



City of El Paso – City Plan Commission Staff Report

Amendment to Title 20 Nonconforming Situations Chapter 20.22

The City Manager has directed staff to implement application processing changes and code amendments that are intended to streamline and simplify zoning processes.

The Planning Division prepared this amendment to Title 20, which codifies the number of documents required for registering a nonconforming building or use:

- Allow submittal of one document, either a building permit or an aerial photo, that clearly demonstrates the nonconformity as evidence of legal nonconformity. The policy has been to require three documents.
- If either of the above do not clearly demonstrate the nonconformity, two supporting documents, such as Central Appraisal District records and including affidavits, may be provided.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.22 (NONCONFORMING SITUATIONS), SECTION 20.22.070 (REGISTRATION AND CERTIFICATE OF OCCUPANCY REQUIRED) OF THE EL PASO CITY CODE, TO REVISE THE REQUIREMENTS TO REGISTER A NONCONFORMING BUILDING OR USE. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Title 20 (Zoning) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and

WHEREAS, City Council has determined that the regulation of nonconforming buildings and uses is necessary and reasonable to promote the health, safety, morals and general welfare of the community; and,

WHEREAS, the regulations are intended to encourage the eventual replacement of nonconforming buildings and uses that are incompatible with surrounding conforming buildings and uses and character of the surrounding area, having due regard for the property rights of persons affected, the public welfare, compatibility, and the character of the surrounding area;

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

SECTION 1. That Title 20 (Zoning), Chapter 20.22 (Nonconforming Situations), Section 20.22.070 (Registration and Certificate of Occupancy required) of the El Paso City Code be replaced in its entirety as follows:

Section 20.22.070 (Registration required)

- A. Should the owner or occupant of a nonconforming building or use desire to change, alter, enlarge, or otherwise modify the nonconforming building or use, he or she shall be required to apply for and register the nonconforming building or use with the building official and provide the following information prior to the change, alteration or modification:
 1. File an application with the city and pay a nonrefundable fee established by the city council stating that such building or land occupied by the nonconforming building or use was, to the best of the owner or occupant's knowledge, in lawful use and lawfully existing as of the date of adoption of the applicable code in effect at the time that the building or use became nonconforming.

2. Provide supporting documentation that may include, but is not limited to, building permits or certificates of occupancy that show or describe the nonconforming condition, aerial photography, central appraisal district records, affidavits of surrounding property owners or residents who are knowledgeable of the existence and use of the building or property, or any other information deemed necessary to determine the nonconforming status of the building or use by the zoning administrator:

a. To register a nonconforming structure, the preferred documentation is an aerial photo or building permit that clearly shows the nonconformity, and is dated prior to annexation of the property or adoption of the code regulation that rendered the structure nonconforming. If such a permit or photo is submitted it shall be sufficient to register the nonconforming structure. If the nonconforming structure is not shown in the permit or aerial photo, two supporting documents shall be required.

b. To register a nonconforming use, two supporting documents shall be required.

B. Upon proper application and satisfaction that the nonconforming building or use was in existence as of the date of adoption of this title or subsequent amendment, the city may register the building or use as nonconforming and maintain a record of all registrations.

SECTION 2. Except as expressly herein amended, Title 20, Zoning, of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS _____ day of _____ 2012.

CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Lupe Cuellar
Assistant City Attorney

Mathew S. McElroy, Deputy Director
Planning and Economic Development
Department