

ORDINANCE NO. 017288

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.16 (ZONING BOARD OF ADJUSTMENT), SECTION 2.16.050 (SPECIAL EXCEPTIONS), OF THE EL PASO CITY CODE TO AMEND THE SPECIAL EXCEPTIONS FOR FRONT, SIDE STREET, AND REAR YARD SETBACKS, REDUCTION OF OFF STREET PARKING REQUIREMENTS, AND CARPORT OVER A DRIVEWAY. THE PENALTY IS AS PROVIDED IN CHAPTER 20.24 (ENFORCEMENT-PENALTY) OF THE EL PASO CITY CODE.

WHEREAS, Texas Local Government Code, Chapter 211, grants municipalities authority to provide for the appointment of a board of adjustment to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance; and

WHEREAS, the City Council of the City of El Paso authorized the Zoning Board of Adjustment, by Ordinance No. 012681, enacted January 9, 1996, to grant certain Special Exceptions in the event specific conditions have been met; and

WHEREAS, the City Council of the City of El Paso, by Ordinance No. 016888, enacted May 13, 2008, amended Chapter 2.16 (Zoning Board of Adjustment) in its entirety; and

WHEREAS, the Zoning Board of Adjustment and the City Plan Commission, after public hearing have reviewed and recommend the adoption of further changes to the current code, to amend the special exceptions for front, side street, and rear yard setbacks, reduction of off street parking requirements, and carport over a driveway, so that the allowable exceptions will be in harmony with the spirit and purposes of Titles 2 and 20, including the preservation of the essential character of the district in which the property is located; and

WHEREAS, the El Paso City Council, having considered the recommendations and held a public hearing at which the public was allowed to comment on the proposed amendments, finds that the adoption of the proposed amendments as submitted will further protect and provide for the public health, safety, morals, and general welfare of the community, and will be in harmony with the spirit and purposes of Titles 2 and 20 of the El Paso City Code.

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

SECTION 1. That the above findings are adopted and incorporated herein as if fully set out.

SECTION 2. That Title 2 (Administration and Personnel), Chapter 2.16 (Zoning Board of Adjustment), Section 2.16.050 (Special Exceptions) of the El Paso City Code is hereby amended to read:

2.16.050 Special exceptions.

The zoning board of adjustment, in specific cases, may, after notice and a public hearing, make special exceptions to the zoning code only as provided in Titles 2 and 20 of this code. More than one special exception may be made for a lot so long as the total of the exceptions granted do not exceed the maximum exception which could have been obtained if all the requests for exceptions were combined into one request. The board shall not grant a special exception unless it makes, and records in its minutes, specific findings that:

1. The exceptions will be in harmony with the spirit and purposes of Titles 2 and 20, including the preservation of the essential character of the district in which the property is located;
2. The public convenience and welfare will be substantially served;
3. The use of neighboring property will not be substantially injured; and
4. Include any conditions and safeguards which the board deems appropriate, such as, but not limited to, site arrangement, landscaping and hours of operation.

The board may authorize the following special exceptions:

SECTION 3. That Title 2 (Administration and Personnel), Chapter 2.16 (Zoning Board of Adjustment), Section 2.16.050 (Special Exceptions) Paragraph C (Rear yard setback, single-family residence) of the El Paso City Code is hereby amended to read:

C. Rear Yard Setback, Single-Family Residence. Permit an extension of a single-family residential structure into the required rear yard, which shall be measured to the rear property line, not to the centerline of the alley, if one exists; provided, however, that:

1. The residence has been in existence with a valid certificate of occupancy for one continuous year;
2. The maximum square footage allowed shall not exceed the result of multiplying one-third of the average width of the lot by three-fifths of the required rear yard;
3. A minimum ten foot rear yard setback shall be required;
4. The minimum side and side street yards shall not be reduced;
5. The total floor area of all detached accessory structure(s) existing or later constructed on the site shall not exceed one hundred eighty square feet;
6. Unless otherwise provided in this section, all remaining areas of the required rear yard shall be permanent open space; and
7. The extension shall not permit the creation of an additional dwelling unit for rental purposes.

SECTION 4. That Title 2 (Administration and Personnel), Chapter 2.16 (Zoning Board of Adjustment), Section 2.16.050 (Special Exceptions) Paragraph D (Rear yard setback, duplex) of the El Paso City Code is hereby amended to read:

D. Rear Yard Setback, Duplex. Permit an extension of a duplex residential structure into the required rear yard which shall be measured to the rear property line, not to the centerline of the alley, if one exists; provided, however, that:

1. The duplex has been in existence with a valid certificate of occupancy for one continuous year;
2. The maximum square footage allowed to each unit of the duplex shall not exceed the result of multiplying one-sixth of the average width of the lot by three-fifths of the required rear yard; except that, subject to the approval of all owners, the total of all extensions that could be granted to each unit may be combined and granted to one unit provided that the total of all extensions granted for both units of the duplex shall not exceed the result of multiplying one-third the average lot width by three-fifths of the required rear yard;
3. A minimum ten-foot rear yard setback shall be required;
4. The minimum side and side street yards shall not be reduced;
5. The total floor area of all detached accessory structure(s) existing or later constructed on the site shall not exceed one hundred square feet per unit;
6. Unless otherwise provided in this section, all remaining areas of the required rear yard shall be permanent open space; and
7. The extension shall not permit the creation of an additional dwelling unit for rental purposes.

SECTION 5. That Title 2 (Administration and Personnel), Chapter 2.16 (Zoning Board of Adjustment), Section 2.16.050 (Special Exceptions) Paragraph F (Side street yard setback) of the El Paso City Code is hereby amended to read:

F. Side Street Yard Setback. Modify district side street yard requirements where the following conditions are met:

1. The proposed modification does not exceed fifty percent of the required side street yard requirement;
2. The minimum front and rear setbacks shall not be reduced;
3. The zoning board of adjustment has received the written approval, based on traffic safety considerations, of the traffic engineer; and
4. The proposed modification does not permit the creation of an additional dwelling unit for rental purposes.

SECTION 6. That Title 2 (Administration and Personnel), Chapter 2.16 (Zoning Board of Adjustment), Section 2.16.050 (Special Exceptions) Paragraph I (Authorize the reduction of off-street parking) of the El Paso City Code is hereby amended as follows:

I. Authorize the reduction of off-street parking requirements; provided, however, that:

1. The owner shall demonstrate through testimony or documentation that the required number of off-street parking spaces cannot be reasonably accommodated on the property involved;
2. The zoning board of adjustment has received the written approval of the city traffic engineer who shall review the request to determine the impact on the surrounding properties. The city traffic engineer may request a parking study in order to determine the impact on the surrounding properties; and
3. The reduction authorized shall not modify the number of required off-street parking spaces by more than fifteen percent.

SECTION 7. That Title 2 (Administration and Personnel), Chapter 2.16 (Zoning Board of Adjustment), Section 2.16.050 (Special Exceptions) Paragraph K (Carport over a driveway) of the El Paso City Code is hereby amended as follows:

K. Carport over a driveway. Permit the encroachment into the required front yard setback for a lot in a residential (R) district beyond other allowed modifications for a carport covering a driveway; provided, however, that:

1. The residence has been in existence with a valid certificate of occupancy for one continuous year; and,
2. The zoning board of adjustment has received the written approval of the structural design from the building permits and inspection division of the development services department; and,
3. The carport shall be constructed of the same material, architectural design, and color scheme as the residential structure, open on three sides, and attached to the main structure; and,
4. The area of the carport shall not exceed one-fifth of the first-floor area of the dwelling, nor shall the carport rise above the highest point of the roof of the dwelling; and,
5. Elevation drawings of the proposed structure shall be submitted; and,
6. For a duplex, the total of all extensions granted shall not exceed one-third the average width of the site, and the total of all extensions for either unit of the duplex shall not exceed two-thirds of the average width of that unit; and,
7. Unless otherwise provided in this chapter, all remaining areas of the required front yard shall be permanent open space; and,
8. There is no other reasonable alternative to provide a carport in the front yard of the subject property without exceeding the encroachments allowed in Title 20 of this code; and,
9. The extension shall not permit the creation of an additional dwelling unit for rental purposes nor shall it constitute an extension of the living area of the dwelling.

SECTION 8. That Title 2 (Administration and Personnel), Chapter 2.16 (Zoning Board of Adjustment), Section 2.16.050 (Special Exceptions) Paragraph M (Front yard setback) of the El Paso City Code is hereby amended as follows:

M. Front yard setback. Permit an extension of a single-family residential structure into the required front yard, which shall be measured to the property line; provided, however, that:

1. The residential structure has been in existence with a valid certificate of occupancy for one continuous year; and,
2. The total length of all extensions granted shall not project into the required front yard a depth in excess of ten feet; and,
3. The total width of all extensions granted shall not exceed one-third of the average width of the site; and,
4. The minimum side and side street yards shall not be reduced; and,
5. A minimum of a ten foot front setback from the property line shall be maintained; and,
6. If the proposed modification is for an enclosed garage, a minimum twenty foot driveway shall be required; and,
7. Unless otherwise provided in this section, all remaining areas of the required front yard shall be permanent open space; and,
8. The extension shall not permit the creation of an additional dwelling unit for rental purposes.

SECTION 9. Except has herein amended, Title 2 (Administration and Personnel), Chapter 2.16 (Zoning Board of Adjustment) shall remain in full force and effect.

APPROVED this 10th day of March 2010.

CITY OF EL PASO

John F. Cook
John F. Cook
Mayor

ATTEST:

Richarda Duffy Monson
Richarda Duffy Monson
Municipal Clerk

APPROVED AS TO FORM:

Cynthia Osborn
Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

Victor Q. Torres
Victor Q. Torres, Director
Development Services Department

