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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 7 (ANIMALS) OF THE EL PASO CITY CODE IN ITS ENTIRETY, PROVIDING THAT PENALTIES FOR VIOLATIONS THEREOF SHALL NOT EXCEED TWO-THOUSAND DOLLARS (\$2,000.00) PER DAY PER VIOLATION AS PROVIDED IN 7.04.080 OF THE EL PASO CITY CODE.**

**WHEREAS**, the El Paso City County Health and Environmental District (EPCCHED) is charged with enforcement of animal regulations for the City of El Paso; and

**WHEREAS**, Title 7 of the El Paso City Code sets forth the standards for regulation, maintenance and treatment of animals in the City of El Paso; and

**WHEREAS**, the EPCCHED has noted that Title 7 has not been updated in its entirety in twenty (20) years and recommends revisions that will bring Title 7 into greater harmony with Title 10 of the Texas Health and Safety Code; and

**WHEREAS**, Texas Local Government Code §54.001 allows that health and safety ordinance violations may be subject to fines of up to \$2,000.00 and the regulation of animals is a health and safety concern; and

**WHEREAS**, the adoption of a greater penalty range for Title 7 violations demonstrates the City's commitment to rigorously enforce those ordinances which protect the health and welfare of its citizens and animals alike; and

**WHEREAS**, the Board of Health for the EPCCHED approved the recommended changes to Title 7 on June 15, 2005,

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

**1. That Title 7 (Animals) of the El Paso City Code shall be amended in its entirety and shall read as follows:**

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.

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- C. “Animal establishment” means any established place conducting business dealing with animals for a profit, excluding 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 El Paso City-County Health and Environmental District and in which the Program is housed.
- E. “Bite or scratch” means any abrasion, scratch, puncture, tear or piercing of the skin actually or suspected of being caused by an animal.
- F. “Board” means the Board of Health of the El Paso City-County Health and Environmental District.
- 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 El Paso City-County Health and Environmental District 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 El Paso City-County Health and Environmental District 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. “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.

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- L. “Dangerous wild animal” includes but is not limited to:
1. a lion;
  2. a tiger;
  3. an ocelot;
  4. a cougar;
  5. a leopard;
  6. a cheetah;
  7. a jaguar;
  8. a bobcat;
  9. a lynx;
  10. a serval;
  11. a caracal;
  12. a hyena;
  13. a bear;
  14. a coyote;
  15. a jackal;
  16. a baboon;
  17. a chimpanzee;
  18. an orangutan;
  19. a gorilla;
  20. a wolf; or
  21. any hybrid of an animal listed in this definition.
- M. “Director” means the Chief Administrative Officer of the local health department or district as defined in Texas Health and Safety Code §121.033 and §121.045.
- N. “District” means the El Paso City-County Health and Environmental District.
- O. “Equine” is used in its general sense and includes all domesticated equine regardless of age, sex or breed.
- P. "Exotic animal" means any animal not commonly domesticated by man.
- Q. “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.
- R. “Fowl” means domestic birds to include chickens, ducks, geese and pigeons.
- S. "Health authority" means the physician appointed to administer state and local laws relating to public health within the appointing body’s jurisdiction and as defined in Texas Health and Safety Code §121.021 and §121.045.

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- T. "Kennel" is defined in Title 20 of the El Paso City Code.
- U. "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.
- V. "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.
- W. "Manager" means the Program Manager.
- X. "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.
- Y. "Officer" means any employee of the Program or a Commissioned peace officer.
- Z. "Owner" means a custodian, caretaker or person who feeds or harbors the subject animal for more than seventy-two (72) 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.
- AA. "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).
- BB. "Program" means the District's Animal Regulation and Disease Control Program.
- CC. "Rabbit" is used in its general sense and includes animals of the same approximate size and weight, which require similar husbandry.
- DD. "Service animals" means any guide dog, signal dog, or other animal individually trained to provide assistance to a person with a disability.
- EE. "Shade" means a place giving protection from the heat and light of the sun.

- FF. “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.
- GG. “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.
- HH. "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.
- II. "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.
- JJ. “Veterinary Clinic” means a facility or hospital for diagnosis and treatment of animals.
- KK. "Veterinary Officer" means the veterinarian officially designated by the Director.

7.04.020 Rules and Regulations.

The Board shall from time to time prescribe and publish such standards of care, rules and regulations as may be required to control the buying, selling, holding, exhibiting, showing or otherwise dealing with animals. These standards of care, rules and regulations shall be promulgated and amended as is necessary to be a reflection of the best current common practice concerning animal welfare and public health.

7.04.030 Enforcement-Right of entry-Interference with officer.

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- A. The Director, Manager and Veterinary Officer shall be responsible for enforcement of this Title and are authorized to utilize the resources of the Program in any public health emergency, and for enforcement of the lawful standards of care, rules and regulations adopted by the Board and any applicable local, State and Federal law.
- B. For the purpose of discharging the duties imposed by this Title and to enforce its provisions, any Officer is empowered at all reasonable times and upon presentation of appropriate credentials, to enter any premises upon which an animal is kept or harbored and to demand the exhibition, by the owner of a dog or cat, of the certificate of vaccination, verification of microchip, and certificate of registration for such dog or cat. It is further provided that any Officer may enter, at all reasonable times and upon the presentation of appropriate credentials, the premises where an animal is kept in an allegedly cruel or inhumane manner and demand to examine and impound such animal, when in his/her opinion it requires humane treatment. No Officer shall, however, enter a private residence for purposes of making an inspection under this chapter without first receiving permission from a lawful adult occupant of such residence or being authorized to inspect such residence by a magistrate or by order of a court of competent jurisdiction upon showing of a probable violation of this Title.
- C. No person shall interfere with, hinder or molest any Officer in the performance of his duty.
- D. Nothing in this section shall be construed to limit an Officer's ability to enter upon a premise when a violation of this Title or any applicable local, State or Federal law occurs in their presence and entry is made in accordance with the standards for entry enumerated in the Texas Code of Criminal Procedure.
- E. Canvassing shall be conducted at the direction of the Health Authority, Director, Manager or Veterinary Officer when deemed necessary to ensure compliance with this Title.

7.04.040 Recordkeeping--Annual audits required.

- A. It shall be the duty of the Program to keep or cause to be kept, accurate and detailed records of all vaccination certificates, microchips, registrations and permits of pets, the impoundment and disposition of animals, and all bite incidents reported to the Program and investigation of same.
- B. The aforesaid records shall be audited annually in the same manner as other City records are audited.



7.04.050 Animal bites--Reporting requirements.

- A. A person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident or animal to the Program as soon as possible but not later than twenty-four (24) hours from the time of the incident. The report must include:
  - 1. The name and address of the victim and of the animal's owner, if known; and
  - 2. Any other information that may help in locating the victim or animal.
- B. It shall be the duty of every veterinarian having an animal quarantined for a bite incident to submit a written report to the Program as to the condition of the quarantined animal on the initial day of observation and on the fifth (5<sup>th</sup>) day and the tenth (10<sup>th</sup>) day immediately following the date of the bite incident.
- C. It shall be the duty of every veterinarian to report immediately to the Program his/her diagnosis of any animal observed by him/her as a rabies suspect.

7.04.060 Zoonotic Disease Reporting Required.

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

7.04.070 Veterinary Care of City-owned Animals.

The veterinary officer shall provide professional veterinary care as required on all problems concerning the health and welfare of city-owned animals and serve as professional consultant of the acquisition, management and disposition of the animals.

7.04.080 Violation-Penalty.

Any person may be charged with a Class C misdemeanor for failing to comply with any provision of this Title. Any such violations are punishable by a fine not to exceed two thousand dollars (\$2,000.00) per day per violation.

7.04.090 Appeals.

- A. A person who has a permit issued under this Title, that has been served with a suspension or revocation notice of said permit, may appeal the Health Authority's or Veterinary Officer's action to the Board by written request within five (5) working days following issuance of notice of suspension or revocation, delivered to the Chair of the Board

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- B. The appellant is entitled to a hearing before the Board within forty-five (45) days after the notice of appeal is received. Failure to provide a hearing within the time period, unless otherwise agreed to by the parties, shall invalidate the action of the Health Authority or Veterinary Officer
- C. The Board shall conduct the hearing provided for in this section at a time and place designated by the Board. The Board shall prepare a written report stating its final decision and said decision will be based upon the hearing. The appellant shall be present at the time of the hearing. The Health Authority will keep a copy of the written report of the final decision and the appellant will be provided an original copy within thirty (30) days
- D. If no written request for a hearing is filed within five (5) working days following issuance of notice of permit suspension or revocation, the suspension or revocation of the permit becomes final.

7.08.010. Nuisances designated.

The following shall be considered a public nuisance and shall be unlawful:

- A. The keeping of any animal, which by causing frequent or long continued noise shall disturb the comfort and repose of any person of ordinary sensibilities in the vicinity as defined in Texas Health and Safety Code §9.40.
- B. The keeping of any animal in such a manner as to endanger the public health or as to annoy neighbors by the accumulation of feces and putrid materials which cause foul and offensive odors;
- C. The keeping of any animal which habitually deposits body wastes upon or destroys by chewing, scratching, digging or otherwise, property other than that of the owner of such animal;
- D. All animal pens, stables or enclosures in which any animal may be kept or confined, which from use have become offensive;
- E. The keeping of animals whose number or the conditions under which they are kept disturbs the comfort and repose of any person of ordinary sensibilities in the vicinity; or endangers the animal's health, safety or welfare;
- F. It shall be unlawful for any person owning or having control or custody of an animal to permit the animal to defecate upon the city's public property or upon the private property of another unless the person immediately removes the feces and

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properly disposes of it; provided, however, that nothing contained in this chapter authorizes such person to enter upon the private property of another without permission. In addition, it shall be unlawful for any person to walk an animal on the city's public property or upon the private property of another without carrying at all times a suitable container or other suitable instrument for the removal and disposal of animal feces. Handicapped persons using trained guide or personal assistance dogs are exempt from this provision. This section does not apply to any peace officer while using an animal in the discharge of law enforcement activities.

7.08.020 Abandonment--Reporting violations.

- A. It is unlawful for any person to abandon any animal in the city.
- B. Every person having knowledge of a violation shall report immediately to the Program any facts, which could lead to the identification of any person or group of persons violating subsection (A) of this section. However, nothing in this provision shall subject an individual with knowledge of the violation to prosecution under 7.04.080.
- C. It is unlawful for any person having charge or custody of an animal, as owner or otherwise, to place or confine such animal or allow such animal to be placed or confined or to remain in a motor vehicle or livestock trailer under such condition or for such period of time as may endanger the health or well-being of such animal due to heat, lack of food or water, or such other circumstances as may reasonably be expected to cause suffering, disability or death.
  - 1. Any Officer finding an animal in a motor vehicle or livestock trailer in violation of the provisions enumerated in subsection (C) is authorized to obtain a locksmith at the owner's cost, or break and enter the vehicle if necessary to remove the animal.
  - 2. Removed animals will be impounded at the Center or Veterinary Clinic for safekeeping. Owners may claim their animals upon payment of all reasonable charges or fees that accrued for removal and maintenance of the animal, plus impoundment fees.
  - 3. At the time the animal is removed from the motor vehicle or livestock trailer the Officer shall leave a written notice bearing his/her name and title and the address where the animal may be claimed.
  - 4. The animal will be retained for a minimum of six (6) days, and if not claimed, may be disposed of as provided by this Title.

7.08.030 Restraint.

Every person owning or having charge, care, custody or control of any animal shall keep such animal exclusively upon his own premises by means of physical restraint; provided, however,

that such animal may be off such premises if it is under direct physical control of a competent person.

7.08.040      Confinement of certain animals.

- A.     The owner shall confine within a building or enclosure every fierce, dangerous or vicious animal in accordance with all applicable Texas Statutes. Confinement shall be in such a manner that the animal cannot come in contact with any person or other animal except for supervised breeding.
  
- B.     The Veterinary Officer may cause the muzzling, secure confinement, removal from the City or humane destruction of any animal on an emergency basis for any reason of public health and safety, including due to:
  - 1.     An unprovoked attack by an animal upon any person or animal; or
  - 2.     Whenever any lawful patron or visitor of a business is jeopardized by a guard dog, which is not securely confined during hours the business is open to the public.

7.08.050      Standards for Animal Care.

Every person within the City of El Paso who owns any animal, or who owns, conducts, manages or operates any animal establishment for which a license is required by this Title shall comply with each of the following conditions:

- A.     Shelter and shade for animals must be provided.
  
- B.     No animal shall be neglected.
  
- C.     All animals shall be supplied with sufficient good and wholesome food and clean water as often as the feeding habits of the respective animals require.
  
- D.     All animals and all animal buildings or enclosures shall be maintained in a clean, safe and sanitary condition.
  
- E.     Animal buildings and enclosures shall be so constructed and maintained as to prevent escape of animals. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.
  
- F.     Every animal establishment shall isolate animals known to be sick sufficiently so as to not endanger the health of other animals. Sick animals shall at all times be isolated from other animals.
  
- G.     The owner or custodian of an animal shall be required to present an animal to a

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veterinarian for examination or treatment if the Director or Veterinary Officer finds this is necessary in order to maintain the health of the animal and notifies the owner or custodian to do so.

- H. The use of any restraint device that is, or could be, injurious or cause unnecessary cruelty to any animal is prohibited by this Title.
- I. It shall be a violation of this Title to provide an alcoholic beverage, controlled substance or illegal drug to an animal, unless prescribed by a veterinarian.

7.08.060 City-Owned Animals.

- A. No person shall throw, drop or put any object or substance within the fence, balustrade, wall or other barrier enclosing any area in which any animal owned or maintained by the city is kept, or shall go within any such enclosed area, or shall reach into such enclosure with any part of his/her body or with any object.
- B. No person shall carry away an animal kept in such enclosed area, or shall take or have such animal in his/her possession or control, or release any such animal from such enclosed area.
- C. This section does not apply to persons employed by the city and acting within the scope of their employment to take care of such animals, or to care for or repair such enclosure.

7.08.070 Use of Strychnine, Other Poisons Prohibited.

- A. It shall be unlawful for any person to use strychnine to eliminate animals or fowl.
- B. It shall be unlawful for any person to use any toxin or poison to eliminate animals or fowl except as provided in subsection C of this section.
- C. Whenever there is a proposed use of any poison or toxin, the Director of the District shall make a determination to permit the use of poisons or toxins, if any, which meet the following guidelines:
  - 1. A poison or toxin must eliminate animals or fowls humanely;
  - 2. The conditions, which the use would seek to eliminate, must be health-threatening;
  - 3. All dead animals must be removed from the premises within a reasonable time and never more than twenty-four (24) hours after death;
  - 4. No poisons or toxins, which create a secondary health hazard to mammals, shall be excluded from the prohibition of subsection B of this section;
  - 5. No poison or toxin shall be allowed to remain on premises more than twenty-four (24) hours after the health hazard has been eliminated and

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notice given by the health director.

6. It shall be the duty of the owner of any property on which there is poison or toxin to remove or contain such substance so as to prevent it from being a danger to humans, animals or fowl.

D. Nothing in this section shall be interpreted to regulate the pest control industry.

7.08.080 Animal regulation and disease control department services--Fees.

For services rendered, the following fees shall be charged:

- A. Euthanasia performed on owned animals at the owner's request, twenty-five dollars (\$25.00);
- B. Impoundment of animal at the owner's request for euthanasia, forty-five dollars (\$45.00);
- C. Delivery of animals to owners, twenty-five dollars (\$25.00);
- D. Handling of animal bodies brought to the Program for disposal, ten dollars (\$10.00);
- E. Tick dips, ten dollars (\$10.00).

7.08.090 Dangerous Wild Animals.

Except for those animals defined in Texas Health and Safety Code §822.102(1) thru (11), ownership, possession, confinement or care of a dangerous wild animal, to include a wolf or wolf-dog hybrid is prohibited within the City.

7.12.010 Running at large prohibited.

Every person owning or having charge, care, custody or control of any dog or cat shall keep such dog or cat exclusively upon his/her own premises by means of appropriate and humane physical restraint; provided, however, that such dog may be off such premises if it is under direct control of a competent person by means of a secure leash or by some other equivalent means of direct physical control, and such cat may be off such premises if it is under direct physical control of a competent person.

7.12.020 Registration and Microchips Required--Application--Procedure--Fees--City sponsored rabies vaccination and registration clinics.

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- A. No owner shall have within the city any dog, cat or ferret four (4) 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 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. **Any owner who has an animal that has current registration and vaccination at the time this ordinance is passed must come into compliance with the microchip provision of this section by April 1, 2006.**
- 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 §826.0211. When applying for additional microchips, certificates and tags the veterinarian shall account to the Program for all those previously supplied to him/her, and shall remit to the Program all fees collected. S/he shall be held financially responsible for any microchips, certificates and tags no longer in his/her 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/her 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 a fee of eight dollars (\$8.00). If an original current registration certificate is lost or destroyed, the owner may obtain a duplicate by paying a fee of eight dollars (\$8.00).
- 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 of a registered dog or cat, the new owner shall update the microchip information and have the registration transferred to his/her name. Application for such transfer shall be made to the Program in writing or in person, and be accompanied by a fee of eight dollars (\$8.00).

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- G. Fee-exempt registrations may be issued for the following:
  - 1. Police or sheriff's department's dogs;
  - 2. Service animals;
  - 3. Animals other than dogs, cats or ferrets that are vaccinated against rabies.
  - 4. Eligibility for fee exempt registration does not relieve the owner of his/her responsibility under other provisions of this Title.
- H. If deemed necessary, the health authority is authorized to arrange for city sponsored rabies vaccination-registration clinics.

7.12.030 Collar and tag required.

- A. Upon registration there shall be delivered to the owner a metallic tag stamped with the registration certificate number and the year in which issued.
- B. The owner shall see that the dog or cat wears at all times a collar or harness to which the current registration tag shall be attached, except as in subsection C or D of this section. It is unlawful for any person to remove the tag from the collar or harness without the owner's consent.
- C. Dogs or cats confined within a residence need not wear their collar or harness nor their registration tag while within the residence. However, in no case shall a dog or cat be allowed to exit the interior of the residence without wearing their collar or harness with the current registration tag attached.
- D. Dogs or cats competing at approved dog or cat club shows, or trials or while being transported to and from such events need not wear their collar or harness nor their registration tag.
- 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 a fee of eight dollars (\$8.00).

7.12.040 Vaccination and microchip required.

No person shall own, keep or harbor within the city any dog, cat or ferret four (4) months of age or older unless such dog, cat or ferret has a current vaccination and implanted microchip. A dog, cat or ferret will have a current vaccination for one (1) year or three (3) years from the date of vaccination, dependent upon the type of vaccine administered. All vaccinations shall be administered according to the label recommendations of a United States Department of Agriculture (USDA) approved vaccine. The dog, cat or ferret must be re-vaccinated before the

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expiration of the first and each subsequent current vaccination period.

7.12.050 Animals in public places.

- A. Nothing in this section shall apply to dogs in the company of law enforcement personnel while executing official duties
- B. It is lawful for any service animal to be admitted when actually accompanying a disabled person to any public place or vehicle, which the disabled person may have the lawful right to enter, if the animal is currently vaccinated, registered and microchipped.
- C. Except as provided in subsection A or B of this section, it is unlawful for any person having charge, care, custody or control of any animal to allow such animal in any public vehicle or in any public building not used primarily for animals or their care, unless permission in writing has been issued by the Program.
- D. All persons having ownership, care, custody or control of any animal shall be prohibited from taking the animal upon or into any public playground, school grounds or athletic facility within the city unless permission in writing has been issued by the facility.

7.12.060 Dangerous Dogs.

- A. A dog suspected of being dangerous may be impounded or quarantined in accordance with procedures as established by this Title.
- B. A dog that is designated as dangerous may not be released from impoundment or quarantine until such time as the owner has complied with the standards for keeping a dangerous dog enumerated in this Title and Texas Health and Safety Code §822.042. Failure to comply with the requirements for keeping a dangerous dog within thirty (30) days of the receipt of notice by the Veterinary Officer or Manager that said dog is dangerous, shall result in a determination that the dog has been abandoned.
  - 1. **Exception:** The Program may not proceed with humane destruction of a dangerous dog in any case where the owner has filed a proper appeal of the dangerous dog determination with the Municipal Court.
  - 2. All fees for administration, quarantine and impound shall be paid prior to the release of any dangerous dog.
    - a. The Veterinary Officer or Manager may extend the thirty (30) day compliance period by written request of the owner provided that documentation of the need for an extension is provided (for instance, building permits, building plans, building contracts, correspondence

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from insurance company). During the period of extension the dog shall remain in the custody of the Center and impound fees shall continue to accrue.

- C. Appeal of a dangerous dog determination shall be in accordance with Texas Health and Safety Code §822.0421.

7.16.010 Notification.

- A. Dogs or cats not vaccinated, registered or microchipped may be seized and impounded at the Center.
- B. Any animal found to be kept in violation of the provisions of this Title, or infected with diseases or kept under conditions which could endanger the public or animal health or create a nuisance, may be impounded by the Program. Animals so impounded shall be released after the reason for causing the impoundment has been corrected and all fees have been paid, or such animals shall be subject to the provisions for disposition.
- C. Reasonable efforts shall be made by the Program to promptly notify the owner of any impounded animal as verified by the information provided in a vaccination certificate, registration certificate or microchip record by telephone or personal service at the place listed on the certificate.

7.16.020 Redemption--Disposition--Diseased Animals Other Than Rabies Cases.

- A. The owner shall be entitled to resume possession of any impounded dog or cat upon payment of the impoundment and daily handling fees and compliance with vaccination, registration, microchipping and other legal requirements for keeping such dog or cat.
- B. 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.
- C. Any dog or cat impounded and not claimed by the owner may be humanely destroyed after being held for at least seventy-two (72) hours after impoundment; provided however, that any impounded dog or cat found to be microchipped or displaying a current vaccination and/or registration tag shall be held for at least six (6) days after impoundment. If the veterinary officer determines that any unclaimed dog or cat is reasonably healthy, currently vaccinated against rabies, or vaccinated prior to release for adoption and would not constitute a threat to public

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or animal health of the community, s/he may, after the holding period, offer such dog or cat for adoption by using selection criteria established by the Board. Individual animals with socially acceptable behavior will 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 s/he may offer the animal for sale or adoption to the City Zoo or the El Paso Humane Society or may have it humanely destroyed.
- D. 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.
- E. Animals may be disposed of before the end of the required holding period if upon notification of impoundment of the animal the owner states s/he does not wish to redeem the animal and subsequently in writing releases the animal to the sole jurisdiction of the Program.
- F. 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.

7.16.030 Fees.

- A. Impoundment and daily handling fees shall be assessed according to animal classification. Handling fees shall be charged for every day or fraction thereof that an animal is at the Center.

Class	Class A	Class B	Class C	Class D
Type of animal	Dogs & cats; or exotic animals NOT requiring capture by	Sheep, lambs, pigs, sows, goats, calves, foals and animals of same approximate	Cattle, horses, ponies, mules and animals of the same approximate size and weight	Exotic animals requiring capture by Program personnel.

	Program personnel.	size and weight		
Impoundment Fee	\$45.00 each	\$50.00 each	\$85.00 each	\$50.00 each
Daily Handling Fee	\$10.00 for dogs and cats; \$15.00 for exotic animals	\$15.00	\$15.00	\$15.00

- B. A fee of fifteen dollars (\$15.00) will be charged for animal delivery service requested by the owner of an animal when the animal is subsequently redeemed at the Center.
- C. Any dog or cat 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 current fees for such services shall be paid prior to the release.
- D. Dog or cat traps shall be made available to any adult resident of the City of El Paso at no charge, provided that they are:
  1. Returned no later than the fifth (5<sup>th</sup>) 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.
  3. Traps may be delivered by the Program at a cost of twenty dollars (\$20.00) per delivery.

7.20.010 Ordering of Quarantine.

The health authority or his/her designee, upon receiving notification from the owner, victim, a physician or other complainant that any animal, except those classified as low risk, is involved in a bite incident, shall order the quarantine of the animal causing the bite. Upon issuing the order for quarantine, the rules provided for in this chapter for quarantine shall be enforced and every person, to whom such order is shown or has actual knowledge thereof, shall obey all requirements of the quarantine.

7.20.020 Rabies Quarantine--Confinement--Disposition.

- A. Every animal that bites a human or other animal, or has rabies or is under suspicion of having rabies, shall be immediately confined by the owner, who shall

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promptly notify the Program of the place where such animal is confined and the reason therefore. The owner shall not permit such animal to come in contact with any other person or animal.

- B. Every animal that has been bitten by another animal shall be immediately confined by the owner who shall promptly notify the Program of the place where such animal is confined and the reason therefore. Confinement shall continue until release of the animal by the Program.

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 sixty dollars (\$60.00) 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.
- D. The permit shall be renewed annually by the last day of the same month in which it was issued the previous year upon written application and payment of a fee of sixty dollars (\$60.00). If the ownership of the premises upon which the livestock is kept is changed, the permit may be changed accordingly upon written application and payment of a fee of ten dollars (\$10.00) for amending the permit.
- E. The permit may include reasonable conditions, including total number of livestock authorized as determined by the veterinary officer to prevent a nuisance. All conditions of a permit are subject to review and revision.
- F. After reasonable notice and opportunity to be heard, the veterinary officer may suspend or revoke the permit for violation of any provisions of this Chapter by the permit-holder or his/her agent or employee, or if conditions arise which could justify denying the permit on an original application. The veterinary officer may review and alter conditions or restrictions of the permit if investigation indicates any changes since the original application.

7.24.020 Other animals--Restrictions--Permit requirements.

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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 (6), no person shall keep any rabbit or fowl within the city without a permit as herein provided.
2. No person shall keep any rabbits or fowl within the City in violation of the provisions of the zoning ordinance.
3. Application for any permit required in this section shall be made in writing to the Program, accompanied by payment of thirty-five dollars (\$35.00). The application shall state the name and residence of the applicant, the location of the premises where such rabbits or fowl are to be kept, the acreage and square footage of the area 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.
4. The 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 a fee of thirty-five dollars (\$35.00). If ownership of the place in which the rabbits or fowl are kept is changed, the permit may be changed accordingly upon written verified application and payment of a fee of five dollars (\$5.00) for amending the permit.
5. The permit may include reasonable conditions, including total number of rabbits and fowl authorized as determined by the veterinary officer to prevent a nuisance. All conditions of a permit are subject to review and revision.

C. The Program shall determine, by inspection or otherwise, whether the keeping of animals as proposed is in violation of any law or 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 keeping of animals will endanger the public health or cause odors or noises offensive to persons of ordinary sensibilities;
4. Whether the keeping of such animals considering all the circumstances, is

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likely to endanger persons or property.

- D. The veterinary officer shall verify his approval or disapproval of the application 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. All conditions of a permit are subject to review and revision by the veterinary officer.
- 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/her agent or employee; or if conditions arise which could justify denying the permit on an original application s/he may review and alter conditions or restrictions of the permit if investigation indicates any changes since the original application. Notice of a permit suspension or revocation must be delivered in person or in writing to the permit-holder.
  - 1. A determination of suspension or revocation of a permit issued under this section may be appealed to the Board of Health in accordance with the procedures established in 7.04.090.

7.24.030 Pens and enclosures--Sanitation requirements.

- A. All livestock shall be kept in a secure pen or enclosure, which shall not be less than one hundred (100) feet from any private residence (except that of the owner or person keeping such animals) or any hotel, apartment house, tenement house, hospital, church or school.
- B. Fowl and rabbits subject to permitting shall be kept in a secure pen or enclosure that is at least thirty (30) feet from any private residence (except that of the owner or person keeping such fowl or rabbits) or any hotel, apartment house, tenement house, hospital, church or school; provided, the pen or enclosure may be within twenty (20) feet of such buildings if separated therefrom by a public alley and by a solid fence or wall at least six (6) feet high between the pen or enclosure and the alley. In conjunction with issuance of a permit, the Veterinary Officer may waive the requirements as to distance from dwellings or other buildings if public health is not endangered nor a nuisance is created.
- C. The word "kept" as used in this section does not prevent the temporary removal of the animal from the pen for any normal use or purpose, to include the release of homing pigeons from the pen or enclosure for the purpose of supervised flights.
- D. All persons keeping permit animals shall comply with the following regulations:
  - 1. Manure shall be removed from pens, stables, yards, cages and other

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enclosures at least twice weekly and handled or disposed of in such a manner as to keep the premises free of any nuisance.

2. Mound storage of manure between such removals shall be permitted only under such conditions as to protect against the breeding of flies.
3. The feeding of cooked or uncooked vegetables, cooked meat scraps or cooked garbage shall be done only in impervious containers or on an impervious platform. The feeding of uncooked meat scraps or garbage is prohibited.
4. Watering troughs or tanks shall be provided which shall be equipped with adequate facilities for draining the overflow, as to prevent the breeding of flies, mosquitoes or other insects;
5. No material subject to putrefaction shall be allowed to accumulate on the premises, including unconsumed feed materials and they shall be removed and disposed of by means approved by the veterinary officer.
6. All permit animals shall be kept in compliance with 7.08.050, Standards for Animal Care.

7.24.040 Keeping Horses and Cattle--Restrictions.

- A. Except in a farm-ranch district, or zoning district in which a stockyard or stable is permitted, no person shall keep an equine or bovine on any premises the overall area of which is less than one-third of an acre for each equine or bovine kept, nor keep more equines or bovines than can be cared for under sanitary conditions and not create a public nuisance and in no event exceed the permitted number of adult equine or bovine, and their foals or calves up to six (6) months of age.
- B. The number of equine or bovine permitted shall not exceed one (1) adult per one-third acre for the first acre, one (1) adult per one-half acre for the second acre, and two (2) adults per acre for each additional acre over two acres of a single tract of land. The persons in lawful possession of the premises, as owner or tenant, may keep thereon equine or bovine belonging to others, but limited to number of equine or bovine on the premises and the area and distance requirements of this section and Section 7.24.030.

7.24.050 Animal Establishments; Shows and Exhibitions--Permit--Application--Fees.

- A. Application for a permit to operate an animal establishment, show or exhibition shall be made to the Program on forms furnished. The application will not be approved until certification has been received from appropriate City officials that the zoning, construction and facility comply with existing ordinances for establishments housing such business. Upon the permit application approval by

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the veterinary officer and payment of fee, the permit shall be issued.

- B. All permits issued under this section shall be valid during the remainder of the calendar month in which issued and for the following twelve (12) months. Permit renewal shall be made before the end of the twelfth month by proper written application and payment of fee to the Program. No permit issued under this section shall be renewed without the approval of the veterinary officer. Permits to show or exhibit animals (rodeos, circuses, shows, etc.) shall be valid only for the thirty-day (30) period immediately following issuance. No permit shall be transferable to a third party.
- C. All permits issued under this section shall be charged a permit fee established by resolution of the City Council and commensurate with the actual administrative cost to the Program, including, but not limited to costs associated with processing, issuance, inspection and enforcement of the required permit.

7.24.060. ~~Animal Establishments; Shows and Exhibitions--Permit--Required—Record keeping.~~

- A. No person shall operate an animal establishment, conduct the commercial sale, grooming, breeding, showing, exhibiting, kenneling, or boarding of animals without a valid permit.
- B. A permit holder under this section shall not release a dog, cat or ferret four (4) months of age or older to any person unless such dog, cat or ferret is currently vaccinated against rabies and microchipped for identification.
- C. Every person engaged in business shall maintain animals in compliance with this Title so as not to endanger the public or animal health nor create a nuisance.
- D. Every business shall maintain accurate records of all transactions involving animals, which records shall show the date, type of animal and parties of such transaction. Such records shall be kept for a length of time to be determined by the Health Authority or his/her designee, and will be made available upon demand to the Program.
- E. The Health Authority or his/her designee shall make any and all inspections necessary to ensure compliance with this section. Animals shall be kept under sanitary conditions so as not to endanger the public or animal health nor create a nuisance.
- F. 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

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veterinary officer may waive the requirements of this Title concerning permits, fees or conditions if s/he finds that such waiver would not endanger the public or animal health or safety nor create a nuisance.

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

7.24.070 Roadside and Flea Market Sales

It shall be 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 any tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals, and shall not apply to any tax-exempt non-profit organization which offers for sale or auction an animal for the purpose of charitable fundraising and which has received prior written approval for such sale or auction from the Manager, and shall not apply to any person who has obtained a proper permit, and is complying with the specific limitations as set forth by this permit.

7.24.080 Animal Litter Permit

Any person who breeds a female dog or cat, must obtain an animal litter permit within ten (10) business days of the litter's birth. The permit fee shall be seventy-five dollars (\$75.00) per litter.

- A. The issuance of a permit authorizes the whelping of no more than two (2) litters per female dog or cat in any twelve (12) month period.
- B. The Department may issue a permit without requiring payment of an additional seventy-five dollar (\$75.00) permit fee in any case where the applicant has received an animal litter permit for the same household within ten (10) business days of the birth of the subject litter.

7.24.090 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 (3) weeks old, rabbits under two (2) months old, or aquatic turtles as pet toys premiums or novelties.

7.24.100 Coloring Certain Baby Chickens, Ducklings, other Fowl and Rabbits Unlawful

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

7.24.110 Payment of Single Permit Fee.

Excepting litter permits, premises with animals in more than one permit category under this section 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.

7.24.120 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.

**2. The effective date of this ordinance shall be the \_\_\_\_\_ day of \_\_\_\_\_, 2005, except that any owner who has an animal that has current registration and vaccination at the time this ordinance is passed need not come into compliance with the microchip requirements of this Title until April 1, 2006.**

**PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.**

CITY OF EL PASO

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

ATTEST:

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

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Lisa Aceves Hayes

\_\_\_\_\_  
Jorge C. Magaña, M.D., F.A.A.P., Director

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Counsel for the City of El Paso

El Paso City-County Health &  
Environmental District

BOARD OF HEALTH

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John M. Tune, M.D.  
Chairman

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