

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

**DEPARTMENT:** Department of Public Health – Administration

**AGENDA DATE:** CCA Introduction 08/09/11; CCA Public Hearing 08/16/11

**CONTACT PERSON/PHONE:** Michael Hill, Director (771-5702)

**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

An ordinance amending Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), to amend the effective date of certain retail animal sales restrictions; the penalty being as provided in Section 7.04.080 of the El Paso City Code.

**BACKGROUND / DISCUSSION:**

Section 1: That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.020 (Dog and cat sales and transfers), of the El Paso City Code, is added to read as follows:

**Section 7.14.020 Dog and cat sales and transfers**

**PRIOR COUNCIL ACTION:**

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

February 16, 2010

**AMOUNT AND SOURCE OF FUNDING:**

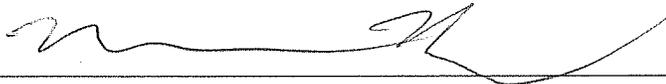
**BOARD / COMMISSION ACTION:**

N/A

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\*\*\*\*\*AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



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

AN ORDINANCE AMENDING TITLE 7 (ANIMALS), CHAPTER 7.14 (ANIMAL SALES, BREEDING AND SHOWS), TO AMEND THE EFFECTIVE DATE OF CERTAIN RETAIL ANIMAL SALES RESTRICTIONS; THE PENALTY BEING AS PROVIDED IN SECTION 7.04.080 OF THE EL PASO CITY CODE.

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

**Section 1.** That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.020 (Dog and cat sales and transfers), of the El Paso City Code, is added to read as follows:

**Section 7.14.020 Dog and cat sales and transfers.**

- A. No person shall sell a dog or cat except as provided in this title.
- B. No person who advertises to sell or transfer a dog or cat that is under one year of age may charge the purchaser or transferee an amount that is greater than is allowed in subsection E.
- C. No retail establishment may sell or transfer a dog or cat that is under one year of age for a charge or amount that is greater than is allowed in subsection E. Provided however, a retail establishment legally selling dogs or cats for profit as of April 1, 2011, may continue to sell dogs or cats under one year of age, at a price that is greater than is allowed in subsection E, through December 31, 2012. Thereafter, commencing on January 1, 2013, no retail establishment may sell or transfer a dog or cat under one year of age for a charge or amount that is greater than is allowed in subsection E, regardless of when the inventory was procured.
- D. No animal welfare organization, in the course of transferring a dog or cat that is under one year of age, may request a charge or amount from a transferee than is greater than is allowed in subsection E.
1. All dogs and cats over the age of four months that are transferred to a new owner shall be spayed or neutered, except as otherwise allowed in this title or under state law.
  2. Prior to transferring any dog, cat or ferret to a new owner, an animal welfare organization shall check such animal for a microchip, and report the finding of a microchip to the program unless the animal is returned to the registered owner.
  3. Every dog, cat or ferret coming into the possession of an animal welfare organization, received in any manner other than a release by the owner of the dog, cat or ferret, must be held a minimum of three (3) full days if the dog, cat or ferret did not have a registration tag or microchip at the time of initial possession, or for a minimum of six (6) full days if the dog, cat or ferret had a registration tag or microchip, before the animal may be transferred to a transferee/new owner.
  4. Any animal may be transferred by an animal welfare organization to the department or to another animal welfare organizations before the minimum holding time required under this section, provided however the receiving

organization or the department must continue to hold the animal for such additional time as to meet the minimum requirements of this title.

5. Nothing in this chapter shall prohibit an animal welfare organization from receiving donations consistent with an organization's non-profit status.

E. The maximum amount of charges that can be made or requested under subsections B, C, and D for the sale or transfer of a dog or cat under one year of age are established for the purpose of allowing a seller, retail establishment or animal welfare organization to recover the following-listed expenses and costs incurred in conjunction with caring for the dog or cat, and are set as follows:

1. If the amount or charges made or requested in accordance with this section for the sale or transfer of a dog or cat under the age of one year exceeds \$50.00 per animal, a person, retail establishment, or animal welfare organization selling or transferring the dog or cat shall provide documentation of all expenses incurred other than the cost of food to the purchaser or transferee prior to the sale or transfer, and the amount of the charges made or requested shall not exceed the total amount of the documented expenses provided plus the cost of food, and in the case of an animal welfare organization, the cost of providing shelter. The purchaser or transferee shall be provided with a copy of all such documentation at the time of sale or transfer.
2. If such documentation is not available or cannot be provided to the purchaser or transferee prior to the sale or transfer, the maximum amount that can be charged or requested is \$50.00 if the dog or cat has not been spayed or neutered or \$150.00 if the dog or cat has been spayed or neutered. If the animal was spayed or neutered, the purchaser or transferee shall be provided with the name and address of the veterinarian who performed the surgery at the time of sale or transfer.
3. This section shall not apply to:
  - a. a retail establishment legally selling a dog or cat for profit as of April 1, 2011 through December 31, 2012, as provided in 7.14.020C;
  - b. a permitted breeder holding a litter permit and selling a qualified animal;  
or
  - c. an individual holding a litter permit who does not conduct any advertisement for the sale of the animals within the city, including but not limited to making an open or public offering of the animals to the general public.

F. Every person, to include but not be limited to a retail establishment, breeder, and animal welfare organization, shall maintain accurate records of all sales, transactions, and transfers involving animals, which records shall show the date, type of animal, type of activity, and parties involved in any transaction or transfer of an animal. Such records shall be kept for two years, and will be made available upon demand to the program.

G. The director or deputy director shall make any and all inspections deemed necessary to ensure compliance with this section and all required permits. Animals shall be kept under sanitary conditions so as not to endanger the public or animal health nor create a nuisance.

H. No person, including but not limited to a retail establishment, breeder, animal establishment, or animal welfare organization, shall release a dog, cat or ferret four months of age or older to any person unless such dog, cat or ferret is currently vaccinated against rabies and microchipped for identification.

I. Animals which are offered for sale or transfer to the public shall not be displayed or offered if they bear evidence of malnutrition, ill health, unhealed injury or having been kept in unsanitary condition, unless such sale or transfer is approved in writing by a veterinarian providing treatment for the subject animal.

J. Nothing in this section prohibits a retail establishment from allowing an animal welfare organization to use the retail establishment's premises for the transfer of dogs and cats in compliance with this title.

**Section 2.** This ordinance shall take effect on September 1, 2011.

**Section 3.** Except as expressly herein amended, Title 7 (Animals), Chapter 7.14, Animal Sales, Breeding and Shows of the El Paso City Code shall remain in full force and effect.

**ADOPTED THIS \_\_\_ day of August 2011.**

THE CITY OF EL PASO:

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John F. Cook  
Mayor

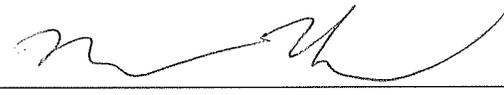
ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Josette Flores  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
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Michael Hill, Director  
Department of Public Health