



INFORMATIONAL MEMORANDUM

TO: Finance & Governance Committee

FROM: Vicky Carlsen, Finance Director

CC: Mayor Ekberg

DATE: February 2, 2021

SUBJECT: Update TMC 7.12.260 and 7.12.270 Related to Appeals of Animal Control Authority

ISSUE

Update Tukwila Municipal Code (TMC) sections 7.12.260 Violations – notice and order and 7.12.270 Appeals to reflect current language in King County’s code related to the enforcement of rules, regulations, and violations.

BACKGROUND

The City of Tukwila entered into a new interlocal agreement with King County to provide animal service, effective January 1, 2018 and expires December 31, 2022. The contract allows for an automatic extension of an additional five years unless one or more of the contracting parties provides written notice of an intent to opt out of a second term.

When the current interlocal agreement was drafted, King County also amended its code to designate the King County Hearing Examiner as the hearing body with jurisdiction over such appeals. It is necessary for the City of Tukwila to amend the Tukwila Municipal Code to change the current language of “board of appeals” to King County Hearing Examiner.

DISCUSSION

The ordinance amends two sections of the TMC; 7.12.260 and 7.12.270 and replaces the board of appeals with King County Hearing Examiner. King County is asking that this change be made as quickly as possible.

RECOMMENDATION

The Council is being asked to approve the ordinance and consider this item at the February 22, 2021 Committee of the Whole meeting and Special Meeting immediately following.

ATTACHMENTS

Draft Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING ORDINANCE NO. 2466 §4 (PART), AS CODIFIED AT TUKWILA MUNICIPAL CODE SECTIONS 7.12.260 AND 7.12.270, TO REFLECT CHANGES MADE WITHIN THE KING COUNTY CODE RELATED TO APPEALS OF ANIMAL CONTROL AUTHORITY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Tukwila has entered into an Interlocal Agreement with King County Animal Services; and

WHEREAS, pursuant to the Tukwila Municipal Code and the Interlocal Agreement, King County is authorized to hear appeals related to the enforcement of rules, regulations, and violations established by the Tukwila Municipal Code; and

WHEREAS, King County has amended its code to now designate the King County Hearing Examiner as the hearing body with jurisdiction over such appeals; and

WHEREAS, it is necessary to amend the Tukwila Municipal Code to reflect the changes made within the King County Code vesting jurisdiction with the King County Hearing Examiner and to align with the Hearing Examiner's procedures;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. TMC Section 7.12.260, subparagraph B, Amended. Ordinance No. 2466 §4 (part), as codified at Tukwila Municipal Code (TMC) Section 7.12.260, "Violations – notice and order," **subparagraph 7.12.260.B.6.a**, is hereby amended to read as follows:

7.12.260.B.

6 Statements advising:

a. that a person having a legal interest in the animal may appeal from the notice of violation and order or any action of the manager of the Regional Animal Services Section to the ~~board of appeals~~ King County Hearing Examiner, but only if the appeal is made in writing as provided by this chapter and filed with the manager of the Regional

Animal Services Section within 44 24 days from the service of the notice of violation and order; and

Section 2. TMC Section 7.12.270 Amended. Ordinance No. 2466 §4 (part), as codified at TMC Section 7.12.270, "Appeals," is hereby amended to read as follows:

A. The King County ~~Board of Appeals Hearing Examiner, as established by Article 7 of the King County Charter,~~ is designated to hear appeals by parties aggrieved by actions of the manager of the Regional Animal Services Section under this chapter. The ~~Board Hearing Examiner~~ may adopt reasonable rules or regulations for conducting its business. Copies of all rules and regulations adopted by the ~~Board Hearing Examiner~~ shall be delivered to the manager of the Regional Animal Services Section, who shall make them freely accessible to the public. All decisions and findings of the ~~Board Hearing Examiner~~ shall be rendered to the appellant in writing with a copy to the manager of the Regional Animal Services Section.

B. Any person entitled to service under TMC Section 7.12.260.B may appeal from any notice and order or any action of the manager of the Regional Animal Services Section under this chapter by filing at the office of the manager of the Regional Animal Services Section within 44 24 days from the service of the order, a written appeal. The appeal request shall conform to the King County Hearing Examiner rules as established pursuant to TMC Section 7.12.270 and King County Code Section 11.04.270. Appeals shall be processed in accordance with the King County Hearing Examiner rules as they are now adopted or hereafter amended. ~~containing:~~

~~1. A heading in the words: "Before the Board of Appeals Hearing Examiner of the County of King".~~

~~2. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal.~~

~~3. A brief statement setting forth the legal interest of each of the appellants in the animal involved in the notice and order.~~

~~4. A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.~~

~~5. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.~~

~~6. The signatures of all parties' names as appellants, and their official mailing addresses.~~

~~7. The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.~~

~~C. The Board of Appeals shall set a time and place, not more than 30 days from the notice of appeal for a hearing on the appeal. Written notice of the time and place of hearing shall be given at least 10 days before the hearing to each appellant by the manager-clerk of the Board.~~

~~D. At the hearing, the appellant shall be entitled to appear in person, to be represented by counsel and to offer evidence that is pertinent and material to the action of the manager of the Regional Animal Services Section. Only those matters or issues specifically raised by the appellant in the written notice of appeal shall be considered.~~

~~E. Failure of any person to file an appeal in accordance with this section shall constitute a waiver of the right to an administrative hearing.~~

~~F. Enforcement of any notice and order of the manager of the Regional Animal Services Section issued under this chapter shall be stayed during the pending of an appeal, except impoundment of an animal that is vicious or dangerous or cruelly treated.~~

~~G. In proceedings before the Board, the Regional Animal Services Section shall bear the burden of proving by a preponderance of the evidence both the violation and the appropriateness of the remedy it has imposed.~~

Section 3. Corrections by City Clerk or Code Reviser Authorized. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 4. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 5. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Special Meeting thereof this _____ day of _____, 2021.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____

Office of the City Attorney