

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

DEPARTMENT: Department of Public Health – Food Services

AGENDA DATE: August 4, 2009

CONTACT PERSON/PHONE: David Sublasky, 543-3645

DISTRICT(S) AFFECTED: All

SUBJECT:

An Ordinance amending Chapter 9.12 (Food and Food Handling Establishments) of the El Paso City Code.

Ordinance introduced on August 4, 2009

Public hearing on August 11, 2009

BACKGROUND / DISCUSSION:

Attached please find the proposed changes to the current ordinance

PRIOR COUNCIL ACTION:

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

AMOUNT AND SOURCE OF FUNDING:

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****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: _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.12 (FOOD AND FOOD HANDLING ESTABLISHMENTS) IN ITS ENTIRETY; THE PENALTY AS PROVIDED IN 9.12.890

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

Section 1. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments) of the El Paso City Code shall be amended in its entirety to read as follow:

Article I General Provisions

9.12.005 Texas Food Establishment Rules--Adopted.

The book entitled "Texas Food Establishment Rules - Texas Department of State Health Services, Division for Regulatory Services, Environmental and Consumer Safety Section, Policy Standards and Quality Assurance Unit, Food Establishments Group, effective March 15, 2006," (25 TAC Sections 229.161 - 229.171, 229.173 - 229.175), copies of which, authenticated by the city clerk and on file in the city clerk's office is adopted in addition to Chapter 9.12, as fully as if copied at length in Title 9 (Health and Safety), Chapter 9.12.

9.12.010 Definitions.

In this chapter, unless the context requires a different definition:

"Adult foster care home/private care home" means an establishment operated in the home which cares for no more than four adults over the age of 21, physically and/or mentally handicapped persons.

"Authorization" means a certificate issued to charitable or non-profit establishments demonstrating compliance with applicable laws.

"Booklet" means literature developed and/or printed by the food inspection program for sale to the public.

"Care facility" means any establishment in which care services are provided to recipients regardless of age whether or not the facility charges for the services offered.

"Care recipient" means a person receiving care services as defined in this Section.

"Care services" means services provided of a protective nature which may include, but are not limited to, responsible supervision and/or limited assistance with routine living functions, hygienic assistance, self-administration of medication and supervision of meal regimen for a person not related to the owner or operator of the facility.

"Caterer" means a person whose business is to provide food services at private social events. Within the meaning of this code, catering is a function of the restaurant business and such food services are provided at non-restaurant locations. A caterer may not engage in the business of a temporary, seasonal or recurrent establishment without first obtaining the applicable permit.

"Central preparation facility" means a fixed food product or a fixed food service establishment in which food, containers or supplies are kept, handled, prepared, packaged or stored for temporary, recurrent or mobile establishments.

"Charitable" or "nonprofit organization" means a person who owns or operates an establishment in which the proceeds are used for charitable or philanthropic purposes and without personal financial gain to the participants.

"Department" means the City of El Paso's department of public health.

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

"Duplicate permit" means a certified copy of the original permit issued by the director.

"Establishment" means food product and food service establishments, including temporary, recurrent, seasonal, mobile, outdoor market, nonprofit and care facilities.

"Event" or "celebration" means a publicly accepted social event or celebration such as parades, walkathons, authorized street sales, fiestas, holidays, bazaars and religious celebrations. An event cannot be more than fourteen consecutive days.

"Exposed food" means any raw, cooked or processed food open to contamination by insects, dust, dirt, filth or any other harmful or deleterious substance.

"Extensive remodel" means a change or modification of food preparation, utensil washing, food serving and restroom areas or major modifications of other areas of the establishment such as seating and waste disposal areas.

“Family” means a group of people related by blood, marriage or adoption and living together and functioning as a single housekeeping unit for twenty-four hours a day; or a group of not more than five persons not so related, but joined together by common interests or friendship and so living together and functioning as a single housekeeping unit for twenty-four hours a day. A family may gather to enjoy family and friends in a private setting where meals are provided for family and friends without having to obtain a food permit. The term does not include persons who are adults over the age of 21, physically and/or mentally handicapped who are unable to care for their own needs and receive care services, whether or not the services are provided for profit; or an individual living alone in a housekeeping unit of which he has control.

“Food” means any exposed or unexposed raw, cooked or processed edible substance; ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

“Food handler” means an individual who works in any establishment including but not limited to hospitals, nursing homes, and schools, and handles food, participates in serving, preparing or storing of food, or participates in handling or washing equipment and utensils in the normal course of business.

“Food handler course” means a course of study approved by the director and designed to provide basic instruction to food handlers on food handling, preparing and storing techniques.

“Food product establishment” means a commercial establishment in which food is manufactured, packaged, stored or distributed for human consumption. The term does not include a food service establishment, mobile, temporary, recurrent, seasonal, outdoor market and care facilities.

“Food protection management course” means a course of study designed to instruct owners, managers or persons in charge of the requirements of the Texas Food Establishment Rules, Chapter 9.12 Food and Food Handling Establishments and Food Regulation Course Material. Owners, managers or persons in charge of food service establishments, food product establishments, care facilities, recurrent and mobile establishments handling exposed potentially hazardous food are required to attend.

“Food protection management personnel” means an owner, manager or person in charge of an establishment certified as a food protection manager or able to respond correctly to questions relating to specific food operations as promulgated by the director. At least one food protection management personnel must be present at the establishment at all times while open for business.

“Food service establishment” means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption.

“Health and Sanitary Inspection” means a site visit to determine compliance with requirements of general health and sanitary guidelines.

“Home child care facility” means an establishment which at any time provides care for no more than a total of twelve children under fourteen years of age, of which the caretaker’s own children shall also be counted in the total number allowed.

“Hospitality” means cordial coffee reception for guest at no cost to the guest.

“Mobile establishment” means a vehicle-mounted establishment designed to be readily movable. This establishment must move from location to location and cannot become stationary to await customers. The term includes distribution of food.

“Outdoor market” means an establishment at which seasonal sales of prepackaged non-potentially hazardous foods such as uncut fruits, vegetables and legumes takes place. This operation must occur on private property with written consent from the owner or on public property with written consent of the governmental entity under whose jurisdiction said property exists, and no foods may be sold, offered for sale or exposed for sale on any portion of the property that is located within one hundred feet of the closest edge of the paved portion of an arterial as that term is defined and used in Section 13.20.040 of this code. A proper health permit must be acquired. The establishment shall not be permanent.

“Permit” means a written approval, including an authorization issued to non-profits in lieu of a permit, provided by the director.

“Personal care home” means an establishment operated in a home that cares for five or more physically and/or mentally handicapped adults unrelated to the provider.

“Plan review” means a review of plans to ensure compliance with applicable laws. Such plans are to be submitted for new or extensively remodeled establishments.

“Potentially hazardous food” means a food that requires time and temperature control for safety to limit pathogen growth or toxin production, which includes, but is not limited to, a food of animal origin, including fresh shell eggs, that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support pathogen growth; and as further described under 25 TAC § 229.162(74).

“Private social event” means an event not freely available to the general public; including but not limited to weddings, birthday parties, anniversaries, company functions, etc. Attendance is by invitation only and cannot be more than fourteen consecutive days.

“Recurrent establishment” means an establishment that operates for a period of one year in conjunction with an approved flea market on Fridays, Saturdays, Sundays and national holidays as observed by the city or special privilege assigned by the city.

“Re-inspection” means a required inspection of an establishment when receiving a failing score or if an imminent health hazard exists. The term includes failure to meet scheduled inspection appointment of mobile establishments handling exposed foods.

“Rejected” means any tableware, equipment or utensil which is in such condition or construction that creates a hazard to food quality or wholesomeness.

“Seasonal establishment” means an establishment that operates for a period of no more than six consecutive months in conjunction with a regularly occurring event, on a weekly or monthly basis, but not occurring for more than five consecutive days, which event has received necessary approval from the city of El Paso. This type of permit may not be renewed for six months from expiration date.

“Site assessment” means a site visit to determine compliance with requirements of an establishment permit. The assessment includes a second visit if necessary, to ensure requirements are met prior to a permit being issued.

“Wholesome” means in sound condition, clean, free from adulteration and suitable for use as human food.

Article II Permits and Licenses

9.12.020 Required--Transfer--Display.

- A. No person who does not have both a valid permit issued by the director and a valid license issued by the city shall operate an establishment. To obtain a permit and a license involves a two-step process which is discussed later in this chapter. A private social event is exempt from the requirements of this chapter. Neither a permit nor license issued under this article is transferable from one person to another or from one location to another. The permit and license as required shall be posted in every establishment in a location conspicuous to consumers.
- B. A person planning to construct, convert an existing structure or remodel an existing establishment shall submit plans to the director for review and approval at least ten working days prior to construction.
- C. This chapter does not relieve a person from any requirements of any other part of the El Paso City Code.

9.12.030 Permit --Application--Contents.

Any person desiring to operate an establishment shall submit a written application for a permit on forms provided by the director. Such application shall include:

- A. Name, address, telephone number, facsimile number, cell phone number, e-mail address and building services - zoning approval stamp for each location of the proposed establishment;
- B. Name, address, telephone number, facsimile number, cell phone number, e-mail address of the owner of the proposed establishment; if the owner(s) is a corporation, association or partnership, the names and addresses of the officers or partners;
- C. Name, address and telephone number of the establishment manager;
- D. Name, date, title and signature of the applicant;
- E. Any other information reasonably required by the director;
- F. In addition to the above requirements, any mobile establishment must provide the license number and vehicle registration number for the proposed mobile establishment; and any recurrent, seasonal, temporary, mobile, or nonprofit organization must provide a schedule of all dates, times and locations for proposed food operation and request either a permit for handling exposed food or for handling unexposed food.
- G. The director must receive a completed temporary establishment application and the applicable fee(s) at least 72 hours prior to the start of any event. If the required application and fee(s) are submitted less than 72 hours prior to the start of any event, a late penalty will be imposed equal to twice the applicable license fee(s).

9.12.035 Permit – Application Fee.

A permit application-processing fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council shall be assessed at the time of application submittal. Said fee shall allow the application to remain pending with the director for up to twelve months during the approval process. A subsequent processing fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council must be paid prior to the expiration of said twelve-month period in order for the application to remain pending with the director, or the application shall be voided. Temporary and seasonal applications are exempt from the processing

fee and shall be maintained for no more than thirty days.

9.12.040 Permit-- Approval Process.

- A. Upon receipt of a completed application for a permit and payment of the application processing fee, the director shall conduct the appropriate inspection(s). The Director of the Development Services Department or designee shall conduct an inspection of all plumbing and plumbing fixtures of the establishment prior to the site assessment and after payment of the fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council. If the plumbing inspection is approved, then the site assessment is conducted. The director shall approve issuance of a permit if the assessment reveals compliance with the requirements of this chapter and compliance with all city ordinances governing the proposed operation.
- B. If the plumbing inspection is approved, then the site assessment is conducted. The director shall approve issuance of a permit if the assessment reveals compliance with the requirements of this chapter and compliance with all city ordinances governing the proposed operation. A site assessment fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council shall be paid at the time the permit application is submitted and must be paid prior to the site assessment occurring. One or more additional site assessment fees will be required for follow up site assessments for any establishment that does not qualify to receive the permit at the time of an assessment visit.
- C. During the site assessment of a mobile establishment regulated under Chapter 12.46 of this code, conducted on and after June 15, 2001, the director shall inspect the flashing or blinking signals required under that chapter, and no permit shall be issued unless such signals are present and operational. If a mobile establishment is seeking an exemption from the 1000-foot separation requirement referenced in 9.12.800 at the time of site assessment, the director shall request a copy of the contract referenced in 9.12.800 and shall not complete the site assessment until said contract is provided by applicant.

9.12.050 Permit--Contents.

Upon successful completion of the permit approval process, the director shall issue a permit to the establishment. The director shall state on the issued permit the name of the owner, the name of the establishment, permit or authorization number issued, date of issuance, date of expiration if applicable, assessed license category number if applicable and permit restrictions as follows:

- A. No restrictions. Establishment meets all minimum physical requirements for full food service operation;
- B. Restricted to prepackaged food, exposed food with limited preparation and, based on equipment, complex preparation of potentially hazardous food is limited;
- C. Restricted to prepackaged food only, and includes potentially hazardous food;
- D. Restricted to prepackaged food only, and excludes potentially hazardous food; E. Restricted to prepackaged and exposed non-potentially hazardous food;
- F. Restricted to the operation of a care facility utilizing prepackaged foods and exposed food including potentially hazardous foods requiring no further cooking with limited preparation. Food service activities other than those required for the care facility are prohibited;
- G. Restricted to the operation of a care facility utilizing prepackaged and exposed non-potentially hazardous food requiring no further cooking with limited preparation. Food service activities other than those required by the care facility are prohibited;
- H. Full food service operations limited to those required for the care facility;
- I. Prepackaged food, no potentially hazardous foods, occupying two hundred square feet or less including coffee provided at Bed and Breakfast Limited and Extended, as defined in the Texas Food Establishment Rules, in covered urn or carafe served for hospitality purposes only. All coffee and condiments used in the coffee service must be prepackaged and non-dairy prepackaged creamers must be used. All utensils must be single service items designed for one time one person use.
- J. Restricted to the operation of a meat establishment, warehouse or food processing plant that manufactures, packages, labels or stores food for human consumption, does not provide food directly to a consumer and is under direct supervision of an authorized Federal or State inspection agency.
- K. Permit issued in conjunction with a Special Privilege license approved by city council and expiring at the time that the special privilege license expires.

9.12.060 License—Permit prerequisite--Fee.

To obtain a license, the permittee shall present the permit to the city license section and pay to the City the license fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council for said license for each location at which an establishment is operated,.. Due to the nature of the operation of mobile, recurrent, seasonal, outdoor market and temporary establishments, license fees must be paid at time of application.

9.12.070 License—Categories--Term.

A. The following license categories are subject to the license fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council. The license term is for one year from the date of issuance unless otherwise specified within this chapter.

B. Meat establishment, warehouse or food processing plant under direct supervision of an authorized Federal or State inspection agency and whose product bears the inspection legend of the agency under whose supervision the meat was slaughtered, fabricated, processed, prepared or stored; however, if other food activities, not directly supervised by federal or state inspection agencies, are present in the establishment, it shall be licensed in accordance with subsection K of this section.

C. Unexposed Temporary, Recurrent and Seasonal Establishments.

1. Temporary establishment handling unexposed food licenses are valid for no more than fourteen consecutive days in conjunction with a single event or celebration.

2. Recurrent establishment handling unexposed food.

3. Seasonal establishment handling unexposed food are valid for no more than six consecutive months in conjunction with a regularly occurring event.

D. Exposed Temporary, Recurrent and Seasonal Establishments.

1. Temporary establishment handling exposed food licenses are valid for no more than fourteen consecutive days in conjunction with a single event or celebration.

2. Recurrent establishment handling exposed food.

3. Seasonal establishment handling exposed food licenses are valid for no more than six consecutive months in conjunction with a regularly occurring event.

E. Establishment operating as a home child care facility.

F. Establishment operating as a day care center to provide day care for more than twelve care recipients.

G. Any charitable or nonprofit organization handling food in any manner is exempt from permit and license fees; this does not exempt these facilities from complying with other requirements of this chapter.

H. Mobile establishment handling unexposed food.

I. Mobile establishment handling exposed food.

J. Reserved.

K. The fee for all other establishments is based on overall square footage of the establishment building according to the following schedule:

0. Under 200 Square Feet-- Pre-packaged and no potentially hazardous food
1. Under 3,000 square feet
2. 3,001 to 6,000 square feet
3. 6,001 to 9,000 square feet
4. 9,001 or more square feet

Original license fees will be based on the square footage of the establishment building at the time it commences operation. Fees will be adjusted if the building is remodeled, and fees shall be increased or decreased according to any change in square footage category of the establishment building.

L. Duly organized outdoor markets that are used exclusively for the purpose of selling produce, plus a fee for each vendor.

M. Reserved.

N. Care facility in which care is provided for twenty-four hours a day for four or less care recipients.

O. Care facility in which care is provided for twenty-four hours a day for five to eight care recipients.

P. Care facility in which care is provided for twenty-four hours a day for nine to eighteen care recipients.

9.12.080 Suspension—Notification.

A. The director or designee may, without warning, notice or hearing suspend the permit and license to operate the establishment if:

1. Conditions exist in an establishment that constitute an imminent health hazard;
2. The establishment operation has serious or repeated violations of any of the requirements of this chapter.

B. Whenever a permit and license are suspended the holder of the permit and license, manager or the person in charge shall be notified in writing. The notice shall:

1. State that the permit and license are, upon service of notice, immediately suspended;
 2. Order the establishment to immediately cease operation; and
 3. Set out the corrective measures to be completed for reinstatement of permit and license.
4. In lieu of permit and license suspension, an establishment may choose to voluntarily cease food operations until such time as all imminent health hazards and violations pertaining to the establishment sanitation and condition are in compliance. The establishment may not resume food operations until authorized by the director through re-inspection. Inspection personnel shall obtain approval for the voluntary closure through the program manager or designee in the program manager's absence.

C. The director may rescind the permit and license suspension, by written notice, when the reasons for suspension no longer exist. The re-inspection fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council must be paid upon receipt of said written notice, which will appear in an inspection report. After payment of said fee to the City, the establishment will then be allowed to resume food operations.

D. Hazard Analysis and Critical Control Point inspection is required of any establishment receiving a failing score three or more times in one calendar year or any establishment confirmed as the source of a food borne disease outbreak. A fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council must be paid upon notification contained in an inspection report. An establishment not paying the required fee must cease operations until the fee is paid and inspection is scheduled with the director.

9.12.090 Revocation--Notification.

A. The director may revoke a permit and license by written notice to the holder of the permit and license, manager or the person in charge, when:

1. An establishment continues to operate while the permit and license are suspended;
2. The establishment operation has serious or repeated violations of any of the requirements of this chapter;
3. The establishment or any of its employees has interfered with the director in the performance of its duty.

B. Whenever the permit and license are revoked, the holder of the permit and license, manager or the person in charge shall be notified in writing that:

1. The permit and license are, upon service of notice, immediately revoked;
2. Order the establishment to immediately cease operation;
3. Set out the reasons as to why the permit and license are revoked.

C. Whenever a revocation of permit and license has become final, the holder of the revoked permit shall make an application for a new permit and license in accordance with the procedures established in Sections 9.12.020 through 9.12.060.

9.12.100 Suspension or revocation--Appeal.

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

B. The city manager or his designated deputy city manager shall review the director'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 fifteen calendar days after the appeal has been filed.

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

9.12.110 Service of notice.

Any notice provided for in this chapter is properly served when it is delivered to the owner, manager, or person in charge or when it is sent by certified mail, return receipt requested, to the owner at the last known address.

9.12.120 Display of business name.

Only the officially permitted and licensed business name or designation shall be posted or displayed by an establishment and its vehicles. All other names, designations or signs must be changed, covered or removed. The owner of an establishment must change all signs, labels and advertising to the new officially recognized business name or designation before the permit and license change become effective. Care facilities must meet all zoning requirements.

9.12.125 Fee adoption and display.

Fees required under this chapter shall be as adopted from time to time by the city council, as set forth in the adopted budget resolution for the current fiscal year or other appropriate resolution of the city council. Such fees shall be used to defray the costs of providing the various services under this chapter.

Fees for booklets and publications created by the department of public health shall be as set forth in the adopted budget resolution for the current fiscal year or other appropriate resolution of the city council, or may be established by the department director in such an amount as to recover the costs of the production of such booklet or publication.

A copy of all fees adopted by city council and fees for booklets and publications that may be established by the director under this chapter shall be displayed at the office of the director of the department of public health or at such other location in the department as established by the director.

Article III Food Handler Identification Card

9.12.130 Required.

A. An individual desiring to work in an establishment as a food handler, as defined in Section 9.12.010, must obtain a food handler identification card from the director within thirty days from the date of employment or successfully complete and provide proof of completion of a food handler course approved by the director.

B. A person providing written documentation of prior attendance in a recognized course of instruction on food handling and food safety may opt out of the course described in 9.12.130A by taking the food handler examination in lieu of the full three (3) hour course and by scoring eighty-five percent proficiency on said examination. The required course registration and fee shall be submitted prior to the examination date. A person who fails to score at least eighty-five percent on said exam must then register and pay the fee to attend a food handler course.

C. Persons providing proof of completion of a food handler course, approved by the director, must present the certificate to the director and pay the fee identified in the adopted budget resolution for that current fiscal year or other appropriately adopted resolution by the City Council, prior to receiving an official identification card signifying compliance with this Section.

9.12.140 Application--Contents.

To obtain a food handler identification card or to register for a food handler course not provided by the director but that is approved by the director, an individual must register on an application furnished by the director and as part of the application must:

A. State name, address, sex, date of birth and any other information reasonably required;

B. Pay the training course fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council;

C. Sign the application.

9.12.150 Application--Issuance of food handler's receipt--Completion of required course prerequisite to issuance of food handler card.

After an applicant complies with Section 9.12.140, the applicant shall be issued a food handler's receipt and be registered to attend the next available course or take the scheduled examination in lieu of the course. The receipt is valid as a food handler's identification only until the applicant attends the approved course or successfully passes the scheduled examination in lieu of the course. The applicant shall be issued a food handler card provided the applicant:

- A. Attended all required instruction; and/or
- B. Successfully passed the examination given by the director on the course content.

9.12.160 Required instruction.

The required instruction shall consist of sanitary handling of food and applicable regulations of establishment operations.

9.12.170 Term.

The food handler identification card is valid for a two-year period from the date of issuance by the director.

9.12.180 Renewal.

An individual desiring to renew an expired food handler identification card must:

- A. Comply with the provisions of Sections 9.12.140 and 9.12.150;
- B. Register for a food handler course no more than forty-five (45) and no less than thirty (30) days prior to the expiration of the current food handler identification card.

9.12.190 Worn – Maintained

A. All food handlers must wear the food handler identification card issued by the director facing out (picture visible) when present in any food service, food product, day care center, mobile, recurrent or outdoor market establishment. The food handler identification card must be securely fastened to outer clothing and be worn on the upper half of the torso.

B. When the food handler is off premises, the food handler identification card issued by the director is to be maintained in the establishment in a location readily available for inspection and not solely placed in an employee file.

9.12.200 Fees nonrefundable.

All fees paid to the director under this chapter are nonrefundable.

9.12.210 Duplicate issuance.

An individual who has misplaced a valid food handler identification card or who needs more than one card must obtain a food handler identification card duplicate from the director by paying the fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council for each card.

Article IV Food Service Protection Management Certification

9.12.220 Required.

Persons desiring to work in an establishment as food protection management personnel, as defined in Section 9.12.010, shall obtain a food protection management certification card from the director within sixty days from the day of his or her employment, or successfully complete and provide proof of completion of a food protection management certification program approved by the director. At least one food protection management person per establishment must be certified. The person(s) responsible for food operations within a care facility and whose primary duties include, but are not limited to, supervision of kitchen personnel, food handling, food preparation and storage, is required to obtain a food protection management certification card. Persons providing proof of completion of a food protection management certification program, approved by the director, must present the certification to the director and pay the fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council.

9.12.230 Issuance--Eligibility--Term.

A food protection management certification card shall be issued to each person who successfully completes the food protection management certification program conducted by the director. Such card is valid for a two-year period and shall be renewed within sixty days of the expiration date to remain valid. Food protection management personnel who fail the food protection management certification test shall be required to retake and successfully pass the food protection management certification test within thirty days, or he or she will be required to retake the food protection management certification course and pay the fee as described in Section 9.12.240(B). A food protection management certification card issued by the director upon completion of a recognized food protection management course not provided by the director but approved by the director will be valid for two years from date of issuance.

9.12.235 Duplicate issuance.

An individual who has misplaced a valid food protection management certification card or who needs more than one card must obtain a food protection management certification card duplicate from the director for the fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council for each card.

9.12.240 Application--Contents.

To obtain a food protection management certification card or to register a recognized certification not provided by the director but approved by the director, an individual must apply on a form furnished by the director and as part of the application must:

- A. State his or her name, address, phone number, sex and date of birth.
- B. Pay a food protection management certification card fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council for the Department food protection management course or examination in lieu of the food protection management course, for proof of completion of a recognized course; and
- C. Sign the application.
- D. Individuals may opt out of the food protection management course offered by the director upon request if the required food protection management course registration examination is passed with at least an eighty-five percent proficiency and the fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council is submitted. A person who does not pass with at least an eighty-five percent proficiency must then register and pay the City fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council to attend the food protection management certification course.

9.12.245 Food protection management personnel--Training.

- A. Food protection management personnel successfully completing the food protection management course shall provide training to all food handlers in appropriate areas.
- B. Training in the areas must be sufficient to ensure the food handler is proficient in the specific operation assigned.
- C. Training records shall be maintained in a location readily available at the time of inspection and not solely in employee files.

9.12.250 Renewal--Fee.

A food protection management certification card must be renewed at the end of two years and within sixty days from expiration or the expiration specified on other recognized certification. If no expiration date is specified, the certification shall expire two years from date of issuance.

9.12.260 Worn – Maintained

A. All owners, managers or persons-in-charge must wear the food protection management certification card issued by the director facing out (picture visible) when present in any food service, food product, day care center, mobile or recurrent establishment handling exposed potentially hazardous food. The food protection management certification card must be securely fastened to outer clothing and be worn on the upper half of the torso.

B. When the owner, manager or person-in-charge is off premises, the food protection management certification card issued by the director is to be maintained in the establishment in a location readily available for inspection and not solely placed in an employee file.

Article V Personnel

9.12.270 Food safety course.

An individual required to attend a food safety course must attend the next available course designed to reemphasize specific food handling techniques.

9.12.280 Application contents.

To attend a food safety course an individual must register on a form provided by the director and as part of the application must:

- A. List name, address, sex and date of birth, place of employment and any other information reasonably required;
- B. Pay the training course fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council;
- C. Sign the application.

Article VI Food Care

9.12.310 Frozen desserts.

A. All frozen dessert, mix, imitation frozen dessert and nondairy frozen dessert possessed with intent to sell, offered for sale or sold, or stored by an establishment must comply with the Texas Health and Safety Code, Chapter 440, Frozen Desserts Manufacturer Licensing Act and Texas Administrative Code Title 25 Chapter 217 Milk and Dairy Frozen Desserts Manufacturing Specifications and Requirements.

B. Mix, frozen dessert, imitation frozen dessert and nondairy frozen dessert containing more than fifty thousand colonies of bacteria per ml on a standard plate count (S.P.C.) or contain more than forty coliform colonies per ml on a coliform test are not acceptable for human consumption.

C. Imitation frozen dessert mix (dry), and nondairy frozen dessert mix (dry) containing more than one thousand colonies of bacteria per ml on a standard plate count (S.P.C.) or containing more than ten coliform colonies per ml on a coliform test are not acceptable for human consumption.

D. Frozen desserts and mixes must be sampled from the dispensing equipment and samples submitted for

analysis to a laboratory certified by the Texas Department of State Health Services for the examination of finished Grade A Milk and Milk Products. The director may sample at unannounced intervals at no cost to the establishment.

E. Evidence of laboratory analysis must be posted on each frozen dessert dispenser.

9.12.330 Meat and poultry.

Fresh meat, meat byproduct or meat food product is misbranded unless it complies with the recommended name in the publication entitled Uniform Retail Meat Identity Standards, published by the Department of Merchandising, National Livestock and Meat Board, a copy of which, authenticated by the signatures of the city clerk and is on file in the city clerk's office, and is adopted as fully as if copied at length herein.

9.12.340 Ground meat advisory.

A. Signs in English and Spanish requiring ground meat to be served fully cooked will be conspicuously posted for consumers to read.

B. Signs in English shall read:

"El Paso's City Ordinance and Texas Law require that ground meat (fish, beef, pork, poultry, etc.) must be consumed fully cooked due to potential health risks associated with consumption of these products when not fully cooked. If you have special health risks consult your physician."

C. Signs in Spanish shall read:

"La ley de la ciudad de El Paso, Texas requiere que las carnes molidas (pescado, res, puerco, pollo, etc.) sean consumidas bien cocidas debido a riesgos asociados si estos alimentos no están bien cocidos. Si tuviese alguna duda consulte a su médico."

D. Signs shall be made available by the director at the cost of printing and handling identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council.

E. An establishment shall not offer ground meat cooked other than well-done for human consumption, unless specifically requested by the consumer. "Well-done" shall be measured as the temperature specified in the Texas Food Safety Rules.

9.12.360 Storage--Refrigerated.

Frozen foods shall be kept frozen and shall be stored at a temperature of minus eighteen degrees Celsius (zero degrees Fahrenheit) or below.

9.12.400 Transportation.

A. During transportation, food and food utensils shall be kept in covered containers, completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be over wrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements relating to food protection and food storage.

B. All vehicles, used for transporting food within the city must be clearly marked with letters not less than two inches high, indicating the name, address, city and state of the establishment. Mobile establishments must be marked with permit number issued by the director. In the case of an establishment with a readily recognizable registered trademark, only the trademark, city and state are necessary. All vehicles transporting foods requiring refrigeration must be provided with a mechanical refrigeration unit capable of maintaining the internal temperature of the food product at (five degrees Celsius or forty-one degrees Fahrenheit or below).

C. All vehicles transporting food requiring hot holding must be provided with hot holding units capable of maintaining the internal temperature of the food product at fifty-seven degrees Celsius or one hundred and thirty-five degrees Fahrenheit or above.

Article VII Equipment and Utensils

9.12.420 Design and fabrication.

A. All equipment and utensils must meet standards set in the Texas Food Establishment Rules or certified by the director.

B. The director shall reject any equipment or utensil which is found in such condition as to constitute a potential hazard to public health, by tagging the item. When tagged, the item shall not be used for any purpose until such time as the deficiency has been corrected and the tag lawfully removed by the director.

9.12.490 Cleaning and sanitization--Clean-in-place equipment.

Rinsing, spraying or swabbing with a chemical sanitizing solution of twice the strength required for that particular sanitizing solution when used in immersion shall be used for clean-in-place equipment. Chemicals used for sanitization shall not have concentrations higher than the maximum permitted on the label specifications.

Article VIII Sanitary Facilities and Controls

9.12.580 Plumbing.

All plumbing and plumbing fixtures must be approved by the development services department of the city prior to permit issuance.

9.12.600 Handwashing--Lavatory facilities.

- A. Signs requiring employees to wash hands will be conspicuously posted at all handwashing lavatories;
- B. Signs shall state, "all employees must wash hands and exposed portions of their arms for at least 20 seconds before returning to work."
- C. Sign and lettering size shall be specified by the director.
- D. Dispensers designed for soap and towels shall be provided at all handwashing lavatories.
- E. Handwash lavatories in the establishment must be located within twenty-five feet of utensil washing areas, food preparation areas and serving areas. Distance measurement of twenty-five feet is defined as the walking path that an establishment employee must take to access the handwash lavatory. Restroom handwash lavatories are excluded from this consideration and may not be counted as part of the number of handwash lavatories. The twenty-five foot measurement must be within the room where utensil washing, food preparation and/or food serving takes place except that a handwash lavatory can be located five feet into another room that is not separated by physical doors.
- F. Food handlers and food managers observed not practicing handwashing at prescribed times will receive one written warning prior to being required to attend a food safety course.
- G. For violations of the handwashing requirement occurring subsequent to the warning, a food handler's or food manager's card will be confiscated and temporarily suspended at the time the handwashing violation occurs until a food safety course has been completed.
- H. Said food employee can remain on the work schedule until the time of the class. If the class is not attended, the manager or owner must remove the employee from the work schedule.
- I. If said employee is not removed from the work schedule, the manager and owner will be responsible if the employee is allowed to work without a valid food handler or food manager card.
- J. A food handler's card or food manager's card will be revoked for one year for violating handwashing ordinance three times in one year. Upon such revocation, food employees must attend a food safety course, food handler's course or food manager's course as determined by the director prior to returning to work in the food industry.

Article IX Construction and Maintenance of Physical Facilities (Reserved)

Article X Miscellaneous Regulations

9.12.780 Care facility operations.

In a home child care facility or any care facility qualifying under zoning sections of this code, the director may authorize variations of the structural or equipment requirements of this chapter when there will be no threat to the public health and welfare. Nothing in this section shall exempt such establishments from other requirements of this chapter unless otherwise specified herein.

9.12.790 Establishments outside jurisdiction of city limits.

Food from establishments located outside the city limits may be sold inside the city limits if such establishments conform to the provisions of this chapter or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the director may accept reports from regulatory authorities in jurisdiction where such establishments are located.

9.12.800 Mobile establishments.

A. Mobile establishments shall comply with the requirements of this chapter.

B. Mobile establishments handling exposed food must submit potable water samples at the time of application for analysis to a Texas Department of State Health Services certified laboratory.

C. Mobile establishments handling potentially hazardous foods must operate from a central preparation facility. The central preparation facility must have all necessary equipment to handle the approved activities. Central preparation facilities shall maintain a score of eighty-five percent or better on the food inspection report rating. A central preparation facility agreement form provided by the director is required and must be signed by the mobile establishment applicant and central preparation facility owner/operator. Central preparation facilities must notify the director to rescind this agreement if the mobile establishment does not conform to the provisions of said agreement.

D. Mobile establishments shall not park and await customers. Mobile establishments may only park to serve customers who are already present and seeking the service of the mobile establishment.

E. Mobile establishments shall obtain and affix a mobile establishment sticker from the director at the time of site assessment and prior to permit issuance. Stickers shall be made available by the director for the fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council.

F. Mobile establishments shall maintain a 1000-foot separation from permitted or authorized food service establishment's and food product establishment's property lines.

G. Mobile establishments are exempt from 1000-foot separation if they have a contract with an approved commercially zoned business to provide food operations. Said contract must be provided to the director. If said contract is not provided to the director within three days of written notification by director to do so, the director may suspend the mobile establishment's operation. The contracting business must provide restroom facilities with hot and cold running water for use by mobile establishment's employees and provide solid waste disposal. All food operations must be done on contracting business's property and during contracting business's regular operating hours.

1. Potentially hazardous food operations are limited to a continuous 3-hour pre-selected block of time daily.

2. Frozen prepackaged potentially hazardous food operations are limited to a continuous 8-hour pre-selected block of time daily and all food products must be maintained at 0 degrees Fahrenheit or colder.

3. Prepackaged non-potentially hazardous food operations are limited to a continuous 8-hour pre-selected block of time daily.

9.12.810 Temporary, recurrent and seasonal establishments.

A. Compliance Required.

1. A temporary, seasonal or recurrent establishment shall comply with the requirements of this chapter. At a minimum, temporary establishments will meet the requirements as set forth in the Texas Food Establishment Rules. Temporary, recurrent and seasonal establishments handling potentially hazardous foods must operate from a central preparation facility. A fee for expedited services for temporary establishment applications submitted less than 72 hours prior to the start of an event shall be as identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council. The central preparation facility must have all necessary equipment to handle the approved activities. Central preparation facilities shall maintain a score of eighty-five percent or better on the food inspection report rating. A central preparation facility agreement form provided by the director is required and must be signed by the temporary, seasonal or recurrent establishment applicant and central preparation facility owner/operator.

2. All food temperature requirements shall be met as contained in Section 229.164(k)--(n) of the Texas Food Establishment Rules for temporary, seasonal and recurrent establishments.

B. Restricted Operations.

1. These provisions are applicable whenever a temporary, seasonal and recurrent establishment is permitted, under the provisions of subsection A of this section, to operate without complying with all of the requirements of this chapter.

2. Food and Food Handling.

a. All foods for use in temporary, seasonal or recurrent establishments must be prepared in an establishment

approved by the director.

b. The manager, owner or person in charge of a seasonal or recurrent establishment must acquire a valid food protection managers card. All other employees in a seasonal or recurrent establishment handling food must obtain a valid food handlers card.

c. Receipts for all foods used in temporary, seasonal or recurrent establishments must be made available to the director upon request. Foods must be purchased from a source that has been previously inspected and approved by the Director.

d. Preparation of potentially hazardous foods in temporary, seasonal or recurrent establishments as close to the time of event as possible is required.

e. Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of this chapter. The ice shall be obtained only in chipped, crushed or cubed form and in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. Ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

C. Equipment.

1. Equipment in temporary, seasonal and recurrent establishments shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment. Equipment and utensils shall be in good condition. The use of utensils not capable of being effectively washed and sanitized is prohibited.

2. Food contact surfaces of equipment in temporary, seasonal or recurrent establishments shall be protected from contamination by consumers and other sources. Where necessary to prevent contamination, effective shields for such equipment shall be provided.

3. Temporary, seasonal and recurrent establishments must provide hot and cold holding equipment for food. This equipment shall be adequate in number and capacity to provide food temperatures as specified under Section 229.164(k)--(n) of the Texas Food Establishment Rules.

4. Recurrent and seasonal establishments must provide a three-compartment sink for washing, rinsing and sanitizing equipment and utensils as needed.

5. A convenient handwashing lavatory shall be available in recurrent and seasonal establishments for employee handwashing. This facility shall consist of hot and cold running potable water, soap and individual paper towels for recurrent and seasonal establishments. Temporary establishments must meet the requirements for handwashing contained in the Texas Food Establishment Rules.

D. Recurrent, seasonal and temporary establishments shall provide only single service articles for use by the consumer.

E. Recurrent and seasonal establishments shall provide enough hot and cold running potable water in the establishment for food preparation, washing, rinsing and sanitizing utensils and equipment, and handwashing. A heating facility located on the premises and capable of producing enough hot water for these purposes shall be provided. Recurrent and seasonal establishments will be required to submit potable water samples for analysis to a Texas Department of State Health Services certified laboratory prior to permitting. Temporary establishments must meet the requirements in the Texas Food Establishment Rules for potable water.

F. All sewage, including liquid waste, generated from temporary, seasonal or recurrent establishments shall be disposed of through an approved sanitary sewage system that is constructed, maintained and operated according to law.

G. Adequate size and number of waste containers to hold all the garbage and refuse that accumulates from temporary, seasonal or recurrent establishments is mandatory. Containers must be cleanable, leak proof and nonabsorbent. Waste containers inside these establishments must be provided with a tight-fitting lid.

H. Booth requirements for temporary, seasonal and recurrent establishments handling exposed food are as follows:

1. Walls and ceilings must be made of canvas, wood or other material that protects the interior of the booth from the weather.

2. Floors must be constructed of concrete or machine laid asphalt for seasonal and recurrent establishments. Temporary establishments must follow the Texas Food Establishment Rules relating to floors.

3. Outer openings of temporary, seasonal or recurrent establishments shall be protected against entry of insects and rodents by use of sixteen mesh per inch screens, properly designed and installed air curtains or other effective means when flying insects are problematic.

I. All persons engaged in food handling in these establishments shall comply with all personnel requirements as set forth in the Texas Food Establishment Rules.

J. All temporary, seasonal and recurrent establishments handling potentially hazardous foods must operate from a central preparation facility. The central preparation facility must have all necessary equipment to handle the approved activities and maintain a score of eighty-five percent or better on the food inspection report rating. The central preparation facility must be constructed and operated in compliance with federal, state and city regulations.

K. All violations in the case of temporary, seasonal or recurrent establishments must be corrected within specified time. If violations are not corrected within such specified time the establishment shall immediately cease food

operations.

L. The director shall restrict the number of establishments operating out of a central preparation facility if such operations pose public health concerns.

Article XI Enforcement

9.12.820 Responsibility of the director of public health.

The director shall be responsible for enforcement of this chapter.

9.12.830 Inspection--Frequency.

A. The director shall conduct inspections of establishments located within the jurisdiction of the city, as often as are reasonably necessary for proper enforcement of this chapter, including, but not limited to compliance with Subsection 9.12.080D.

B. Re-inspection of an establishment is conducted when a failing score is received or an imminent health hazard exists.

9.12.840 Inspection--Access.

Whenever necessary to inspect, to enforce any of the provisions of this chapter, or whenever the director has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes food handled therein unsafe, dangerous or hazardous, the director or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the director by this chapter; provided, that if such building or premises be occupied, the director shall first present proper credentials and request entry; and if such building or premises be unoccupied, first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the director shall have recourse to every remedy provided by law to secure entry.

When the director first obtains a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the director for the purpose of inspection and examination pursuant to this chapter.

This inspection and examination shall include the establishment's records pertaining to employees and to food and supplies purchased, used and on hand. Food Handler and Food Protection Management Certification cards will be verified against work schedules or time sheets.

9.12.850 Inspection--Form--Public disclosure of findings.

The director shall record the findings of the inspection on an inspection form. A copy of the completed inspection form shall be furnished to the owner, manager or person in charge of the establishment at the time of inspection. The completed inspection form is a public document and shall be made available for public disclosure to any person who requests it according to law.

9.12.860 Violation--Correction--Time limits.

The completed inspection form shall specify a reasonable period of time for the correction of the violations found; the correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

A. If imminent health hazards exist the establishment shall immediately cease food operations. Operations shall not be resumed until it is shown on a re-inspection that conditions responsible for the order to cease operations no longer exist.

B. In the case of temporary, seasonal or recurrent establishments, all violations shall be corrected as soon as possible, not to exceed twenty-four hours. If violations are not corrected within twenty-four hours, the establishment shall immediately cease food operations until authorized to resume by the director.

C. The inspection form shall state that failure to comply with any time limits for corrections may result in suspension or revocation of permit and license, or in cessation of food activities, and that any violation of the provisions of this chapter shall constitute a misdemeanor and be punished by a fine not to exceed two thousand

dollars.

D. The inspection form shall state that the person receiving notice of suspension or revocation of permit and license, or a notice of cessation of food activities, or a notice of violation of this chapter may appeal by following the procedure provided in Section 9.12.100.

E. An establishment within the city that is licensed, permitted and supervised by the United States Department of Agriculture or by the Texas Department of State Health Services is exempt from in-plant inspections under this chapter; however, such establishments are subject to permit, license, food protection management certification and food handler card requirements. All food product, not on the premises, is subject to applicable requirements of this chapter.

9.12.870 Violation--Citation issuance.

The director shall have the power to issue misdemeanor citations to any person violating any provisions of this chapter.

9.12.875 Violation--Owners and managers.

A person commits an offense if he or she is an owner or manager of an establishment or identifies himself as an owner or manager of an establishment, and:

A. Permits an individual who does not have a current valid food handler card to work in or for the establishment as a food handler for more than thirty days;

B. Permits an individual who does not have a current valid food service protection certification to work in or for the establishment as a food protection management person for more than sixty days; or

C. The person or his employees violate the provisions of Section 9.12.800, mobile establishments.

9.12.880 Food examination and condemnation.

A. If the director discovers food for which there is probable cause to believe is in violation of this chapter, a written hold order shall be placed on such food. The director shall tag, label or otherwise identify any food subject to a hold order. No food subject to a hold order shall be used, served or moved from the establishment. The director shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished.

B. A person who has been served with a hold order or destruction order may appeal the director's action to the city manager as provided herein. Within three business days of taking such action, the director shall prepare a report indicating the reasons for the hold order or destruction order, and shall provide a copy to the person to whom the hold order has been issued. The director's decision is final unless within three calendar days from the date of receiving the director's report, the person to whom a hold order has been issued files with the city clerk a written appeal to the city manager specifying reasons for the appeal. Said appeal shall also include a written rebuttal to the director's report. The hold order or destruction order shall state that a request for a hearing shall be filed by written notice to the city manager or his designated deputy city manager within three days of the report and that if no appeal is requested, the food shall be destroyed. If a request for an appeal is received, the appeal shall be held within five days after receipt of the request.

C. The city manager or his designated deputy city manager shall review the director'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 seven business days after the appeal has been filed.

D. The city manager or designee shall sustain, reverse or modify the action of the director and shall notify the appellant of his decision in writing. Where necessary, the city manager or designee shall determine to vacate the destruction order or direct the person to destroy such food, which shall constitute the ruling on the appeal and which shall be done within seven days after the appeal has been filed. The decision of the city manager or designee is final.

E. If the food under hold order or destruction order can be brought into compliance with the provisions of this chapter, the director shall allow the food to be used, served or moved from the establishment.

9.12.890 Violation--Penalty.

A. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and punished by a fine not to exceed two thousand dollars, and if such violation continues, each day's violation shall constitute a separate offense. In addition to any penalties provided for herein, this chapter is enforceable by injunction.

Section 2. This ordinance shall take effect on September 1, 2009.

Section 3. Except as expressly herein amended, Title 9 (Health and safety) of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS ____ DAY OF _____, 2009.

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

Michael Hill, Director
Department of Public Health