

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

**DEPARTMENT:** Department of Public Health

**AGENDA DATE:** Introduction – December 18, 2007  
Public Hearing – January 2, 2008

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

**DISTRICT(S) AFFECTED:** ALL

**SUBJECT:**

An Ordinance amending Title 18 (Building and Construction) of the El Paso City Code to change the references to the City-County Health District to the Department of Environmental Services; and to correct references made to State Agencies, specifically, the Department of State Health Services and the Texas Commission on Environmental Quality; the penalty as is provided in Sections 18.02.107, 18.18.400, 18.21.360, 18.36.040, 18.44.240, 18.46.180, and 18.60.240 of The El Paso City Code.

**BACKGROUND / DISCUSSION:**

On December 31, 2007, the El Paso City-County Health and Environmental District ceased to exist. A number of the provisions in Title 18 contained inspection and permitting functions in conjunction with building and construction services of the City, that had previously been performed by the District. These functions are being reassigned to the Department of Environmental Services. Additionally, several incorrect references to state agencies, which have changed their names, are being corrected.

**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 18 (BUILDING AND CONSTRUCTION) OF THE EL PASO CITY CODE TO CHANGE THE REFERENCES TO THE CITY-COUNTY HEALTH DISTRICT TO THE DEPARTMENT OF ENVIRONMENTAL SERVICES; AND TO CORRECT REFERENCES MADE TO STATE AGENCIES, SPECIFICALLY, THE DEPARTMENT OF STATE HEALTH SERVICES AND THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; THE PENALTY AS IS PROVIDED IN SECTIONS 18.02.107, 18.18.400, 18.21.360, 18.36.040, 18.44.240, 18.46.180, AND 18.60.240 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**, some of the environmental services and code compliance functions of the Health District are being moved to the Department of Environmental Services; and

**WHEREAS**, two state agencies referenced in Title 18 have changed their names, so it is now necessary to change and correct those names; 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 Environmental Services.

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

Section 1. That all references in Title 18 (Building and Construction) of El Paso City Code to the term "Texas Department of Health", and "State Department of Health" shall be substituted with the term "Texas Department of State Health Services", except as follows:

- a. That in Title 18 (Building and Construction), Chapter 18.21 (Private Sewage Facilities), in Sections 18.21.080 and 18.21.150.B, of the El Paso City Code, the term "Texas Department of Health" and "State Department of Health" shall be

substituted with the term "Texas Commission on Environmental Quality".

Section 2. That all references in Title 18 (Building and Construction) of El Paso City Code to the term "Texas Water Commission" and "TNRCC" shall be substituted with the term "Texas Commission on Environmental Quality".

Section 3. That all references in Title 18 (Building and Construction) of El Paso City Code, to the term "El Paso city-county health unit", "city-county health unit", "El Paso city-county health district" and "city-county health district" shall be substituted with the term "department of environmental services", except as follows:

a. That the subtitle Title 18 (Building and Construction), Chapter 18.02 (Building and Construction Administrative Code), Section 18.02.103.9.5, where the term "city-county health unit" shall be substituted with the term "building permits and inspection department".

Section 4. That Title 18 (Building and Construction), Chapter 18.02 (Building and Construction Administrative Code), Section 18.02.103.4.6, of the El Paso City Code shall be amended in its entirety as follows:

**18.02.103.4.3.6 Special building permits for seasonal sales.**

Special building permits for seasonal sale of food items shall allow such sales for a limited amount of time not to exceed one hundred eighty days and shall be subject to review and approval by the fire chief, director of the department of public health and the deputy director for development services, or their designee. Such structures or stands shall not exceed one hundred square feet in area. Site plans reflecting parking and setbacks, and drawings and details of the structure or stand shall be submitted with the request for the special building permit.

EXCEPTION: Wood framed seasonal stands shall not be permitted in the fire district.

Section 5. That the following definition contained in Title 18 (Building and Construction), Chapter 18.21 (Private Sewage Facilities), Section 18.21.010 (Definitions) of the El Paso City Code be revised as follows:

**Section 18.21.010. Definitions (revise the following definition as number 22).**

22. "Licensing Authority" means the Department of Environmental Services.

Section 6. That Title 18 (Building and Construction), Chapter 18.21 (Private Sewage Facilities), Section 18.21.060 (License to operate) of the El Paso City Code shall be amended in its entirety as follows:

**18.21.060 License to operate.**

- A. A license to operate shall be obtained from the building permits and inspection department prior to operating a new private sewage facility. Such license shall be issued after satisfactory completion and approval of construction.
- B. Each new private sewage facility shall be inspected and approved by the department of environmental services prior to the final covering of the facility. The applicant or installer shall notify the department of environmental services that an inspection is desired at least three days, excluding weekends and legal holidays, prior to the need for inspection. The applicant or installer shall provide whatever reasonable assistance the department of environmental services requests in order to make the inspection.
- C. At the time of an inspection and issuance of a written site approval form, the department of environmental services shall within ten days make a written finding on the issuance of a license, based upon the information obtained from the inspection and any other information available to the licensing authority and shall furnish said finding to the building permits and inspection department within ten days.
- D. Upon a finding that the applicant or installer has complied with all applicable code provisions, tendered all required fees and the use of the new private sewage facility will not cause pollution, injury to the public health, or nuisance conditions and is not in conflict with this chapter and upon payment of appropriate fees, a license to operate the facility shall be issued to the applicant.
- E. Upon a finding that a license to operate cannot be issued, the department of environmental services shall so notify the applicant in writing within five days of that finding and shall include the specific reasons for denying the issuance of a license.
- F. Licenses to operate issued under the authority of this chapter shall be for an indefinite period and shall be transferred to a succeeding owner. Upon the request of a new owner of a licensed private sewage facility, the department of environmental services shall transfer the license to that new owner, provided the private sewage facility has not been substantially modified.

Section 7. It is the intent of the City of El Paso that the changes directed by this ordinance in Sections 1, 2, and 3 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, the 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 2, 2008.

Section 8. Except as herein amended, Title 18 (Building and Construction) shall remain in full force and effect.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 200 \_\_\_\_.

CITY OF EL PASO

ATTEST:

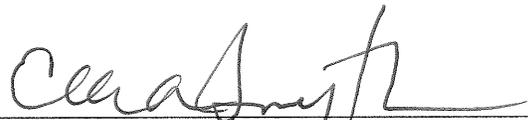
\_\_\_\_\_  
John F. Cook  
Mayor

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

APPROVED AS TO FORM:

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

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Ellen A. Smyth, P.E., Director  
Environmental Services Department

CITY CLERK DEPT.  
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