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

DEPARTMENT: Environmental Services

AGENDA DATE: **For Introduction, April 10, 2012, Public Hearing April 17, 2012**

CONTACT PERSON/PHONE: **Ellen A. Smyth** 915-621-6719

DISTRICT(S) AFFECTED: All

SUBJECT: An Ordinance amending Title 18 (Building and Construction), of the El Paso City Code, by creating Chapter 18.42 (Dangerous structures), to establish emergency authority for the securing of a dangerous structure before a hearing; and to provide for the recovery of and filing of a lien for the costs and expenses incurred by the City. Amended – This is a Redlined version showing minor corrections due to an error in numbering.

BACKGROUND / DISCUSSION: This ordinance relates to the provisions in the City Code regarding actions available to the City regarding the abatement of unsafe structures. This ordinance is brought forward in conjunction with other Code amendments to revise the Code provisions so as to be in conformity with current law in the State of Texas. This new chapter will allow the Building Official and the Director of the Environmental Services Department to take appropriate action, as now permitted by state law, to secure a dangerous building prior to holding a hearing before the Building and Standards Commission. As required by state law, if this emergency action is taken, a follow-up hearing will be held. State law also allows the City to recover its costs, and this ordinance also addresses this process, to include filing a lien on the property for unpaid costs.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?
This Ordinance is a complete revision to the existing ordinance to allow for the clarification of the process for the regulation of substandard buildings.

We have an existing substandard business regulation in place.
AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

LEGAL: (if required)_____ **FINANCE:** (if required)_____

DEPARTMENT HEAD: Ellen A. Smyth

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

PL108203/12-1005/234

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), OF THE EL PASO CITY CODE, BY CREATING CHAPTER 18.42 (DANGEROUS STRUCTURES), TO ESTABLISH EMERGENCY AUTHORITY FOR THE SECURING OF A DANGEROUS STRUCTURE BEFORE A HEARING; AND TO PROVIDE FOR THE RECOVERY OF AND THE FILING OF A LIEN FOR THE COSTS AND EXPENSES INCURRED BY THE CITY.

WHEREAS, the City Council desires to establish authority for the securing of a dangerous structure before a hearing and to provide for the recovery of the costs incurred when the city must immediately take action to secure a dangerous structure existing within the City of El Paso, as allowed in Section 214.0011 of the Texas Local Government Code.

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

Section 1. That Chapter 18.42 (Dangerous Structures) of the El Paso City Code be created to read as follows.

Section 2. That Section 18.42.010 (Authority to Secure) of the El Paso City Code be added to read as follows:

18.42.010 Authority to Secure

A. The building official or the director, as defined in chapter 2.38 of this code, may secure a building before a public hearing is held by the Building and Standards Commission under the following circumstances:

1. the building is unoccupied or is occupied only by persons who do not have a right of possession and
2. the building official or the director determine that violations of Chapter 18.50 exist in the building.

B. No later than 11 days after securing the building the building official or the director shall give notice to the owner by:

1. personal service of a written notice; or
2. depositing the notice in the United States mail addressed to the owner at the owner's post office address.

C. If personal service cannot be obtained and the owner's post office address is unknown then service shall be by:

1. publishing notice at least twice within a 10-day period in a newspaper of general circulation in the city; or
2. posting the notice on or near the front door of the building.

D. The notice must contain:
1. an identification, which is not required to be a legal description, of the building and the property on which it is located;
2. a description of the violations of Chapter 18.50;
3. a statement that the city has secured the building;
4. a statement of the amount the city incurred securing the building, that the owner owes the city the amount incurred, and that the city will secure a lien against the real property for the assessed amount in the event of non-payment; and
5. a statement that the owner has 30 days from the date the building was secured to request a hearing before the Building and Standards Commission in regard to any matter relating to the city's securing of the building.

Section 3. That Chapter 18.42.020 (Liens) of the El Paso City Code is added to read as follows:

18.42.020 Liens

A. If the city incurs expenses to secure a building under this chapter, the city may assess the expense against the owner and the real property. If the owner fails to satisfy the debt the city can place a lien against the real property the building was located on, unless it is a homestead.
B. The notice must contain the name and address of the owner if that information can be determined with diligent effort, as defined in chapter 2.38, a legal description of the real property on which the building was located, the amount of expenses incurred by the municipality, the balance due and that it accrues interest at a rate of ten (10) percent a year from the assessment until paid in full.
C. The lien arises and attaches to the property at the time the notice of the lien is recorded in the El Paso real property records.
D. The lien will be superior to all judicial liens and inferior only to bona fide mortgage liens recorded prior to the filing of the notice of dangerous structure hearing.
E. The lien is extinguished when the amount is paid in full.
F. The city may also seek to reduce the civil penalty to judgment.

Section 4. Except as amended herein, Title 18 (Building and Construction) shall remain in full force and effect.

ADOPTED this _____ day of April 2012.

CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Laura Prendergast Gordon
Deputy City Attorney

APPROVED AS TO CONTENT:

Ellen A. Smyth, P.E., Director
Environmental Services Department