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

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DEPARTMENT: **Development and Infrastructure Services**

AGENDA DATE: **Introduction: May 15, 2007, Public Hearing: June 5, 2007**

CONTACT PERSON/PHONE: **Kimberly Forsyth, Senior Planner – 541-4631**

DISTRICT(S) AFFECTED: City-wide

SUBJECT:

An ordinance amending the El Paso City Code by replacing Title 20 (Zoning) in its entirety in order to establish zoning regulations; create use districts in accordance with the comprehensive plan; regulate within such districts the height, bulk and use of buildings and structures, the size of yards, open spaces, use of land for commercial, industry, residence and other purposes; adopting a zoning district map; provide for the role and authority of the City Plan Commission, Zoning Board of Adjustment and City Council; regulate the density of dwellings and other structures and the percentage of lot that may be occupied by structures; provide for site plan approval; provide for nonconforming uses and structures; define certain terms as used within this ordinance; provide for special use permits; specify minimum requirements for off-street parking of motor vehicles and off-street loading areas; provide for overlay districts; provide for development standards for all uses; provide for regulations regarding signage; provide for enforcement including penalties of a fine not to exceed $2,000 or civil penalty not to exceed $500 for each and every offense; provide for injunctive relief; and provide for the following: findings of fact; repealer; severability, effective date; and proper notice and a hearing.

BACKGROUND / DISCUSSION:

See attached information.

PRIOR COUNCIL ACTION:

As part of the Building and Zoning Advisory Committee body of work, the City Council, in 2002, adopted new regulations for off-premise signs (billboards). The City Council also adopted new regulations for historic properties and personal wireless service facilities (PWSF) in 2006. These regulations are not proposed for additional changes. Most of the BZAC recommendations for revisions to Title 18 (Building and Construction) were adopted over a period of years from 2001-2005.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

The Building and Zoning Advisory Committee (BZAC) recommended approval of these revisions to Title 20. The proposed revisions were reviewed and recommendation by the Development Coordinating Committee (DCC) and the City Plan Commission (CPC) over a period of months during 2006 and 2007. The CPC did not concur with the entire BZAC recommendation on Chapter 20.18 (Sign Regulations) but proposed an alternate recommendation as attached.

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

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

DEPARTMENT HEAD: R. Alan Shubert

APPROVED FOR AGENDA:

CITY MANAGER: Patricia D. Adauto, Deputy City Manager **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE EL PASO CITY CODE BY REPLACING TITLE 20 (ZONING) IN ITS ENTIRETY IN ORDER TO ESTABLISH ZONING REGULATIONS; CREATE USE DISTRICTS IN ACCORDANCE WITH THE COMPREHENSIVE PLAN; REGULATE WITHIN SUCH DISTRICTS THE HEIGHT, BULK AND USE OF BUILDINGS AND STRUCTURES, THE SIZE OF YARDS, OPEN SPACES, USE OF LAND FOR COMMERCIAL, INDUSTRY, RESIDENCE AND OTHER PURPOSES; ADOPTING A ZONING DISTRICT MAP; PROVIDE FOR THE ROLE AND AUTHORITY OF THE CITY PLAN COMMISSION, ZONING BOARD OF ADJUSTMENT AND CITY COUNCIL; REGULATE THE DENSITY OF DWELLINGS AND OTHER STRUCTURES AND THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED BY STRUCTURES; PROVIDE FOR SITE PLAN APPROVAL; PROVIDE FOR NONCONFORMING USES AND STRUCTURES; DEFINE CERTAIN TERMS AS USED WITHIN THIS ORDINANCE; PROVIDE FOR SPECIAL USE PERMITS; SPECIFY MINIMUM REQUIREMENTS FOR OFF-STREET PARKING OF MOTOR VEHICLES AND OFF-STREET LOADING AREAS; PROVIDE FOR OVERLAY DISTRICTS; PROVIDE FOR DEVELOPMENT STANDARDS FOR ALL USES; PROVIDE FOR REGULATIONS REGARDING SIGNAGE; PROVIDE FOR ENFORCEMENT INCLUDING PENATIES OF A FINE NOT TO EXCEED $2,000 OR CIVIL PENALTY NOT TO EXCEED $500 FOR EACH AND EVERY OFFENSE; PROVIDE FOR INJUNCTIVE RELIEF; AND PROVIDE FOR THE FOLLOWING: FINDINGS OF FACT; REPEALER; SEVERABILITY, EFFECTIVE DATE; AND PROPER NOTICE AND A HEARING.

WHEREAS, the City Council seeks to maintain the value of the City of El Paso's (the "City") scenic and natural resources, which are the keystones of the City's economic strength and quality of life through a comprehensive regulatory program that restricts and guides land use and development; and,

WHEREAS, the City Council finds that unregulated development creates aesthetic and economic harm by cluttering corridors, devaluing historic properties and adversely affecting the naturally scenic views and native environment; and,

WHEREAS, the City Council created the Building and Zoning Advisory Committee (the "BZAC") to review and provide recommendations regarding the development regulations of Title 20 (Zoning) of the El Paso City Code; and,

WHEREAS, the BZAC met extensively and provided a forum for public input; and provided valuable input and proposed amendments to the Zoning Code and other applicable provisions of the Code related to development within the City; and,

WHEREAS, in addition to the work completed by the BZAC, the City Plan Commission has performed extensive research and conducted several hearings on the issues of land use planning, and proposed amendments to Title 20 (Zoning); and,

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WHEREAS, the City has adopted a Comprehensive Plan in accordance with the provisions of the Texas Local Government Code; and has established Planning Areas with accompanying maps and materials detailing the desires of the City and citizenry as to the projected types and locations of future growth; and,

WHEREAS, through the adoption and enforcement of comprehensive and uniform zoning regulations the City Council seeks to promote the public health, safety, morals and general welfare, and protect and preserve places of historical, cultural and architectural importance and significance; and,

WHEREAS, the regulations established by this Ordinance are specifically designed to lessen congestion in the streets; secure safety from fire, panic, and other dangers; promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public facilities; and,

WHEREAS, in the course of adopting the regulations established by this Ordinance the City Plan Commission and City Council have given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the community's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and,

WHEREAS, the regulations established by this Ordinance have been adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the City; and,

WHEREAS, the regulations established by this Ordinance are designed to prevent property owners from adversely affecting adjoining property owners in an unreasonable manner; and,

WHEREAS, the regulations established by this Ordinance are part of a comprehensive regulatory scheme designed to protect the culture, heritage, ecology and aesthetics of the City; and,

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the City and necessary and proper for carrying out the power granted by law to the City; and

WHEREAS, the following regulations are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to, Texas Local Government Code Chapters 51, 52, 211, 212, 213, 215, 217, and 219; and,

WHEREAS, parties in interest and citizens have had an opportunity to be heard at several public meetings and hearings conducted by the BZAC, City Plan Commission and City Council, notice of which was posted on the City's website, by provision of personal notice by

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staff, and published in the City's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours, when required by state law.

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

Section 1. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section 2. That Title 20 (Zoning) of the El Paso City Code shall be replaced in its entirety with the language as set forth in Exhibit "A", titled "Title 20 (Zoning)", attached and incorporated by reference for all purposes.

Section 3. REPEALER

All ordinances or parts of ordinances in force when the provisions of this ordinance become effective that are inconsistent or in conflict with the terms and provisions contained in this ordinance are hereby repealed only to the extent of any such conflict.

Section 4. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this ordinance shall be enforced as written.

Section 5. EFFECTIVE DATE

This ordinance shall take effect immediately upon its passage and publication as may be required by governing law.

Section 6. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

Section 7. Except as herein amended the El Paso City Code shall remain if full force and effect.

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PASSED and APPROVED this _____ day of _____, 2007.

THE CITY OF EL PASO

_____
John Cook, Mayor

ATTEST

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM

_____
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT

Patricia D. Adauto
Patricia D. Adauto, Deputy City Manager
Development & Infrastructure Services

_____
R. Alan Shubert, P.E., C.B.O.
Director, Development Services Department

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Document #: 30413
Document Name: ord/title 20/master w/o attachment
Document Author: LCUE

GENERAL INFORMATION:

SUBJECT:

The Building and Zoning Advisory Committee (BZAC) was created in 1999 for the purpose of reviewing and recommending revisions to Title 18 (Building), Title 20 (Zoning) and other related Titles of the El Paso City Code as necessary to implement the changes. The committee consisted of 21 members of the public, appointed by the Mayor and City Council, who met regularly with staff over a period of 7 years to research, study and propose improvements to these sections of the El Paso City Code.

The initial direction of the BZAC under Mayor Carlos Ramirez was to consolidate the present 37 zoning districts into a more manageable number, to simplify the regulations and to update the language to reflect current zoning practices and technology. Additionally, the BZAC was directed to incorporate provisions that would allow for utilization of smart growth principals and development. The initial drafts proposed by the BZAC reflected 13 zoning districts and used a tabular format to consolidate multiple chapters.

Under Mayor Caballero, work of the BZAC was suspended for approximately 18 months and staff was directed to work on other priorities. The BZAC work resumed under Mayor Wardy, however the direction was changed to retain all the current zoning districts, but to continue with the new format and to simplify and update the regulations. Priority was given to Title 18 revisions, many of which have already been adopted by City Council.

Progress on Title 20 revisions continued throughout 2005 and 2006, and the various Chapters were presented and approved by the BZAC, the DCC and CPC. Progress reports and drafts were provided to City Council during this time. The major proposed changes to Title 20 are shown on a powerpoint presentation. The new Chapters are:

Chapter 20.02 Definitions
Chapter 20.04 Administrative Provisions
Chapter 20.06 Zoning Districts and Map
Chapter 20.08 Permissible Uses
Chapter 20.10 Supplemental Use Regulations
Chapter 20.12 Density and Dimensional Standards
Chapter 20.14 Parking, Loading and Storage Regulations
Chapter 20.16 Screening Walls and Fences
Chapter 20.18 Sign Regulations
Chapter 20.20 Historic Landmark Preservation
Chapter 20.22 Non-Conforming Situations
Chapter 20.24 Penalty

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There has been consensus approval of the DCC and the CPC for most of the text proposed by the BZAC. The CPC did not concur with the entire BZAC draft for Chapter 20.18 (Sign Regulations) and proposed alternate recommendations to the following specific Sections:

Section 20.18.450
That the sign area and sign height for monument and pole signs remain the same as in the current code

Section 20.18.140.I
That the following language be reinstated from the current code:

"Provided however, that this prohibition shall not extend to signs that satisfy the following requirements:

a. The sign is constructed of wood, metal, plastic, or hardboard material, or is entirely fixed to a background constructed of any of these materials,
b. The sign is located in the parkway,
c. The sign is a freestanding sign,

d. The sign is only in place from the hours of ten a.m. and seven p.m.
e. The sign is not larger than five square feet, and is not greater in than thirty-six inches in any dimension,
f. The sign does not exceed thirty-six inches in height."

Section 20.18.500.D
That number 7 for temporary portable signs be revised to state that the maximum duration for of a display shall be ninety days (instead of sixty days).

Related Revisions to Other Titles of the El Paso City Code

As part of the BZAC review process, Landscape regulations are also proposed for revision and the Landscape Chapter is proposed to be deleted from Title 20 (Zoning) and moved to Title 18 (Building and Construction). Related revisions to Title 9 (Health and Safety) pertaining to Tree Care are also proposed.

Language pertaining to business licenses, permits and fees for specific uses, was proposed to be deleted from Title 20 and moved to Title 5 (Business Taxes, Licenses and Regulations).

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