ORDINANCE NO. _____

AN ORDINANCE LIMITING THE USE OF THE POWER OF EMINENT DOMAIN ON NON-BLIGHTED PRIVATE PROPERTY IN THE REDEVELOPMENT DISTRICTS OF THE DOWNTOWN 2015 PLAN.

WHEREAS, on October 31, 2006, the City Council (the "Council") of the City of El Paso, Texas (the "City") passed and approved Ordinance No. 016487, which adopted the Downtown 2015 Plan into the City's comprehensive plan entitled *The Plan for El Paso* ("Plan");

WHEREAS, on December 19, 2006 the Council passed and approved Ordinance No. 016528, creating "Reinvestment Zone Number Five, City of El Paso, Texas" to support revitalization activities for the Plan's Redevelopment Districts ("Redevelopment Districts");

WHEREAS, the City recognizes that it has a Constitutional responsibility and a moral obligation to always defend the property rights of individuals and only to use the power of eminent domain for public use and contingent upon the just compensation of the individual property owner; and

WHEREAS, it is not the desire of the City to use the power of eminent domain to condemn private property in the Redevelopment Districts that is not blighted in order to implement the Plan.

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

I. **THAT** the power of eminent domain to condemn private property in the Redevelopment Districts be limited to the public uses expressly outlined in this ordinance, as follows:

(A) In this ordinance, ECONOMIC DEVELOPMENT means an activity to increase tax revenue, the tax base, employment, or general economic health.

(B) In this ordinance, BLIGHTED PROPERTY only means property that contains any of the following factors:

(1) Any premises which because of physical condition, use or occupancy constitutes a public nuisance or common nuisance;

(2) Any structure which, because it is dilapidated, unsanitary, unsafe, or vermin-infested, has been designated by the agency responsible for enforcement of the housing, building or fire codes as unfit for human habitation or use;

(3) Any structure which, in its current condition, is a fire hazard, or is otherwise dangerous to the safety of persons or property;

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(4) Any structure from which the utilities, plumbing, heating, sewage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(5) Any vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood, which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(6) Any property that has tax delinquencies exceeding the value of the property;

(7) Any property with code violations affecting health or safety that has not been substantially rehabilitated within one year of the receipt of notice to rehabilitate from the appropriate code enforcement agency;

(8) Any property which, by reason of environmentally hazardous conditions, solid waste pollution or contamination, poses a direct threat to public health or safety in its present condition;

(9) Any abandoned property, defined as property not occupied by a person with a legal or equitable right to occupy it and for which the City is unable to identify and contact the owner despite making reasonable efforts or which has been declared abandoned by the owner, including an estate in possession of the property.

(C) Except as otherwise provided in this ordinance, the City shall not use the power of eminent domain to acquire private real property for economic development, or to transfer any interest in such property to a private entity, without the consent of the property owner.

(D) Subsection (C) does not limit the City's use of eminent domain power for any of the following public uses:

(1) A transportation project, including a railroad, airport, transit facility, public road or highway, parking lot or garage, sidewalk, bus turn-in, or trail;

(2) A water supply, wastewater, flood control, water quality, drainage, water detention, stream bank stabilization, electric power, district cooling, combined heat and power, thermal energy storage, or telecommunication project;

(3) A project related to annexation;

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(4) Environmental remediation;

(5) The provision of utility service;

(6) A public facility, including a library, office, vehicular storage or maintenance, hospital, convention center, or recreational facility;

(7) A park or park facility;

(8) A common carrier or energy transporter;

(9) Noise mitigation;

(10) Clearing a land title;

(11) Acquiring an interest in property owned by a governmental entity;

(12) Acquiring abandoned property; or

(13) A project to remove:

(a) a harmful use;

(b) a nuisance; or

(c) a structure that is unfit for human habitation or use.

(E) A redevelopment project may include property that is not blighted, but the power of eminent domain may not be exercised to acquire property that is not blighted without the consent of the owner.

II. **THAT** this ordinance shall be in full force and effect upon the date of its passage.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

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ORDINANCE NO. _____

READ, ADOPTED AND APPROVED this _____ day of _____ 2007.

CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Charlie F. McNabb
City Attorney

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