

CITY OF EL PASO, TEXAS
REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: Environmental Services
AGENDA DATE: August 23, 2011 - Introduction
August 30, 2011 - Public Hearing
CONTACT PERSON/PHONE: Ellen A. Smyth, P.E., (915) 621-6719
DISTRICT(S) AFFECTED: All

SUBJECT:

An Ordinance amending Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.040 (Definitions) to change all references from Director of the Department of Public Health to Director of the Department of Environmental Services and to delete all references to Deputy Director throughout Title 7 (Animals)

BACKGROUND / DISCUSSION:

The proposed amendment to Title 7 is the transfers of all Animal Control functions to the Department of Environmental Services.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

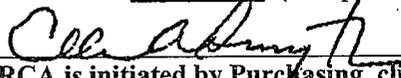
N/A

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

LEGAL: (if required) Josette Flores

FINANCE: (if required) _____

DEPARTMENT HEAD: _____

(Example:  if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA: _____

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 7 (ANIMALS), CHAPTER 7.04 (DEFINITIONS AND ADMINISTRATION), SECTION 7.04.040 (DEFINITIONS) TO CHANGE ALL REFERENCES FROM DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH TO DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL SERVICES AND TO DELETE ALL REFERENCES TO DEPUTY DIRECTOR THROUGHOUT TITLE 7 (ANIMALS).

WHEREAS, the City has moved the Animal Services functions from the Department of Public Health to the Department of Environmental Services, which shall require the changing of certain definitions to reflect that move to the Department of Environmental Services.

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

Section 1. That Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.010 (Definitions), Subsections H and L - N be amended to read as follows:

Section 7.04.010. Definitions.

- H. "Center" means any premises designated by the city for the purpose of impounding and caring for animals coming into the custody of the department of environmental services and in which the program is housed.
- L. Reserved.
- M. "Director" means the director of the department of environmental services, or designee.
- N. "Department" means the department of environmental services.

Section 2. That Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.020 (Standards of Care) be amended to read as follows:

7.04.020 - Standards of care.

The director may from time to time prescribe and publish standards of care constituting a reflection of the best current common practice concerning animal welfare and public health, and recommend the adoption of additional regulations as may be required to control the maintenance, harboring, buying, selling, holding, exhibiting, showing or otherwise dealing with animals.

Section 3. That Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.030 (Enforcement – Right of entry – Interference with officer), Subsections A. and E. be amended to read as follows:

7.04.030 - Enforcement—Right of entry—Interference with officer.

- A. The director and veterinary officer shall be primarily responsible for the enforcement of this title, and are authorized to delegate enforcement authority to their designated employees and to coordinate and work directly with the employees in the code enforcement division who shall also have enforcement authority, and to utilize the resources of the department in any public health emergency.
- E. Canvassing may be conducted by any officer at the direction of the director, -veterinary officer, or code enforcement division supervisor when deemed necessary to ensure compliance with this title.

Section 4. That Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.060 (Zoonotic Disease Reporting Required), be amended to read as follows:

7.04.060 - Zoonotic disease reporting required.

It shall be the duty of every veterinarian, physician, or other person having knowledge of any zoonotic disease or condition caused by animals which may endanger the public or animal health or create a public nuisance to report same to the director.

Section 5. That Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.100 (Appeals) be amended to read as follows:

7.04.100 - Appeals.

- A. A person who has a permit issued under this title, who has been served with a suspension or revocation notice of said permit, may appeal the director's or veterinary officer's action to the city manager as provided herein. Within ten business days of taking such action, the director or veterinary officer shall prepare a report indicating the reasons for the suspension or revocation, and shall provide a copy to the person. The director's or veterinary officer's decision is final unless within ten calendar days from the date of receiving the director's or veterinary officer's report, the person files with the city clerk a written appeal to the city manager specifying the reasons for the appeal. Said appeal shall also include a written rebuttal to the director's or veterinary officer's report.
- B. The city manager or his designated deputy city manager shall review the director's or veterinary officer's report and the appellant's rebuttal. The city

manager or designee may allow the appellant to make an oral presentation or submit additional rebuttal. The city manager or designee shall make a ruling on the appeal within a reasonable period of time after the appeal has been filed.

- C. The city manager or designee shall sustain, reverse or modify the action of the director or veterinary officer and shall notify the appellant of his decision in writing. The decision of the city manager or designee is final.

Section 6. That Title 7 (Animals), Chapter 7.12 (Dogs and Cats), Section 7.12.060 (Dangerous Dogs), Subsection B. be amended to read as follows:

7.12.060 - Dangerous dogs.

B. A dog that is designated as dangerous may not be released from impoundment or quarantine until such time as the owner has complied with the standards for keeping a dangerous dog enumerated in this title and Texas Health and Safety Code Section 822.042. Failure to comply with the requirements for keeping a dangerous dog within thirty days of the receipt of notice by the veterinary officer or director that said dog is dangerous, shall result in a determination that the dog has been abandoned.

- 1. Exception. The program may not proceed with humane destruction of a dangerous dog in any case where the owner has filed a proper appeal of the dangerous dog determination with the municipal court.
- 2. All fees for administration, quarantine and impound shall be paid prior to the release of any dangerous dog.
 - a. The veterinary officer director may extend the thirty-day compliance period by written request of the owner provided that documentation of the need for an extension is provided (for instance, building permits, building plans, building contracts, correspondence from insurance company). During the period of extension the dog shall remain in the custody of the center and impound fees shall continue to accrue.

Section 7. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.010 (Permits Required), Subsection F. be amended to read as follows:

7.14.010 - Permits required.

- F. The director shall make any and all inspections deemed necessary for the issuing of permits and to ensure compliance with this chapter.

Section 8. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.020 (Dog and Cat Sales and Transfers), Subsection G. be amended to read as follows:

7.14.020 - Dog and cat sales and transfers.

- G. The 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.

Section 9. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.040 (Roadside and Flea Market Sales) be amended to read as follows:

7.14.040 - Roadside and flea market sales.

It is unlawful for any person to sell, trade, barter, lease, rent, give away, or display for a commercial purpose any animal on any roadside, public right-of-way, commercial parking lot, or at any flea market or festival, provided, however, that this paragraph shall not apply to an animal welfare organization when such organization has received prior written approval for such sale from the director and is complying with the specific limitations as set forth in the authorization, and with the requirements of Chapter 13.20 of this Code.

Section 10. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.080 (Breeder's Permit), Subsection D. be amended to read as follows:

7.14.80 - Breeder's permit.

- D. Prior to issuing the permit, or upon an annual basis after the permit is issued, or at any time when the director has a reasonable basis to believe that an inspection is necessary to analyze or determine the appropriate status of the permit, he or his designees may inspect the qualified animal's living area during normal business hours upon giving the applicant a minimum of twenty-four hours notice. The applicant shall have an opportunity to be present at the time of inspection or to designate a representative to be present.

Section 11. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.090 (Animal Welfare Organization Permit), Subsection D. be amended to read as follows:

7.14.90 - Animal welfare organization permit.

- D. Prior to issuing the permit, or at any time when the director has a reasonable basis to believe that an inspection is necessary to analyze or determine the appropriate status of the permit, he or his designees may inspect any premises identified under subsection B.8. during normal business hours or other agreed-upon hours upon giving the applicant a minimum of twenty-four hours notice. The applicant shall have an opportunity to be present at the time of inspection or to designate a representative to be present.

Section 12. That Title 7 (Animals), Chapter 7.16 (Impoundment), Section 7.16.020 (Redemption - Disposition), Subsection F. be amended to read as follows:

7.16.020 - Redemption—Disposition.

- F. If the director or veterinary officer determines that any unclaimed animal is reasonably healthy, currently vaccinated against rabies or vaccinated prior to release for adoption as required, and would not constitute a threat to public or animal health of the community, he may, after the holding period, offer such animal for adoption by using selection criteria established by the director. Individual animals not fitting the selection criteria will not be eligible for adoption, but may be released to an animal welfare organization.
1. Any dog or cat adopted from the center must be spayed or neutered, microchipped, and vaccinated against rabies. Adoption of animals previously unvaccinated against rabies shall not be allowed if a domestic case of rabies is confirmed in the community and the director imposes a rabies quarantine.
 2. If any impounded animal, other than a dog or cat, is unclaimed by the owner, the animal shall be held for such time as the veterinary officer deems reasonable, considering the animal's probable value, conditions of health, and suitability for use. Upon expiration of such reasonable time he may offer the animal for sale or adoption to the city zoo or any animal welfare organization, or may have it humanely destroyed.

Section 13. That Title 7 (Animals), Chapter 7.20 (Quarantine), Section 7.20.010 (Ordering of Quarantine) be amended to read as follows:

7.20.010 - Ordering of quarantine.

The director, upon receiving notification from the owner, victim, a physician or other complainant that any animal, except those classified as low risk, is involved in an animal-to-human bite incident, shall order the quarantine of the animal

causing the bite. Upon issuing the order for quarantine, the rules provided for in this chapter for quarantine shall be enforced and every person, to whom such order is shown or has actual knowledge thereof, shall obey all requirements of the quarantine.

Section 14. That Title 7 (Animals), Chapter 7.28 (Animal Shelter Advisory Committee), Section 7.28.050 (Quorum and Procedures), Subsection B. be amended to read as follows:

Section 7.28.050. Quorum and procedures.

- B. The City shall provide staff support to the ASAC for the purpose of arranging and giving notice of the meetings, the preparation of minutes of each meeting, and the provision of other necessary support services. The City's Director of the Department of Environmental Services shall designate a City employee to serve as the Secretary. The Secretary shall have the right to attend meetings and speak on questions before the ASAC, but shall have no vote and shall not be counted for the purpose of making a quorum or determining the number of votes necessary to reach a decision on any question.

Section 15. That Title 7 (Animals), Chapter 7.30 (Animal Welfare Advisory Committee), Section 7.30.050 (Quorum and Procedures), Subsection B. be amended to read as follows:

Section 7.30.050 - Quorum and procedures.

- B. The City shall provide staff support to the Committee for the purpose of arranging and giving notice of the meetings, the preparation of minutes of each meeting, and the provision of other necessary support services. The City's Director of the Department of Environmental Services shall designate a City employee to serve as the Secretary. The Secretary shall have the right to attend meetings and speak on questions before the Committee, but shall have no vote and shall not be counted for the purpose of making a quorum or determining the number of votes necessary to reach a decision on any question.

Section 16. This ordinance shall take effect on September 1, 2011.

Section 17. Except as herein provided, Title 7 (Animals) shall remain in full force and effect.

(Signatures appear on following page)

ADOPTED this 30th day of August 2011.

THE CITY OF EL PASO

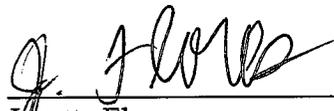
ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Josette Flores
Assistant City Attorney



David R. Almonte
Deputy City Manager
Health and Safety