 Violation--Penalty.

17.16.010 Prerequisite to issuance of certain licenses.

A. Before any license for a lodginghouse (Section 17.08.120), a hotel, tourist court, or a motel (Section 17.08.220), or a trailer court (Section 17.12.020) is issued or renewed, the applicant must submit to the licensing authority a certificate signed by a licensed master plumber or licensed heating contractor certifying that the premises for which the license is sought have been inspected, tested for carbon monoxide hazards, and found to be in compliance with the applicable sections of the standard gas and mechanical codes.
B. Whether the certificate is signed by a licensed master plumber or a licensed heating contractor, the payment for the service shall be as agreed upon by the parties.
C. 1. The inspection and certificate required by this section shall not be required for premises on which no rooms or apartments are rented, or offered for renting, as living or sleeping quarters;
2. Nor shall the inspection and certificate required by this section be required for premises in which rooms or apartments are rented, or offered for renting, as living or sleeping quarters, but in which no gas heating appliances exist;
3. In the event an applicant is subject to the provisions of either subsection (C)(1) or (C)(2) of this section, the applicant for or holder of a license must file an affidavit with the city comptroller so stating;
4. Such an affidavit shall be verified periodically by a new affidavit upon the request of the city comptroller; and the holder or applicant shall immediately notify the comptroller if any current affidavit ceases to be true.
D. The inspection required by subsection A of this section must be made between the first day of June and the thirteenth day of September preceding the application for renewal of any license referred to in subsection A of this section, except that (1) in the case of an applicant for an original license for a new facility in which the inspection certificate must be dated not more than forty-five days prior to the filing of the application for the new license; and (2) the inspection certificate resulting from an original inspection made prior to June 1, 1969, heretofore submitted by any applicant, will be acceptable for the renewal of any license which was current at the time of such original inspection. (Ord. 16806 § 2, 2007; Ord. 9585 § 1, 1988; prior code § 13-51)

17.16.020 Use of gas heaters--Permit required.

A. No person owning, operating or managing any boardinghouse (as that term is defined in the zoning ordinance, Chapter 20.02), apartment house, tenement house, or trailer or tourist camp, trailer or tourist court, or mobile home park or court, if not covered by Section 17.16.010, shall use gas heating (as limited by Section 17.16.040) for rented quarters therein without having a gas heating permit, to be issued and renewed for one-year periods. The fee for issuance and

renewal of the permit shall be thirty dollars. The certificate required in Section 17.16.010 shall be required for issuance or renewal of such permit.
B. The requirements of this section shall not apply to a duplex or triplex. "Duplex" as used herein means a multiple-family dwelling, containing two dwelling units. "Triplex" as used herein means a multiple-family dwelling, containing three dwelling units. "Dwelling unit" as used herein means one or more habitable rooms, designed for occupancy by one family for living and sleeping purposes.
C. The permit and certificate required by this section shall not be required for premises on which no rooms or apartments are rented, or offered for renting, as living or sleeping quarters.
D. The permit and certificate required by this section shall not be required for premises in which rooms or apartments are rented, or offered for renting, as living or sleeping quarters, but in which no gas heating appliances exist.
E. In the event an applicant is subject to the provisions of either subsection C or D of this section, the applicant or holder of a permit must file an affidavit with the city comptroller so stating.
F. Such an affidavit shall be verified periodically by a new affidavit upon the request of the city comptroller; and the holder or applicant shall immediately notify the comptroller if any current affidavit ceases to be true. (Ord. 15754 § 1, 2004: Ord. 8981, 1987; prior code § 13-52)

17.16.030 Hazards and defects—Reporting required.

Any plumber or inspector employed to make an inspection required under this chapter, who fails or refuses to sign the certificate because he discovers hazards or defects in the installation inspected, shall promptly report such hazards or defects to the building official as defined in Section 18.02.101.4 of this code. (Ord. 16984 § 7, 2008: prior code § 13-54)

17.16.040 Exclusions.

The requirements of this chapter for inspections, certificates and gas heating permits do not apply to rented quarters which are heated by steam or hot water conveyed to the rented quarters from a boiler, or to rented quarters which are heated solely by a gas heating appliance located outside of such rented quarters in a utility room or basement. (Prior code § 13-53)

17.16.050 Reserved.

17.16.060 Violation--Penalty.

Any person who violates any provision of this chapter; or who signs, or furnishes to the licensing authority, any certificate required hereunder knowing that such certificate is false; or who signs any such certificate without having made the certified inspection with due care for the detection of hazards or defects, shall be deemed guilty of a misdemeanor and punished as provided in Sections 1.08.010 through 1.08.030. (Prior code § 13-55)

<< previous | next >>

From: Suzy Shewmaker Hicks [mailto:suzyshew@elp.rr.com]
Sent: Saturday, January 31, 2009 4:18 PM
To: Mayor
Subject: Gas Heating Ordinance

Dear Mayor Cook,

As 2009 President and Spokesperson for the Greater El Paso Association of Realtors, I want you to be aware that our Association has taken an official position against implementation of the Heating Ordinance. While we understand the grave dangers of poorly maintained heaters, we believe that mandatory inspections of rental properties (for a fee, of course) would be impossible to enforce and would place a financial burden on individuals who own single family rental properties. We do not believe the City has the capability to undertake such a massive project at this time and we believe the real culprits (the slumlords) would ignore this Ordinance just as they have ignored every other requirement in the past. Most owners of rental property are all too aware of the liability they incur and diligently maintain the safety of their properties, pay their taxes etc. They are the ones who will readily allow access to their property for any inspection the City requires and they are the ones who will have to pay yet another tax.

Thank you for taking our views into consideration.

Suzy Shewmaker Hicks