

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

DEPARTMENT: Public Health – Animal Services

AGENDA DATE: Introduction: CCA July 27, 2010; Public Hearing: CCA August 10, 2010

CONTACT PERSON NAME AND PHONE NUMBER: Michael Hill, Director 771-5702

DISTRICT(S) AFFECTED: All

SUBJECT:

The City desires to amend Title 7 of the El Paso City of Code, to accept the referenced recommendation and in so doing promote the health, safety and welfare of the public and the local pet population.

BACKGROUND / DISCUSSION:

An Ordinance amending Title 7 (Animals), Chapters 7.04 (Definitions), 7.12 (Dogs and Cats), 7.16 (Impoundment), and 7.24 (Livestock); and to create Chapter 7.14 (Animal Sales, Breeding and Shows); to define terms; to clarify fees and revise regulations applying to spayed, neutered, unspayed and unneutered dogs and cats; to revise permitting procedures; to provide for the services of animal welfare organizations; to prohibit the sale of most dogs and cats, and the sale and transfer of all dogs and cats younger than eight weeks of age; to require that a litter permit number be displayed in any advertisement to sell or transfer puppies and kittens; to require animals released by the City and Animal Welfare Organizations be spayed or neutered; and to provide for an annual report of euthanized animals in the City; the penalty being as provided in Section 7.04.080 of the El Paso City Code.

PRIOR COUNCIL ACTION:

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

July 6, 2010

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

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ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 7 (ANIMALS), CHAPTERS 7.04 (DEFINITIONS), 7.12 (DOGS AND CATS), 7.16 (IMPOUNDMENT), AND 7.24 (LIVESTOCK); AND TO CREATE CHAPTER 7.14 (ANIMAL SALES, BREEDING AND SHOWS); TO DEFINE TERMS; TO CLARIFY FEES AND REVISE REGULATIONS APPLYING TO SPAYED, NEUTERED, UNSPAYED AND UNNEUTERED DOGS AND CATS; TO REVISE PERMITTING PROCEDURES; TO PROVIDE FOR THE SERVICES OF ANIMAL WELFARE ORGANIZATIONS; TO PROHIBIT THE SALE OF MOST DOGS AND CATS, AND THE SALE AND TRANSFER OF ALL DOGS AND CATS YOUNGER THAN EIGHT WEEKS OF AGE; TO REQUIRE THAT A LITTER PERMIT NUMBER BE DISPLAYED IN ANY ADVERTISEMENT TO SELL OR TRANSFER PUPPIES AND KITTENS; TO REQUIRE ANIMALS RELEASED BY THE CITY AND ANIMAL WELFARE ORGANIZATIONS BE SPAYED OR NEUTERED; AND TO PROVIDE FOR AN ANNUAL REPORT OF EUTHANIZED ANIMALS IN THE CITY; THE PENALTY BEING AS PROVIDED IN SECTION 7.04.080 OF THE EL PASO CITY CODE.

WHEREAS, on December 14, 1999, City Council by resolution acknowledged the City's euthanization rate of dogs and cats as being one of the highest in the nation and stated a goal of being a no-kill City by December 31, 2005; and

WHEREAS, achieving a "no kill" goal requires increasing the entire community's awareness of the critical animal care issues that the City of El Paso faces; and

WHEREAS, on February 16, 2010, the Health and Public Safety Legislative Review Committee of the City Council, received a recommendation from the City's Animal Welfare Advisory Committee to revise Title 7 of the El Paso City Code to allow for a differential fee for dogs and cats that are spayed and neutered versus dogs and cats that are not spayed and neutered, and to require that any advertisement for the sale or transfer of puppies or kittens include the litter permit number; and

WHEREAS, the City Council finds that each year, thousands of dogs and cats are euthanized in the City because they are not wanted, and the purpose of this ordinance is to promote the health, safety and welfare of the public and the local pet population by reducing the number of dogs and cats in the City; and

WHEREAS, the City finds that strictly regulating the sale and transfer of dogs and cats, and including special provisions regarding the services of animal welfare organizations who work primarily with dogs and cats that have been abandoned, recovered or found primarily within El Paso County, Texas or a bordering county, is an appropriate solution to eliminate the excessive numbers of unwanted dogs and cats, to reduce the euthanization rate, and to achieve the City's goals of achieving the "no kill" goal by restricting breeding practices through

legislation that is both reasonable and enforceable and by promoting the adoption of the existing dog and cat population in and around El Paso County; and

WHEREAS, offering fee reductions or discounts for the registration of spayed or neutered dogs and cats, incentivizes spaying and neutering which serves an important municipal purpose relating to achieving the City's goals as set forth above.

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

Section 1. That Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.010 (Definitions) of the El Paso City Code, is amended to read as follows:

Section 7.04.010. Definitions.

- A. "Abandon" means to give up with the intent of never again claiming a right or interest in.
- B. "Animal" means every living dumb creature.
- C. "Animal establishment" means any established place conducting business dealing with animals for a profit including but not limited to grooming and kenneling, and excluding pet stores, veterinary offices, clinics, hospitals or emergency rooms. An individual providing care for an animal in the absence of its owner, in the owner's home, will not be considered an "animal establishment."
- D. "Animal regulation center" or "center" means any premises designated by the city for the purpose of impounding and caring for animals coming into the custody of the department of public health and in which the program is housed.
- E. "Animal welfare organization" means a tax-exempt nonprofit organization founded for the purpose of providing humane sanctuary, a shelter for abandoned or unwanted animals, or any recognized animal rescue organization, that is registered and permitted by the department pursuant to Section 7.14.010 of this code.
- F. "Bite" or "scratch" means any abrasion, scratch, puncture, tear or piercing of the skin actually or suspected of being caused by an animal.
- G. "Bovine" is used in its general sense and includes all domesticated bovine regardless of age, sex or breed.
- H. "Canvassing" means periodic verification of compliance with this title by the department of public health utilizing personnel trained to go door-to-door within the incorporated city limits.
- I. "Center" means any premises designated by the city for the purpose of impounding and caring for animals coming into the custody of the department of public health and in which the program is housed.
- J. "Collar" means a band, chain, harness or other suitable device worn around the neck of an animal to which a current rabies vaccination and registration tag can be affixed.
- K. "Competition cat" or "Competition dog" means a cat or dog that has been registered with a local, state, national or international club or organization that has been recognized by the director as a club or organization that maintains standards for breeds and/or health of dogs or cats for registry, or registered with a club or organization that holds or sponsors competition cat or

competition dog shows, field trials or agility trials involving 50 or more animals at least once a year.

L. "Dangerous dog" means a dog that:

1. Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept; or

2. Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

M. "Dangerous wild animal" includes but is not limited to:

1. Lion;

2. Tiger;

3. Ocelot;

4. Cougar;

5. Leopard;

6. Cheetah;

7. Jaguar;

8. Bobcat;

9. Lynx;

10. Serval;

11. Caracal;

12. Hyena;

13. Bear;

14. Coyote;

15. Jackal;

16. Baboon;

17. Chimpanzee;

18. Orangutan;

19. Gorilla;

20. Wolf; or

21. Any hybrid of an animal listed in this definition.

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

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

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

Q. "Dog" or "cat" shall include a "puppy" or "kitten" and the terms are interchangeable.

R. "Equine" is used in its general sense and includes all domesticated equine regardless of age, sex or breed.

S. "Established fee" means a fee that is authorized within this title, which is set in the amount identified in the adopted budget resolution for the current fiscal year or by other appropriately adopted resolution of the City Council.

T. "Exotic animal" means any animal not commonly domesticated by man.

U. "Exposed to rabies" means that an animal has been bitten by or in contact with any animal known to be, or suspected of being, infected with rabies.

V. "Fowl" means domestic birds to include chickens, ducks, geese and pigeons.

W. "Kennel" is defined in Title 20 of the El Paso City Code, provided however, no kennel may sell a dog or cat unless the kennel is also a permitted breeder with a seller's litter permit for such

dog or cat, and the adoption of dogs and cats shall not be permitted as part of a kennel operation unless such adoptions are made at no cost to the new owner.

X. "Livestock" means domesticated equine or bovine regardless of age, sex or breed or any small ruminant, including domesticated sheep, goats, and animals of the same approximate size and weight.

Y. "Low risk" means an animal identified in Texas guidelines for rabies prevention as not requiring rabies testing. Includes mice, rats, squirrels, nutria, rabbits, opossums, armadillos, shrews, prairie dogs, beavers and gophers.

Z. "Neglected" means to fail to provide an animal with one or more of the necessities of life, including air, food, water, veterinary care, exercise or protection from the sun and other elements of nature.

AA. "Officer" means any employee of the program or a commissioned peace officer.

BB. "Owner" means a custodian, caretaker or person who feeds or harbors the subject animal for more than seventy-two hours without the presence of that subject animal being recorded in the records of the program as a stray animal. Persons caring for an animal at the specific request of an owner are not included in the definition of owner, but are required to keep the animal in compliance with this code.

CC. "Pet store" means an establishment that, in whole or in part, offers animals as permitted in this title for sale or resale to consumers or wholesalers, excluding a permitted breeder with a seller's litter permit.

DD. "Public playground" means that area of a public park designated and intended for use by children and containing equipment suitable for play (i.e., swings, slides, merry-go-rounds).

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

FF. "Rabbit" is used in its general sense and includes animals of the same approximate size and weight, which require similar husbandry.

GG. "Seller's litter permit" means a litter permit issued to a permitted breeder pursuant to Section 7.14.010 C of this code.

HH. "Service animals" means any guide dog, signal dog, or other animal individually trained to provide assistance to a person with a disability.

II. "Shade" means a place giving protection from the heat and light of the sun.

JJ. "Shelter" means an enclosure that is structurally sound and in good repair, provides convenient access to clean food and water, enables the animal to remain dry and clean, is constructed and maintained so that it is impervious to moisture and can be readily sanitized, is constructed so as to protect the animal from injury, and provides sufficient space to allow each animal to turn around fully, stand, sit and lie in a comfortable position.

KK. "Transfer" or "offer to transfer" means to convey or offer to convey by all methods of conveyance, other than a conveyance involving the exchange of money or other thing of value or by bartering except as may be permitted herein for the program or an animal welfare organization, and for all purposes in this title also include a gift or free giveaway.

LL. "Unprovoked attack" means an attack by a dog on a person in a place, other than the property where the dog's owner resides or where the dog is being kept, including but not limited to, the secure enclosure in which the dog was being kept at the time of the attack, that is not:

1. In response to being tormented, abused, or assaulted by the person attacked;
2. In response to pain or injury;
3. In response to an assault or attempted assault upon another person by the person attacked; or

4. To protect itself, its food, or its nursing offspring.

MM. "Vaccination" means inoculation of an animal with a vaccine that is licensed by the United States Department of Agriculture, and which is administered by a veterinarian for the purpose of immunizing the animal against rabies.

NN. "Veterinarian" means a doctor of veterinary medicine who holds a valid license to practice his profession in one or more of the fifty United States.

OO. "Veterinary clinic" means a facility or hospital for diagnosis and treatment of animals.

PP. "Veterinary officer" means the veterinarian or other person determined to be qualified to perform the duties established in this title, officially designated by the director.

Section 2. That Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.110 (Annual Report) of the El Paso City Code, be added to read as follows:

7.04.110 Annual Report.

The City Manager or his designee will compile annual statistics regarding the number of animals euthanized by the City, and provide the City Council with an annual report containing these statistics.

Section 3. That Title 7 (Animals), Chapter 7.04 (Definitions and Administration), Section 7.04.120 (Severability) of the El Paso City Code, be added to read as follows:

7.04.120 Severability.

If any section, subsection, sentence, clause or phrase of this title is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this title.

Section 4. That Title 7 (Animals), Chapter 7.12 (Dogs and Cats), Section 7.12.020 (Registration and Microchips Required) of the El Paso City Code, is amended in its entirety to read as follows:

Section 7.12.020. Registration and Microchips Required.

A. No owner shall have within the city any dog, cat or ferret four months of age or older unless such dog, cat or ferret is currently registered with the program. No dog, cat or ferret shall be registered unless it has a current vaccination as is required by the director and an implanted microchip. A registration certificate and tag may be obtained from veterinarians who have obtained authority from the program to issue them, or from an employee at the center upon presentation of a certificate of current vaccination and evidence of microchip.

B. Upon application by a veterinarian, the program shall furnish the veterinarian with a supply of microchips and pre-numbered registration certificates and corresponding tags. The veterinarian shall be authorized to receive applications and issue registration certificates and tags for animals that are currently vaccinated and microchipped. Copies of all certificates issued shall be distributed and transmitted to various city agencies in accordance with arrangements made by the program with the veterinarians, provided that no information shall be released in violation of

Texas Health and Safety Code Section 826.0211. When applying for additional microchips, certificates and tags the veterinarian shall account to the program for all those previously supplied to him, and shall remit to the program all fees collected. He shall be held financially responsible for any microchips, certificates and tags no longer in his possession that have not been issued or voided and returned to the program. The program may refuse to supply additional microchips, certificates and tags to any veterinarian who fails to account for all items previously furnished to him by the program. All fees collected by any veterinarian are payable to the city upon demand.

C. Application for initial issuance or renewal of each registration must be made by the owner in writing or in person, and be accompanied by the standard established fee for a dog or cat that is not spayed or neutered, the discounted established fee for a dog or cat that is spayed or neutered, or the established fee for a ferret. If an original current registration certificate is lost or destroyed, the owner may obtain a duplicate by paying the established fee. The standard established fee paid in order to register a dog or cat that is not spayed or neutered is separate and apart from the litter permit and its requirements and established fees.

D. A registration shall be renewed annually.

E. No person shall use a certificate or tag for any animal other than the one for which it was issued.

F. If there is a change in ownership or owner contact information of a registered dog, cat or ferret, the new owner shall update contact information to include any new address and telephone number, and have the registration and microchip information transferred to his name or new contact information within seven (7) days after the change in ownership or change in owner contact information. Application for a change of ownership of a registered dog, cat or ferret shall be made to the program in writing or in person, and be accompanied by the established fee. Changes in owner contact information shall be submitted to the program in writing in the manner established by the director.

G. The director may determine whether an owner of one or more dogs or cats that are not spayed or neutered may be eligible to pay the discounted established registration fee if the owner provides written proof to the director or a veterinarian as authorized by the director prior to application for initial issuance or renewal of each registration that:

1. a licensed veterinarian certifies that the dog or cat should not be spayed or neutered for health reasons or is permanently non-fertile;
2. the animal is being held for adoption by the Department or an animal welfare organization;
3. the animal is a competition cat or competition dog;
4. the animal is less than four (4) months old;
5. the animal resides with an owner who is a nonresident of this City and provides proof of residency elsewhere, and is keeping the animal in this City for fewer than sixty (60) days;
- or
6. the animal resides with an owner who has been a resident of this City for fewer than thirty (30) days.

H. Fee-exempt registrations may be issued for the following, provided however, eligibility for fee-exempt registration does not relieve the owner of his responsibility under other provisions of this title:

1. Dogs that are trained and used in an official capacity by a law enforcement or governmental agency;

- 2. Service animals;
- 3. Animals other than dogs, cats or ferrets that are vaccinated against rabies;
- I. The director may establish written guidelines for the department and veterinarians issuing registration certificates under this title to use in determining whether a dog or cat is eligible to pay the discounted registration fee provided for in Subsection G or the fee-exempt registration provided for in Subsection H.
- J. The director shall establish and maintain a list of qualified clubs and organizations that register competition cats and competition dogs for purposes of determining eligibility for the discounted registration fee for these animals. Any person or veterinarian may nominate a club or organization for inclusion on the director's list. Upon receiving a nomination, the director shall investigate such club or organization and if it meets the criteria established in this title, it shall be included on the director's list.
- K. If deemed necessary, the director, deputy director and veterinary officer are authorized to arrange for City-sponsored rabies vaccination-registration clinics.

Section 5. That Title 7 (Animals), Chapter 7.12 (Dogs and Cats), Section 7.12.030 (Collar and tag required), Subsection E., of the El Paso City Code, is amended to read as follows:

Section 7.12.030, E. Collar and tag required.

E. If such tag is lost or destroyed, the owner shall apply at the center in writing or in person for a new tag by presentation of the applicable vaccination certificate, registration certificate, and evidence of microchip, accompanied by the established fee.

Section 6. That Title 7 (Animals), Chapter 7.14 (Animal Shows, Sales and Breeding), of the El Paso City Code, be created.

Section 7. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.010 (Permits required), of the El Paso City Code, is amended as follows:

Section. 7.14.010. Permits required.

- A. No person shall operate an animal establishment or otherwise conduct the grooming, kenneling, or boarding of animals for a fee; or conduct the breeding, showing, or exhibiting of dogs or cats; without obtaining a valid permit for each purpose or activity.
- B. No person shall operate a pet store without obtaining a valid permit for such operation.
- C. The owner or operator of an animal welfare organization may become qualified to engage in the operations and obtain the benefits allowed under this title, by obtaining a permit from the department that recognizes and registers the organization for all purposes under this title.
- D. A breeder holding a valid breeder's permit may obtain authorization to sell dogs and cats in conjunction with obtaining a litter permit when the breeder affirms under penalty of perjury, that he has bred or intends to breed a competition dog or competition cat and that he will register all

puppies or kittens in the litter as will be allowed by a club or organization recognized by the director prior to offering the puppies or kittens for sale.

E. Application for the permits required in this section shall be made as provided in Section 7.04.090. In addition to the information required under Section 7.04.090, the application shall state the location of the premises where the animals will be located or the business involving the animals will be conducted, the acreage or square footage where such animals are to be kept, the number of such anticipated animals, or average numbers of such animals, and the kinds of enclosures within which they are to be kept. The applicant shall also provide evidence of compliance with the city's zoning ordinances for facilities and operations conducted on property within the city limits and no permit authorized under this title shall be issued for animals kept in violation of the city's zoning ordinances.

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

G. All permits shall be renewed annually by the last day of the month in which the permit was issued the previous year, accompanied by payment of the established fee, except that a permit for an animal welfare organizations issued under Subsection C shall be issued at no charge to the organization.

Section 8. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.020 (Animal establishments – Operations, shows and exhibitions), of the El Paso City Code, is amended as follows:

Section. 7.14.020. Animal establishments – Operations, shows and exhibitions.

A. Every animal establishment shall maintain accurate records of all transactions, shows and exhibits involving animals, which records shall show the date, type of animal, type of activity, and parties to any transaction or transfer of an animal. 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.

B. Animals shall be kept under sanitary conditions so as not to endanger the public or animal health nor create a nuisance.

C. In cases involving a bona fide scientific or educational program, a show or exhibition made available for free to the public, or animals owned by the city, the veterinary officer may waive the requirements of this title concerning permits, fees or conditions if he finds that such waiver would not endanger the public or animal health or safety nor create a nuisance.

D. Animals shall not be displayed or exhibited to the public if they bear evidence of malnutrition, ill health, unhealed injury or having been kept in unsanitary condition, unless such display or exhibit is approved in writing by a veterinarian providing treatment for the subject animal, and such approval is made available to the department for inspection at the time of the display or exhibit.

Section 9. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.030 (Animal sales and transfers), of the El Paso City Code, is amended as follows:

Section. 7.14.030. Animal sales and transfers.

A. No person shall sell a dog or cat except as provided herein. Provided however, a person who holds a valid breeder's license and litter permit may, from September 1, 2010 through January 31, 2011, sell the offspring of a dog or cat provided that the offspring were born prior to September 1, 2010 or sell the offspring of a dog or cat that was pregnant on September 1, 2010.

B. No pet store shall sell a dog or cat but may sell other living creatures including, but not limited to fish, birds, rodents, insects, arachnids, and reptiles, in accordance with this title and as are allowed in the city. Provided however, a pet store may, from September 1, 2010 through January 31, 2011, sell a dog or cat that is documented to have been in the pet store's possession in the city of El Paso on September 1, 2010.

C. A breeder who holds a breeders permit may sell competition dogs and competition cats on and after February 1, 2011 in accordance with the requirements of a seller's litter permit obtained by the breeder in accordance with Section 7.14.010 C of this code.

D. An animal welfare organization is authorized to transfer or offer for transfer all animals as are allowed under this code to new owners, and in the case of dogs and cats, to transfer or offer for transfer, dogs and cats that have been abandoned, recovered or found primarily within El Paso County, Texas or a county that borders El Paso County.

1. All dogs and cats over the age of four months that are transferred to a new owner shall be spayed or neutered.
2. Prior to transferring any dog, cat or ferret to a new owner, an animal welfare organization shall check such animal for a microchip, and report the finding of a microchip to the program unless the animal is returned to the registered owner.
3. Every dog, cat or ferret coming into the possession of an animal welfare organization must be held a minimum of seventy-two (72) hours if the dog, cat or ferret did not have a registration tag or microchip at the time of initial possession, or for a minimum of six (6) days if the dog, cat or ferret had a registration tag or microchip, before transfer to a new owner.
4. Nothing in this chapter shall prohibit an animal welfare organization from making charges to a registered owner or new owner to recover costs and for other purposes consistent with the organization's non-profit status in connection with the return or transfer of an animal.

E. A pet store may allow an animal welfare organization to use the pet store's premises for the transfer of dogs and cats that are one year of age and older to new owners. Dogs and cats in the possession of the organization that are less than one year of age may be advertised by the organization, but not transferred to new owners on the premises of a pet store.

F. Every business, breeder, and animal welfare organization shall maintain accurate records of all transactions, shows and exhibits involving animals, which records shall show the date, type of animal, type of activity, and parties to any transaction or transfer of an animal. 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.

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

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

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

Section 10. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.040 (Roadside and flea market sales), of the El Paso City Code, is amended as follows:

Section 7.14.040. Roadside and flea market sales.

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

Section 11. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.040 (Animal litter permit), of the El Paso City Code, is amended as follows:

Section 7.14.040. Animal litter permit.

A. Any person who breeds a female dog or cat must have an annual breeder's permit and additionally obtain an animal litter permit and pay the established fee within fourteen days of the litter's birth.

B. The issuance of a litter permit authorizes the whelping of no more than two litters per female dog or cat in any twelve-month period.

C. The issuance of a litter permit does not authorize the sale of any puppies or kittens from the litter(s). All holders of a litter permit may transfer a puppy or kitten more than eight weeks of age to a new owner at no cost to the new owner.

D. The department may issue a litter permit without requiring payment of an additional permit fee for a second female dog or cat in the same household of an applicant, when the applicant applies for the litter permits for both animals at the same time and both litters are or are expected to be born within a fourteen day period.

E. Any owner, kennel, breeder, animal establishment or other business or person advertising the sale or transfer of a puppy or kitten under four months of age located within the city limits shall include or display the litter permit number on such advertisement regardless of the media used for such advertisement.

F. The provision in Subsection C does not apply to a breeder holding a breeder's permit and a seller's litter permit with respect to a litter covered under that permit.

G. The provisions in Subsections C and E do not apply to the Department or to an animal welfare organization.

Section 12. That Title 7 (Animals), Chapter 7.14 (Animal Sales, Breeding and Shows), Section 7.14.050 (Sale of certain puppies and kittens prohibited), of the El Paso City Code, is created to read as follows:

Section 7.14.050 Sale of certain puppies and kittens prohibited

No person may sell or offer any puppy or kitten under the age of eight (8) weeks for sale or transfer other than a puppy or kitten, or litter or litters taken to the Department or to an animal welfare organization.

Section 13. That Title 7 (Animals), Chapter 7.16 (Impoundment), Section 7.16.020 (Redemption - Disposition) of the El Paso City Code, is amended as follows:

Section 7.16.020. Redemption - Disposition.

A. The owner shall be entitled to resume possession of any impounded dog or cat upon payment of the established impoundment and daily handling fees and compliance with vaccination, registration, microchipping, spaying or neutering requirements, and other legal requirements for keeping such dog or cat.

B. Any unaltered dog or cat more than four months of age that is impounded by the program for a second time will be spayed or neutered before the owner is entitled to resume possession unless the veterinary officer determines that spaying or neutering is not in the best interests of the health or welfare of the dog or cat. The owner shall pay the established fee for the cost of such spaying or neutering prior to resuming possession of the dog or cat or pay the City in advance for its expenses in retaining the services of a veterinarian to perform the surgery.

C. Any other animal impounded may be reclaimed by the owner upon payment of impoundment and daily handling fees and compliance with other legal requirements for keeping of such animal.

D. 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.

1. Any dog or cat adopted from the center must be spayed or neutered, microchipped, and vaccinated against rabies. Adoption of animals previously unvaccinated against rabies shall not be allowed if a domestic case of rabies is confirmed in the community and the director imposes a rabies quarantine.

2. If any impounded animal, other than a dog or cat, is unclaimed by the owner, the animal shall be held for such time as the veterinary officer deems reasonable, considering the animal's probable value, conditions of health, and suitability for use. Upon expiration of such reasonable time he may offer the animal for sale or adoption to the city zoo or any animal welfare organization, or may have it humanely destroyed.

E. Any animal impounded and suffering from serious injuries, in great pain with probability of recovery remote, or having a communicable or infectious disease, which would endanger the public health or other animals, may be humanely destroyed after reasonable efforts to determine ownership have failed.

F. Animals may be disposed of before the end of the required holding period if upon notification of impoundment of the animal the owner states he does not wish to redeem the animal and subsequently in writing releases the animal to the sole jurisdiction of the program.

G. The owner of an animal impounded or quarantined and not redeemed within the required holding period shall be responsible for all associated fees (impoundment, daily handling, euthanasia) whether such animal is claimed or not.

Section 14. That Title 7 (Animals), Chapter 7.16 (Impoundment), Section 7.16.030 (Fees) of the El Paso City Code, is amended as follows:

Section 7.16.030. Fees.

A. Impoundment and daily handling fees are established and shall be charged according to animal classification, as follows:

1. Class A – includes dogs, cats and ferrets, and exotic animals NOT requiring capture by department personnel;
2. Class B – includes sheep, lambs, pigs, sows, goats, calves, foals and animals of same approximate size and weight as those specifically listed as Class B animals;
3. Class C – includes cattle, horses, ponies, mules and animals of the same approximate size and weight as those specifically listed as Class C animals;
4. Class D – Exotic animals requiring capture by department personnel.

B. The established fee will be charged for animal delivery service requested by the owner of an animal when the animal is subsequently redeemed at the center.

C. Fees for all permits issued under this chapter are established and shall be charged on an annual basis, unless otherwise specifically provided in this title.

D. Any dog, cat or ferret redeemed by or released from quarantine or impoundment to an owner shall be required to meet the vaccination, registration and microchip requirements of this title prior to release. If vaccination, registration or microchipping is performed at the center the established fees for such services shall be paid prior to the release.

E. Dog or cat traps shall be made available to any adult resident of the City of El Paso at no charge. By borrowing a trap, each resident hereby agrees:

1. That all traps will be returned no later than the fifth day after pick-up or delivery of the trap; and
2. The program is entitled to reimbursement for the full replacement cost of the trap should it not be timely returned; and
3. To pay the established fee for any trap that may be delivered by the program.

Section 15. That Title 7 (Animals), Chapter 7.24 (Livestock), Section 7.24.010 (Permits – Livestock.), of the El Paso City Code, is amended as follows:

Section 7.24.010. Permits – Livestock.

- A. Except in a farm-ranch district or zoning district in which a stockyard or stable is permitted, no person shall keep any livestock within the city without a permit as herein provided.
- B. No person shall keep any livestock within the city in violation of the provisions of the zoning ordinance.
- C. Application for any permit required in this section shall be made in writing to the program accompanied by a payment of the established for one or more livestock. The application shall state the name and residence of the applicant, the location of the premises where such livestock are to be kept, the acreage and square footage of the area in which they are confined, the number of such livestock, and the kind of enclosure within which they are to be kept.

Section 16. That Title 7 (Animals), Chapter 7.24 (Livestock), Section 7.24.020 (Other animals – Restrictions – Permit Requirements), of the El Paso City Code, is amended as follows:

Section 7.24.020. Other animals – Restrictions – Permit Requirements.

A. Pigs. No person shall keep any hog, sow or pig within the city except in a farm-ranch district or zoning district in which a stockyard or stable is permitted, nor shall any person keep any hog, sow or pig within the city in violation of any zoning ordinances. However, this section shall not be intended to prohibit the keeping of Chinese or Vietnamese miniature potbellied pigs maintained as household pets.

B. Rabbits and Fowl.

1. Except in a farm-ranch district or zoning district in which a stockyard or stable is permitted or except where kept as household pets in quantities fewer than six, no person shall keep any rabbit or fowl within the city without a permit as herein provided.
2. No person shall keep any animal within the city in violation of the provisions of the zoning ordinance.
3. Application for any permit required in this section shall be made pursuant to Section 7.04.090. In addition to the requirements set forth in Section 7.04.090, the application shall state the location of the premises where such rabbits or fowl are to be kept, the acreage and square footage where such rabbits and fowl are to be kept, the number of such rabbits and fowl and the kind of enclosure within which they are to be kept.

Section 17. That Title 7 (Animals), Chapter 7.24 (Livestock), Section 7.24.050 (Additional Permit Requirements), of the El Paso City Code, is amended as follows:

7.24.050 Additional Permit Requirements

A. A permit issued under this chapter may include reasonable conditions, including total number of animals authorized as determined by the veterinary officer to prevent a nuisance. All conditions of a permit are subject to review and revision by the veterinary officer and the veterinary officer may alter conditions or restrictions of the permit if any investigation indicates any changed conditions or circumstances since the original application.

B. The program shall determine by inspection or otherwise, whether the keeping of animals as proposed in any permit application under this chapter is in violation of any law or ordinance, including but not limited to any zoning ordinance, and whether the keeping of such animals will constitute a nuisance. In making such determination, the program shall consider the following factors and be guided by the following standards:

1. The area of the premises on which the animals are to be kept;
2. Whether the immediate neighborhood is residential or other;
3. Whether the zoning of the premises allows the keeping of such animals;
4. Whether the keeping of animals will endanger the public health or cause odors or noises offensive to persons of ordinary sensibilities;
5. Whether the keeping of such animals considering all the circumstances, is likely to endanger persons or property.

C. The veterinary officer shall verify his approval or disapproval of each application submitted pursuant to this chapter and shall issue or refuse the permit accordingly. The permit may include reasonable conditions determined by the veterinary officer to be necessary to prevent a nuisance, such as but not limited to, the number and kind of animals to be kept thereon.

D. Each permit shall be renewed annually by the last day of the month in which the permit was issued the previous year, accompanied by payment of the established fee. If ownership of the place in which the animals are kept is changed, the permit may be changed accordingly upon written verified application and payment of the established fee for amending the permit.

E. After reasonable written notice and opportunity to be heard, the veterinary officer may suspend or revoke any permit issued under this section for violation of this title by the permit holder or his agent or employee; or if conditions arise which could justify denying the permit on an original application he may review and alter conditions or restrictions of the permit if investigation indicates any changes since the original application.

F. Notice of a permit suspension or revocation must be delivered in person or in writing to the permit holder. 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 Title 7 (Animals), Chapter 7.24 (Livestock), Section 7.24.060 (Sale of certain baby chickens, ducklings, other fowl, rabbits and turtles prohibited), of the El Paso City Code, is amended as follows:

7.24.060 Sale of certain baby chickens, ducklings, other fowl, rabbits and turtles prohibited.

It is unlawful to sell, offer for sale, barter or give away baby chickens, ducklings, or other fowl under three weeks old, rabbits under two months old, or aquatic turtles as pet toys premiums or novelties.

Section 19. That Title 7 (Animals), Chapter 7.24 (Livestock), Section 7.24.070 (Coloring certain baby chickens, ducklings, other fowl and rabbits unlawful), of the El Paso City Code, is amended as follows:

7.24.070 Coloring certain baby chickens, ducklings, other fowl and rabbits unlawful.

It is unlawful to color, dye, stain or otherwise change the natural color of any chicken, duckling, other fowl, or rabbit or to possess for the purpose of sale or to be given away any chicken, duckling, other fowl, or rabbit which has been so colored.

Section 20. That Title 7 (Animals), Chapter 7.24 (Livestock), Section 7.24.080 (Payment of single permit fee), of the El Paso City Code, is amended as follows:

7.24.080 Payment of single permit fee.

Premises with animals in more than one permit category under this chapter shall be charged one fee for all permits. Such fee shall be equal to the amount of the highest individual permit fee, which would have been charged if the permits had been separately issued. Permit fees are not to be prorated or refunded.

Section 21. That existing code sections numbered and titled as 7.24.090 (Sale of certain baby chickens, ducklings, other fowl, rabbits and turtles prohibited), 7.24.100 (Coloring certain baby chickens, ducklings, other fowl and rabbits unlawful), 7.24.110 (Payment of single permit fee), 7.24.120 (Severability), and 7.24.130 (Fees) of Title 7 (Animals), Chapter 7.24 (Livestock) El Paso City Code, shall be deleted in their entirety.

Section 22. This ordinance shall take effect on September 1, 2010.

Section 23. Except as expressly herein amended, Title 7 (Animals) of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS _____ DAY OF AUGUST 2010.

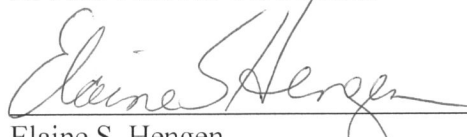
THE CITY OF EL PASO:

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:



Elaine S. Hengen
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Michael Hill, Director
Department of Public Health