

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

DEPARTMENT: Department of Public Health

AGENDA DATE: Introduction – December 11, 2007
Public Hearing – December 18, 2007

CONTACT PERSON/PHONE: Elaine S. Hengen (915) 541-4550-for the department

DISTRICT(S) AFFECTED: ALL

SUBJECT:

An Ordinance amending Title 7 (Animals) of the El Paso City Code to change the references to the City-County Health District to the Department of Public Health; to revise definitions; to correct titles and code references; and to revise the permitting and appeal processes prescribed in the title; the penalty as is provided in Section 7.04.080 of the El Paso City Code.

BACKGROUND / DISCUSSION:

On December 31, 2007, the El Paso City-County Health and Environmental District will cease to exist. The City has made plans to assume the governmental responsibilities of the District and has created a Department of Public Health. Animal services will fall under the Department of Public Health, so Title 7 of the City Code is being revised to reflect that. Additionally, the appeal and permitting processes are being revised, so that these procedures will be consistent with the procedures in Title 9.

PRIOR COUNCIL ACTION:

None

AMOUNT AND SOURCE OF FUNDING:

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

LEGAL: (if required) _____ **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) OF THE EL PASO CITY CODE TO CHANGE THE REFERENCES TO THE CITY-COUNTY HEALTH DISTRICT TO THE DEPARTMENT OF PUBLIC HEALTH; TO REVISE DEFINITIONS; TO CORRECT TITLES AND CODE REFERENCES; AND TO REVISE THE PERMITTING AND APPEAL PROCESSES PRESCRIBED IN THE TITLE; THE PENALTY AS IS PROVIDED IN SECTION 7.04.080 OF THE EL PASO CITY CODE.

WHEREAS, the El Paso City-County Health and Environmental District ("Health District") will cease to exist after December 31, 2007; and

WHEREAS, the City Council has created a City Department of Public Health to provide for public health and other services following the dissolution of the Health District; and

WHEREAS, the animal service functions of the Health District are being moved to the Department of Public Health; and

WHEREAS, the El Paso City Code contains many references to the Health District and to individuals or positions at the Health District by their job or other official title, so it is now necessary to change and correct those names and titles so that the responsibilities and references are properly directed to the Department of Public Health and divisions or sections thereunder.

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

Section 1. That all references in Title 7 (Animals) of El Paso City Code to the term "El Paso city-county health and environmental district" shall be substituted with the term "Department of public health".

Section 2. That all references in Title 7 (Animals), Sections 7.12.060 (Dangerous dogs) and 7.24.070 (Roadside and flea market sales), of El Paso City Code to the term "manager" shall be substituted with the term "deputy director".

Section 3. That all references in Title 7 (Animals) of El Paso City Code, to the term "his/her" shall be substituted with the term "his".

Section 4. That all references in Title 7 (Animals) of El Paso City Code, to the term "he/she" shall be substituted with the term "he".

Section 5. That the following definition contained in 7.04.010 (Definitions) be deleted; that the following subsections be renumbered: G renumbered as F; H renumbered as G; I renumbered as H; J renumbered as I; K renumbered as J; and L renumbered as K; and that subsections S and W be marked as reserved after their deletion.

Section 7.04.010 Definitions (delete the following definitions).

F. "Board" means the board of health of the El Paso city-county health and environmental district.

S. "Health authority" means the physician appointed to administer state and local laws relating to public health within the appointing body's jurisdiction and as defined in Texas Health and Safety Code Sections 121.021 and 121.045.

W. "Manager" means the program manager.

Section 6. That the following definitions contained in 7.04.010 (Definitions) be amended:

Section 7.04.010 Definitions (amend the following definitions).

L. "Deputy director" means the deputy director for animal services for the department of public health, or his designee.

M. "Director" means the director of the department of public health, or his designee.

N. "Department" means the department of public health.

BB. "Program" means the department's animal services program.

Section 7. That Section 7.04.020 (Rules and Regulations) be amended as follows:

Section 7.04.020 Standards of care.

The director or deputy 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 8. That Section 7.04.030, Subsections A and E, (Enforcement—Right of entry—Interference with officer) be amended as follows:

Section 7.04.030, Subsections A and E Enforcement—Right of entry—Interference with officer.

A. The director, deputy director, and veterinary officer shall be responsible for the enforcement of this title and all applicable local, state and federal laws, and are authorized to delegate enforcement authority to their designated employees, and to utilize the resources of the program in any public health emergency.

E. Canvassing shall be conducted at the direction of the director, deputy director, or veterinary officer when deemed necessary to ensure compliance with this title.

Section 9. That Section 7.04.060 (Zoonotic disease reporting required) be amended as follows:

Section 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 or deputy director.

Section 10. That Section 7.04.090 (Permit applications) be amended as follows:

Section 7.04.090 Permit applications.

A. Application for all permits required in this title shall be submitted in conformity with the specific provisions of this title, together with any required application fee as provided by ordinance or resolution of the City Council. The application shall be sworn to by the applicant, and shall contain the following information:

1. The full name and address of the individual(s) or organization applying for the permit;
2. All information required by the applicable city code provision in this title; and
3. Such other information, attachments, and submissions that are requested on the application form as reasonably necessary for a fair determination as to whether the permit should be issued.

C. Upon receipt of a proper application as provided in this title, the person or persons designated by the applicable city code provision, or as otherwise designated by the director, shall review and process the application.

D. The person or persons designated by the applicable city code provision, or as otherwise designated by the director, in accordance with applicable provisions of this title, shall issue the permit in accordance with and as provided by the applicable city code provision in this

title, or if no issuance process is specified within the applicable city code provision in this title, within 10 days of the completion of the processing of the application, unless the person or persons find:

1. One or more of the statements made in the application are not true;
2. That applicant has made or caused to be made false statements or misrepresentations on the application;
3. The applicant has failed to submit a complete application;
4. The required fee has not been paid; or
5. The requirements of the applicable city code provision in this title relating to permit requirements or issuance are not met.

E. A person may appeal a denial of a permit to the city manager as provided in section 7.04.100 of this code.

Section 11. That Section 7.04.100 (Appeals) be added as follows:

Section 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 deputy director's or veterinary officer's action to the city manager as provided herein. Within ten business days of taking such action, the deputy 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 deputy director's or veterinary officer's decision is final unless within ten calendar days from the date of receiving the deputy 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 deputy director's or veterinary officer's report.

B. The city manager or his designated deputy city manager shall review the deputy 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 deputy 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 12. That Section 7.08.010, Subsection A, (Nuisances designated) be amended as follows:

Section 7.08.010, Subsection A Nuisances designated.

A. The keeping of any animal, which by causing frequent or long continued noise shall disturb the comfort and repose of any person of ordinary sensibilities in the vicinity as provided in Chapter 9.40 of this Code.

Section 13. That Section 7.08.070, Subsection C and C.5, (Use of strychnine and other poisons prohibited) be amended as follows:

Section 7.08.070, Subsections C and C.5 Use of strychnine and other poisons prohibited.

C. Whenever there is a proposed use of any poison or toxin, the director shall make a determination to permit the use of poisons or toxins, if any, which meet the following guidelines;

C. 5. No poison or toxin shall be allowed to remain on premises more than twenty-four hours after the health hazard has been eliminated and notice given by the director.

Section 14. That Section 7.12.020, Subsection H., (Registration and microchips required—Application—Procedure—Fees—City-sponsored rabies vaccination and registration clinics) be amended as follows:

Section 7.12.020, Subsection H Registration and microchips required—Application—Procedure—Fees—City-sponsored rabies vaccination and registration clinics.

H. If deemed necessary, the director, deputy director, or veterinary officer are authorized to arrange for city-sponsored rabies vaccination-registration clinics.

Section 15. That Section 7.16.020, Subsection C., (Redemption—Disposition—Diseased animals other than rabies cases) be amended as follows:

Section 7.16.020, Subsection C Redemption—Disposition—Diseased animals other than rabies cases.

C. Any animal impounded and not claimed by the owner may be humanely destroyed after being held for at least seventy-two hours after impoundment; provided however, that any impounded dog, cat or ferret found to be microchipped or displaying a current vaccination and/or registration tag shall be held for at least six days after impoundment. If the deputy 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 deputy director. Individual animals with socially unacceptable behavior will not be eligible for adoption.

Section 16. That Section 7.20.010 (Ordering of quarantine) be amended as follows:

Section 7.20.010 Ordering of quarantine.

The director or deputy 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 17. That Section 7.24.020, Subsection E. 1. (Other animals—Restrictions—Permit requirements) be amended as follows:

Section 7.24.020, Subsection E. 1 Other animals—Restrictions—Permit requirements.

E. 1. A determination of suspension or revocation of a permit issued under this section may be appealed to the city manager in accordance with the procedures established in Section 7.04.100 of this Code.

Section 18. That Section 7.24.060, Subsections D and E (Animal establishments—Shows and exhibitions—Permit—Required—Recordkeeping) be amended as follows:

Section 7.24.060, Subsections D and E Animal establishments—Shows and exhibitions—Permit—Required—Recordkeeping.

D. Every business shall maintain accurate records of all transactions involving animals, which records shall show the date, type of animal and parties of such transaction. Such records shall be kept for a length of time to be determined by the director or deputy director, and will be made available upon demand to the program.

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

Section 19. This ordinance shall take effect at 12:00:01 a.m., January 1, 2008.

Section 20. It is the intent of the City of El Paso that the changes directed by this ordinance in

Sections 1, 2 3, and 4 shall not apply to any ordinance passed on or after the date this ordinance is passed and any changes in terms that are necessary for any ordinance passed on or after the date this ordinance is passed shall be included within such other ordinance. Therefore, these changes directed to be made by the publisher of the City Code by this ordinance shall not apply to any section of the El Paso City Code enacted or amended by the El Paso City Council on and after January 1, 2008.

Section 21. Except as herein amended, Title 7 (Animals) shall remain in full force and effect.

ADOPTED this 18th day of December 2007

CITY OF EL PASO

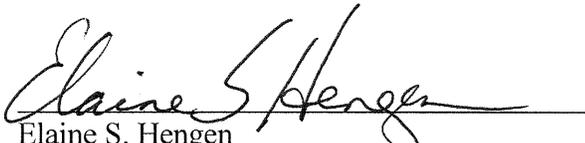
ATTEST:

John F. Cook, Mayor

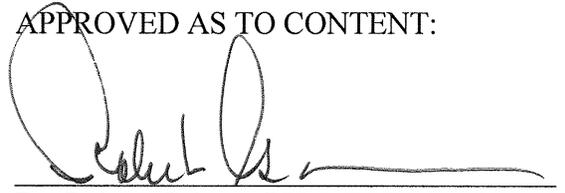
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Elaine S. Hengen
Senior Assistant City Attorney



Dr. Robert Galvan, PH, MPH, MA, DAAS