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

DEPARTMENT: Development Services, Building Permits and Inspections

AGENDA DATE: Introduction: July 17, 2007
Public Hearing: July 24, 2007

CONTACT PERSON/PHONE: Larry F. Nichols, Development Services, 541-4556

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

An ordinance amending Title 18 (Building and Construction) of the El Paso City Code, by amending Chapters 18.08 (Building Code); 18.10 (Residential Code); 18.12 (Mechanical Code); and 18.50 (Property Maintenance Code); to require a cooling supply for existing buildings and new construction; the penalty being as provided in Section 18.02.107 of no more than two-thousand dollars ($2,000.00) per day per violation.

BACKGROUND / DISCUSSION:

A request, by the public and City Council, was brought forward in the spring of 2007 to revise Title 18 of the Municipal Code, in regards to the provisions for air conditioning units in tenant spaces.

PRIOR COUNCIL ACTION:
City Council discussion and approval to proceed with ordinance revisions on May 27, 2007.

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
Legislative Review Committee-Planning & Development Services approved recommendations on March 14, 2007.

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

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

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

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:**_____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION) OF THE EL PASO CITY CODE, BY AMENDING CHAPTERS 18.08 (BUILDING CODE); 18.10 (RESIDENTIAL CODE); 18.12 (MECHANICAL CODE); AND 18.50 (PROPERTY MAINTENANCE CODE); TO REQUIRE A COOLING SUPPLY FOR EXISTING BUILDINGS AND NEW CONSTRUCTION; THE PENALTY BEING AS PROVIDED IN SECTION 18.02.107 OF NO MORE THAN TWO-THOUSAND DOLLARS ($2,000.00) PER DAY PER VIOLATION.

WHEREAS, the City Council of the City of El Paso has established the various building and construction code to provide unified administrative requirements for the various technical codes of the City of El Paso; and

WHEREAS, the Council desires to amend the Building, Residential, Mechanical and Property Maintenance Codes to provide for minimum requirements for cooling supplies and systems in existing buildings and new construction; and

WHEREAS, the City Council has deemed the proposed modifications appropriate for the City and are in the interests of the health, safety and welfare of the public.

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

Section 1. That Section 18.08.175 of the El Paso City Code (Building Code) be created to read as follows:

18.08.175 Section 1204.1 Equipment and Systems- Amended
Section 1204.1, Equipment and Systems, shall be and is hereby amended to read as follows:

> **1204.1 Equipment and Systems.**
> Interior spaces intended for human occupancy shall be provided with active or passive space-heating and cooling systems capable of maintaining an indoor temperature between 68 F (20 C) and 90 F at a point 3 feet above the floor in all habitable spaces. The installation of portable space heaters shall not be used to achieve compliance with this section.

Exception: Interior spaces where the primary purpose is not associated with human comfort.

Section 2. That Section 18.10.055 of the El Paso City Code (Residential Code) be created to read as follows:

18.10.055 Section R303.8 Required heating - Amended
Section R303.8, Required heating, shall be and is hereby amended to read as follows:

R303.8Required heating and cooling.
Interior spaces intended for human occupancy shall be provided with active or passive space-heating and cooling systems capable of maintaining an indoor temperature between 68 F (20 C) and 90 F at a point 3 feet above the floor and 2 feet from exterior walls in all habitable spaces. The installation of portable space heaters shall not be used to achieve compliance with this section.

Section 3. That Section 18.12.045 of the El Paso City Code (Mechanical Code) be created to read as follows:

18.12.045 Section 309.1 Space-heating systems- Amended
Section 309.1, Space-heating systems, shall be and is hereby amended to read as follows:

309.1 Space-heating and cooling systems.
Interior spaces intended for human occupancy shall be provided with active or passive space-heating and cooling systems capable of maintaining an indoor temperature between 68 F (20 C) and 90 F at a point 3 feet above the floor in all habitable spaces. The installation of portable space heaters shall not be used to achieve compliance with this section.

Exception: Interior spaces where the primary purpose is not associated with human comfort.

Section 4. That Section 18.50.100.6 of the El Paso City Code (Property Maintenance Code) be amended to read as follows:

18.50.100.6 Section 602.3 Heat Supply - Amended
Section 602.3, Heat Supply, shall be and is hereby amended to read as follows:

602.3 Heating and cooling supply.
Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heating and cooling to the occupants thereof, shall provide active or passive

heating and cooling systems capable of maintaining temperatures between 68 F and 90 F at a point 3 feet above the floor in all habitable spaces. The installation of portable space heaters or coolers shall not be used to achieve compliance with this section.

Exception: When the outdoor temperature is below the winter outdoor design temperature of 25°F, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

Section 5. The effective date of this ordinance shall be August 24, 2007.

Section 6. Except as herein provided, Title 18 (Building and Construction) shall remain in full force and effect.

ADOPTED this 24th day of July 2007.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Elaine S. Hengen
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Larry F. Nichols, BCO, Director
Building Permits and Inspections

27C

ORDINANCE NO. 15999

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION) OF THE EL PASO MUNICIPAL CODE, BY DELETING CHAPTER 18.52 (UNSAFE STRUCTURES AND CONDITIONS) AND CREATING CHAPTER 18.50 (PROPERTY MAINTENANCE CODE), AND ADOPTING THE 2003 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE TO PROVIDE MINIMUM REQUIREMENTS AND STANDARDS FOR THE USE, OCCUPANCY AND MAINTENANCE OF EXISTING STRUCTURES AND PREMISES. THE PENALTY BEING AS PROVIDED IN SECTION 18.02.107 OF NO MORE THAN TWO-THOUSAND DOLLARS ($2,000.00) PER DAY PER VIOLATION.

WHEREAS, The City Council of the City of El Paso, by Ordinance 011837, established the Building and Construction Administrative Code to provide unified administrative requirements for the various technical codes of the City of El Paso; and

WHEREAS, The City Council created the Building and Zoning Advisory Committee (BZAC), in part, to undertake a major revision to the Building Codes of the City, including the Building and Construction Administrative Code; and

WHEREAS, The Building and Zoning Advisory Committee has proposed amending the Housing Code and creating a Property Maintenance Code to provide for minimum requirements and standards for the use, occupancy and maintenance of existing residential structures and premises; and

WHEREAS, The Building Permits & Inspections Director, the Building and Zoning Advisory Committee, the Development Coordination Committee, and the City Plan Commission have reviewed and favorably recommended creating a new Chapter to regulate the use, occupancy and maintenance of existing residential properties and structures; and

WHEREAS, the City Council has deemed the proposed modifications appropriate for the City,

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

1. That Chapter 18.52 (Unsafe Structures and Conditions) shall be and hereby is deleted in its entirety.

2. That Chapter 18.50 (Property Maintenance Code) shall be and hereby is added to read as follows:

18.50.010 Short title.

This chapter may be cited as the "El Paso Property Maintenance Code."

18.50.020 Adoption.

The book entitled "International Property Maintenance Code," 2003 Edition, a copy of which, authenticated by the signature of the mayor and city clerk, and made a public record by resolution of the city council, is on file in the city clerk's office, and is adopted as the existing building code of the city, as fully as if copied at length in this chapter, but with the changes set forth in this chapter.

18.50.030 Chapter 1--Administration--Amended.

International Property Maintenance Chapter 1, Administration, shall be and is hereby deleted in its entirety and amended to read as follows.

18.50.040 Chapter 18.02 adopted--Administration.

Chapter 18.02, Building and Construction Administrative Code of the Municipal Code shall also serve as the administrative chapter for the Property Maintenance Code. In case of conflict between Chapter 18.02 and administrative provisions of the Property Maintenance Code, the administrative provision of the Property Maintenance Code shall prevail.

18.50.050 Section 202 General Definitions – Amended.

Section 202 *General Definitions* shall be and is hereby amended by adding the following definitions:

Board. The Building Standards Commission.

Director. The Building Permits and Inspections Director or any duly authorized representative or designee of the City Manager.

Urban Nuisance. Premises or structure that is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare.

18.50.060 Reserved

18.50.070 Reserved

18.50.080 Reserved

18.50.090 Reserved:

18.50.100 LOCAL AMENDMENTS

18.50.100.1 Section 302.4 Weeds – Amended.
Section 302.4 *Weeds* shall be and is hereby amended to read as follows:

302.4 Weeds, Trash, Rubbish and other Matter.

All premises and exterior property shall be maintained free from weeds or plant growth in accordance with Chapter 9.04 of the Municipal Code.

18.50.100.2 Section 302.8 Motor Vehicles – Amended.
Section 302.8 *Motor Vehicles* shall be and is hereby amended to read as follows:

302.8 Junked Vehicles.
Except as provided for in the Municipal Code, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and permitted and approved for such purposes.

18.50.100.3 Section 304.3 Premises Identified – Amended.
Section 304.3 *Premises Identified* shall be and is hereby amended to read as follows:

304.3 Premises Identified.
Premises shall be identified in accordance with the requirements of Chapter 18.08 or 18.10.

18.50.100.4 Section 304.14 Insect Screens – Amended.
Section 304.14 *Insect Screens* shall be and is hereby amended to read as follows:

304.14 Insect Screens.
Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than

16 mesh per inch (16 mesh per25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

18.50.100.5 Section 503.4 Floor Surface - Amended
Section 503.4 *Floor Surface* shall be and is hereby amended to read as follows:

503.4 Floor surface.
In other than owner occupied dwelling units, every toilet room floor shall be constructed of a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

18.50.100.6 Section 602.3 Heat Supply - Amended
Section 602.3 *Heat Supply* shall be and is hereby amended to read as follows:

602.3 Heat supply.
Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to April 30 to maintain a temperature of not less than 68 F (20 C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions: When the outdoor temperature is below the winter outdoor design temperature of 25°F, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

18.50.100.7 Section 605.2 Receptacles - Amended
Section 605.2 *Receptacles* shall be and is hereby amended to read as follows:

605.2 Receptacles.
Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded- type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle with ground fault circuit interrupter protection.

18.50.100.8 Section 605.3 Lighting Fixtures - Amended
Section 605.3 *Lighting Fixtures* shall be and is hereby amended to read as follows:

602.3 Lighting Fixtures.
Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room, furnace room attached garage, and detached garage with electric power shall be provided with at least one wall switch controlled ceiling or wall type light fixture.

18.50.101 GENERAL

18.50.101.1 Title.

These regulations shall be known as the *Property Maintenance Code* of the City of El Paso, hereinafter referred to as Property Maintenance Code or this code.

18.50.101.2 Scope.

The provisions of this code shall apply to all existing residential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

18.50.101.3 Intent.

This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of residential structures and premises. Existing residential structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the Existing Buildings Code.

18.50.101.4 Severability.

If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

18.50.102 APPLICABILITY

18.50.102.1 General.

The provisions of this code shall apply to all matters affecting or relating to residential structures and premises, as set forth in Section 18.50.101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

18.50.102.2 Maintenance.

Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress, or as permitted by the Texas Property Code §92.008. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

18.50.102.3 Application of other codes.
Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Existing Building Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Zoning Ordinance.

18.50.102.4 Existing remedies.
The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

18.50.102.5 Workmanship.
Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

18.50.102.6 Historic buildings.
Historical buildings shall comply with the provisions of Chapter 10 of the Existing Building Code relating to their repair, alteration, relocation and change of occupancy. When a historic building is determined to be an urban nuisance, no work shall be required except as necessary to correct identified unsafe conditions.

18.50.102.7 Referenced codes and standards.
The technical codes of the City and the standards referenced in the technical codes adopted codes shall be considered part of the requirements of this code to the prescribed extent of each such technical code. Where differences occur between provisions of this code and the technical codes or standards, the provisions of this code shall apply.

18.50.102.8 Requirements not covered by code.
Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the Director.

18.50.103 DUTIES AND POWERS OF THE DIRECTOR

18.50.103.1 General.
The Director shall enforce the provisions of this code.

18.50.103.2 Rule-making authority.
The Director shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

18.50.103.3 Inspections.
The Director shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Director is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

18.50.103.4 Right of entry.
A. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Director or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Director or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Director by this code, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Director or his authorized representative shall have recourse to every remedy provided by law to secure entry.

B. When the Director or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Director or his authorized representative for the purpose of inspection and examination pursuant to this code.

18.50.103.5 Identification.
The Director and his authorized representatives shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

18.50.103.6 Notices and orders.
The Director or his authorized representative shall issue all necessary notices or orders to ensure compliance with this code.

18.50.103.7 Department records.
The Director shall keep official records of all business and activities of the department specified in the provision of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

18.50.103.8 Coordination of inspections.
Whenever, in the enforcement of this code or another code or ordinance, the responsibility of more than one Director of the jurisdiction is involved, it shall be the duty of the Directors involved to coordinate their inspections and administrative orders as fully as practicable so that

the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the Director having jurisdiction.

18.50.104 APPROVAL

18.50.104.1 Modifications.

Whenever there are practical difficulties involved in carrying out the provisions of this code, the Director shall have the authority to grant modifications for individual cases, provided the Director shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

18.50.104.2 Alternative Materials, Methods and Equipment.

The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Director finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

18.50.104.3 Required Testing.

Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to requirements of this code, or in order to substantiate claims for alternative materials or methods, the Director shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

18.50.104.3.1 Test Methods.

Test methods shall be as specified in this code or by other recognized standards. In the absence of recognized and accepted test methods, the Director shall be permitted to approve appropriate testing procedures performed by an approved agency.

18.50.104.3.2 Test Reports.

Reports of tests shall be retained by the Director for the period required for retention of public records.

18.50.104.4 Material and Equipment Reuse.

Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

18.50.105 NOTICES AND ORDERS

18.50.105.1 Notice to person responsible.
Whenever the Director determines that there has been a violation of this code or determines that there are reasonable grounds to believe that here has been a violation of any provisions of this code or of any rule or regulation adopted pursuant thereto, notice shall be given in the manner prescribed in 18.50.105.2 and 18.50.105.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall comply with Chapter 2.38.

18.50.105.2 Form.
Such notice prescribed in 18.50.105.1 shall be in accordance with all of the following:

(1) Be in writing.
(2) Include a description of the real estate sufficient for identification.
(3) Include a statement of the violation or violations and why the notice is being issued.
(4) Include a correction order allowing a reasonable time to make the repairs and Improvements required to bring the dwelling units or structure into compliance with the provisions of this code.
(5) Include a statement that, if such repairs, reconstruction, alterations, removal or demolition are not voluntarily completed within the stated time as set forth in the notice, the Director shall institute such legal proceedings charging the person or persons, firm, corporation or agents with a violation of this code.

18.50.105.3 Method of service.
Such notice shall be deemed to be properly served if a copy thereof is:

(1) Delivered personally:
(2) Sent by certified or first-class mail addressed to the last known address; or
(3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

18.50.105.4 Penalties.
Penalties for noncompliance with orders and notices shall be as set forth in Section 18.02.107.

18.50.105.5 Transfer of ownership.
It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Director and shall furnish to the Director a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

18.50.106 UNSAFE STRUCTURES AND EQUIPMENT

18.50.106.1 General.

When a structure or equipment is found by the Director to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure or equipment shall be condemned pursuant to the provisions of Chapter 2.38 of this code.

18.50.106.1.1 Unsafe Structures.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

18.50.106.1.2 Unsafe Equipment.

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

18.50.106.1.3 Structure Unfit for Human Occupancy.

A structure is unfit for human occupancy whenever the Director finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth or contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

18.50.106.1.4 Unlawful Structure.

An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or the structure was erected, altered or occupied contrary to the Municipal Code.

18.50.107 EMERGENCY MEASURES

18.50.107.1 Imminent Danger.

When, in the opinion of the Director, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure of part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Director is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Director shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Building Permits and Inspections Director." It shall be

unlawful for any person to enter such structure before making the required repairs, removing the hazardous condition or demolishing the same.

18.50.107.2 Temporary Safeguards.
Notwithstanding other provisions of this code, whenever, in the opinion of the Director, there is imminent danger due to an unsafe condition, the Director shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Director deems necessary to meet such emergency.

18.50.107.3 Closing Streets.
When necessary for public safety, the Director shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

18.50.107.4 Emergency Repairs.
For the purposes of this section, the Director shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

18.50.107.5 Costs of Emergency Repairs.
Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

18.50.107.6 Hearing.
Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Board, be afforded a hearing as described in this code.

18.50.108 PLACARDING OF A STRUCTURE BY THE DIRECTOR

18.50.108.1 Notice – Placarding.
The Director may place a red placard warning of a dangerous condition on any structure or dwelling unit that:

(1) is unsanitary or unsafe; and
(2) presents an immediate danger to the health, safety, or welfare of the public or of any occupant of the structure.

18.50.108.2 Referral for Hearing.
After placarding a structure under 18.50.108.1, the Director shall immediately refer the structure to the Board for a hearing, to be held in accordance with Chapter 2.38, to evaluate the dangerous condition of the structure and the need to vacate any occupants of the structure. The Director shall give notice of the hearing to each owner, lienholder, or mortgagee of the affected property in accordance with the notice requirements of Chapter 2.38.

18.50.108.3 Violation – Tampering with Placard.

A person commits an offense if s/he:

(1) Without authority from the Director, removes or destroys a red placard placed by the Director;

(2) Occupies a structure or dwelling unit on which the Director has placed a red placard; or

(3) As owner of a structure or dwelling unit, authorizes a person to occupy a structure or dwelling unit on which the Director has placed a red placard.

18.50.108.4 Defense.

A. It is a defense to prosecution under 18.50.108.3(2) that:

(1) The person had lawfully and continuously occupied the structure or dwelling unit before and after the structure was placarded; and

(2) The structure or dwelling unit had not been ordered vacated by the Board.

B. It is a defense to prosecution under 18.50.108.3(3) that:

(1) The person authorized by the owner to occupy the structure or dwelling unit had lawfully and continuously occupied the structure or dwelling unit before and after the structure was placarded; and

(2) The structure or dwelling unit had not been ordered vacated by the Board.

3. **Except as herein provided, Title 18 (Building and Construction) shall remain in full force and effect.**

4. **The effective date of this ordinance shall be February 15, 2005.**

PASSED AND APPROVED this 15th day of February, 2005.

CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

(SIGNATURES CONTINUE ON NEXT PAGE)

APPROVED AS TO FORM:

Lisa Aceves Hayes
Assistant City Attorney

APPROVED AS TO CONTENT:

R. Alan Shubert, P. E., Director
Building Permits and Inspections

ORDINANCE NO. 15999

Document Name:bpi/Ordinance 18.50/100404
Document #: 4866
Author_Id: LHAY